



**TOWN OF NAGS HEAD
BOC ACTIONS
July 6, 2011**

1. Call to order - Mayor Oakes called the meeting to order at 9:00 a.m. Prayer was provided by Pastor Rick Lawrenson.
2. Agenda – The Board passed a motion to approve the July 6th agenda as amended: with removal of agenda item #8 re: Consolidated Fee Schedule and with addition of Closed Session to discuss personnel.
3. Audience Response – Teresa Bradshaw - nurse and daughter of a resident at Britthaven/Colony Ridge; she read from her email forwarded to Board members yesterday – it would be devastating if her mother could not see her father at the facility every day. She asked that the Board consider the nursing home residents who deserve to stay in their community.
4. Audience Response – Bob Maher - Manteo resident and former Town Planning Board member; asked the Board to consider the veterans that are at Britthaven; asked the Board to see if negotiations can be positive in order to keep the facility open.
5. Audience Response – Bella Reber - Nursing Home Advisory Committee; she read a letter that she had written on behalf of a resident who lives at Britthaven who gets her special needs taken care of at Britthaven; this is the resident’s community and she is worried about her family being able to visit her.
6. Audience Response – Clarence Lewis - Manteo resident and new Commander of the American Legion Post 26; he is concerned because veterans in the rest homes are there because they have to be there; he wanted to voice the opinion of the veterans.
7. Audience Response – Susie Walters - Nags Head resident; she wanted to thank the Board: For the fireworks which were great; For supporting all the 50th Anniversary events; For efforts to resolve the Britthaven/Colony Ridge issues where her mother is a resident and has been for 12 years; And for implementing a plan for beach nourishment.
8. Recognition - Police Officer David Shane Allen was welcomed by the Board to Town employment; Office Assistant Barbara Minter was recognized by the Board for 15 years of employment; and Zoning Administrator Dabni Shelton was recognized by the Board for five years of employment.
9. Comr. Sadler – Recognition - On behalf of the Board, Comr. Sadler recognized Deputy Town Clerk Michelle Gray for her outstanding work on the Town’s 50th Anniversary.
10. Proclamation - Mayor Oakes read the Proclamation announcing August 2nd as National Night Out.

11. Consent Agenda – The Board passed a motion to approve the Consent Agenda as presented (item #8 re: Fee Schedule was removed for separate discussion):

- Consideration of Budget Adjustment for FY 10/11 Budget Ordinance
- Consideration of Tax Adjustment Report
- Approval of Minutes
- Request to apply for 2011 Assistance to Firefighters grant

12. Public Hearing – A Public Hearing was held to consider a zoning ordinance amendment re: lessening dimensional requirements to permit a decrease in the side yard setback for corner lots adjacent to the right-of-way; the Board passed a motion to adopt the ordinance – to include modifying “less than 60 feet in lot width” to read “60 feet or less in lot width”. The Statement of Consistency with the LUP was also adopted.

13. Planning Director – Planning Director Teague provided a presentation on conditional re-zoning/map amendment and SED-80 ordinance; she noted that Planning Board was not in favor of proposed rezoning.

Mayor Oakes noted that a review of parking, landscaping and stormwater all in one package especially with re-development is an excellent suggestion.

It was Board consensus to include on the August 3, 2011 Board agenda consideration of an amendment to the zoning map as requested by Brian McDonald of Outer Banks Heating and Air, tabled at the June 1st Board meeting, to rezone the property accessed by Carolinian Circle from residential to commercial.

14. Mayor Oakes – Britthaven - Mayor Oakes provided an update on negotiations with Britthaven/Colony Ridge for the lease of the facility; discussions are centered around ownership of the Certificate of Need (CON). The Town’s goal is to have good long term health care in Nags Head/Dare County and to have it continuous.

15. Bud Adj #1 – The Board passed a motion to adopt Budget Adjustment #1 to the FY 11/12 Budget which would remove the 5% water rate increase that was included in the Budget adopted June 15th.

16. Committee Reports

Comr. Remaley - Government Access Channel Committee meeting – Admin Assistant/PIO Roberta Thuman reported on behalf of Comr. Remaley.

Comr. Sadler – Dare County Tourism Board (DCTB) - Reported that the occupancy and meals taxes are going strong; DCTB is developing guidelines for use of the former Windmill Point site property; DCTB supports the July 8th NC Symphony on RIFP.

Comr. Sadler – Town 50th Anniversary – Comr. Sadler thanked everyone who participated in the 50th anniversary and the carnival events. A full report will be provided later in the meeting.

17. WCU waiver request - Consideration of request from Elizabeth and Ben Reilly for waiver of water consumption unit (WCU) fee; staff is to include WCU info in the fee schedule and building documents.

It was Board consensus to look at a tiered/graduated fee schedule for water consumption unit fees for buildings over 3,000 square feet – to take into consideration lots that were recombined – and to consider allowing those with recombined lots to request a refund – in the interest of fairness.

18. Beach Nourishment - Coastal Science & Engineering President Tim Kana provided an update on the Town Beach Nourishment Project; he invited anyone interested to attend weekly progress meetings that are held in the Town Conference Room at 9:00 a.m. every Thursday. He also thanked Board members for all of their support of the project.

Great Lakes Dredge & Dock Company Project Manager Dave Allen reported on an unfortunate incident with the Liberty Island dredge with an engine just rebuilt in March; it is anticipated that the Liberty Island will return by July 13th and should have good production when it returns. Mr. Allen reported that this is not considered a major delay but does push the project into September 2011; completion date is still early September; quality of sand is very good and has been pumping and staying on the beach very well.

Update on Ocean Outfall Extension Project Public Works Director Dave Clark updated the Board on the recent mandatory pre-bid meeting for the extension of the ocean outfalls; Current scheduling includes Conch Street, Soundside Road, and Curlew Street ocean outfalls extended in September – He also noted that three (3) bids are required for the bid opening on July 15th.

19. Town Attorney - The Board passed a motion to support Police Chief Brinkley's recommendation to deny Herbert Nixon's request for taxicab driver permit.

20. Town Attorney - Judge Cole ruled on the Fisher case and granted the Town's motion resulting in dismissal of lawsuit; an appeal is now going to Court of Appeals for consideration.

21. Town Attorney - Court of Appeals ruled in favor of the Town in the Kirkpatrick vs Nags Head lawsuit stating that governmental immunity is available to municipalities as a defense to damage claims arising from road closure decisions – the plaintiffs have until the first week of August to file an appeal.

22. Town Attorney – Town requested a Closed Session to discuss the Fisher case in more detail, the Sansotta, Hardesty, and Deel cases, and to preserve attorney/client privilege.

23. Town Manager – The Board passed a motion to approve the request for beach access recycle bins – at a cost not to exceed \$7,800 - to take the program through June 2012.

24. Town Manager – An update was provided on the crosswalk to be moved to directly across from Sam & Omie's Restaurant – DOT has indicated that the crosswalk will be moved as soon as staff demonstrates that the sidewalk is to be constructed.

25. Comr. Sadler – A full report on the Town's 50th Anniversary celebration with budget figures was provided by Comr. Sadler and Chair John Ratzenberger; Comr. Sadler commended Mr. Ratzenberger for achieving what he wanted – to not cost the taxpayer anything; recognition of all Committee members will take place at the next Board meeting; will need a decision on what to do with the excess funds of \$4,000; Comr. Sadler pointed out that organizations considering future events should contact the DCTB for use of the former Windmill Point site.

26. Lunch – The Board recessed for lunch at 12:47 p.m. and reconvened at 2:00 p.m.

27. Mayor Pro Tem Gray - It was Board consensus to support the paperless agenda/backup/publication process and to have staff talk to each commissioner concerning any specific individual needs. Site plans and confidential documents are to be considered separately.

28. Comr. Cahoon - Comr. Cahoon thanked and congratulated staff for doing a good job with the Town's fireworks display on July 4th; she also thanked the DCTB for the grant to pay for half.

29. Comr. Cahoon - Comr. Cahoon asked Town Manager Ogburn to look into why the north portion of the Jennette's Pier parking lot was closed on July 4th – one of the busiest days of the year.

30. Comr. Cahoon - It was Board consensus that action be taken to prevent beach pushes after completion of the Beach Nourishment Project. After the Planning Board completes its discussions on beach pushes and after completion of the Beach Nourishment Project, staff is to provide all materials to include

Land Use Plan info – to provide to the Planning Board at one time – and to schedule a Public Hearing for the September 2011 BOC meeting.

31. Mayor Pro Tem Gray – In response to Mayor Pro Tem Gray, Board members spoke positively about keeping the tradition of beach driving after completion of the Town Beach Nourishment Project.

32. Mayor Oakes - On behalf of the Board, Mayor Oakes thanked Andy and Lovie McCann, owners of the Nags Head Fishing Pier – they sacrificed their business for the Fourth of July fireworks display.

33. Mayor Oakes – Use of the Shoreline Management Commission funds to remove structures from the public beach – It was Board consensus that every Town that contributed should be allowed to utilize the fund. Mayor Oakes said that he will carry the Board’s comments with him to the next Commission meeting.

34. Mayor Oakes – Consolidated Fee Schedule item removed from Consent Agenda – The Board passed a motion to approve the updates to the Consolidated Fee Schedule as presented – the \$17/year automated cart push-back (Public Works) and the \$50/each for civil penalties (Police Dept) as presented. The motion passed 4 – 1 with Mayor Oakes casting the NO vote as he felt the \$17 fee from oceanfront property owners for automated cart push-back was not a fair fee. It was Board consensus that staff look into increasing the penalty for parking on the multi-use path.

35. Mayor Oakes – Britthaven/Colony Ridge - Mayor Oakes asked to go into Closed Session to discuss the latest lease from Britthaven/Colony Ridge President Randy Uzzell – a key item of concern is the ownership of the Certificate of Need (CON).

36. Closed Session – The Board passed a motion to enter Closed Session, in accordance with GS 143-318.11(a)(1), (3), and (6) to discuss a personnel issue, Fisher, Sansotta, Hardesty, and Deel litigation, and to confer with the Town Attorney to preserve the attorney/client privilege. The time was 3:20 p.m.

37. Open Session - The Board re-entered Open Session at 4:08 p.m. Attorney Leidy reported that during Closed Session the Board gave the Town Attorney instructions with respect to matters of litigation but took no other action on pending litigation.

38. Mayor Oakes – Britthaven/Colony Ridge - Mayor Oakes reported concerning the Britthaven/Colony Ridge discussion during Closed Session – the Board provided the consensus that the Certificate of Need (CON) is needed for good long-term health care so it will be going back to Britthaven/Colony Ridge with this information – if it does not work out, the Board will look for another management company.

Comr. Remaley added that what Britthaven/Colony Ridge is offering means that they could leave in two (2) months and take the Certificate of Need (CON) with them. The Town would then be with no nursing facility.

39. Adjournment – The Board passed a motion to adjourn – the time was 4:10 p.m.