



**MINUTES  
TOWN OF NAGS HEAD  
BOARD OF COMMISSIONERS  
REGULAR MEETING  
WEDNESDAY, AUGUST 3, 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, August 3, 2022 at 9:00 a.m. for a Regular Meeting.

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

Board members Absent: None

Others present: Town Manager Andy Garman; Attorney John Leidy; Kelly Wyatt; Kate Jones; Amy Miller; David Ryan; Nancy Carawan; Doris Berry; Randy Wells; Will Roepke; Roberta Thuman; Paige Griffin; Andrew Carter; Doug Carter; Tim Oakley; Ann Collier; Moro McCarthy; Sam Selts; Jess King; Val Gould; Mike Norway; Eddie Goodrich; 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 August 3<sup>rd</sup> agenda as presented. The motion was seconded by Mayor Pro Tem Siers which passed unanimously.

**RECOGNITION**

NEW EMPLOYEE – Fire Chief Randy Wells introduced Firefighter/EMT Will Roepke who was welcomed by the Board to Town employment.

NEW EMPLOYEE – Public Services Director Nancy Carawan introduced Sanitation Equipment Operator Doris Berry who was welcomed by the Board to Town employment.

**PUBLIC COMMENT**

Public Comment was introduced by Attorney John Leidy; no one spoke during Public Comment.

## **CONSENT AGENDA**

The Consent Agenda consisted of the following items:

Consideration of Budget Amendments #2.1 and #2.2 to the FY 22/23 Budget

Consideration of Tax Documents

- FY 21/22 Year End Tax Adjustment Reports
- FY 21/22 Year End Tax Settlement Report
- FY 22/23 Charge to Tax Collector to prepare new year taxes

Approval of minutes

**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 amendments 2.1 and 2.2, as approved, are attached to and made a part of these minutes as shown in Addendum "A".

The following Tax Documents, as approved, are attached to and made a part of these minutes as shown in Addendum "B":

- FY 21/22 Year End Tax Adjustment Reports
- FY 21/22 Year End Tax Settlement Report
- FY 22/23 Charge to Tax Collector to prepare new year taxes

## **PUBLIC HEARINGS**

Public Hearing to consider Site Plan Review for Special Use Permit submitted by Albemarle & Associates, Ltd. on behalf of BK Associates, for the construction of a three-story mixed-use structure (office and residential). The property is zoned C-2, General Commercial and is located at 4413 S. Croatan Highway, Nags Head

Attorney John Leidy introduced the quasi-judicial public hearing for a special use permit submitted by Albemarle & Associates, Ltd on behalf of BK Associates for the construction of a three-story mixed-use structure (office and residential). Attorney Leidy explained that the Board sits as a quasi-judicial body and must make its decision: 1) based on competent material and substantial evidence - and those presenting must be sworn in 2) based on information presented, and 3) Board members must be recused if there is basis for believing that they would not be able to be an impartial decision maker - to include a commissioner having a fixed opinion not susceptible to change. The time was 9:10 a.m.

Mayor Cahoon asked to be recused from this discussion due to a conflict of interest as he was the architect for this project. It was Board consensus to recuse Mayor Cahoon from this discussion.

No disclosures were brought forward by Board members.

Town Clerk Carolyn F. Morris swore in the following persons to participate in/present evidence in the quasi-judicial public hearing: Albemarle & Associates Mike Morway, Planning Director Kelly Wyatt, and Town Engineer David Ryan.

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

"GENERAL INFORMATION

Applicant: Mike Morway of Albemarle & Associates, Ltd. on behalf of BK Associates.

`Application Type: Special Use Permit/Site Plan Review.

`Purpose/Request: Construction of three-story, mixed-use structure with parking beneath and all associated site improvements.

`Property Location: 4413 S. Croatan Highway, Nags Head.

`Existing Land Use: Vacant.

`Zoning Classification of Property: C-2, General Commercial Zoning District.

`Zoning Classification of Surrounding Properties: Property to the north is zoned C-2, General Commercial and developed commercially (The Barn Event Space). Property to the south, directly across Danube Street, is zoned C-2, General Commercial and developed residentially. Property to the west, directly across US Highway 158 is zoned R-2, Medium Density Residential and is developed residentially and commercially (Christian Science Society). Property to the east is zoned C-2, General Commercial and developed residentially.

`Flood Hazard Zone of Property: Property is located in an X Flood Zone, per the Town of Nags Head local ordinance, the property is subject to an RFPE/LES of 9 ft. The proposed first floor of habitable space (commercial office) will be elevated above the 9-foot RFPE. The entry/access from the parking lot is designed to be at an elevation of 7.9 feet. This space will not be conditioned; however, a heater will be provided in the sprinkler closet and construction will be flood resistant.

`Land Use Plan Map/Policies: The 2017 Comprehensive Plan Future Land Use Map classifies this property as Neighborhood Commercial. This proposal is consistent with this land use classification and stated Land Use Policies.

"SPECIFIC INFORMATION

Applicable Zoning Regulations:

- Use Regulations: Section 6.6, Table of Uses and Activities lists "Mixed Use Development" as Special Use within the C-2, General Commercial District, with supplemental regulations set forth in Section 7.32 and Section 7.34. Section 7.32 lists the allowable uses for all Commercial Mixed-Use designations. The applicant has stated that the first-floor commercial use will likely be professional office but may be another allowable use pursuant to Section 7.32 so long as the required parking requirement is met. Section 7.34.2 states that the residential component of a mixed-use development, shall not exceed sixty-six (66) percent of the gross floor area of a building containing three (3) habitable floors.

As proposed, the residential component is 63.3% of the gross floor area of the building and is therefore compliant.

- Lot Coverage: Total allowable lot coverage for this site is 55%. Proposed lot coverage is 47.6% and is therefore compliant.

- Height: The maximum allowable building height within the Town is 35 feet; however, pursuant to Section 8.2.1, Dimensional requirements, total height may be increased to 42 feet with the use of an 8:12 roof pitch or greater. The applicant has proposed a structure with an overall height of approximately 40 feet measured from the RFPE of 9 ft. msl, with the use of an 8:12 roof pitch therefore height is compliant.
- Architecture Design Standards: Section 10.82 of the UDO, Applicability, states that Commercial Design Standards shall apply to all building construction or remodeling projects requiring a special use permit or site plan review. This project must adhere to the Commercial Design Standards set forth within Part VI of the UDO. Section 10.83, Design Standards, of the UDO, states that projects adding a total habitable building area of 10,000 square feet or less may elect to comply with the building design requirements by achieving 150 points based on the criteria outlined in the Town of Nags Head Residential Design Guidelines. Projects that elect to comply in this manner shall, in addition to the required 150 architectural design points, incorporate specific building standards into the design. The proposed architectural design satisfies the minimum standards required by Section 10.83 and additionally achieves 151 architectural design points with the use of a second-floor porch, dormers, coastal watch tower, 8:12 pitched roof, wood shingles and other miscellaneous architectural details.
- Parking: Pursuant to Article 10, Table 10-2, Required Parking by Use, Professional Office Use, including General Business, Financial, Real Estate Sales, Insurance, Attorney, Accountant, Mortgage shall provide parking at one (1) space per office or workspace plus a minimum of two (2) customer parking spaces. There are two office spaces proposed necessitating 2 parking spaces. The applicant anticipates one of the proposed offices will have an additional workstation, necessitating one additional parking space for a total of seven (7) required parking spaces. The residential component shall provide parking at a minimum of two (2) parking spaces for each dwelling unit plus 0.5 spaces for each bedroom over two (2). The four apartments each contain two bedrooms, requiring a total of eight (8) parking spaces. The proposed mixed-use development requires a total of 15 parking spaces plus one loading zone. The applicant has provided 14 parking spaces and is requesting consideration of reduction of one parking space with the placement of a bicycle rack pursuant to the requirements of Section 10.15.2.5. of the Unified Development Ordinance, Reduction of Required Parking for Commercial Uses with the use of Bicycle Rack by Special Use Permit. This Section is provided below:

*10.15.2.5. Reduction of Required Parking for Commercial Uses with the Use of Bicycle Racks by Special Use Permit. By special use permit, total parking requirement for a proposed non-residential use may be reduced by up to three parking spaces at a rate of one parking space per bike rack if one or more bicycle racks are located on the site provided that:*

*10.15.2.5.1. The subject property has frontage along a two-lane roadway, or a sidewalk or similar path crosses the property or is located along the frontage of the property;*

*10.15.2.5.2. Each bicycle rack must be highly visible and conveniently located in close proximity to the entrance of the principal structure.*

*10.15.2.5.3. Each bicycle rack must support at least five (5) bicycles.*

*10.15.2.5.4. Parking reduction shall not exceed more than one (1) parking space per ten (10) parking spaces provided.*

'With regard to the loading zone requirements, Section 10.17.1. sets forth the requirements for the number and type of loading zone required based upon the use. This section also states, "A loading space need not be necessarily a full berth but shall be sufficient to allow normal loading and unloading operations of a kind and magnitude appropriate to the use. The Town Engineer shall determine the sufficiency of loading space but in no case shall the use of such space hinder the free movement of vehicles and pedestrians over a street, sidewalk, parking lot or alley". The applicant has noted that offices and other low impact uses would receive deliveries via shipping services such as Fed-Ex and UPS where delivery stoppage time is typically limited to a minute or less. The Town Engineer has determined that based upon the anticipated use a standard parking space can suffice for the loading space. The applicant has indicated that parking space between parking spaces #7 and #8 would serve as the loading zone and be striped as such.

'Section 10.92.14.4 of the UDO, Surface Materials, requires a minimum of twenty (20) percent of the surface area of the parking area and drive aisles to be constructed of permeable surface material. The majority of the required parking is provided beneath the structure. The applicant has proposed developing over 30% of the exposed surface area of the parking area in a permeable surface material.

- Buffering/Landscaping: Several sections of the Unified Development Ordinance speak to Buffering and Landscaping as it applies throughout this proposed site:

- Section 10.92.6.2 of the UDO, Parking and Drive Aisle Setbacks, requires that where off-street parking is provided between the building and the street right-of-way line, a parking lot buffer of at least ten (10) feet in width shall be provided between the parking lot and the street right-of-way. The proposed parking along the western boundary, adjacent to US 158 and along the southern boundary, adjacent to Danube Street is located beneath the proposed structure however, one row of shrubs and herbaceous plants and grasses has been proposed in this area.

This row of plantings also serves as compliance with Section 10.93.3.5 which states that buildings adjacent to a street frontage shall include foundation landscaping directly adjacent to the building to screen any crawl space, stem wall, lattice work, or open parking areas.

- Section 10.93.3.2 of the UDO, Commercial Transitional Protective Yards, requires increased landscaping to be provided and maintained when non-residential land uses are adjacent to a residential use or residential zoning district. This protective landscape buffer is required to be ten (10) feet in width with two rows of acceptable plant material. Properties to the east are developed residentially and this protective yard will be required along the eastern boundary line. A compliant commercial transitional protective yard has been proposed along the entirety of the eastern property boundary.
- Section 10.93.3.7 of the UDO, Interior Parking Lot Landscaping, requires parking lot landscaping be provided at a minimum rate equal to ten percent of the total area of the parking spaces. The minimum area necessary for compliance is 125 square feet of vegetation, this has been proposed and is therefore compliant.

- Section 10.93.3.8 of the UDO, Vegetation Preservation/Planting Requirements, requires that new development projects either preserve a minimum of ten (10) percent of the lot's total area with existing natural vegetation and/or dune elevations or plant new vegetation in lieu of preservation. When existing vegetation cannot be preserved, the planting of a minimum of fifteen (15) percent of the lot's total area shall be required. Existing vegetation on this site is sparse and cannot be preserved to meet the intent of this section therefore, the applicant has proposed to plant 15% of the lots total area in new vegetation. Approximately 2,025 square feet of area must be vegetated to meet this requirement. Approximately 2,300 square feet of vegetation has been proposed and is therefore compliant.
- Lighting: A lighting plan compliant with the requirements of Article 10, Part IV of the Unified Development Ordinance will be required prior to the issuance any development permits. In addition, a light audit will be required prior to issuance to occupancy permits. Staff is currently reviewing the lighting information submitted with this Special Use application.
- Signage: No additional signage is being proposed at this time.

`Water and Sewage Disposal: The Dare County Health Department has reviewed and approved the proposal as presented (DCHD Approval Attached).

`Traffic Circulation: Traffic circulation has been reviewed and approved by the Town Engineer as proposed.

`Stormwater Management: Stormwater management has been reviewed and approved by the Town Engineer as presented.

`Fire: The project will be required to comply with all applicable NC Fire Prevention Code requirements as part of building permit application review and issuance.

`Public Works: The Public Works Director has reviewed and approved the proposed site plan as presented.

#### `ANALYSIS

Staff finds that the proposal is consistent with the applicable use and development standards, as well as relevant land use policies. Additionally, staff finds that the requirements necessary to offer a reduction in parking pursuant to Section 10.15.2.5. of the UDO, Reduction of Required Parking for Commercial Uses with the Use of Bicycle Racks by Special Use Permit, has been met.

#### `STAFF RECOMMENDATION

Based upon Staff's review of the proposal staff recommends approval of the Special Use Permit/Site Plan Review as presented.

#### `PLANNING BOARD RECOMMENDATION

At their June 21, 2022 meeting the Planning Board voted unanimously to recommend approval of the Special Use Permit/Site Plan Review conditioned upon the items agreed upon in a correspondence from Mike Morway dated June 17, 2022. Those items have all been resolved and appropriately noted on the plan set provided for Board of Commissioners review.

`Pursuant to Section 3.8.4.6 of the Unified Development Ordinance the Board of Commissioners shall issue a Special Use Permit if it has evaluated an application through a quasi-judicial process and determined that:

1. The use will not materially endanger the public health and safety if located where proposed and developed according to the plan as submitted.
2. The use, as proposed, will not overburden the firefighting capabilities and the municipal water supply capacity of the Town as such facilities and capabilities will exist on the completion date of the conditional use for which application is made.
3. The conditional use will be in harmony with the existing development and uses within the area in which it is to be located.
4. Adequate utilities, access roads, drainage, parking, or necessary facilities have been or are being provided.
5. Adequate measures have been or will be taken to provide ingress and egress so designed as to minimize traffic congestion in the public streets."

Notice of the Public Hearing was published in the *Coastland Times* on Wednesday, July 20, 2022 and on Wednesday, July 27, 2022 as required by law.

Fire Chief Wells was sworn in by Town Clerk Carolyn F. Morris. In response to a question from Mayor Pro Tem Siers concerning the reach of the ladder truck to all areas of the proposed building, Chief Wells reported that Dep Fire Chief Shane Hite has been involved in the project reviews and had no issues from the fire standpoint.

Mike Norway of Albemarle & Associates stated that he has met with the applicant, BK Associates, and worked with staff to resolve any issues that came up; he would like to see mixed uses more often; most everything else has been summarized by Planning Director Kelly Wyatt.

There being no one else who wished to speak, Attorney Leidy concluded the Public Hearing at 9:27 a.m.

MOTION: Comr. Renée Cahoon made a motion to approve the special use permit as presented with the following findings:

- The use will not materially endanger the public health and safety if located where proposed and developed according to the plan as submitted.
- The use, as proposed, will not overburden the firefighting capabilities and the municipal water supply capacity of the Town as such facilities and capabilities will exist on the completion date of the conditional use for which application is made.
- The conditional use will be in harmony with the existing development and uses within the area in which it is to be located.
- Adequate utilities, access roads, drainage, parking, or necessary facilities have been or are being provided.
- Adequate measures have been or will be taken to provide ingress and egress so designed as to minimize traffic congestion in the public streets.

The motion was seconded by Comr. Brinkley which passed 4 – 0 (Mayor Cahoon was recused.).

Mayor Cahoon returned to the meeting.

Public Hearing to consider text amendment to the Unified Development Ordinance submitted by George E. Goodrich to modify the maximum allowable gross floor area within each unit of a conforming Cottage Court and increase the allowable stories. Originally heard by the Planning Board at their April 19, 2022 meeting, applicant has revised request per Board of Commissioners discussion

Attorney John Leidy introduced the Public Hearing re: a UDO text amendment submitted by George E. Goodrich to modify the maximum allowable gross floor area within each unit of a conforming Cottage Court and increase the allowable stories. Originally heard by the Planning Board at their April 19, 2022 meeting, applicant has revised request per Board of Commissioners discussion. The time was 9:30 a.m.

Comr. Renée Cahoon was recused from this discussion, by Board consensus, due to a conflict of interest as her family owns and operates a cottage court.

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

“At their June 1, 2022 meeting the Board of Commissioners heard this requested text amendment to the Unified Development Ordinance. The June 1<sup>st</sup> staff report is included as an attachment for convenience. At that time, the Board of Commissioners passed a motion to table consideration of this amendment and to forward it back to the Planning Board for their consideration with the following direction: To maintain diversity within the cottage court to consider allowing some increase in gross floor area beyond the current 1,500 square foot maximum, and to permit some number of two-story units within the cottage court.

“Several members of the Board of Commissioners noted that they would likely not be opposed to allowing not more than 1/3 of the cottage court units to be increased to two- stories. Acknowledging that the applicant’s requested increase in gross floor area from 1,500 square feet to 2,000 square feet was excessive, it was suggested that consideration could be given to increasing the total allowable gross floor area to 1,750 square feet.

“The previous staff recommendation from the Planning Board’s May 19<sup>th</sup> meeting and the Board of Commissioners June 1<sup>st</sup> meeting, was that a maximum gross floor area of 2,000 square feet is more in line with the gross floor area of a single-family dwelling, and not that of a “cottage”. Staff continues to have this concern with a proposed increase in allowable gross floor area to 1,750 square feet. Staff ran a rudimentary analysis of single-family residential structures in the Old Nags Head Cove Subdivision and Northridge Subdivision to get an idea of what the average home size in these neighborhoods are. This analysis is attached for your review. The mean size of single-family dwellings within Nags Head Cove is approximately 1,366 square feet. The mean size of single-family dwellings within Northridge is approximately 1,540 square feet. With this in mind, staff remains of the opinion that increasing the maximum allowable gross floor area for “cottages” within a conforming cottage court beyond the existing 1,500 square feet would be more in keeping with the size and area of a single-family dwelling.

#### ‘Staff Recommendation

Staff would submit that the revised and reduced maximum gross floor area of 1,750 square feet is more in line with that of a single-family dwelling, and not that of a cottage. Staff also continues to have concerns that the increase in gross floor area may lend itself to a desire “condo-out” the cottages and offer them for sale, thus circumventing the Town’s subdivision ordinance.

**Planning Board Recommendation**

At their June 21, 2022, meeting the Planning Board voted unanimously to recommend denial of the text amendment as revised.

"If the Board of Commissioners is inclined to adopt this proposed text amendment, please reference Appendix A for the Statement of Consistency with the Town's adopted Comprehensive Plan requirements (attached)."

Notice of the Public Hearing was published in the *Coastland Times* on Wednesday, July 20, 2022 and on Wednesday, July 27, 2022 as required by law.

Mayor Cahoon confirmed with staff that the last year a cottage court was built in Nags Head was 2015.

Applicant Eddie Goodrich stated that he does not feel that the requested changes are too great of a change for cottage courts and he requested Board approval.

There being no one else who wished to speak, Attorney Leidy concluded the Public Hearing at 9:45 a.m.

**MOTION:** Mayor Pro Tem Siers made a motion to approve and incorporate the new cottage court chart as displayed, replacing the chart in the ordinance, and adopting the ordinance as amended. The motion was seconded by Comr. Brinkley which passed 4 – 0 (Comr. Renée Cahoon was recused.).

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

Comr. Renée Cahoon returned to the meeting.

**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 August 3, 2022.

"Attached for the Board's review is the *Planning and Development Monthly Report for June 2022*. 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:

- Monday, July 4<sup>th</sup> – Technical Review Meeting (reschedule due to Holiday)
- Wednesday, July 6<sup>th</sup> – Board of Commissioners Meeting.
- Wednesday, July 13<sup>th</sup> – Committee for Art and Culture Meeting.
- Thursday, July 14<sup>th</sup> – Board of Adjustment (no hearings scheduled)
- Wednesday, July 6<sup>th</sup>, 13<sup>th</sup>, 20<sup>th</sup>, 27<sup>th</sup> – Dowdy Park Concert Series, 6:30 – 8pm.
- Thursday, July 7<sup>th</sup>, 14<sup>th</sup>, 21<sup>st</sup>, 28<sup>th</sup> – Dowdy Park Farmers Market, 9am – 1pm.

- Tuesday, July 19<sup>th</sup> – Planning Board Meeting.

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

'The Planning Board's most recent meeting was held on Tuesday, July 19<sup>th</sup>, 2022 and included an update provided by Town Engineer, David Ryan on the status of the Epstein Street Bathhouse and several other projects including beach restoration, public works facilities master plan, approximately 5.7 miles of street work, dune walkover replacements, drainage improvements in Old Nags Head Place and ongoing grant work. At this meeting the Planning Board also received an update on the AIA Activate Grant, Water and Energy Conservation Guide, continued discussion of tree removal/preservation efforts within the Town and was introduced to new employees, Chris Trembly, Code Enforcement Officer and Kelly Brady, Planner.

'The Planning Board's next meeting is scheduled for August 16<sup>th</sup>, 2022. At this time, the agenda is expected to include a Sketch Plan Review for the Public Works Facility Master Plan, a Site Plan Review for the construction of a 4-story, 90-unit Hotel (Inn at Whalebone) located at 6632 W. Pheasant Avenue and various updates on on-going discussion items.

#### 'Board of Adjustment – Pending Applications

There were no items for Board of Adjustment consideration in July 2022.

#### 'Additional Updates

- DWMP/Voluntary Septic Subscription Service – Staff is in the process of scheduling the VSSS Kickoff Meeting the week of August 29<sup>th</sup> – September 2<sup>nd</sup>.
- Estuarine Shoreline Management Plan – Deputy Planning Director, Kate Jones provided the Planning Board with an update of the ESMP at their July 19<sup>th</sup>, 2022 meeting. The ESMP Advisory Committee will hold their fourth meeting on Wednesday, August 10<sup>th</sup> from 3pm – 4:30pm in the Town of Nags Head Board Room. The purpose of this meeting will be to review the shoreline typologies, the 10 proposed project sites and to provide input and make a recommendation on the 3 sites to move forward to conceptual design development. A Public Meeting will also be held on Wednesday, August 10<sup>th</sup> from 5pm – 7pm in the Board Room. This will be in an informal meeting for the public to learn more about the ESMP project, and to explain the three estuarine shoreline sites that the Advisory Committee has recommended for conceptual design. This meeting will be an open-house format and open to all.
- NC Resilient Coastal Communities Program – The Town has been awarded grant funding for Phase 3 of the NC RCCP. Staff has completed the requisite grant paperwork and should be receiving guidance shortly as to when the funds will be available. We will have 6 months to complete and design and engineering component of Project Area 12. The final resilience report and online mapping tool are available for viewing on the project website, located [HERE](#).
- Electric Vehicle Action Plan – Staff anticipated providing the Board of Commissioners with a more in-depth update of this plan at the August 3<sup>rd</sup> meeting, however, we have received very little citizen input to date. Staff will provide the next update at the Board's September 7<sup>th</sup> meeting to provide staff more time to solicit input.
- ETIPP Project/Program – Staff is working with Dominion Power to provide electricity use trends for Town critical facilities to facilitate the microgrid analysis.

- NC AIA Activate Technical Assistance – Deputy Planning Director, Kate Jones, will be providing the Board of Commissioners with a detailed update of the of this project including the draft Residential Energy and Water Conservation Guide at their Wednesday, August 3<sup>rd</sup>, 2022 meeting.
- Whalebone Park: Phase 1 Planning – Staff has submitted the PARTF Grant application and will begin working on the Outer Banks Visitors Bureau grant for the remaining funding. The Outer Banks Visitors Bureau grant application is due in September.
- LID Stormwater Demonstration Project – All components of the Town Hall rain garden have been installed including the gutters and the downspouts. Staff has initiated the grant reimbursement process from Dare County Soil and Water. Staff is also exploring additional grant funding from Dare County Soil and Water to pay for educational signage to be placed by the rain garden project.
- Dowdy Park Events/Farmers Market/Holiday Markets/Art & Culture – As the Dowdy Park Farmers Market continues each Thursday through August 18<sup>th</sup>, we continue to receive positive feedback. Yoga class occurs each Tuesday through October 25<sup>th</sup> at 7:30am at Dowdy Park. We have had two concerts cancelled due to weather; however, we are working to reschedule those performances this season. Event Coordinator, Paige Griffin is currently working on scheduling a kid’s day on August 18<sup>th</sup>, with a performance by Nature Out Loud.

#### ‘Upcoming Meetings and Other Dates

- Tuesday, August 2<sup>nd</sup> – Technical Review Committee Meeting
- Wednesday, August 3<sup>rd</sup> – Board of Commissioners Meeting
- Wednesday, August 10<sup>th</sup> – ESMP Advisory Committee Meeting # 4
- Wednesday, August 10<sup>th</sup> – ESMP Public Meeting
- Wednesday, August 10<sup>th</sup> – Committee for Art and Culture Meeting
- Thursday, August 11<sup>th</sup> – Board of Adjustment (no hearings scheduled)
- Tuesday, August 16<sup>th</sup> – Planning Board Meeting
- Wednesday, August 3<sup>rd</sup> – Dowdy Park Concert Series, 6:30 – 8pm
- Thursday, August 4<sup>th</sup>, 11<sup>th</sup>, and 18<sup>th</sup> – Dowdy Park Farmers Market, 9 am – 1 pm.”

Mayor Cahoon asked for a time line for the Stormwater Drainage Area Project #12 for discussion at the next Board meeting.

Comr. Renée Cahoon said that people would like to see some tightening in our ordinances for the cutting down of trees, especially the cutting down of oak trees.

#### Expansion of the Dune Management Program

Dep Planning Director Kate Jones summarized her memo which read in part as follows:

**"Dune Management Cost Share Program**

As you may recall, the Town developed the Dune Vegetation Cost Share program in 2021 to assist oceanfront property owners with the establishment and retention of protective dunes. The program has run for two seasons. In the most recent season, the dune management program was modified mid-way to include the installation of sand fence, with an adjusted cap on cost share reimbursement set to \$1000 per parcel. The funds were available for both dune vegetation and sand fence. Another change was made so that funding could be used to cover labor as well as materials up to the limit per parcel. The goal of these changes was to improve flexibility, while improving the participation rate and outcomes of the program.

**'Addition of Sand Relocation to Dune Management Cost Share Program**

In order to better assist oceanfront property owners with overall dune management, staff recommends additional funding to the cost share program to include ocean sand relocation activities in the upcoming season. While this activity would be captured in the existing dune management cost share program, it would be closely coordinated with the existing town sand relocation permitting program.

'As a reference, town staff processed the below number of sand relocation permits the past two years:

- FY 20-21, 155 sand relocation permits.
- FY 21-22, 190 sand relocation permits.

'There are benefits to stabilizing areas post sand relocation with dune vegetation once the sand has been moved, which staff recommends as a requirement for sand relocation reimbursement.

**Table 1. Dune Management Cost Share Program Statistics and Recommendations**

<i>Activity</i>	<i>FY 21</i>	<i>FY 21-22</i>	<i>FY 22-23 *</i>	<b>Application interval</b>	<b>Application dates</b>
Planting	<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>	every year	Oct 1 – June 30
Sand Relocation	<i>no</i>	<i>No</i>	<i>yes</i>	Once eve 3 yrs	Nov 15 – April 15
Max Fund Amt per Parcel	<i>\$500</i>	<i>\$1000</i>	<i>\$2500</i>		
<b>Total Pgm Funding</b>	<i>\$20,000</i>	<i>\$20,000</i>	<i>\$170,000</i>		
<b>Total Disbursed Amt</b>	<i>\$4000</i>	<i>\$9931</i>	<i>\$xxx,xx</i>		

\*Proposed

'OBX Better Beaches

Staff is also recommending \$15,000 be provided to OBX Better Beaches for the purpose of installing dune vegetation. This amount would allow the organization to plant three-fourths to one linear mile of oceanfront dunes for the upcoming 2022-2023 season.

'Staff would like to get the Board's opinion on the existing dune management cost share program, adding sand relocation activities as a cost share option, the amounts suggested for reimbursement, as well as the amount suggested for OBX Better Beaches. A budget ordinance is included for your approval of this funding request.

'Staff is available to answer any questions."

Board members expressed appreciation of what OBX Better Beaches (Donny King) has done for the Town and the beaches and spoke in favor of expansion of the program to include increasing the amount.

It was Board consensus to: Authorize adding sand relocation as a cost-share option; Require planting of dune vegetation for sand relocation reimbursement; Increase the amount of reimbursement to \$3,500; and Authorize \$15,000 for OBX Better Beaches to continue its program.

MOTION: Comr. Renée Cahoon made a motion to adopt the Capital Project Ordinance as presented with the amount for sand relocation/sprigging being raised to \$3,500. The motion was seconded by Comr. Brinkley which passed unanimously.

The capital project ordinance for the Dune Management Program, as adopted, read in part as follows:

"BE IT ORDAINED by the Governing Board of the Town of Nags Head, North Carolina, that, pursuant to Section 13.2 of Chapter 159 of the General Statutes of North Carolina, the following capital project ordinance as adopted December 16, 2020, amended February 3, 2021, amended September 1, 2021, amended January 5, 2022, is hereby further amended as follows:

'Section 1. The project authorized is a locally funded beach nourishment project to be financed by appropriation of Beach Nourishment Capital Reserve Fund Balance and grants committed by the Federal Emergency Management Agency (FEMA), the N.C. Department of Public Safety (NCDPS), and the N.C. Department of Environmental Quality (NCDEQ).

'Section 2. The officers of this unit are hereby directed to proceed with the capital project within the terms of the budget contained herein.

'Section 3. The following amounts are appropriated for the project:

Engineering and construction oversight	\$ 1,337,636
Pumping Costs	6,146,778
Mobilization/Demobilization	5,023,000
Professional fees	793,000
Surveying and monitoring	472,200
Sand fencing	161,000
Capital outlay-other	185,000
Sprigging	64,750
Turtle monitoring	80,000
Contingency	<u>125,000</u>
	<u>\$ 14,388,364</u>

- `Section 4. The following revenues are anticipated to be available to complete this project:
- |  |                      |
|--|----------------------|
| Intergovernmental Grants               | \$12,614,542         |
| Contribution from Capital Reserve Fund | <u>1,773,822</u>     |
|  | <u>\$ 14,388,364</u> |
- `Section 5. The Finance Director is hereby directed to maintain within the Capital Project Fund sufficient detailed accounting records to satisfy federal, state, and local regulations.
- `Section 6. The Finance Director is directed to report, on a quarterly basis, on the financial status of each project element in Section 3.
- `Section 7. The Budget Officer is directed to include a detailed analysis of past and future costs and revenues in this capital project in every budget submission made to this Board.
- `Section 8. Copies of this project ordinance shall be furnished to the Clerk of the Governing Board, and to the Budget Officer and Finance Director for direction in carrying out this project.
- `Section 9. The Town Manager, or in his absence his designee, is hereby authorized to execute change orders or amendments to contracts in amounts up to \$50,000 appropriated from contingency when it contains sufficient funds. The Budget Officer is authorized to reallocate appropriations between contingency and the various objects of expenditures as a result. Such changes shall be reported to the Governing Body at the next regular meeting.
- `Section 10. In case of emergency which threatens lives, health, and safety of public, the Town Manager may execute contractual documents and authorize expenditures in an amount necessary to meet the emergency so long as such amount does not exceed the amount in the contingency account not to exceed \$125,000 and the expenditure is reported to the Board of Commissioners as soon as possible, and the appropriate budget amendments are submitted at the next regular meeting.”

From Jun 1<sup>st</sup> Board meeting – Planning updates to the Public Services Facilities Plan

- Andrew and Doug Carter of DEC Associates provided an update to the schedule and to the debt offering

The presentation by DEC Associates is attached to and made a part of these minutes as shown in Addendum “D”.

The proposed calendar for the project is as follows:

“Blending of Construction and Financing Calendars

- August 2022– Decisions on Facility Particulars
- October 2022 – Kick off with Local Government Commission (LGC)
- November 2022 – Receive Construction Bids
- November 16, 2022 – Town Adopts Initial Resolution & Accepts Construction
- December 2022 – Ratings Process Begins
- January 3, 2023 – LGC Approval
- January 4, 2023 – Town Adopts Approving Resolution
- January 2023 – Public Sale or Private Placement of Debt
- February 2023 – Closing and Construction begins”

- Tim Oakley and Ann Collier of Oakley Collier Architects provided an update to the project to include planning efforts, scheduling, and construction options.

The presentation by Oakley Collier Architects is attached to and made a part of these minutes as shown in Addendum "E".

The challenge is having an ongoing operational site/facility with ongoing construction; they described and displayed an entire site plan and proposed buildings to include vegetation, etc. Anticipate putting the project out to bid end of September 2022 and looking at pre-qualified contractors ahead of time.

Mr. Oakley and Ms. Collier are to look into the possibility of using solar energy; and into using geo-thermal – it was noted that Town Hall uses a geo-thermal system.

It was Board consensus to agree to the color scheme of blue on the front with a wood background – Scheme #5. The hybrid option for building construction was Board consensus. Board members thanked the Colliers for their presentation.

- Consideration of the Capital Project Ordinance

MOTION: Comr. Renée Cahoon made a motion to accept the lease agreement amendment and the Capital Project ordinance as presented for the Public Services Facilities Plan. The motion was seconded by Comr. Brinkley which passed unanimously.

The Capital Project Ordinance, as adopted, read in part as follows:

"BE IT ORDAINED by the Governing Board of the Town of Nags Head, North Carolina, that, pursuant to Section 13.2 of Chapter 159 of the General Statutes of North Carolina, the following capital project ordinance as adopted January 5, 2022, is hereby amended as follows:

'Section 1. This ordinance is to establish a budget for the Public Services Complex.

'Section 2. The following budget shall be conducted within the Capital Projects Fund (fund #41).

'Section 3. The officers of this unit are hereby directed to proceed with the capital project within the terms of the budget contained herein.

'Section 4. The following amounts are appropriated for the project:

Construction design and oversight	\$ 1,288,200
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'Section 5. The following revenues are anticipated to be available to complete this project:

Contribution from General Fund	\$ 489,950
Financing Proceeds	<u>798,250</u>
	\$ 1,288,200

'Section 6. The Finance Officer is hereby directed to maintain within the Capital Project Fund sufficient detailed accounting records to satisfy federal, state, and local regulations.

'Section 7. The Finance Officer is directed to report, on a quarterly basis, on the financial status of each project element.

'Section 8. Copies of this project ordinance shall be furnished to the Clerk of the Governing Board, and to the Budget Officer and Finance Officer for direction in carrying out this project."

Presentation on the ECU/Nags Head Community Water Corps Program – "There's No Place Like a Sustainable Home."

Town Manager Andy Garman introduced the Community Water Corps Program - Val Gould from East Carolina University (ECU) introduced Moro McCarthy (student at Manhattan College in New York), Jess King (working on her Masters at ECU), and Sam Selts (Eighth grader at Manteo Middle School).

The students provided a PowerPoint presentation which provided details of the program and how it specifically focuses on water flow and water quality. The project goal of the group is to work with the community in the Tar-Pamlico River Basin to understand how they will be impacted by climate change. Jessica King ECU for masters, Moro McCarthy student at Manhattan college in NY, Sam Selts Eighth grader at Manteo Middle School.

The PowerPoint presentation is attached to and made a part of these minutes as shown in Addendum "F".

Board members spoke highly of the presentation and the sustainable housing display with links to establishing a certified sustainable house. Board members also thanked the involved educational institutions: East Carolina University, Manhattan College, and Manteo Middle/High School.

Board members thanked the students for their presentation.

Presentation of the Residential Water and Energy Conservation Guide

Dep Planning Director Kate Jones summarized the agenda summary sheet which read in part as follows:

"Through a grant from the NCAIA, town staff worked with a team of architectural and landscape architectural professionals and NC State University to create a reference guide for residential development that focuses on water and energy conservation. The content for the guide was determined in part by stakeholder engagement including both year round and part time homeowners, rental companies, builders, septic contractors, and landscape contractors. The guide can serve as a reference that will be available on our website. Alternatively, the graphics in the guide can be used independently for web and/or social media campaigns as needed.

Staff Recommendation/Planning Board Recommendation

The Planning Board reviewed the document and offered their support. Staff asked for their opinion on the value of adding longer term cost savings metrics for the three budget scenarios on Pages 36-41. The Planning Board voiced their support of adding this metric to the three budget scenario pages. This is the last remaining piece to complete the guide. Staff would like the Board of Commissioners to review the guide, and offer any suggestions. Staff will be available to answer questions."

Board members thanked Ms. Jones for the conservation guide document. She confirmed with Board members that she would be working to get the information from the Residential Water and Energy Conservation Guide out to the community.

Discussion of Dowdy Park event sponsorships

Event Coordinator Paige Griffin summarized her memo which read in part as follows:

#### "OVERVIEW AND BACKGROUND

At the Nags Head Board of Commissioners June 1, 2022 meeting, Planning Staff presented a draft Event Sponsorship Policy following the inclusion of sponsorship opportunities within the updated consolidated fee schedule to accompany the FY 22/23 operating budget. The policy speaks to the criteria for sponsorships, sponsorship agreements, permissible and impermissible sponsors, and message content as well as general conditions. At this meeting, Board members expressed an interest in receiving citizen input and feedback, concerned that this type of sponsorship opportunity may be viewed as a type of commercialization of town parks and spaces.

Staff utilized several avenues to solicit citizen feedback on the proposed event sponsorship opportunities. These included the following:

- Posting/posing the question of community sentiment on the Town's social media platforms such as the Dowdy Park Farmers Facebook and Instagram page as well as the Town's Facebook page.

These social media posts did not generate a lot of feedback but what was received was generally positive. Between the Town's Facebook page and the Dowdy Park Farmers Market Facebook page the post received a total of 9 "Likes", 8 "Shares" and one comment. Analytics of these posts say that approximately 3,783 people were reached/viewed the post. The social media post (included below) also encouraged interested citizens to contact Event Coordinator, Paige Griffin directly. Paige received several emails, some of which led to follow up phone calls. Some of the comments received were, "I love the park, and the events for the community", "We like the idea of more events and would love to be a part of what you are doing", "We have been looking for the right opportunity to be more involved in community events", "Needs to have clear boundaries and incentives", "I don't see any issue with allowing sponsors. It is a great way to obtain funding and expand offerings".

- Surveying guests (locals and visitors) at the Farmers Market and Concerts.

Event Coordinator, Paige Griffin spoke to upwards of 65 people attending these events and the overwhelming consensus was to accept sponsorships therefore increasing the frequency of events and educational offerings. Many of those surveyed spoke to a desire for more Spring and Fall opportunities when schedules are less hectic, allowing more time for locals to attend.

- Calling on local business owners via text message, phone calls, and face to face conversations for their input.

Most business owners were in favor of the sponsorship opportunities noting that it would provide increased events within the community. A few were hesitant and non-committal at first, until they were provided with, and understood the proposed guidelines, parameters and restrictions that would be adhered to as part of the sponsorship. Once they understood the proposed rules regulating the sponsorship, they were in favor of proceeding.

It's important to note that at this time, the consolidated fee schedule only contemplates sponsorships for movies and music. Sponsorship of a movie would not exceed \$650 and would include the set up and tear down of movie equipment and a small treat for attendees, such as popcorn. Sponsorship costs of a music performance may vary based upon the band. The bands that currently perform as part of the Dowdy Park Summer Concert Series are selected such that there is a genre of music for everyone, and prices range from \$300 to \$1,000. In addition, the fee for sound set up through Sea Level Sound for each concert is a

set fee of \$800. With the consolidated fee schedule only speaking to these two opportunities, any other considerations would need to come before the Board of Commissioners for their consideration and approval as part of an amendment to the fee schedule.

'Should a business or individual wish to sponsor a movie or music event the following are ways in which we are proposing they be recognized:

- Sponsor recognition on advertisements approximately one week in advance of the event which typically includes email broadcasts, social media posts, e-newsletters, placement of the sponsor's logo on the Dowdy Park Events webpage.
- Sponsor recognition during stage announcements.
- Sponsor will be permitted to place an approved banner (not to exceed 36 square feet in area) internally facing within the park during the event. Staff envisions this being placed inside the pavilion, as a backdrop for the band, or visible during a movie. This banner should not be highly visible from US 158 or Bonnett Street.

'Staff has included the draft Event Sponsorship Policy for the Boards review as well. Following the June 1<sup>st</sup>, meeting, Town Attorney Leidy reviewed the policy and recommended that two areas of the policy be deleted as they are overbroad and vague. This policy was adopted at the June 1<sup>st</sup> meeting, however after review of the revised policy the Board of Commissioners will need to consider re-adoption of the policy with the suggested revisions.

'Staff will be available at the Board of Commissioners August 3<sup>rd</sup>, 2022 meeting to participate in discussion and address any questions that may arise."

MOTION: Mayor Pro Tem Siers made a motion to approve the Dowdy Park Event Sponsorship policy as presented. The motion was seconded by Comr. Brinkley which passed unanimously.

The Policy, as approved, read in part as follows:

- GENERAL POLICY STATEMENT

The Town of Nags Head may permit private sponsorships of government programs, services and events in limited circumstances as a means to generate funds for improving or expanding those programs, services, and events and exercises sole discretion over who is eligible to become a sponsor according to the terms of this Policy. Whenever possible, sponsorships shall be linked to specific activities, events, programs, or publications. The Town of Nags Head will neither seek nor accept sponsors that manufacture products or take positions inconsistent with local, state, or federal law or with the Town of Nags Head's policies, positions, or resolutions. The acceptance of a sponsorship offer or the establishment of a sponsorship agreement does not constitute an endorsement by the Town of Nags Head of the sponsor's organization, products, or services.

- PURPOSE AND INTENT

The purpose of this Policy is to define the conditions upon which sponsorship messages may be placed upon Town property or in publications of the Town and to establish definitive guidelines for the acceptance and placement of such messages. It is the intent of the Town of Nags Head to preserve its full rights and discretion to reject or refuse placement of any or all sponsorship messages. To the extent that any such messages are accepted, the Town of Nags Head reserves the right of full editorial control over the placement, content, appearance, and wording and to determine and prohibit types of sponsorship messages which are deemed inappropriate for or inconsistent with the business of the Town or the

services provided to the Town of Nags Head residents. It is also the intent of the Town to offer fair and equitable opportunities for businesses, individuals, and other organizations to sponsor activities and events. The Town will work to design a process that allows for participation by a wide variety of interested parties.

- **CRITERIA FOR SPONSORSHIP**

The Town of Nags Head recognizes that entering into a sponsorship agreement with an external entity does not constitute an endorsement of the entity or its services and products but does imply an affiliation. Such affiliation can affect the reputation of the Town of Nags Head among its residents. Therefore, any proposal for sponsorship of a Town of Nags Head program or service in which the involvement of an outside entity compromises the public interest will be rejected. The Town of Nags Head shall consider the following criteria before entering into a sponsorship agreement:

- Extent and prominence of public display of sponsorship;
- Aesthetic characteristics of the public display of sponsorship;
- Level of support provided by the sponsor;
- Cooperation necessary from other Town of Nags Head Depts to implement the sponsorship;
- Inconsistencies between the Town of Nags Head's policies and the known policies or practices of the potential sponsor;
- Other factors that might undermine public confidence in the Town's impartiality or interfere with the efficient delivery of Town services or operations, including, but not limited to, current or potential conflicts of interest between the sponsor and the Town of Nags Head employees, officials, or affiliates; and the potential for the sponsorship to tarnish the Town's standing among its residents at large.
- Number of available sponsorships as compared to the number of interested parties seeking a sponsorship opportunity.

- **SPONSORSHIP AGREEMENTS**

Sponsorship agreements for Town of Nags Head programs or services shall clearly outline the forms of support sought and offered, the recognition to be given by the Town, and should detail the following information, at a minimum:

- Activities, products, and services of the private entity, its parent, subsidiaries, affiliates and predecessor companies;
- Benefits to be given to the proposed sponsor by the Town of Nags Head;
- Benefits to be given to the Town of Nags Head by the proposed sponsor;
- Prominence of the proposed public recognition of support;
- Content of the proposed public recognition of support;
- Duration of the proposed public recognition of support;
- Conditions under which the sponsorship agreement may be terminated.

- **IMPERMISSIBLE SPONSORS AND MESSAGE CONTENT**

Sponsorship from an organization that is engaged in any of the following activities, or has a mission of supporting any of the following subject matters, shall be prohibited on any Town property or in Town publications:

- Promotion of the sale or consumption of alcoholic or cereal malt beverages, in name, likeness or implication or promotion of establishments that are licensed for and primarily sell alcoholic or cereal

malt beverages, including bars; provided, however, restaurants or other food services establishments and hotels or other places of lodging may be authorized when the commercial message or advertisement promotes only the food services or lodging;

- Promotion of the sale or consumption of tobacco or vaping products or depiction of the use of tobacco or vaping products;
- Commentary, advocacy or promotion of issues, candidates, campaigns or organizations of a social, political, religious, or rhetorical nature;
- Promotion of gambling, pari-mutual betting, or games of chance, in name, likeness or implication, or promotion of establishments providing such services or activities of a related or similar nature;
- Depiction in any form of nudity or semi-nudity, profanity, obscenity, or lewdness, or characterizations which suggest, depict or promote any such element or sexually oriented products, activities or materials;
- Promotion in any form of illegal drugs, illegal drug use, illegal drug paraphernalia, or characterizations which suggest or depict the promotion or glorification of any such products, activities or materials;
- Promotion of the use or sale of firearms, explosives or other weapons, or the depiction, suggestion or glorification of violence or acts of a violent nature;
- Use of words, language, representations, or descriptive material of any kind having more than one meaning or connotation, one of which would otherwise be prohibited under this Policy;
- Inclusion of materials, depictions, promotions or offerings which are the type prohibited by, or by their nature would violate, any federal, State, or local law, rule, or regulation.

The Town of Nags Head reserves the right and discretion to exercise full editorial control over the placement, content, appearance, and wording of sponsorship affiliations and messages. The Town of Nags Head may make distinctions on the appropriateness of sponsors on the basis of subject matter of a potential sponsorship recognition message.

- **PERMISSIBLE RECOGNITION MESSAGES**

Sponsorship recognition messages may identify the sponsor but generally should not promote or endorse the organization or its products or services. Statements that advocate, contain price information or an indication of associated savings or value, request a response, or contain comparative or qualitative descriptions of products, services or organizations will ordinarily not be accepted. Typically, only the following content will be deemed appropriate:

- The legally recognized name of the sponsoring organization;
- The sponsor's organizational slogan if it identifies rather than promotes the organization or its products or services;
- The sponsor's product or services line, described in brief, generic, objective terms;
- Brief contact information for the sponsor's organization, such as a phone number, address,

website, or QR code. Contact information should be stated in a manner that avoids an implication of urging the reader to action.

The Town of Nags Head will not make any statements that directly or indirectly advocate or endorse a sponsor's organization, products, or services.

No materials or communications, including, but not limited to, print, video, Internet, broadcast, or display items developed to promote or communicate the sponsorship using the Town of Nags Head's name, marks, or logo, may be issued without written approval from the Town of Nags Head's Commissioners and Town Attorney, or their designees.

- GENERAL CONDITIONS

- Sponsor is solely responsible for obtaining necessary permission to use photographs, trademarks, trade names, copyrighted material, or any other legally protected property. All commercial messages or advertisements shall be accepted and published by the Town upon the representation that the agency or sponsor is authorized to publish the entire contents and subject matter thereof.

- Sponsor assumes liability for all content and responsibility of any claim arising therefrom. Sponsor agrees to indemnify and hold harmless the Town, its officials, officers, agents and employees against all damages, costs and expenses including, without limitation, attorney's fees resulting from any claim, action or proceeding alleging that the commercial message or sponsorship infringes on any copyright, violates any right of privacy, or other personal or property right, constitutes libelous matter, plagiarism, unfair competition, unfair trade practice, infringement of trademarks, or other matter contrary to law or contains any formula or instructions injurious to the user of a sponsor's product.

- The Town is not liable for delays in publication or presentation of sponsorship messages in any event or for any reason, including acts of God, action by any governmental or quasigovernmental entity, lack of funds, fire, flood, insurrection, riot, explosion, embargo, strikes whether legal or illegal, labor or material shortage, transportation interruption of any kind, work slowdown, or any condition beyond the control of the Town affecting publication or presentation of sponsorship in any manner.

- If an error or omission occurs in the publication or placement of any sponsorship message, the Town's liability shall be limited to the amount of the reduction in the value of the sponsorship due to the error or omission, but in no event shall liability exceed the total cost payable for the sponsorship space.

- The words "a paid sponsorship", or some like term, may be added to sponsorship messages that, in the sole opinion of the Town, might be confused with editorial matters.

- AUTHORIZATION REQUIREMENTS AND PROCESS

Placement of sponsorship messages upon Town property or in Town publications shall require specific authorization from the Town of Nags Head Board of Commissioners via the creation and approval of a Sponsorship Agreement Form for each sponsorship opportunity. Interested sponsors shall submit a completed Sponsorship Agreement Form to the appropriate Town designee for review in accordance with the Sponsorship Policy and be notified by such designee upon acceptance or denial of the sponsorship offer. The Town of Nags Head's Board of Commissioners reserves the right to require Sponsorship Agreement Forms for specific sponsorship opportunities be reviewed by the Board of Commissioners prior to approval or denial.

This Policy shall be and become effective upon adoption by the Town of Nags Head Board of Commissioners and shall thereafter apply to the acceptance and placement of sponsorship messages as

provided in the Policy; provided, however, that sponsorship messages which were made prior to the adoption of this Policy shall not be considered in violation of the Policy, and to the extent possible shall be construed and completed, if necessary, in the manner most consistent with the Policy.

**`Sponsorship Opportunities**

Movies in the Park = \$650

(Includes set up and tear down of equipment and small snack for attendees, such as popcorn, etc.)

**`Music in the Park (Levels I, II, & III)**

(Includes fee for band and professional sound)

Level I = \$1,100 Level II = \$1,500 Level III = \$2,000

**`Recognition with Sponsorship**

Recognition on advertisements one week in advance of the event, typically includes email broadcasts, social media posts, e-newsletters, placement of the sponsor's logo on the Dowdy Park Events webpage.

**`Recognition during stage announcements**

Sponsor will be permitted to have an approved banner (maximum 36 sf in area) internally facing within the park during the event

**`For Information Contact**

Paige Griffin, Event Coordinator [Paige.griffin@nagsheadnc.gov](mailto:Paige.griffin@nagsheadnc.gov) 252-489-8551"

## **OLD BUSINESS/ITEMS TABLED FROM PREVIOUS MEETINGS**

### From Jun 1<sup>st</sup> Board meeting – Consideration of appointment to Pedestrian Project Advisory Committee

The agenda summary sheet read in part as follows:

"At the March 2, 2022 Budget Workshop, staff presented a pedestrian project list and map detailing potential future pedestrian projects. As noted, pedestrian priorities have changed with the installation of the west side multi-use path with a focus towards improved bicycle and pedestrian neighborhood connections to the path.

"Staff is prepared to begin the process of identifying and ranking future pedestrian projects for Board consideration as part of next year's CIP. After public notice, the town has received six applications from those interested in serving on an advisory committee. Attached please find the list for Board consideration of appointment at the August 3<sup>rd</sup> Board of Commissioners meeting."

Comr. Renée Cahoon expressed her interest in being Board liaison on the Pedestrian Project Advisory Committee. It was Board consensus to concur with her request.

**MOTION:** Comr. Brinkley made a motion to appoint as members of the Pedestrian Project Advisory Committee the following applicants: Meade Gwinn, Lynda Frattone, Aaron McCall, William Simmonds, Rick Termeer, and Kim Coward; in addition to appoint Comr. Renée Cahoon as Board liaison and Dep Fire Chief Shane Hite as staff support. The motion was seconded by Mayor Pro Tem Siers which passed unanimously.

## **NEW BUSINESS**

### Committee Reports

#### *Comr. Renée Cahoon – Gov-Ed Committee*

The video the Town would like to produce was approved at the recent meeting of the Government Access Channel Committee.

#### *Comr. Brinkley – Jennette’s Pier Advisory Committee*

The Jennette’s Pier Advisory Committee met and it was reported that visitation was up; revenue is back to pre-COVID times; maintenance is taking place; replacement of the wind turbine to make it better withstand the elements was also discussed. Comr. Renée Cahoon expressed her concern that what was approved on the original site plan is not what was installed.

#### *Comr. Sanders - Estuarine Shoreline Management Plan*

Comr. Sanders invited those interested to attend the Estuarine Shoreline Management Plan public meeting next week, Wednesday, August 10<sup>th</sup>, in the Board Room from 5 pm to 7 pm.

#### *Mayor Cahoon – NC Task Force for Offshore Wind Economic Resource Strategies*

Mayor Cahoon will be meeting tomorrow (August 4<sup>th</sup>) in Elizabeth City on the NC Task Force for Offshore Wind Economic Resource Strategies – this afternoon he will be attending a round table discussion of a sub-committee meeting of which he is co-chair.

### Consideration of revised Town Park Policy

Town Manager Garman explained that the proposed revised Town Park Policy is not for Dowdy Park as Dowdy Park has its own policy; it is to limit the number of people and prohibit weddings/receptions at the Town Park at Barnes Street.

**MOTION:** Comr. Brinkley made a motion to approve the revised Town Park Policy [for Barnes St Town Park] as presented. The motion was seconded by Comr. Renée Cahoon which passed unanimously.

The Town Park Policy, as approved, read in part as follows:

#### “Facilities covered

- *Town Park* located at 415 Health Center Dr.
- *Harvey Sound Access Site* located at 6912 S. Croatan Hwy.
- *Whalebone Park* located at 7300 S. Va. Dare Trail

#### ‘Principles of use

- The Town has priority in the use of the Parks and reserves the right to cancel the non-Town use of these facilities.
- The Town expects users to respect the Parks and to leave them in good condition, clean and ready for use when they leave.

- There is to be no alcohol at the Parks, except as otherwise permitted as part of a Town authorized event.
- Smoking or use of tobacco products are strictly prohibited.
- To ensure the security of the Parks, they may only be used during daylight hours. Park hours are 6 am – 9 pm.
- Grills are not to be used under any pavilion or structure.
- At Town Park and the Harvey Sound Access, reservations guarantee the use of the pavilion and grills only. The restrooms, playground area, soccer field area and sound access area will remain open for public use. No other facilities may be reserved at any of the parks.
- At Town Park, staking of equipment in the soccer field i.e., tents, soccer goals are prohibited; equipment must be weighted to prevent damage to irrigation lines.
- Pyrotechnic devices (fireworks) are prohibited unless part of a town-authorized event.
- Pets must be on a leash at all times. Owners must clean up after pets.
- The Town will provide electricity to users of the reserved facilities upon request. Available power consists of one ground-fault interrupter receptacle on a stand-alone 15-amp circuit (there are two double outlets controlled by one GFIR on a 20-amp circuit at the Harvey Site). There will be a \$5.00 non-refundable charge for providing electricity to facility users.
  - *These facilities are not intended to accommodate large groups for weddings or receptions. The parks cannot be reserved for weddings or receptions. This would not prohibit weddings/receptions, simply cannot be reserved.*

**Priority of use**

- Town of Nags Head Board of Commissioners.
- Town Boards and Committees.
- Town staff.
- Non-Town related individuals and groups with reservations and other non-Town related individuals and groups.

**Approval, scheduling, and associated issues**

- Groups not associated with the Town may reserve a Park up to 60 days in advance of the use date. Reservations require a \$50 deposit, which will be refunded after the event, provided the Park was left in good order.
- No "for profit" uses will be permitted at any of the facilities covered by this policy.
- The Town Manager or their designee must approve all reservations.
- The Manager's decision may be appealed to the Board of Commissioners at their next regularly scheduled meeting."

**Consideration of resolutions for upcoming bonafide fishing tournaments**

- Nags Head Surf Fishing Club

- Fraternal Order of Eagles
- Outer Banks Association of Realtors

**MOTION:** Comr. Renée Cahoon made a motion to adopt the three resolutions in support of fishing tournaments for the Nags Head Surf Fishing Club, the Fraternal Order of Eagles, and the Outer Banks Association of Realtors, as presented. The motion was seconded by Mayor Pro Tem Siers which passed unanimously.

The resolution in support of the fishing tournament for the Nags Head Surf Fishing Club, as adopted, read in part as follows:

“WHEREAS, the Nags Head Surf Fishing Club is sponsoring its annual Nags Head Surf Fishing Club Tournament October 5 - 7, 2022; AND

‘WHEREAS, in accordance with Section 8-83 (b)(3) of the Nags Head Code of Ordinances, the Nags Head Surf Fishing Club submitted a request on July 18, 2022 for the Town of Nags Head to issue short-term beach driving permits to the Nags Head Surf Fishing Club to be distributed to participants in its annual Fishing Tournament.

‘NOW, THEREFORE BE IT RESOLVED by the Town of Nags Head Board of Commissioners that the Town of Nags Head is pleased to offer its assistance for the Nags Head Surf Fishing Club Tournament again this year.

‘BE IT FURTHER RESOLVED as follows: The Town Clerk is authorized to issue up to three (3) short-term beach driving permits to each six (6) member team in the Nags Head Surf Fishing Club to be distributed to the 80 teams participating in its annual Nags Head Surf Fishing Club Tournament. The tournament is to be held Wednesday, Thursday, and Friday, October 5, 6, and 7, 2022. An additional 25 permits are authorized to be issued to tournament judges/officials – for a total of 265 permits. These special permits will only be valid for this three-day period. Only three (3) vehicles per team are allowed on the beach at any time during the tournament.

‘The Nags Head Surf Fishing Club is responsible for the distribution of all short-term beach driving permits for the 2022 Nags Head Surf Fishing Club Tournament. No individual short-term permits for the tournament will be issued by Staff.

‘The name of the team and town to whom a permit is issued shall appear on each permit.

‘A pamphlet (to be provided by the Town) on Regulations Governing Beach Vehicular Traffic in the Town of Nags Head shall be supplied with each permit distributed by Nags Head Surf Fishing Club.

‘Each permit shall be displayed on the inside front windshield on the passenger side of the vehicle, even if a normal Nags Head Beach Driving Permit is already displayed.

‘All beach driving permits MUST always be in the possession of the team. The permits are not transferable.

‘The Town of Nags Head Beach Driving Ordinance is to be strictly enforced by the Nags Head Police Dept.

‘Should the weather or high tide call for the closure of the beach or a section of the beach, the Town Manager will close the beach.”

The resolution in support of the fishing tournament for the Fraternal Order of Eagles, as adopted, read in part as follows:

“WHEREAS, the Fraternal Order of Eagles (FOE), Aerie #4506, is sponsoring its annual Charity Surf Fishing Tournament October 15, 2022; AND

‘WHEREAS, in accordance with Section 8-83 (b)(3) of the Nags Head Code of Ordinances, the Fraternal Order of Eagles, Aerie #4506, submitted a request on July 21, 2022 for the Town of Nags Head to issue short-term beach driving permits to the Fraternal Order of Eagles, Aerie #4506, to be distributed to participants in its annual Fishing Tournament.

‘NOW, THEREFORE BE IT RESOLVED by the Town of Nags Head Board of Commissioners that the Town of Nags Head is pleased to offer its assistance for the Fraternal Order of Eagles, Aerie #4506, Charity Surf Fishing Tournament this year.

‘BE IT FURTHER RESOLVED as follows: The Town Clerk is authorized to issue up to three (3) short-term beach driving permits to each six (6) member team in the FOE Tournament to be distributed to the teams participating in its annual Surf Fishing Tournament. The tournament is to be held on Saturday, October 15, 2022. Tournament officials are requesting a total of 30 short-term permits. These special permits will only be valid for Saturday, October 15, 2022. Only three (3) vehicles per team are allowed on the beach at any time during the tournament.

‘The Fraternal Order of Eagles, Aerie #4506, is responsible for the distribution of all short-term beach driving permits for the 2022 FOE Charity Surf Fishing Tournament. No individual short-term permits for the tournament will be issued by Staff.

‘The name of the team and town to whom a permit is issued shall appear on each permit.

‘A pamphlet (to be provided by the Town) on Regulations Governing Beach Vehicular Traffic in the Town of Nags Head shall be supplied with each permit distributed by the Fraternal Order of Eagles, Aerie #4506.

‘Each permit shall be displayed on the inside front windshield on the passenger side of the vehicle, even if a normal Nags Head Beach Driving Permit is already displayed.

‘All beach driving permits MUST always be in the possession of the team. The permits are not transferable.

‘The Town of Nags Head Beach Driving Ordinance is to be strictly enforced by the Nags Head Police Dept.

‘Should the weather or high tide call for the closure of the beach or a section of the beach, the Town Manager will close the beach.”

The resolution in support of the fishing tournament for the Outer Banks Association of Realtors, as adopted, read in part as follows:

“WHEREAS, the Outer Banks Association of Realtors (OBAR) is sponsoring its annual Charity Surf Fishing Tournament October 14, 2022; AND

‘WHEREAS, in accordance with Section 8-83 (b)(3) of the Nags Head Code of Ordinances, the Outer Banks Association of Realtors submitted a request on July 25, 2022 for the Town of Nags Head to issue short-

term beach driving permits to the Outer Banks Association of Realtors to be distributed to participants in its annual Fishing Tournament.

'NOW, THEREFORE BE IT RESOLVED by the Town of Nags Head Board of Commissioners that the Town of Nags Head is pleased to offer its assistance for the OBAR Charity Surf Fishing Tournament this year.

'BE IT FURTHER RESOLVED as follows: The Town Clerk is authorized to issue up to three (3) short-term beach driving permits to each six (6) member team in the OBAR Tournament to be distributed to the 35 teams participating in its annual OBAR Charity Surf Fishing Tournament. The tournament is to be held on Friday, October 14, 2022. An additional five (5) permits are authorized to be issued to tournament judges/officials – Tournament officials are requesting a total of 85 short-term permits. These special permits will only be valid for Friday, October 14, 2022. Only three (3) vehicles per team are allowed on the beach at any time during the tournament.

'The Outer Banks Association of Realtors is responsible for the distribution of all short-term beach driving permits for the 2022 OBAR Charity Surf Fishing Tournament. No individual short-term permits for the tournament will be issued by Staff.

'The name of the team and town to whom a permit is issued shall appear on each permit.

'A pamphlet (to be provided by the Town) on Regulations Governing Beach Vehicular Traffic in the Town of Nags Head shall be supplied with each permit distributed by the Outer Banks Association of Realtors.

'Each permit shall be displayed on the inside front windshield on the passenger side of the vehicle, even if a normal Nags Head Beach Driving Permit is already displayed.

'All beach driving permits MUST always be in the possession of the team. The permits are not transferable.

'The Town of Nags Head Beach Driving Ordinance is to be strictly enforced by the Nags Head Police Dept.

'Should the weather or high tide call for the closure of the beach or a section of the beach, the Town Manager will close the beach."

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

### Town Attorney Leidy – Governor's Lifting of Statement of Emergency

Town Attorney Leidy reported that the Governor has announced his intention to withdraw the Statewide COVID Statement of Emergency on Monday, August 15<sup>th</sup>. This action would negate the ability for Board members to legally participate in a meeting remotely. It would also prohibit a quasi-judicial meeting from taking place remotely. He provided this for the Board's information. Mayor Cahoon confirmed with Attorney Leidy that the Town's Statement of Emergency is a separate action.

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

### Town Manager Garman - Beach Nourishment Project update

Town Engineer David Ryan provided a Beach Nourishment Project update – the first phase of the project has been completed which encompasses Reaches 3 and 4 – the last two miles of Nags Head (James Street

to the end of the corporate limits). The Liberty Island dredge is working in Buxton and will be here for the north portion of the Town's project (Gulfstream Street) in three weeks.

On a different note, in response to Mayor Pro Tem Siers, Engineer Ryan provided an update on the Nags Head Cove waterline project stating that 85% of the overall project has been completed and is expected to be completely constructed with all waterlines active by the end of August.

#### Town Manager Garman – Meeting to discuss houses on the beach

While the Town continues to deal with houses on the beach, the National Park Service now has an issue in Rodanthe. They have set up a meeting to discuss the issue at a Park Service facility; Town Manager Garman indicated that he and Comr. Renée Cahoon will be attending.

#### Town Manager Garman – Health care task force

A Health Care Task Force has been formed by the Town of Manteo and Town Manager Garman attended the first meeting yesterday. He will continue to attend and report back to the Board.

#### Town Manager Garman - Request for Closed Session

Town Manager Garman requested a Closed Session at the appropriate time to discuss a confidential personnel matter in accordance with GS 143-318.11(a)(6).

### **BOARD OF COMMISSIONERS AGENDA**

#### Comr. Brinkley – National Night Out

Comr. Brinkley pointed out that Nags Head Acres held their National Night Out last night; the Town's event will take place in October. Comr. Brinkley stated that Buster Nunemaker indicated that he would no longer arrange the National Night Out for the neighborhood after this year. Board members agreed that a letter thanking Mr. Nunemaker for his many years of service with Community Watch be prepared for the Mayor's signature.

#### Comr. Renée Cahoon – Thank you to Buster Nunemaker

Comr. Renée Cahoon thanked Buster Nunemaker for his years of working with the Town's Community Watch.

#### Comr. Renée Cahoon – Traffic Control Map

On S Virginia Dare Trail, south of Gray Eagle Street, Comr. Renée Cahoon noted different speed limits on opposite sides of the roadway. She asked that a discussion concerning consistent speed limits on both sides of the street be scheduled for discussion/consideration at an upcoming Board meeting. There was no objection from Board members. She also mentioned starting the 25 MPH speed limit further north at Gull Street be included for discussion.

Mayor Pro Tem Siers – Thank you to staff

Mayor Pro Tem Siers thanked staff for keeping the Board up-to-date on all ongoing projects. He also thanked the Planning Dept for adding the ability to view building permit applications online.

**MAYOR'S AGENDA**

Mayor Cahoon - Discussion of September 2022 Board Retreat

Mayor Cahoon noted that the past few years the Board and staff has had planning sessions with facilitators and he felt that it may be more productive this year to have each Dept Head provide an update on their operational needs, etc. to the Board as a Retreat Session.

A workshop on November 16<sup>th</sup> to follow the mid-month meeting at 9 am was discussed. The necessity of a mid-month meeting was mentioned during today's discussion on the Public Services Facility Complex.

Town Manager Garman mentioned a list of topics to include a community survey and bulk waste as additional items for discussion which may require a second retreat/workshop day.

Mayor Cahoon - Discussion of legislation re: digging holes on the beach

- Consideration of resolution

Mayor Cahoon reported receiving a lot of positive feedback from the community on legislation pertaining to digging holes on the beach.

MOTION: Comr. Brinkley made a motion to adopt the resolution in support of legislation re: digging holes on the beach as presented. The motion was seconded by Mayor Pro Tem Siers which passed unanimously.

Staff was directed to forward the resolution to all beach communities even beyond those that responded initially.

The resolution, as adopted, read in part as follows:

"WHEREAS, in recent years coastal communities, including communities on the Outer Banks, have seen an increase in the number and size of holes being dug on the beach by recreational beach users; AND

'WHEREAS, large beach holes can collapse, trapping humans and marine life, in some cases resulting in serious injury or death; AND

'WHEREAS, large holes on the beach can cause damage to vehicles and equipment, particularly after dark or in periods of low visibility; AND

'WHEREAS, in May 2022 an 18-year-old boy was killed on the beach in New Jersey when he and his sister became trapped in a hole they were digging; AND

'WHEREAS, Bradley Maron, an Assistant Professor of Medicine at Harvard Medical School has studied sand-hole collapses over the years; in a 2007 letter to the Editor of the New England Journal of Medicine, Maron documented 52 cases in the United States from 1997 to 2007 in which people were buried by collapsing beach sand; AND

'WHEREAS; there is limited awareness of the dangers these holes pose, particularly by visitors to our coastal communities; AND

'WHEREAS, several coastal communities have adopted ordinances that address this issue; however, these ordinances have limited remedies to promote effective compliance; AND

'WHEREAS, the Town of Nags Head Mayor has reached out to other North Carolina coastal towns and counties to gain support for an effort that would seek state legislation to provide stronger enforcement mechanisms for this issue; AND

'WHEREAS, several communities have expressed interest in this issue and would be willing to support such an effort; AND

'NOW, THEREFORE, BE IT RESOLVED that the Board of Commissioners of the Town of Nags Head, North Carolina expresses its support of state legislation which would increase our capacity to address the incredibly dangerous issue of holes on the beach."

#### Mayor Cahoon – Upcoming Coastal Studies Institute Workshop

Town Manager Garman reported that he met with Coastal Studies Institute (CSI) to discuss working with them and other towns concerning topics of shared interest. The first workshop is scheduled for September 23<sup>rd</sup> to be hosted in Nags Head on the Decentralized Wastewater Management Plan. Reid Corbett of CSI is working on an agenda to be forwarded in a few weeks.

#### CLOSED SESSION

MOTION: Mayor Pro Tem Siers made a motion to enter Closed Session to confer with the Town Attorney pursuant to GS 143-318.11(a)(3) on one or more attorney/client privilege matters to include 205 Baltic Street litigation and pursuant to GS 143-318.11(a)(6) to discuss a confidential personnel matter. The motion was seconded by Comr. Renée Cahoon which passed unanimously. The time was 12:34 p.m.

#### OPEN SESSION

The Board re-entered Open Session at 1:20 p.m. Attorney Leidy reported that the Board did discuss the attorney/client privilege issues noted in the motion to enter Closed Session and no actions were taken.

#### **ADJOURNMENT**

MOTION: Comr. Renée Cahoon made a motion to adjourn. The motion was seconded by Corm. Brinkley which passed unanimously. The time was 1:28 p.m.

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Carolyn F. Morris, Town Clerk

Date Approved: **September 7, 2022**

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