



**MINUTES
TOWN OF NAGS HEAD
BOARD OF COMMISSIONERS
RECESSED MEETING
WEDNESDAY, OCTOBER 19, 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, October 19, 2022 at 9:00 a.m. for a Recessed Meeting.

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

Board members Absent: Mayor Ben Cahoon

Others present: Town Manager Andy Garman; Attorney John Leidy; Kelly Wyatt; Amy Miller; Perry Hale; Karen Snyder; Roberta Thuman; Dare County Board Chair Bob Woodard; Dare County Comr. Rob Ross; Susan Kalan; Charles Kalan; Reid Harris; Bobby Harrell; Karen Brown; Webb Fuller; Tim Engel; Bill Bowen; Roland Vaughan; David Twiddy; Denis Blackburne; Basil Belsches; Mike Kelly; Luke Baer; and Town Clerk Carolyn F. Morris

CALL TO ORDER

Mayor Pro Tem Siers called the recessed meeting of the Nags Head Board of Commissioners to order at 9 am. Mayor Cahoon was not present, as scheduled.

ADOPTION OF AGENDA

MOTION: Mayor Pro Tem Siers made a motion to approve the October 19th agenda with the Closed Session moved to follow the Consent Agenda item. The motion was seconded by Comr. Brinkley which passed 4 – 0 (Mayor Cahoon was excused.).

PUBLIC COMMENT

Attorney John Leidy introduced Public Comment.

Basil Belsches, Memorial Avenue resident; he and his wife endorse the moratorium being proposed today re: the proposed affordable housing development at Hollowell Street.

Attorney Leidy noted that anyone interested in speaking at the Public Hearing on the moratorium to wait until that item is presented; Public Comment is for matters not specifically included on the agenda.

There being no one else present who wished to speak, Attorney Leidy closed the Public Comment period at 9:03 a.m.

CONSENT AGENDA

The Consent Agenda consisted of the following items:

Consideration of Budget Amendment #5 to FY 22/23 Budget

Consideration of resolution in support of NC Commerce Rural Transformation Grant
- Resilient Neighborhoods Program

Request for Public Hearing to consider application for NC Division of Coastal Management (DCM) Planning and Management Grant

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

Budget Amendment #5, as approved, is attached to and made a part of these minutes as shown in Addendum "A".

The agenda summary sheet re: support of the NC Commerce Rural Transformation Grant – Resilient Neighborhoods Program – read in part as follows:

"The attached resolution authorizes the Town Manager to execute and file an application with the State of North Carolina for a grant to assist with the Town's multi-use path maintenance along parts of South Virginia Dare Trail/South Old Oregon Inlet Road. The resolution also states the Board fully supports this project in its desire to assist in development efforts within the Town. The beach road multi-use path maintenance project has been adopted in the FY 22/23 CIP. The Town will use local funds of \$60,000 as a match to continue work on the survey/design phase. The grant funds will be used towards construction maintenance and will offset local funds needed to complete this project. This grant is funded from the American Rescue Plan Act. Grant results should be awards no later than February 2023, and any necessary budget amendments will be brought forward upon grant notification. The deadline to apply for this grant is November 1, 2022."

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

"WHEREAS, The Town of Nags Head's Board of Commissioners had indicated its desire to apply for a North Carolina Department of Commerce, Rural Transformation Grant, Resilient Neighborhoods Program; and

"WHEREAS, The Board of Commissioners had indicated its desire to assist in development efforts within the Town of Nags Head; and

"WHEREAS, The Board fully supports the proposed project, Multi-Use Path Maintenance, which will result in the construction rehabilitation of the Multi-Use Path along parts of South Virginia Dare Trail and South Old Oregon Inlet Road; and

"WHEREAS, The Board wishes to pursue a formal application for the Resilient Neighborhoods Program Category in the amount of \$600,000 from the North Carolina Department of Commerce, Rural Transformation Grant Fund, Rural Engagement & Investment Program.

'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, is authorized to submit a formal application to the North Carolina Department of Commerce, Rural Transformation Grant Fund, Rural Engagement & Investment Program, in order to provide assistance to benefit Multi-Use Path Maintenance.

'2. That this Resolution shall take effect immediately upon its adoption."

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

"Staff is requesting to apply for an NC Division of Coastal Management Planning and Management Grant. The completed application will be provided as an agenda item for the November 2nd public hearing. The grant funds will go towards the current scope of the multi-year beach nourishment planning project that the Board has previously authorized. This public hearing will satisfy the grant requirements for Board approval. Due to the quick turnaround time, DCM has authorized Board approval of the grant application at the next meeting after the grant application deadline."

CLOSED SESSION

MOTION: Comr. Brinkley made a motion to enter Closed Session as allowed by GS 143-318.11(a)(3) in order to consult with the Town Attorney on matters concerning attorney/client privilege and to preserve that privilege to include the 205 Baltic Street and Cherry, Inc. litigation. The motion was seconded by Comr. Renée Cahoon which passed 4 – 0 (Mayor Cahoon was excused.). The time was 9:15 a.m.

OPEN SESSION

The Board re-entered Open Session at 9:43 a.m. Attorney Leidy stated that the Board did discuss the issues it went into Closed Session to discuss and did provide some direction to the attorney but no other action was taken.

PUBLIC HEARINGS

Public Hearing to consider adoption of a moratorium on all Commercial, Mixed Use, and all Non-Single Family or Non-Two-Family residential developments located within C-2, General Commercial Zoning District applicable to the areas from Danube Street north to Hollowell Street, between US Highway 158 and NC 12. This proposed moratorium would be in place for a period not to exceed 150 days so that staff can conduct a detailed review of the Town's Zoning Map and its consistency with the Town's Comprehensive Land Use Plan. Staff can recommend potential changes to the Zoning Map and to the Town's UDO, and any proposed and appropriate changes can be processed and adopted by the Board of Commissioners

Town Attorney John Leidy introduced the Public Hearing to consider adoption of a moratorium on all Commercial, Mixed Use, and all Non-Single Family or Non-Two-Family residential developments located within C-2, General Commercial Zoning District applicable to the areas from Danube Street north to Hollowell Street, between US Highway 158 and NC 12. The time was 9:50 a.m.

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

"At the October 19th Board of Commissioners meeting, a Public Hearing will be held to consider a moratorium on all Commercial, Mixed Use, and all Non-Single Family or Non-Two-Family residential developments located

within the C-2, General Commercial Zoning District – applicable to the areas from Danube Street north to Hollowell Street, between US 158 and NC 12.

“This proposed moratorium would be in place for a period not to exceed 150 days so that staff can conduct a detailed review of the Town’s Zoning Map and its consistency with the Town’s Comprehensive Land Use Plan. Staff can recommend potential changes to the Zoning Map and to the Town’s Unified Development Ordinance (UDO), and any proposed and appropriate changes can be processed and adopted by the Board of Commissioners.”

Attorney Leidy invited those present to speak:

Robb Ross, Nags Head resident and Dare County Commissioner; questioned the last time the Town instituted a 150-day moratorium; number one issue is housing for people who run and support our County; several years ago the County retained the services of a Chapel Hill group; combined pool of \$44 million in the County and now able to leverage over \$100 million throughout the County from Town of Southern Shores to Hatteras. A recent Board of Education candidate forum wants to promote first rate teachers but the one barrier all candidates mentioned was affordable housing; we have funding, a plan, and development partners and this site is a fine site with very scarce sites in the County; this development meets the needs of this community; he feels this is a historic opportunity to bring the project to fruition; he asked the Board to look at the big picture during the moratorium period and give it full consideration.

Webb Fuller, Nags Head resident; clarified that he was only speaking about a moratorium as it relates to a specific piece of property; it’s a very unique area with Jockey’s Ridge on one side and the historic district on the other side; he strongly supports the moratorium as presented by staff; the Board has a stated value re: affordable housing that it has committed unanimously for its employees only; the Board has been on this course but nothing has been committed beyond that except to attend regional meetings; he encouraged the Board to continue with this policy.

Karen Brown, Outer Banks Chamber of Commerce President/CEO; the Chamber represents nearly 1000 businesses and 3000 employees including 150 businesses in Nags Head; they have been looking for housing for many years and this should be a priority and action should not be delayed in order to continue the current level of service; we will be stepping back in our efforts if the moratorium is adopted; she encouraged the Board to educate themselves on the proposed project that would bring needed housing for this area.

David Twiddy, Chairman of Dare County Board of Education; there are housing issues in the school system and he would like to see affordable housing throughout the County; 24 employees are on a waiting list for teacher housing; several teacher, administrative, clerical, nutrition, bus drivers, etc. positions are open due to lack of housing; perspective employees are unable to find a place to live; on behalf of the BOE, he asked the Board to look into the affordable housing project here in Nags Head as others will step in afterwards.

Susan and Charles Kalan, Hollowell Street in Nags Head; in favor of the moratorium and speaking as homeowners, the historical character of the area attracted them; their house is directly across from the proposed development site; there is already too much traffic on Hollowell; they are opposed to having this development in this area; they are very proud of their house and where they live and want the Board to consider another area for the development.

Denis Blackburne, Woda Cooper; this development is not a federal or Town development, it is a privately owned development by Woda Cooper; it is not public housing; the zoning at the proposed site would allow for multi-family housing (54 units on this site); Woda Cooper is privately owned with 700 employees that are actually owners of the company out of Columbus, Ohio; Mr. Blackburne runs the southeast region out of his Georgia office; over 400 properties in 16 different states, approximately 30,000 residents in their properties; the development would be in three buildings with all parking contained on site; handicapped units are

available also; they are also developing a site in Manteo; strong quality development to be put in place; he explained the process to include the permitting process; there will be on-site office with a full-time manager and service technician; washer/dryer hookups in each unit; tables/grills on site; rent will vary for different cost income levels; traffic has also been analyzed for the site.

Tim Engel, Linda Lane resident; he is in support of the moratorium; he has nothing against affordable housing; he and his wife believe the traffic is going to be an issue as it is already a high traffic area; he is also concerned about further drainage issues which is already an issue for the area; he is also concerned about property values which could be impacted; he looked online and saw a lot of complaints associated with these developments.

Roland Vaughan, property owner in the historic district, permanent resident and former Mayor of Edenton; he thanked the Board for listening to those who spoke at the last meeting; he encouraged support of the proposed moratorium; concerned about affordable housing as it varies from one community to the next; any kind of subsidy can open the door for a more broader spectrum that could over time be detrimental to safety/welfare and the community at large; as Mayor of Edenton for 24 years as some of the areas permitted turned out to be crime areas and still a concern today; thanked the Board for undertaking this issue.

Luke Baer, Kill Devil Hills resident and Kitty Hawk Kites employee; he read the letter from John Harris, Kitty Hawk Kites, which had been emailed to Board members and which supports the affordable housing development. Mr. Baer also spoke on his own behalf and is in support of the proposed project. Mr. Harris' letter is attached to and made a part of these minutes as shown in Addendum "B".

Bobby Harrell, Harrell & Associates; his company represents the property owner of the property being discussed today; the owner has owned the property since 2001; of the 19 cottages to the east of the property, 13 of them are in weekly rentals versus tenants of the proposed development which will be year-long rentals; their units have a long list of waiting tenants; he explained the properties he manages and the high salary costs needed in order to qualify for their rentals; he asked the Board to look into what this project can do for the entire community.

Bob Woodard, Kill Devil Hills resident and Chairman of Dare County Board; the Dare County Board has worked diligently for over three years to bring essential housing to Dare County; the proposed site is zoned to allow the development which is why Woda Cooper chose this site and there are limited places in the County where this can take place and we have to take advantage of this opportunity; this is an issue involving all of the County; he asked the Board to take a hard look when establishing a moratorium and plans are rumored to change the zoning of the site; if not in this location, then where? This room is not overwhelmed today with the public in opposition to the project; he feels that the Board has a moral responsibility and obligation to step up and make this happen; he asked the Board to make the right decision and he questioned if not this site, then where? Please do not send a message to the police officer who puts his life on the line and the firemen, to the educators; hospitality industry, retail stores, etc. that you do not want them in your neighborhood; he asked the Board to do the right thing for everyone.

Town Manager Garman read the additional comments that were received from the following whose emails/letters are attached to and made a part of these minutes as shown in Addendum "C":

- Richard and Melanie Hanson, Linda Lane, supports moratorium
- Chess and Karen Harris, S Memorial Ave, supports moratorium
- Frank and Christine Campanale, S Memorial Ave, supports moratorium
- Susan and Clay White, S Virginia Dare Trail, supports moratorium
- Jack Cowherd and Carol Shannon, S Virginia Dare Trail, supports moratorium
- Caswell and Melody Culbreth, S Virginia Dare Trail, supports moratorium
- Pat and Tom Jones, Linda Lane, supports moratorium
- Ronnie Sloan, Outer Banks Hospital, supports proposed development

Mayor Pro Tem Siers expressed his appreciation to everyone that took the time to come to today's meeting and to those who spoke; he stated that Comr. Woodard mentioned a plan but the idea of the project was not known by Nags Head until September, and no plan has been presented to the Town.

Comr. Sanders also thanked everyone for attending today and appreciated the points made by both sides; he is aware of the housing issue as he owns a business in Nags Head; some areas are designated for this type of business according to the Town's Unified Development Ordinance; basically the Board needs more time for review; he would work with Woda Cooper to locate another area.

Comr. Brinkley thanked everyone for attending today and for the Dare County Commissioners' comments describing the proposed development as a historic opportunity to partner on the plan; he countered that this project was not known by the Board up front.

Comr. Renée Cahoon thanked all who spoke, elected officials, as well as the business community as she is also a part of the business community and is very aware of the housing issues; the district goes from Danube Street to Hollowell Street and the issues involve the entire district not a specific property. There is a need for affordable housing – there are issues with the zoning in the proposed area to fit the character of the map.

Attorney Leidy recommended a revision be made to the proposed ordinance – Part III, second para – replace "single and two family development" with "residential uses" to coincide with the statutory uses.

MOTION: Comr. Brinkley made a motion to adopt the moratorium on commercial, mixed use and residential developments in the C-2 District from Danube Street north to Hollowell Street between US 158 and NC 12 - as amended - modifying Part III, second paragraph to replace "single and two-family development" with "residential uses" - for a period not to exceed 150 days so that staff can conduct a detailed review of the Town's Zoning Map and its consistency with the Town's Comprehensive Land Use Plan. The motion was seconded by Comr. Sanders which passed 4 – 0 (Mayor Cahoon was excused.).

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

ITEMS REFERRED TO AND PRESENTATIONS FROM TOWN MANAGER

Town Manager Garman - Discussion of Epstein Bath House

Town Manager Garman provided an update on the Epstein St Beach Access Bath House which staff has been working on for quite some time and has been in the CIP from last year. The project was put out as a formal bid with no bids received the first time. After re-bid, one bid was received which was double the engineer's cost estimate.

Since they do not appear to be able to get close to the project's budgeted cost, staff will look into alternative options and he will keep the Board updated.

Town Manager Garman – Discussion of grants

Town Manager Garman reported that several months ago staff received approval and applied for a grant for dune vegetation (beach grass) plantings – this week notice was received that the Town was awarded \$300,000.

BOARD OF COMMISSIONERS AGENDA

Comr. Renée Cahoon – Jockey’ Ridge State Park and the Rogallo Museum

Comr. Renée Cahoon stated that at the last Board meeting on October 5th, comments were received concerning Jockey’s Ridge State Park and a possible museum; she noted a lack of public input on the project. She suggested that Mayor Pro Tem Siers write a letter to State Parks to express the Board’s concerns to include the area of environmental concern and the State’s exemption for an environmental impact statement. She also expressed concern about a gift shop within the proposed museum.

Comr. Brinkley supported Comr. Renée Cahoon’s comments and pointed out that a petition opposing the museum within Jockeys Ridge State Park, submitted by Carolista Baum’s daughter, Ann Cabell-Baum, represented signatures from 37 states.

MOTION: Comr. Renée Cahoon made a motion authorizing Mayor Pro Tem Siers to send a letter to State Parks expressing the Nags Head Board’s concerns and supporting the Friends of Jockey’s Ridge position including that if the project moves forward, that an environmental impact statement be determined and to include that a resolution with the Board’s formal opposition stated be considered at the Board’s November 2nd meeting. The motion was seconded by Comr. Sanders which passed 4 – 0 (Mayor Cahoon was excused.).

ADJOURNMENT

MOTION: Comr. Brinkley made a motion to adjourn. The motion was seconded by Comr. Sanders which passed 4 – 0 (Mayor Cahoon was excused.). The time was 11:24 a.m.

Carolyn F. Morris, Town Clerk

Date Approved: **November 2, 2022**

Mayor Pro Tem: _____
Michael Siers