



**TOWN OF NAGS HEAD
BOC ACTIONS
March 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 March 2nd agenda as amended to include an additional Closed Session.
3. Audience Response – Audrey Esposito and John Ratzenberger spoke during Audience Response.
4. Proclamation – The agenda item re: Child Abuse Prevention Proclamation had changed and will be considered by the Board at the March 21st meeting.
5. Consent Agenda - The Consent Agenda consisted of the following items:
 - Budget Adjustment #9 to FY 10/11 Budget Ordinance
 - Tax Adjustment Report
 - Tax delinquent listing to be advertised
 - Approval of Minutes
 - Request to purchase Air Soft equipment for Public Safety – Police Dept
 - Town Recreation Committee Resolution
 - Amendment to Town Code Chapter 26 Offenses and Miscellaneous Provisions to authorize Police/Fire mutual aid
 - Request from Public Works Dept for authorization to begin Powell Bill construction projects

The Board passed a motion to approve the Consent Agenda as amended – with agenda item #11 re: Powell Bill construction projects removed for open discussion under New Business.

6. Closed Session – The Board passed a motion to enter Closed Session to discuss the Fisher, Sansotta, Hardesty, and Moore/Neal lawsuits in accordance with GS 143-318.11(a)(3). The time was 9:25 a.m.
7. Open Session - The Board re-entered Open Session at 9:54 a.m. Town Attorney Leidy reported on the Closed Session to include update/status of the pending nuisance structure litigation and provided a status of the Fisher/Historic District property owners lawsuit which he noted was just recently filed.
8. Beach Nourishment - Town Manager Ogburn reported on the Beach Nourishment Project construction bids received and the results of the bid tabulation; Great Lakes Dredge and Dock Co. was the lowest bidder - It was Board consensus to include a force majeure clause in the construction contract.

Finance Officer Kim Kenny reported on the bank proposal received for financing of the Beach Nourishment Project construction. The Board passed a motion to adopt the Beach Nourishment Project Ordinance with the modified verbiage in Section 1 as noted. The motion passed 4 – 1 with MPT Gray casting the NO vote. It was Board consensus to authorize Finance Officer Kenny to negotiate minimum pre-payment penalty with RBC Bank for financing as requested.

The Board passed a motion to adopt the resolution entitled Resolution Authorizing Town Of Nags Head To Submit Application To Local Government Commission And To Enter Into Beach Nourishment Construction Project Contract adding "which staff has recommended be accepted" to the fourth WHEREAS. The motion passed 4 – 1 with Mayor Pro Tem Gray casting the NO vote.

9. Public Hearing - to consider zoning ordinance text amendment to amend the Town Code pertaining to rear wall signage - The Board passed a motion to adopt the staff-recommended ordinance as presented. The motion passed 4 – 1 with Mayor Oakes casting the NO vote.

10. Public Hearing - to consider zoning ordinance amendment submitted by Go Dog Go Rentals to amend the Town Code pertaining to permit beach chair and umbrella rentals as accessory use to Hotels – The Board passed a motion to adopt the staff-recommended ordinance with addition of the two (2) attorney comments.

11. Public Hearing - to consider zoning ordinance text amendments, initiated by the Board, to amend district lot coverage requirements to allow for the use of porous concrete - The Board passed a motion to adopt Ordinance #3 with the removal of the requirement for an operation and maintenance agreement.

12. Comr. Sadler – The Board passed a motion to excuse Comr. Sadler from the remainder of the meeting.

13. Public Hearing - to consider zoning ordinance text amendment to permit Beach Road Committee District signs to be placed in the right-of-way – The Board passed a motion to adopt the ordinance as presented.

14. Committee reports - Chair John Ratzenberger reported on the latest 50th Anniversary celebration news.

15. Powell Bill construction – The Board passed a motion to approve staff's request to move forward with the Powell Bill construction projects. Comr. Cahoon accepted Mayor Oakes' amendment to include the requirement that Powell Bill funds be used first, before using stormwater funds.

16. Town Attorney - requested a Closed Session to discuss potential litigation.

17. Comr. Cahoon – asked that in the future all FYI items be emailed to Board members – to include Planning Board minutes and monthly reports – rather than printing out and including in each Board package.

18. Comr. Cahoon - reported that she, Town Manager Ogburn, and DC Manager/Attorney Bobby Outten attended a terminal groin hearing in Raleigh yesterday, March 1st - She stated that there was strong representation from one end of the coast to the other. Legislation to allow terminal groins at inlets will move forward.

19. Comr. Cahoon - reported that at last week's Coastal Resources Commission (CRC) meeting, all comments concerning Sea Level Rise Policy were taken into account and the policy has been revised.

20. Comr. Cahoon - reported that last week she visited several beach nourishment project efforts further south. The Town of Carolina Beach also used Great Lakes Dredge and Dock Company for a project.

21. Mayor Oakes - brought forward the extension of the Town's ocean outfalls which serve as stormwater drainage for the Town. It was Board consensus that staff begin the process to extend the ocean outfalls.

22. Closed Session – The Board passed a motion to enter Closed Session for the Board to confer with and provide instruction to the Town Attorney concerning potential litigation - The time was 11:41 a.m.

23. Open Session - The Board re-entered Open Session at 11:53 a.m. Attorney Leidy explained that the Board conferred with the Town Attorney concerning a potential claim but no action was taken.

- 24.** Attorney Ben Gallop - explained that Andy/Laura Deel's attorney, John Gaw, has asked for the Board to issue a detailed Order spelling out the findings of fact to support the Board's denial of their conditional use permit – from the February 2, 2011 Board meeting. The Board passed a motion to approve the Order as presented.
- 25.** Adjournment - Mayor Oakes recessed the meeting to Mon, Mar 21st at 7:30 pm. The time was 12:05 pm.