



## **BOC ACTIONS August 3, 2011**

1. Call to order - Mayor Oakes called the meeting to order at 9:03 a.m. Prayer was provided by Human Resource Director Bonita Hurdle followed by the Pledge of Allegiance.

2. Adoption of agenda – The Board passed a motion to adopt the August 3<sup>rd</sup> agenda moving the item #9 Public Hearing concerning Colony Ridge lease agreement to immediately after item #12 Public Hearing.

3. Audience Response

Linda O'Neill – Manteo resident; her mother is a resident of Colony Ridge; her mother has always been treated with respect and love at Colony Ridge and she urged the Board to consider the people at the facility.

Mike Kelly – Nags Head resident; he is unable to attend the agenda item later today re: Carolinian Circle lot rezoning request; he said that he is opposed to the proposed rezoning request; he would like the Board to consider having staff meet with the residents of Carolinian Circle for a discussion of the planned development for Carolinian Circle; he has no problem with developing the area residentially.

Richard Murphy – Nags Head resident; he commended the Board for staying on track and making beach nourishment a reality and noted that the beach looks fantastic; the vast majority of guests are very excited about the project.

Toni Parker – Carolinian Circle resident; she reminded the Board that the residents of Carolinian Circle care about the development in that area; she noted that she was not aware of the rezoning request ahead of time and she asked that the residents be kept informed.

4. Recognition – The Board congratulated Avery Stone for his achievement in gaining the highest Boy Scout rank of Eagle Scout; the Board recognized Admin Assis/PIO Roberta Thuman for ten years of service.

5. NCDOT presentation - Kerry Morrow, NCDOT Transportation Engineer/Rural Planning Organization Coordinator, provided a brief informational presentation and updated the Board on the Comprehensive Transportation Plan (CTP) which has replaced the old Thoroughfare Plan.

6. Consent agenda – The Board passed a motion to approve the Consent Agenda as presented which consisted of the following:

- Consideration of Budget Adjustment #2 to FY 11/12 Budget Ordinance
- Consideration of Tax Adjustment Report
- Approval of Minutes

- Resolution in support of the Nags Head Surf Fishing Club's 61<sup>st</sup> Annual Invitational Surf Fishing Tourn

**7.** Public Hearing – The Board passed a motion to approve the site plan amendment for Sam & Omie's Restaurant. It was noted that changes may need to be made as the site is developed.

**8.** Public Hearing – The Board passed a motion (Comr. Sadler cast the NO vote) to adopt the ordinance prohibiting beach bulldozing with the deletion of paragraph #3 which reads as follows:

(3) When such work is performed by any non-governmental person or entity to protect principal structures (not including walkways to the ocean beach, swimming pools, or accessory structures), that are imminently threatened as a result of severe erosion of the ocean beaches or the sand dune structure, but only upon receipt of a permit for such work from the local CAMA permitting officer after a finding by such officer that the structure is imminently threatened ("imminently threatened" means that the foundation of the structure or septic system is less than twenty (20) feet from the erosion scarp or no dune structure exists); or

**9.** Public Hearing – The Board passed a motion to adopt the revised SED-80 ordinance as amended – with firing range included, staff housing identified as temporary, and modification of "units" to "single family dwellings" for consistency in Part VII.

**10.** Public Hearing – The Board passed a motion to approve the lease agreement between the Town and Colony Ridge as presented – the lease agreement provided at the Board meeting and not the one provided in the Board's package. (Attorney Leidy explained that the only change from the agreement provided to Board members previously was the deletion of the phrase "relocation of facility in dare county".)

**11.** Crouse Gray SED-80 text amendment – The Board passed a motion to deny the request for a zoning ordinance amendment from Attorney Crouse Gray, Jr. on behalf of Paul Shaver Trustee to eliminate boarding homes and residential cluster housing from uses currently allowed within the SED-80 District.

**12.** Rezoning Request by Brian McDonald of Outer Banks Heating and Air – The Board passed a motion to deny the request from Brian McDonald of Outer Banks Heating and Air for rezoning a tract of land on W. Carolinian Circle. Comr. Remaley cast the NO vote.

**13.** Water Consumption Unit fees updated/tiered in Consolidated Fee Schedule – Planning is to provide requested information concerning water consumption unit fees for the past three years to include:

- What is the size of the house construction, how many would qualify for a reimbursement, and what is the amount of fees the Town would have collected

The Board passed a motion to table further discussion/approval of revised WCU fee schedule until the next Board meeting.

**14.** Lunch - The Board recessed for lunch at 12:12 p.m. and reconvened from lunch at 1:30 p.m.

**15.** Mayor Oakes - pointed out that today's Board meeting is the first meeting of a paperless agenda for Board members.

**16.** Committee reports

Comr. Sadler – Jennette's Pier Advisory Board which met end of July; the first 66 days they had 97,000 people walk through the Pier doors; Pier Manager Mike Remige is asking that the Town help clean the restrooms/bathhouse at the Pier by taking one of the two shifts per day. Comr. Cahoon suggested obtaining more info on cleaning the restrooms/bathhouse; how many custodians/maintenance staff; what is budgeted for cleanup.

Comr. Sadler – Attended National Night Out last night; Chief Brinkley reported that it was National Night Out's 10<sup>th</sup> year to celebrate and the 17<sup>th</sup> year of Community Watch; going forward he is looking at changes to draw in more participants for future years.

Mayor Oakes – Missed the Shoreline Commission Meeting but will report at an upcoming meeting.

Mayor Pro Tem Gray – Met with Dare County Emergency Management – every Town was represented; communication is now utilizing the 800 MHZ system; Chief Brinkley said that redundancy is built into the system and works very well for Police; bugs are being worked out; current VHF and amateur radio stations are available if needed.

Mayor Pro Tem Gray – Dare County Control Group makes the decision to evacuate Ocracoke and then Hatteras Island - problem at Barco when evacuating may require Dare County to evacuate through another route; passes are required for essential personnel to get back onto the island.

Comr. Cahoon – Beach driving after completion of the Beach Nourishment Project – Comr. Cahoon pointed out that once we have the newly nourished, larger beach and begin selling beach driving permits, the Town may have issues with big trucks tearing up the beach – the dynamics of the beach will be changed with the nourishment and staff needs to consider the change.

**17.** Ocean outfalls – The Board passed a motion to authorize the Town Manager to accept the lowest responsive/responsible bid of \$1,372,162 from Carolina Marine Structures to extend the four (4) ocean (stormwater) outfalls.

**18.** Town Attorney Leidy - Consideration of taxi-cab driver appeals - The Board entered Closed Session to discuss details of Jacob Dumin's traffic record. In Open Session, the Board passed a motion to modify paragraph #11 of the taxicab driver ordinance to read as follows:

(11) Habitual conviction of traffic laws or town ordinances. An applicant's convictions shall be habitual if the applicant has more than five (5) convictions over any relevant period of time or more than three (3) convictions within ten (10) years of the application;

The Board then passed a motion to grant Mr. Dumin's appeal and to award him a taxicab driver permit. The Board passed a motion to table the Ben Jump and Melissa Sawyer taxicab driver permit appeals until the next Board meeting.

**19.** Town Attorney Leidy - Town Attorney Leidy provided an update on the Fisher case (on Monday, August 1<sup>st</sup>, Attorney Leidy received their appeal) and on the Sansotta case (case is still moving forward – motion to dismiss filed 6/7 months ago – motion made by complainant to amend their case again.

**20.** Town Attorney Leidy - Requested a Closed Session to discuss several pending litigation cases.

**21.** Town Manager Ogburn - Dr. Tim Kana, President of Coastal Science and Engineering and engineer for the Town's Beach Nourishment Project, reported on the status of the Project.

**22.** Town Manager Ogburn - Town Manager Ogburn thanked both the Police Dept and the Fire Dept for their role in last night's National Night Out at Fire Station 16.

**23.** Town Manager Ogburn - Town Manager Ogburn thanked staff (Allen Massey, Mark Bernard, Carolyn Morris, and Michelle Gray) for their assistance with the Board's transition to a paperless agenda.

**24.** Town Manager Ogburn - Town Manager Ogburn reported that the recycle bins have been placed at Beach Accesses – as requested by the Board at a previous meeting.

- 25.** Town Manager Ogburn - Town Manager Ogburn notified the Board that intern Connor Winstead's last day is Friday, August 12<sup>th</sup> and that he has been a tremendous help to Town staff and will be missed.
- 26.** Town Manager Ogburn - For a future agenda, Town Manager Ogburn would like to discuss with Board members a request he has received from cellular phone companies concerning brokering cellular leases from the Town.
- 27.** Town Manager Ogburn - With widening of the beach, beach driving, weddings on the beach, he would like to go into next summer with better education for people to take care of the beach. Staff may come forward at some point with a proposed ordinance concerning leaving items on the beach overnight.
- 28.** Mayor Pro Tem Gray – Update on drainage issues:
- Northridge - The drainage project is currently under construction.
  - Vista Colony – The last easement required, from Colony Ridge/Britthaven, is expected soon.
  - Nags Head Acres – When the Vista Colony drainage project is implemented, there is the potential to connect the Nags Head Acres southeast corner into the Vista Colony for some drainage relief
- 29.** Comr. Cahoon - She would like staff to be pro-active re: beach driving and to begin looking at a two-tiered permit structure – there will most likely be a lot of new drivers on the beach with the newly nourished wide beach; she asked staff to look into a new permit structure rather than require same cost for a permit for existing drivers and new drivers.
- 30.** Comr. Sadler - Comr. Sadler asked staff to find out from the National Park Service law enforcement as to who and what types of problem they have seen on their beaches.
- 31.** Comr. Sadler - Comr. Sadler spoke highly of intern Connor Winstead and thanked him for his work.
- 32.** Comr. Cahoon - Police Chief Brinkley is to return with a recommendation concerning the sight triangle at Gull Street/NC12 for Board consideration.
- 33.** Comr. Remaley - Thanked staff for doing an outstanding job handling all the various summer issues.
- 34.** Mayor Oakes - Encouraged viewers to install sand fence for protection of their property – a diagram is included on the Town's web site. Town Manager Ogburn noted that staff will be installing its own sand fence and will also be setting up a workshop this fall for those interested.
- 35.** Mayor Oakes - Asked about the potential for a wildfire in Nags Head Woods – he noted that a little planning could go a long way toward preventing a fire. Fire Chief Zorc responded that he attends an annual meeting concerning fire prevention that includes this type and other fire enhancement discussions.
- 36.** Mayor Oakes - Requested a Closed Session to consider Closed Session Minutes from Jan – Jun 2011.
- 37.** Mayor Oakes – Requested a Closed Session to consider the purchase of real property – the Gillam Wood property also known as the old Post Office lots.
- 38.** Closed Session – The Board passed a motion to enter Closed Session to discuss the following litigation in accordance with GS 143-318.11(a)(3): Sansotta, Fisher condemnation, and Deel cases; and to discuss the following real property in accordance with GS 143-318.11(a)(5): 116 E Bonnett Street, Go-cart track property located at 3006 S Virginia Dare Trail, property next to the Snowbird Drive-in, and the Gilliam Wood Property known as the old Post Office Lots; and to approve/open/seal Closed Session minutes from January to June 2011 in accordance with GS 143-318.11(a)(1). The time was 4:00 p.m.

**39.** Open Session - The Board re-entered Open Session at 5:42 p.m. Attorney Leidy reported that during Closed Session the Board took several actions: They approved Closed Session minutes from the last six months and took action to open some while sealing others; they gave direction to the Town Attorney concerning the acquisition of real estate and concerning some litigation matters.

**40.** Adjournment - The Board recessed to a mid-month meeting at 7:30 p.m. on August 17<sup>th</sup> - The time was 5:43 p.m.