



MINUTES
TOWN OF NAGS HEAD
BOARD OF COMMISSIONERS
REGULAR MEETING
WEDNESDAY, SEPTEMBER 7, 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, September 7, 2022 at 9:00 a.m. for a Regular Meeting.

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

Board members Absent: Mayor Pro Tem Michael Siers

Others present: Town Manager Andy Garman; Attorney John Leidy; Kelly Wyatt; Kate Jones; Amy Miller; David Ryan; Nancy Carawan; Randy Wells; Shane Hite; Roberta Thuman; David Bragg; Dan Gale; Patricia Gale; Vanessa Tadlock; Ryan Tadlock; Shawn Tadlock; Kasey Patterson; Lewis Ball; Kevin Bancroft; Carla Heppert; Brooke Burr; Richard Burr; Elaine Wood; Amy Tankard; Ed Tankard; Grice McMullan; Sarah Knie; Coleman Flynn; Bri Young; Riley Young; Jennifer Zadd; Valerie Netsch; BB Griffin; Richard Vaughan; June Fisher; Reed Fisher; Megan Vaughan; David Davenport; Josh Wainwright; Richard Miles; Greg Bush; Jason Smith; Tanner Mann; Chris Trembly; Chase Tadlock; Terrance Flaughter; Mathew Swain; Evan Zadd; Tyree Hughes; and Town Clerk Carolyn F. Morris

CALL TO ORDER

Mayor Cahoon called the meeting to order at 9 am. A moment of silent meditation was followed by the pledge of allegiance. Mayor Cahoon recognized Sen. Richard Burr in the audience.

ADOPTION OF AGENDA

Mayor Cahoon noted that the Inn at Whalebone site plan review, listed on a draft September 7th Board agenda, was withdrawn by the applicant.

MOTION: Comr. Brinkley made a motion to adopt the September 7th agenda as presented. The motion was seconded by Comr. Renée Cahoon which passed 4 – 0 (Mayor Pro Tem Siers was excused.).

RECOGNITION

Public Services Director Nancy Carawan introduced the following new employees; the Board welcomed them to Town employment:

Sanitation Crew Leader David Davenport
Facilities Maintenance Technician Josh Wainwright
Facilities Maintenance Technician Richard Miles
Sanitation Equipment Operator Greg Bush
Water Distribution Technician Jason Smith

Fire Chief Randy Wells introduced Fire Captain Tanner Mann who was congratulated by the Board for ten years of service.

Planning Director Kelly Wyatt introduced Code Enforcement Officer Chris Trembly who was congratulated by the Board for 15 years of service.

PRESENTATION OF LIFESAVING AWARDS

Fire Chief Randy Wells summarized the incident which took place on July 30, 2022 at 10:08 a.m. at 2436 S Virginia Dare Trail. John and Abbie Fuller's two-year old daughter Vera was submerged in the rental house swimming pool and pulled out without a pulse. She was brought back and is doing fine today due to the efforts of the following employees who are being recognized by the Board for their diligent efforts. The Fuller family attended the meeting via Zoom platform and expressed their appreciation.

Interim Police Chief Hale thanked and presented Lifesaving Certificates to Police Sergeant Chase Tadlock and Police Officer First Class Terrance Flaughter.

Ocean Rescue Director Chad Motz thanked and presented Lifeguard Riley Young and Supervisor Coleman Flynn with Lifesaving Certificates and medallions.

Fire Chief Randy Wells thanked and presented Captain Matthew Swain, Lieutenant Evan Zadd and Firefighter/EMT Tyree Hughes with Lifesaving Certificates.

Board members spoke highly of the actions of these employees who they feel went above and beyond the call of duty. Comr. Brinkley who is also the former Town Police Chief said that child calls are the worst calls to receive and he thanked each person for the excellent work they did on that day. Comr. Sanders reiterated how great it was for a call that started so tragically to end so amazingly.

PROCLAMATION – Diaper Need Awareness Week

Carla Heppert, Children & Youth Partnership for Dare County, summarized the mission to provide for those parents in need and to celebrate Sep 24 – Oct 2, 2022 as Diaper Need Awareness Week.

Mayor Cahoon read the proclamation as follows:

"WHEREAS, diaper need, the condition of not having a sufficient supply of clean diapers to keep babies and toddlers clean, dry, and healthy, can adversely affect the health and well-being of babies, toddlers, and their families; and

'WHEREAS, national surveys and research studies report that one in three families struggles with diaper need and 48 percent of families delay changing a diaper to extend their supply; and

'WHEREAS, purchasing enough diapers to keep a baby or toddler clean, dry, and healthy can consume 14 percent of a low-wage family's post-tax income, making it difficult to obtain a sufficient supply; and

'WHEREAS, a daily or weekly supply of diapers is generally an eligibility requirement for babies and toddlers to participate in child care programs and quality early-education programs; and

'WHEREAS, without enough diapers, babies and toddlers risk infections and health problems that may require medical attention, and may prevent parents from attending work or school, thereby hurting the family's economic prospects and well-being; and

'WHEREAS, the Nags Head community recognizes that diaper need is a public health issue, and addressing diaper need can lead to economic opportunity for our families and community and improved health for children, thus ensuring all children and families have access to the basic necessities required to thrive and reach their full potential; and

'WHEREAS, the Town of Nags Head is proud to be home to trusted community-based organizations including Children & Youth Partnership for Dare County that recognize the importance of diapers in ensuring health and providing economic stability for families and thus distribute diapers to families through various channels.

'WE, THE TOWN OF NAGS HEAD BOARD OF COMMISSIONERS do hereby proclaim the week of September 24th through October 2nd, 2022 as DIAPER NEED AWARENESS WEEK.

'FURTHER, We thank Children & Youth Partnership, their staff and donors for their service through CYP's Diaper Bank, and encourage the citizens of our community to support CYP's Diaper Bank to help ensure that all Dare County children and families have what they need to thrive."

MOTION: Comr. Brinkley a motion to approve the proclamation declaring Diaper Need Awareness Week as Sep 24 – Oct 2, 2022 as presented. The motion was seconded by Comr. Sanders which passed 4 – 0 (Mayor Pro Tem Siers was excused.).

PUBLIC COMMENT

David Bragg, resident in Village at Nags Head; spoke in opposition to the town's resolution it adopted in August 2022 re: prohibition of digging holes in the beach – he opposes more laws being made; he also spoke against the Inn at Whalebone.

Ed Tankard, property owner at 4035 Virginia Dare Trail; believes in the rule of law; across from his house in the historic district is an accident waiting to happen; thanked the Board for the opportunity of speak; people have been seen eating alongside the road near his house; he wants stewardship of laws; they have been living a nightmare all summer; Nags Head Pizza has allowed people to dine-in at its restaurant; he asked the Board to enforce its laws.

Sen. Richard Burr, property owner at 4043 Virginia Dare Trail; he thanked the Board for the heroes being recognized at today's meeting and for allowing him to speak; he thanked the Town Manager for sending

out an email with clarification; he stated that they want Nags Head Pizza to succeed and he is not seeking closure of the business as it is an anchor of the historic row; he listed five items of concern:

1 – Public safety issue – wants west side of the roadway designated as No Parking – Tow Away Zone; 2 – There is no marked fire lane; 3 – Setback requirements are not clear as the building has been altered; 4 – Town Code is specific re: need for vegetation barrier and this needs to be enforced; and 5 – Parking requirements and feels parking spaces were changed and are not legal; he would like their permit rolled back until compliance with these items.

Elaine Wood, property owner at 4039 Virginia Dare Trail; met Nags Head Pizza owners and she was told originally they would be doing takeout and delivery; she is surprised as to the amount of traffic which is sometimes frightening; people are parking all over and using yards for personal reasons; she would like the Town Code to be enforced.

Charles Grice McMullan, property owner at 4030 Virginia Dare Trail; history is strong for him; he is concerned about people entering his nearby house area where he has a pool.

Roland Vaughan, property owner at 4201 Virginia Dare Trail; he is here to support his neighbors and their concerns re: Nags Head Pizza operations and how it is affecting their lives; second reason is to express his interest in a future project re: affordable housing which is developing in the same neighborhood – on the vacant property across from Jockey’s Ridge State Park; he is curious as to what is considered affordable housing and how it relates to the permanent population of Nags Head; as the former Mayor of Edenton affordable housing areas turned into high crime areas; he would appreciate hearing from anyone as the project develops.

Reed Fisher, property owner at 4023 Virginia Dare Trail; historic district is the most restrictive district; he would recommend the same zoning across from him as is in the historic district or even to consider an overlay district – a zoning overlay.

There being no one else present who wished to speak, Attorney Leidy concluded Public Comment at 10:11 a.m.

CONSENT AGENDA

The Consent Agenda consisted of the following items:

- Budget Amendment #3 to FY 22/23 Budget
- New Year Tax Adjustment Report – FY 22/23
Tax Adjustment Report
- Approval of minutes
- Resolutions authorizing policies pertaining to the expenditure of American Rescue Plan/Coronavirus State and Local Fiscal Recovery Funds
- Consideration of deletion of obsolete Board of Commissioners policies
- Consideration of updates to the Consolidated Fee Schedule

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

Budget Amendment #3, as approved, is attached to and made a part of these minutes as shown in Addendum “A”.

The NEW Year Tax Adjustment as well as the monthly Tax Adjustment Reports, as approved, are attached to and made a part of these minutes as shown in Addendum "B".

Resolutions authorizing policies – The agenda summary sheet read in part as follows:

"The Town of Nags Head has been allocated \$948,124.90 from the Coronavirus State and Local Fiscal Recovery Funds of H.R. 1319 American Rescue Plan Act of 2021 (ARP/CSLFRF). CSLFRF are subject to the U.S. Department of Treasury (Treasury) regulations, including the Final Rule, the Award Terms and Conditions, and the Title VII implementing regulations at 31 C.F.R. Part 22. Further, ARP/CSLFRF funds are subject to the compliance requirements as listed in the Award Terms and Conditions and the Assistance Listing (21.027) which are primarily focused on the federal Uniform Grant Guidance, 2 CFR Sect. 200 (UG). Many of the compliance measures outlined in these policies are already existing practices or an extension of existing policies of the Town of Nags Head. It is a requirement of the ARP/CSLFRF that these policies be adopted /reaffirmed as it relates to the expenditure of this specific pot of funds.

'Eligible Use Policy: Defines the permissible and prohibited uses of the ARP/CSLFRF. It also describes the determination of use for how the Town elected to expend its ARP/CSLFRF.

'Allowable Costs and Costs Principles Policy: Defines those items of cost that are allowable, and which are unallowable. The tests of allowability under the cost principles are: (a) the costs must be reasonable; (b) they must be allocable to eligible projects; (c) they must be given consistent treatment through application of those generally accepted accounting principles appropriate to the circumstances; and (d) they must conform to any limitations or exclusions set forth in these principles or in the ARP/CSLFRF grant award as to types or amounts of cost items.

'Record Retention Policy: Outlines Treasury's five-year record retention requirement for documents related to expenditures ARP/CSLFRF. This record retention requirement is longer than the traditional three-year record retention requirement. The Town shall retain relevant records for a period of five years beyond the final expenditure of ARP/CSLFRF funds.

'Nondiscrimination Policy: Reaffirms that the Town will ensure that no person shall, on the ground of race, color, national origin (including limited English Proficiency), familial status, sex, age, or disability, be excluded from participation in, be denied the benefits of, or be otherwise, subject to discrimination under any program or activity administered by the local government, including programs/activities funded in whole or part with ARP/CSLFRF.

'Property Management Policy: Establishes property management standards (title, use, insurance, and disposition) for real property and equipment purchased with ARP/CLSFRF funds. Any purchase of equipment or real property with ARP/SLFRF funds must be consistent with the Uniform Guidance at 2 CFR Part 200, Subpart D. Consistent with 2 CFR 200.311 and 2 CFR 200.313, any equipment or real property acquired using SLFRF funds shall vest in the non-Federal entity. Any acquisition and maintenance of equipment or real property must also comply with relevant laws and regulations."

The five (5) resolutions representing the above-mentioned policies, as adopted, are attached to and made a part of these minutes as shown in Addendum "C".

The agenda summary sheet detailing obsolete BOC policies, as approved, read in part as follows:

"Several Board of Commissioners policies have become obsolete for various reasons as listed:

| 'Section | Policy Title | Reason for deletion |
|-----------------|--|--|
| Equipment | Waiving of bid bond requirements [for vehicles less than \$75,000] | 2003 policy is outdated - Administrative Purchasing and Bid Requirements policy now in use |
| 'General & Misc | Town Manager Speaking on behalf of Town Policy | 2003 policy is handled administratively |
| 'General & Misc | Tobacco free campus | 2017 policy is now part of the Personnel Policy |
| 'Personnel | Moving expenses [of \$1000] for Dept Heads and Town Manager | 2003 policy is handled administratively |
| 'Planning | Policy for staff to administratively approve certain permitted uses | 2003 policy is included as part of Town Code/UDO |
| 'Planning | Planning Board minutes | 2003 policy handled administratively |
| 'Planning | Substantial improvement in Sec 6.08 re: flood damage prevention of Town Code | 2003 policy now included as part of Town Code/UDO" |

Updates to the Consolidated Fee Schedule

The agenda summary sheet detailing the Consolidated Fee Schedule updates, as approved, read in part as follows:

"Attached please find pages from the Consolidated Fee Schedule with proposed changes for:

'Dowdy Park (page 3) – housekeeping – remove *Concert* and *Music Fee* from the schedule as these fees are incorporated under *Music in the Park* levels.

'Additional size dumpsters for rentals, these additional options reflect the current need (page 17). The charge includes delivery, pickup, and tipping fees.

'Update cost of 300-gallon trash cart for resale based on the current wholesale price (page 17)."

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

Update from Planning Director

Planning Director Kelly Wyatt summarized her monthly planning 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 September 7, 2022.

'Monthly Activity Report

Attached for the Board's review is the *Planning and Development Monthly Report for July 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:

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

'Planning Board - Pending Applications and Discussions

The Planning Board's most recent meeting was held on Tuesday, August 16th, 2022 and included a Site Plan Review for a 4-story, 90 unit Hotel located at 6632 W. Pheasant Avenue (Inn at Whalebone), Sketch Plan Review for construction of a Trade Center located on Satterfield Landing, between TW's Bait and Tackle and Village Realty Real Estate Rental Management Facility and a Sketch Plan Review for construction of various public works facilities as part of the Public Services Master Plan.

The Planning Board's next meeting is scheduled for September 20, 2022. At this time, the agenda is expected to include a Special Use/Site Plan Review for the Trade Center located on Satterfield Landing Road and Special Use/Site Plan Review for the Public Services Master Plan project.

'Board of Adjustment – Pending Applications

There were no items for Board of Adjustment consideration in August 2022. The Board of Adjustment will be hearing a variance request at their upcoming meeting on Thursday, September 8th. This variance request has been submitted by Macko Construction on behalf of Terry and Sarah Moore for the property located at 318 W. Danube Street.

'Additional Updates

- **DWMP/Voluntary Septic Subscription Service** – The first meeting of the working group was held Tuesday, August 30 at 10am in the Board Room. Planning staff, Bob Muller, Planning Board member Megan Lambert, and Commissioner Kevin Brinkley attended this meeting in person. Bob Rubin of NC State and Katie Hill of University of Georgia attended via Zoom. The group discussed lessons learned from the existing SHI, an overview of the updated DWMP recommendations and the primary questions that need to be addressed as the group moves forward with discussions. The working group will meet monthly until the end of the calendar year, with a recommendation to be provided to the Board of Commissioners by January 2023. The next meeting of the working group will be held in late September and anticipate having Jimmy McNeil in attendance to discuss septic maintenance and procedures from the contractor's standpoint.

- **Estuarine Shoreline Management Plan** – The fourth Advisory Committee meeting and the Public Forum was held on August 10th. The purpose of these meetings was to introduce the proposed shoreline typologies, and the list of sites for concept design. Via a fillable form, committee members and public forum participants were asked to provide feedback on what factors were most important when selecting a site for concept design, and what three sites would be preferable and why. The form was also available via the project website for three weeks. We received 38 forms. The project team's next step is to

synthesize the data received, consider the results of the engineering report, and select three potential sites for advancement to conceptual design.

- **NC Resilient Coastal Communities Program** – All grant paperwork is complete for Phase III of the RCCP program. Staff is currently finalizing the scope of work with the consultant engineer, and the work should begin in the next few weeks. Once work commences, we will have 6 months to complete the design and engineering phase. The final resilience report and online mapping tool are available for viewing on the project website.

- **Electric Vehicle Action Plan** – Numerous comments on the EV Action Plan have been received both online and through submitted forms, staff is in the process of synthesizing this feedback. Thus far staff has received input on electric vehicle facilities from the Town of Kill Devil Hills, the Town of Kitty Hawk and the Town of Southern Shores.

‘Town of Kill Devil Hills: Mayor has mentioned electric vehicles as part of their fleet in the future, but it is not currently in the budget. The KDH Town Hall does not currently have EV facilities.

‘Town of Kitty Hawk: No electric vehicles in their fleet and not aware of any plans to transition in the near future. Kitty Hawk Town Hall does not have any EV facilities.

‘Town of Southern Shores: No electric vehicles in their fleet and not aware of any plans to transition in the near future. Received a \$10,000 DWQ grant from the VW Settlement, and it cost \$11,500 for two chargers, installation, and signage required by the grant. They are ChargePoint Level 2 Chargers, and the Southern Shores Public Works Department maintains them. Charge to use them is 15-cents per kilowatt hour and they are used daily.

‘Staff has submitted a question to the NC Planners List Serve seeking input on any municipality’s experiences with electric vehicles either as part of their fleet, as facilities onsite, or within their communities generally. Thus far staff has received several relevant responses and is still in the process of processing them. Staff would like to return to the Board of Commissioners with a more comprehensive analysis of electric vehicles and facilities once all the information, including funding opportunities has been received and reviewed. Staff would submit that while the Town could provide space for EV chargers and pursue grant funds, the question of maintenance remains important.

- **ETIPP Project/Program** – All electric reports for town critical facilities have been received from Dominion Power and have been forwarded to the project team for the microgrid analysis.

- **NC AIA Activate Technical Assistance** – The Residential Energy and Water Conservation Guide is finalized, and staff is working on putting it out to the public. Staff is also identifying options for making this guide interactive.

- **Whalebone Park: Phase 1 Planning** – We unfortunately did not receive the PARTF Grant. Staff will provide an update on other potential grant opportunities towards the end of the Board of Commissioners September 7th Agenda.

- **LID Stormwater Demonstration Project** – The Town Hall rain garden is thriving, and most notably we recently discovered monarch caterpillars devouring the milkweed. The state engineer performed a site visit on August 26th, and reimbursement is in process. Staff continues to look into educational signage options.

- **Hazard Mitigation Plan Update** – As part of the Town’s continued participation in the Community Rating System (“CRS”) program, the Town is required to provide updates on the actions contained in the Hazard Mitigation Plan. Staff has provided a spreadsheet outlining updates to the action plan for the Board of Commissioners review. Staff is providing this to the Board of Commissioners and the community for informational purposes.

- **Dowdy Park Events/Farmers Market/Holiday Markets/Art & Culture** – The Dowdy Park Farmers Market and Summer Concert Series wrapped up mid- August. Our last music event was Kids Day on August 17th with over 400 attendees, highlights were the band, Nature Out Loud and the Nags Head Fire Department. Event Coordinator Paige Griffin is currently pursuing sponsorships for two movies to be shown in the month of October and preparing for the upcoming Holiday Markets in November and December. Yoga class continues to occur each Tuesday through October 25th at 7:30 am at Dowdy Park.

‘Upcoming Meetings and Other Dates

- Tuesday, September 6th – Technical Review Committee Meeting
- Wednesday, September 7th – Board of Commissioners Meeting
- Thursday, September 8th – Board of Adjustment (Variance Request 318 Danube)
- Thursday, September 8th – Crisis Track Training with Drew Pearson
- Wednesday, September 14th – Committee for Art and Culture Meeting
- Tuesday, September 20th – Planning Board Meeting
- Friday, September 23rd – CSI Forum, OBX Leadership Workshop”

Board members thanked Ms. Wyatt for her report.

OLD BUSINESS/ITEMS TABLED FROM PREVIOUS MEETINGS

From Aug 3rd Board meeting – Discussion of Traffic Control Map

- *Pond Island Subdivision – No Parking overnight designation at bulkhead*

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

“At the September 7th Board of Commissioners meeting, request Board consideration of the following modifications to the Traffic Control Map:

‘Pond Island Subdivision – No Parking overnight designation at bulkhead area on south North Shore Road. This would be helpful in maintaining the integrity of the Town’s bulkhead as well as to alleviate some neighborhood concerns.

‘South Nags Head – No Parking/Tow Away Zone designation at 8928 S Old Oregon Inlet Road. This request extends the area already designated a *No Parking – Tow Away Zone* due to business at the Outer Banks Fishing Pier/Fish Head’s Bar & Grill in S Nags Head.

‘Please see attached justification memo from Police Dept, two maps depicting the areas of concern, and proposed ordinance amending the Traffic Control Map.”

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

"Pond Island Subdivision property owner, Andres Del Villar, recently brought forward a concern of vehicles being parked overnight in the Town's bulkhead area on North Shore Road. After speaking with him, this issue was mostly seen around the July 4th weeks and has since calmed down. I have checked most mornings and have not seen any vehicles parking overnight and have not noticed fresh tracks on the property either.

"I do believe, however, to protect the Town's interest in the bulkhead we installed by making sure the roadway in this area doesn't get compromised during storms, that it is a good idea to prevent parking from 2200 through 0600. This would prevent overnight parking which is Mr. Del Villar's and several of his neighbors' concerns. They do not mind people parking to fish or to watch sunsets but are concerned with people parking overnight. There seems to be more rentals in Pond Island and people are coming with more vehicles than some houses can accommodate. This would give Police some enforcement ability that would prevent it from getting out of control.

"S Old Oregon Inlet Road in S Nags Head - To allow for better visibility for those pulling out of driveways in the area of 8928 S Old Oregon Inlet Road, I am requesting that No Parking – Tow Away signs be placed in this location, in addition to *No Parking Between Signs*. If approved, this would extend the No Parking – Tow Away zone already in place (80' north and south of the Outer Banks Fishing Pier)."

MOTION: Comr. Renée Cahoon made a motion to adopt the ordinance amending the Traffic Control Map designating No Parking overnight at the bulkhead at N Shore Road as presented. The motion was seconded by Comr. Brinkley which passed 4 – 0 (Mayor Pro Tem Siers was excused.).

- *S Nags Head - 8928 S Old Oregon Inlet Road – No Parking – Tow Away Zone*

Police Chief Perry Hale confirmed this issue in S Nags Head near Islington St and the need for additional *No Parking Tow-Away Zone* and *No Parking Between Signs* signage.

MOTION: Comr. Brinkley made a motion to adopt the ordinance amending the Traffic Control Map extending the No Parking – Tow Away Zone on S Old Oregon Inlet Road near Islington St as presented. The motion was seconded by Comr. Sanders which passed 4 – 0 (Mayor Pro Tem Siers was excused.).

The ordinance amending the Traffic Control Map, as adopted, is attached to and made a part of these minutes as shown in Addendum "D".

From Aug 3rd Board meeting – Stormwater Drainage Projects

- Update of S Nags Head Projects #12 and #13
- Consideration of resolution authorizing Town Manager to execute and file application with State for Water Infrastructure Grant

The agenda summary sheet read in part as follows:

"Request Board approval to file for an application with the NC Dept of Environmental Quality (DEQ) – Division of Water Infrastructure – for infrastructure improvements to stormwater project areas #12 and #13. The attached resolution is provided for consideration and is required for the grant application. The requested funds are a part of the Division of Water Infrastructure American Rescue Plan Act (ARPA) funding.

'The Town will also be applying for an asset and inventory assessment grant in accordance with the FY 22/23 adopted CIP towards a GIS update to the Town's internal ESRI map for water infrastructure.

'Attached please find a staff memo with additional details as well as the resolution for consideration.'

The staff memo with additional details on the projects was summarized by Town Engineer David Ryan and read in part as follows:

"The following is a project update of two separate drainage infrastructure improvement located in the vicinity of milepost marker 17.5 and milepost marker 19.5 along S. Old Oregon Inlet Rd. (SR 1243). The project identified as Project Area #12 is located between E. James St. and 9611 S. Old Oregon Inlet Rd. and is comprised of a "french drain" collection paralleling the existing roadway. An oceanfront infiltration gallery with pump station was planned as a second phase to the collection system construction. The drainage infrastructure improvement project identified as Project Area #13 is located between E. Hargrove St. and E. Tides Dr. and is comprised of "french drain" collection system parallel to the existing roadway, pump station and infiltration basin construction north of Fire Station 21.

'Bids for the project construction were received in January 2020 and determined to be in excess of the budgeted funds for the two projects.

'Earlier this year a Phase 3 grant through the Resilient Coastal Communities Program was received in the amount of \$45,000 with a \$5,000 local match for the engineering and design of the Project Area #12 pump station and infiltration gallery. The grant approval specifies a six-month time frame to complete the authorized scope of work. These services are proposed to be provided via a contracted consultant agreement.

'Project funding for additional construction document preparation and project implementation is being requested through the new stormwater funding program- Local Assistance for Stormwater Infrastructure Investments, (LASII) via the North Carolina Department of Environmental Quality, Division of Water Infrastructure. This program is currently funded by the State of North Carolina's allocation of the American Rescue Plan Act. A total of \$82 million is available for planning and construction grants for the current round of funding. Applications are due September 30, 2022, with grant award notifications issued in February 2023. Grant award funds must be expended by December 31, 2026.

'At this year's Board of Commissioners Capital Improvement Program (CIP) workshop, a projected 5-year Streets-Stormwater-Water Improvement Plan was presented by staff. A schedule for Project Area #12 & #13 was provided indicating a FY 22-23 grant application submission with a proposed FY 24-25 construction time frame. A time allowance was provided to allow for additional design, permitting, and construction document preparation associated with the oceanfront infiltration gallery for Project Area #12. Balancing of project workload was another heavily weighted consideration in developing the 5-year plan document.

'If Project Areas #12 and #13 were to receive the requested grant fund amount, Project Area #13 would be considered the most "shovel ready". Several permits would be required to be renewed and would only take several months to update. Project Area #12 will require significantly more time to navigate the environmental permitting process for the oceanfront infiltration gallery. It is estimated to take between 6-9 months for permitting beyond what is required for Project Area #13. The Board may wish to stagger project construction between the two projects if the desire is to expedite project implementation.

'Staff is requesting Board of Commissioners guidance on the potential scheduling and sequencing of Project Areas #12 & #13, contingent upon available funding.

'Attached for Board consideration is a project resolution authorizing the Town Manager to execute and file application with the North Carolina Department of Environmental Quality (NCDEQ), Division of Water Infrastructure (DWI), Local Assistance for Stormwater Infrastructure Investments grant program for project planning and construction of Stormwater Projects #12 and #13 along S. Old Oregon Inlet Rd."

In response to the Mayor Cahoon's questions, Mr. Ryan stated that the dune infiltration gallery warrants more required permits for stormwater project #12; Mr. Ryan also pointed out that some of the projects were combined and then separated.

MOTION: Comr. Brinkley made a motion to adopt the resolution authorizing the Town Manager to execute and file an application with the State for a Water Infrastructure Grant (for stormwater projects #12 and #13) as presented. The motion was seconded by Comr. Renée Cahoon which passed 4 – 0 (Mayor Pro Tem Siers was excused.).

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

"WHEREAS, The Town of Nags Head has need for and intends to design and construct stormwater infrastructure improvements located along the South Old Oregon Inlet Road (NCSR 1243):

- A French drain perforated pipe system located in the areas between James Street and Juncos Street. The system design would account for connectivity for a permanent pump station setup and dune infiltration system;
- French drain installation located in the areas between Hargrove Street to Tides Drive. The system design would account for a central pump station to a downstream infiltration area; and

'WHEREAS, The Town of Nags Head has need for and intends to conduct a water asset and inventory assessment for a GIS update to the Town's internal ESRI map for water infrastructure; and

'WHEREAS, The Town of Nags Head intends to request State loan and/or grant assistance for the projects; and

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

'1. That the Town of Nags Head, the Applicant, will arrange financing for all remaining costs of the project, if approved for a State loan and/or grant award.

'2. That the Town of Nags Head will adopt and place into effect on or before completion of the project a schedule of fees and charges and other available funds which will provide adequate funds for proper operation, maintenance, and administration of the system and the repayment of all principal and interest on the debt.

'3. That the governing body of the Town of Nags Head agrees to include in the loan agreement a provision authorizing the State Treasurer, upon failure of the Town of Nags Head to make scheduled repayment of the loan, to withhold from the Town of Nags Head any State funds that would otherwise be distributed to the local government unit in an amount sufficient to pay all sums then due and payable to the State as a repayment of the loan.

'4. That the Town of Nags Head will provide for efficient operation and maintenance of the project on completion of construction thereof.

'5. The Town Manager, or in absence designee, of the Town of Nags Head is hereby authorized, individually and collectively, to execute and file an application on behalf of the Town of Nags Head with the State of North Carolina for a loan and/or grant to aid in the design and construction of the projects described above.

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

'7. That the Town of Nags Head has substantially complied or will substantially comply with all Federal, State, and local laws, rules, regulations, and ordinances applicable to the project and to Federal and State grants and loans pertaining thereto."

NEW BUSINESS

Committee Reports

Comr. Sanders – Estuarine Shoreline Committee; three areas will soon be identified for grant applications; he noted that Ms. Wyatt covered this issue well during her report.

Comr. Brinkley – the Voluntary Septic Subscription Service Committee summary was covered well by Ms. Wyatt during her report.

Comr. Brinkley - Comr. Renée Cahoon asked Comr. Brinkley to inquire to the Jennette's Pier staff the alarms at the pier that go off frequently re: the septic system although she is aware that the pier's system has been repumped. Comr. Brinkley indicated he would look into it and report back.

Consideration of appointment to the Arts & Culture Committee

The agenda summary sheet read in part as follows:

"At the September 7th Board of Commissioners meeting, request Board consideration of the following:

'Appointment to Committee for Arts and Culture

- To fill a vacancy due to Leslie Erickson's resignation in July 2022.

'Attached please find the updated Tracking Chart with current roster information, as well as a Candidate Chart.

'There are three people, as noted on the Candidate Chart, interested in serving on the Town's Arts & Culture Committee: Molly Vaughan, Jeremy Russell, and Shelli Gates."

MOTION: Comr. Brinkley made a motion to appoint Molly Vaughan, Jeremy Russell, and Shelli Gates to the Arts and Culture Committee. The motion was seconded by Comr. Sanders.

FRIENDLY AMENDMENT: Comr. Renée Cahoon made a friendly amendment to the motion to modify the total number of members of the committee to not less than 7 nor more than 9 members. Both Comr.

Brinkley and Comr. Sanders accepted the amendment noting that it would provide more flexibility to the Committee members.

CONTINUATION OF MOTION AS AMENDED: The motion passed 4 – 0 (Mayor Pro Tem Siers was excused.).

Consideration of resolution to accept Fourth Street improvements

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

“Improvements to the formerly unimproved Fourth Street Right-of-way, establishing the street and drainage elements to Town standards, were made in conjunction with the new Coastal Villas Subdivision development and is the south end of W Coastal Way. This portion of the unimproved right-of-way is to access the six (6) previously platted lots (“Old Hotel Lots”). These right-of-way improvements are now being put forward for acceptance by the Town.

Staff Recommendation:

Staff recommends that the Board accept the improvements as made and identified on the as-built titled “CABeach, LLC” dated “Drawn 7/21/22”, prepared by Seaboard Surveying & Planning, Inc., and further, that Fourth Street be officially accepted into the Town’s street system and included on the Town’s Powell Bill Map.”

MOTION: Comr. Brinkley made a motion to adopt the Fourth Street improvements resolution with one modification: to change Albemarle & Associates as developer to CABeach LLC as developer in the first WHEREAS statement. The motion was seconded by Comr. Renée Cahoon which passed 4 – 0 (Mayor Pro Tem Siers was excused.).

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

“WHEREAS, In conjunction with the development of the Coastal Villas Subdivision, the property developer (CABeach, LLC), has made improvements to the formerly unimproved Fourth Street Right-of-way; AND

‘WHEREAS, The street and drainage elements of Fourth Street have been constructed in accordance with Town standards - which has been confirmed by the Town Engineer; AND

‘WHEREAS, The developer intends to dedicate said improvements to the Town; AND

‘WHEREAS, The developer will submit a performance bond in the form of a cashier’s check made payable to the Town of Nags Head guaranteeing that the required vegetative groundcover will be established for stabilization purposes.

‘NOW, THEREFORE BE IT RESOLVED That the Board of Commissioners of the Town of Nags Head accepts the Fourth Street improvements as made and identified on the as-built drawing titled “CABeach, LLC” dated “Drawn 7/21/22”. This acceptance into the Town’s street system includes incorporation onto the Town’s Powell Bill Map.”

ITEMS REFERRED TO AND PRESENTATIONS FROM TOWN ATTORNEY

Town Attorney Leidy - Request for Closed Session

Town Attorney Leidy requested a Closed Session to preserve attorney/client privilege. Mayor Cahoon noted that this would be considered at the end of today's meeting.

ITEMS REFERRED TO AND PRESENTATIONS FROM TOWN MANAGER

Town Manager Garman - Update on Reflective Signage for addresses

Code Enforcement Officer Chris Trembly summarized the agenda summary sheet which read in part as follows:

"Code Enforcement Officer, Chris Trembly, will be updating the Board of Commissioners on an initiative to provide reflective address signs along the east side of NC 12 and NC 1243. The requirement to have conspicuously placed address signage is required by the Town Code. Numbers and letters (when required) shall be at least four inches in height and contrast in color with their background. While visible addresses are helpful for many reasons, the primary purpose for this requirement is so that emergency responders such as police, EMS or a fire engine responding to an emergency can find the correct location quickly. This initiative would involve two phases/projects. In both instances, town staff would be responsible for creating and installing the signage on properties with express permission granted by the property owner.

'Providing reflective address numbers on the east side of oceanfront homes (beachside). Staff envisions installing this signage on existing dune walkovers (piling, rail, or stair tread) at the beginning of each block of address numbers. This would provide emergency response vehicles and beachgoers alike with increased awareness of their location on the beachside. To accomplish this, staff has identified old street signs that can be refurbished, repainted, and posted for a very minimal cost. This phase of reflective addressing could be accomplished over the Fall and Winter of 2022.

'Providing reflective address numbers on the west side of oceanfront homes, east of NC 12 and NC 1243 at the beginning of each block of address numbers. This phase of the reflective address sign initiative will take coordination among several departments from locating utilities, creating the sign, and attaching it to an existing feature or at a consistent distance on a 4x4 post. Should the Board of Commissioners desire that staff proceed with this initiative, staff would like to engage Board members in a conversation on various details such as: should the sign be one-sided (affixed to a flat surface), or two-sided (blade sign), should we utilize brown, green or blue signs with reflective numbers (examples to be shown), and what is the best distance for these signs to be placed from the right-of-way for highest visibility.

'Should the pilot project carried out at no cost to the property owner be successful, staff would envision creating a program where, for a minimal price, any property owner could request the Town install reflective address signage at their home. Several other nearby municipalities have similar programs."

Mr. Trembly's slides, as presented, are attached to and made a part of these minutes as shown in Addendum "E".

The Pilot program consists of two phases: Using old signage to recycle as address signs for the oceanfront (Phase I) and Installing on NC 12/S Old Oregon Inlet Road (Phase II).

It was Board consensus that the cost of the signage is low enough to not need to be subsidized by the Town.

It was Board consensus to agree to the Pilot program initiative for reflective signage for addresses as presented – and to enthusiastically endorse Mr. Trembly's project using the old green street signage to convert into reflective addresses for the oceanfront and the Beach Road/SOIR.

Town Manager Garman - Discussion of grants

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

"As the Board is aware, the Town's FY 2023 CIP included a project to make improvements to Whalebone Park. This included the addition of restroom facilities, shade structures, and a splash pad play area for children. Our CIP relied on receipt of several grants, one from the Parks and Recreation Trust Fund (PARTF) and another from the Outer Banks Visitor's Bureau. Last week staff was informed that the Town did not receive the PARTF grant. At the upcoming meeting, staff will present an alternative plan for accomplishing this project. Staff will seek guidance from the Board, however no formal action will be necessary.

The slides presented are attached to and made a part of these minutes as shown in Addendum "F".

Dep Planning Director Kate Jones summarized her slides – the Spray Play could be designed to take advantage of a universal design and all types of people would be able to use it. The grant deadline is Nov 1st and staff is requesting for authorization to apply.

Dare County Tourism Board (DCTB) grants – Manager Garman suggested applying for a grant for the Skateboard Park and for Whalebone Park projects.

It was Board consensus to agree with staff's requests and to move forward with the grant applications as presented.

BOARD OF COMMISSIONERS AGENDA

Comr. Renée Cahoon – Consideration of Government Access Channel Attendance Policy

The agenda summary sheet read in part as follows:

"Comr. Renée Cahoon is the Town's representative on the Government and Education Access Channel Committee which met on August 24, 2022 and approved the attached Attendance Policy. The proposed policy is provided for Board consideration at the September 7th Board of Commissioners meeting.

'The attached proposed policy read in part as follows:

'1. Faithful attendance at all meetings of the committee shall be a condition of service. For purposes of this policy, "faithful attendance" at regular meetings of the committee is defined as 75% attendance of all meetings on an annual basis.

'2. All candidates for appointment to serve on the committee shall affirm their commitment to faithful attendance consistent with this policy prior to appointment.

'3. Any member who is unable to attend any meeting of the committee shall, to the extent practicable, inform the Chairman and/or Channels Manager of their inability to attend and the

reason for such, prior to the scheduled meeting. Non-attendance determined by the Chairman to be legitimate (such as illness, death in the family, professional obligations which would result in hardship if canceled, etc.) shall be excused and shall not be considered failure to comply with the provisions of this policy.

'4. Any member who consistently fails to comply with the attendance requirements of this policy shall tender his or her resignation to their participating entity and the Chairman of the committee. The participating entity would then be requested to appoint a new representative who is able to meet the attendance policy."

MOTION: Comr. Renée Cahoon made a motion to adopt the Government Access Channel Attendance Policy as presented. The motion was seconded by Comr. Brinkley which passed 4 – 0 (Mayor Pro Tem Siers was excused.).

Comr. Renée Cahoon – Parking near Nags Head Pizza

Comr Renée Cahoon asked Interim Police Chief Perry Hale to bring back for the October Board meeting a recommendation concerning the need for No-Parking Tow-Away Zone signs in the vicinity of Nags Head Pizza (4036 S Virginia Dare Trail).

Comr. Renée Cahoon – White paper on proposed affordable housing

Comr. Renée Cahoon asked that a white paper be prepared on the propose affordable housing – something for the Board and the public to review. She questioned income levels, how does it meet affordable housing needs, is this considered Section 8 housing?

Comr. Renée Cahoon – Need new regulations for parking at rental homes

Comr. Renée Cahoon apologized to the citizens of Nags Head because she feels that the Town has not done a good job re: requirements for parking for houses. There needs to be some type of regulations for parking.

Comr. Renée Cahoon – S Nags Head ditch complaints

Comr. Renée Cahoon reported that she has received complaints concerning the S Nags Head ditch.

Board members agreed with Comr. Renée Cahoon re: needed regulations for parking at houses as well as the request for a white paper for the proposed affordable housing. They would like to see as much information on the proposed housing project as possible.

MAYOR'S AGENDA

Mayor Cahoon – Affordable/Multi-family Housing

Mayor Cahoon presented a summary of his involvement with the affordable/multi-family housing company, Woda Cooper, that only does affordable housing design. Mayor Cahoon said he put the company in touch

with the Outer Banks Hospital who was looking for affordable housing for those that work at hospitals and nursing homes. He emphasized that his role with them has been to coach them but he is not working with the company in any professional capacity. The Board may eventually see a site plan for a 52-unit multi-family development. Woda Cooper is expected to give a presentation/update at the Board's November 2nd meeting.

Comr. Renée Cahoon – Thanked those who came today re: Nags Head Pizza

Comr. Renée Cahoon thanked those who spoke this morning during Public Comment re: Nags Head Pizza. She encouraged them to meet with the Town Manager and the Planning Director to discuss their interest in increasing the historic district zoning or any other actions they bring forward.

CLOSED SESSION

MOTION: Comr. Brinkley made a motion to enter Closed Session, pursuant to GS 143-318.11(a)(3) to confer with the Town Attorney re: matters protected by attorney/client privilege including to provide an update on the Town vs Budlong easement condemnation litigation and the Ward vs Kelleher Board of Adjustment variance matter as well as pursuant to GS 143-318.11(a)(5) in order to discuss the potential acquisition of properties located at 8504 - 8510 S Old Oregon Inlet Road. The motion was seconded by Comr. Sanders which passed 4 – 0 (Mayor Pro Tem Siers was excused.). The time was 11:43 a.m.

OPEN SESSION

The Board re-entered Open Session at 12:12 p.m.

Attorney Leidy reported that during Closed Session the Board did consult with the Town Attorney re: attorney/client issues and gave direction to the attorney re: real estate but no other action was taken.

Mayor Cahoon – Board member schedules

Mayor Cahoon noted that Mayor Pro Tem Siers was excused from today's meeting as he was on a scheduled trip.

Mayor Cahoon said that he would be present at the October 2022 Board meeting.

Comr. Renée Cahoon stated that she would not be in attendance at the November 2022 Board meeting.

ADJOURNMENT

MOTION: Comr. Brinkley made a motion to adjourn. The motion was seconded by Comr. Sanders which passed 4 – 0 (Mayor Pro Tem Siers was excused.). The time was 12:13 p.m.

Date Approved: October 5, 2022

Carolyn F. Morris, Town Clerk

Mayor: _____
Benjamin Cahoon