



**TOWN OF NAGS HEAD  
BOC ACTIONS  
February 2, 2011**

1. Call to order - Mayor Oakes called the meeting to order at 9:00 a.m.
2. Adoption of agenda – The Board passed a motion to approve the February 2<sup>nd</sup> agenda as presented.
3. Audience Response - No one spoke during Audience Response.
4. Recognition – The following employees were recognized by the Board for years of service: Facilities Maintenance Technician Ed Hawley (5 years); Police Officer Edward Mann (5 years); Police Sergeant Christopher Braddy (5 years); Water Service Technician Shane Baum (10 years); Water Service Technician John Ryan (10 years); Police Sergeant Brad Eilert (10 years).
5. Consent agenda – The Board approved the Consent agenda made up of the following items:
  - Budget Adjustment #8 to FY 10/11 Budget Ordinance
  - Tax Adjustment Report
  - Approval of Minutes (January 5<sup>th</sup> and 19<sup>th</sup> minutes)
  - Request to advertise and begin in rem foreclosure for 2010 taxes
6. Public Hearing - to consider a site plan/conditional use application submitted by David & Laura Deel for development of "Residential Cluster Housing" as allowed in the SED-80, Special Environmental Zoning District.

A motion was made to approve the site plan/conditional use application with some conditions: the use is limited to three (3) 4-bedroom houses not to exceed 2,500 square feet each, no wedding use except for family weddings, and a maintenance agreement for the pool; the required three (3) affirmative findings of fact were made; in addition the three (3) staff conditions were also included as part of the motion. The motion failed 2 – 3 with Mayor Pro Tem Gray, Comr. Cahoon, and Comr. Sadler casting the NO votes.
7. Recess for lunch - The Board recessed for lunch at 12:37 p.m. and reconvened at 2:00 p.m.
8. Closed Session – The Board passed a motion to enter Closed Session so that the attorney may provide counsel on matters relating to attorney-client privilege - The time was 2:01 p.m.
9. Open Session - The Board re-entered Open Session at 2:40 p.m. A motion was made to disapprove agenda item #8 concerning the site plan/conditional use application for residential clustering in Nags Head Woods because it is not within 250 feet of a fire hydrant - as defined in the Town Code it needs to be tied to a water tower or a water plant – the Town Code says nothing about water pressure – a dry hydrant is not

defined/approved by the Town Code; another reason for denial was added re: the distinction between single family dwellings and residential clustering – the site plan/conditional use application does not meet the exception to a required Town water connection as defined in Town Code Section 44-63 "...a single family residence that meets all of the following requirements...". The motion passed 3 – 2 with Mayor Oakes and Comr. Remaley casting the NO votes.

**10.** Landscape buffers - It was Board consensus that staff prepare an agreement/ordinance and work with the State on limiting the removal of right-of-way vegetation. Comr. Cahoon suggested allowing people to take care of their vegetation as long as signage/traffic is not blocked; staff confirmed with the Board that the softening of buffers can mean lower vegetation, contoured vegetation or varied signage heights and that buffering would depend on a highway vs neighborhood location. It was Board consensus that staff look at softening in terms of lower vegetation and higher signage.

**11.** Second reading – porous concrete pavement ordinance – The Board passed a motion (in a second reading, first reading was January 5<sup>th</sup>) adopting the Planning Board ordinance which permits porous concrete in C-1, C-2, C-4, and Hotel Overlay Districts, excludes the oceanfront, and requires an operation and maintenance agreement.

Staff is to bring back two (2) additional ordinances for Board review as follows: an ordinance permitting porous concrete in the oceanfront districts and an ordinance permitting porous concrete in all districts – both requiring operation and maintenance agreements. It was noted by Attorney Leidy that another Public Hearing would not be necessary as both proposed ordinances would be less restrictive.

**12.** Danube Street Sound beach access - It was Board consensus for staff to move forward with Phase I of the Danube Street Sound access modifications/enhancements as presented.

**13.** DCTB MOU for Windmill Point property - It was Board consensus that the revised MOU, with the Board's recommendations, is to be brought back for Board consideration with modifications color-coded for easier review.

**14.** Committee reports - Government Education Channel Report – on behalf of Comr. Remaley, Public Information Officer/Administrative Assistant Roberta Thuman provided an update – the Channel Committee has created a program to disperse funds (up to \$20,000) for projects that will enhance programming – Ms. Thuman stated that next fiscal year the Town may apply for a sound system upgrade for the Board Room.

Recreation Committee – Town Manager Ogburn provided a list of interested Committee members; new YMCA Executive Director Katie Burgess was added to the list; terms will be "as needed" vs specific. Mayor Oakes requested to be added to the list; the Board passed a motion to create a Town Recreation Committee to include as members all those listed.

Jennette's Pier Advisory Committee – Comr. Sadler provided an update – the Committee now meets quarterly and they met January 26<sup>th</sup> where an update on the Pier construction was received; the NC Aquarium website also includes job announcements.

Dare County Tourism Board (DCTB) - Comr. Sadler reported that the year-to-date number of total vehicles that cross Chesapeake Expressway is over four million which is good news for tourism; she read from occupancy reports for the Outer Banks.

Town 50<sup>th</sup> Anniversary Committee – Comr. Sadler stated that there are two (2) meetings scheduled per month; at the next Board of Commissioners meeting Chair John Ratzemberger will update the Board on the festivities.

Relay For Life Team – Comr. Cahoon challenged all Board members to participate in a Relay For Life fundraising dunking booth in May 2011.

15. Six-month financial report - Finance Officer Kim Kenny provided a PowerPoint presentation summarizing the expenditures/revenues from the first six months of FY 10/11; the report was well received.
16. Town Attorney - Town Attorney John Leidy requested a Closed Session to discuss the George Moore nuisance structure litigation and the Beach Nourishment Project easement acquisition.
17. Town Manager - Town Manager Ogburn provided a Beach Nourishment Project update and displayed and briefly summarized the project timeline.
18. Comr. Sadler – Jennette’s Pier pedestrian safety - Mayor Oakes directed that a strong letter be prepared for his signature to be forwarded to NC DOT encouraging either a reduction in the speed limit and/or a flashing light/crosswalk in the area of Jennette’s Pier; the emails quoted by Comr. Cahoon are to be included as attachments to the letter.
19. Comr. Sadler - Comr. Sadler reported that DCTB reports indicate that this past year, sales have increased – property appears to be moving.
20. Comr. Sadler - Comr. Sadler mentioned the buildup of sand at Jennette’s Pier and the two houses adjacent to the pier; she recently spoke with Coastal Science & Engineering President Tim Kana who said that piers are permeable structures and allow sand to go through and under – the sand gradually evens out.
21. Comr. Cahoon - Comr. Cahoon stated that she would like to see Gulfstream St and not Governor St be the dividing line between the Beach Nourishment Project reaches for the Municipal Service District (MSD) line.
22. Mayor Oakes - requested a Closed Session to review Jul – Dec 2010 Closed Session minutes.
23. Mayor Oakes - Mayor Oakes confirmed with Board members that the date of the upcoming Board Retreat is February 11<sup>th</sup> with a start time of 9:00 a.m. The location of the retreat is to be determined.
24. Closed Session – The Board passed a motion to enter Closed Session to review Closed Session minutes in accordance with GS 143-318.11(a)(1) and to discuss George Moore nuisance structure litigation and easement acquisition litigation in accordance with GS 143-318.11(a)(3). The time was 4:46 p.m.
25. Open Session - The Board re-entered Open Session at 5:24 p.m. Attorney Leidy reported on the Closed Session – no other action was taken.
26. Adjournment - The Board recessed to a mid-month meeting on Wed, Feb 16<sup>th</sup> at 7:30 p.m. The time was 5:30 p.m.