



AGENDA

**TOWN OF NAGS HEAD BOARD OF COMMISSIONERS
NAGS HEAD MUNICIPAL COMPLEX - BOARD ROOM
WEDNESDAY, April 3, 2024, 9:00 A.M.**

A. CALL TO ORDER / MOMENT OF SILENCE / PLEDGE OF ALLEGIANCE

B. ADOPTION OF AGENDA

C. RECOGNITION

1. Recognition

NEW EMPLOYEE – Facilities Maintenance Custodian William (Will) Jones – Feb 5, 2024

FIVE YEARS – Police Officer First Class Alex Liverman – Mar 4, 2019

TWENTY YEARS – Fire Captain James Moseman – Mar 29, 2004

PROCLAMATION – April 2024 - Child Abuse Prevention Month

Documents:

[4 C RECOGNITION SUMMARY.PDF](#)

[4 C RECOG-CHILD ABUSE PREV MONTH PROC.PDF](#)

D. PUBLIC COMMENT

E. CONSENT AGENDA

1. Consideration Of Budget Amendment #10 To FY 23/24 Budget

Documents:

[4 E1 BUD AMEND TO FY 23-24 SUMMARY.PDF](#)

[4 E1 BUD AMEND TO FY 23-24 WORKSHEETS.PDF](#)

2. Consideration Of Tax Adjustment Report

Documents:

[4 E2 TAX ADJ REPORT SUMMARY.PDF](#)

[4 E2 TAX ADJ REPORT FOR MSD.PDF](#)

[4 E2 TAX ADJ REPORT FOR TOWN-WIDE.PDF](#)

3. Approval Of Minutes

Documents:

[4 E3 MINUTES SUMMARY.PDF](#)

[4 E3 MAR 6 2024 BOC MINS.PDF](#)

[4 E3 MAR 6 2024 BUD WORKSHOP MINS.PDF](#)

[4 E3 MAR 20 2024 BOC MINS.PDF](#)

4. Consideration Of Ordinance Changes To Chapter 30 Solid Waste Management And Franchise Agreement

Documents:

[4 E4 RECYCLING CONTRACT ORD SUMMARY.PDF](#)

[4 E4 RECYCLING CONTRACT ORD.PDF](#)

[4 E4 TFC RECYCLING FRANCHISE AGREEMENT.PDF](#)

5. Consideration Of Resolution In Support Of Conservation Easements in Nags Head Woods and at the Soundside Event Site

Documents:

[4 E5 CONSERVATION EASEMENT SUMMARY.PDF](#)

[4 E5 CONSERVATION EASEMENT NH WOODS RES.PDF](#)

[4 E5 CONSERVATION EASEMENT EVENT SITE RES.PDF](#)

[4 E5 CONSERVATION TNC_LETTEROFINTENT.PDF](#)

[4 E5 CONSERVATION OBVB_LETTEROFINTENT.PDF](#)

6. Consideration Of Capital Project Ordinances

- Consideration of Capital Project Ordinance, amendment #3, for Public Services Complex

- Consideration of Water Capital Project Ordinance, amendment #1, for Public Services Complex

Documents:

[4 E6 CAP PROJ ORDINANCES SUMMARY.PDF](#)

[4 E6 CAP PROJ AMEND 3 ORD.PDF](#)

[4 E6 CAP PROJ AMEND 1 ORD.PDF](#)

7. Consideration Of Request To Increase Dune Management Cost Share Program

Documents:

[4 E7 DUNE MGMT PGM SUMMARY.PDF](#)

[4 E7 DUNE MGMT PGM MEMO.PDF](#)

8. Consideration Of Change Order To Old Nags Head Place Stormwater Project

Documents:

[4 E8 ONHP STORMWATER PROJ CHG ORDER SUMMARY.PDF](#)

[4 E8 ONHP CHG ORDER 6.PDF](#)

F. PUBLIC HEARINGS

G. REPORTS AND RECOMMENDATIONS FROM THE PLANNING BOARD AND THE PLANNING AND DEVELOPMENT DIRECTOR

1. Update From Planning Director

Documents:

[4 G1 PLANNING DIRECTOR SUMMARY.PDF](#)
[4 G1 PLANNING DIRECTOR REPORT.PDF](#)

2. Discussion Of Potential Accessory Dwelling Unit Ordinance Per Strategic Plan

Documents:

[4 G2 ADU DISCUSSION SUMMARY.PDF](#)
[4 G2 ADU 2019 ORDINANCE.PDF](#)

3. Consideration Of Appointment To Hazard Mitigation Plan Update Committee

Documents:

[4 G3 HAZ MIT PLAN SUMMARY.PDF](#)
[4 G3 HAZ MIT PLAN MEMO.PDF](#)

H. NEW BUSINESS

1. Committee Reports

Documents:

[4 H1 COMMITTEE REPORTS SUMMARY.PDF](#)

2. Consideration Of Amendment To Traffic Control Map Re: Oneto Lane And Gallery Row

Documents:

[4 H2 TCM ONETO LANE GALLERY ROW SUMMARY.PDF](#)
[4 H2 TCM ONETO GALLERY ROW MEMO.PDF](#)
[4 H2 TCM ONETO GALLERY ROW ORD.PDF](#)
[4 H2 TCM ONETO GALLERY ROW MAP.PDF](#)

I. ITEMS REFERRED TO AND PRESENTATIONS FROM TOWN ATTORNEY

J. ITEMS REFERRED TO AND PRESENTATIONS FROM TOWN MANAGER

1. Update On Public Services Facility

Documents:

[4 J1 TM PUBLIC SVCS FAC UPDATE SUMMARY.PDF](#)

2. Update On Dare County Housing Task Force

Documents:

[4 J2 TM DC HOUSING TASK FORCE SUMMARY.PDF](#)

3. Discussion Of Proposed Modifications To Brush/Bulk Yard Operations

Documents:

[4 J3 TM MODS TO BRUSH-BULK YARD SUMMARY.PDF](#)

K. BOARD OF COMMISSIONERS AGENDA

L. MAYOR'S AGENDA

1. Consideration Of NCLM Board Of Directors Voting Delegate

Documents:

[4 L1 MAYOR NCLM VOTING DELEGATE SUMMARY.PDF](#)
[4 L1 MAYOR NCLM VOTING DELEGATE NARR.PDF](#)

2. Request For Nominations For Lightkeeper/Nags Header Awards

Documents:

[4 L2 MAYOR LIGHTKEEPER-NHR NOM SUMMARY.PDF](#)
[4 L2 MAYOR LIGHTKEEPER-NHR PASTRECIPIENTLIST.PDF](#)

M. CLOSED SESSIONS

1. Request For Closed Session To Discuss Possible Acquisition Of Real Property In Accordance With GS 143-318.11(A(5))

Documents:

[4 M1 CS SUMMARY.PDF](#)

N. OTHER BUSINESS

O. ADJOURNMENT

1. Adjournment TO FY 24/25 BUDGET WORKSHOP

5401 S. Croatan Hwy, Nags Head, NC 27959
252-441-5508

Agenda Item Summary Sheet



Item No: C
Meeting Date: **April 3, 2024**

Item Title: Recognition

Item Summary:

Recognition at the April 3rd Board of Commissioners meeting includes the following:

NEW EMPLOYEE – Facilities Maintenance Custodian William (Will) Jones – Feb 5, 2024

FIVE YEARS – Police Officer First Class Alex Liverman – Mar 4, 2019

TWENTY YEARS – Fire Captain James Moseman – Mar 29, 2004

PROCLAMATION – April 2024 - Child Abuse Prevention Month (Please see attached proclamation)

Number of Attachments: 1

Specific Action Requested:

Provided for Board recognition and consideration of Child Abuse Prevention Month proclamation.

Submitted By: Administration

Date: March 25, 2024

Finance Officer Comment:

N/A

Signature: Amy Miller

Date: March 25, 2024

Town Attorney Comment:

N/A

Signature: John Leidy

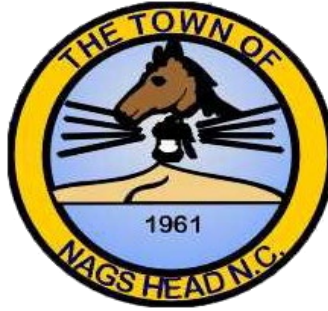
Date: March 25, 2024

Town Manager Comment and/or Recommendation:

Welcome and Congratulations!

Signature: Andy Garman

Date: March 25, 2024



Child Abuse Prevention Month April 2024 Proclamation

WHEREAS, children are vital to our state's future success, prosperity and quality of life as well as being our most vulnerable assets; AND

WHEREAS, all children deserve to have the safe, stable, nurturing homes and communities they need to foster their healthy growth and development; AND

WHEREAS, child abuse and neglect is a community responsibility affecting both the current and future quality of life of a community; AND

WHEREAS, communities that provide parents with the social support, knowledge of parenting and child development, and the resources they need to cope with stress and nurture their children will help to ensure that all children grow to their full potential; AND

WHEREAS, effective child abuse prevention strategies succeed because of partnerships created among citizens, human service agencies, schools, faith communities, health care providers, civic organizations, law enforcement agencies, and the business community.

THEREFORE, we, the Town of Nags Head Board of Commissioners do hereby proclaim

April 2024 as Child Abuse Prevention Month

and call upon all citizens, community agencies, faith groups, medical facilities, elected leaders and businesses to increase their participation in our efforts to support families, thereby preventing child abuse and strengthening the communities in which we live.

This the 3rd day of April 2024.

Benjamin Cahoon, Mayor
Town of Nags Head

ATTEST

Carolyn F. Morris, Town Clerk



Agenda Item Summary Sheet

Item No: **E-1**
Meeting Date: **April 3, 2024**

Item Title: Consideration of Budget Amendment #10 to FY 23/24 Budget

Item Summary:

Attached please find Budget Amendment #10 to the FY 23/24 Budget which is provided for Board review and approval at the April 3rd Board of Commissioners meeting. Budget Amendment #10 is in accordance with the FY 23/24 Budget Ordinance, adopted at the June 21, 2023 meeting.

Number of Attachments: 1

Specific Action Requested:

Request Board approval of attached Budget Amendment #10.

Submitted By: Administrative Services

Date: March 27, 2024

Finance Officer Comment:

Request Board approval of attached Budget Amendment #10.

Signature: Amy Miller

Date: March 27, 2024

Town Attorney Comment:

N/A

Signature: John Leidy

Date: March 27, 2024

Town Manager Comment and/or Recommendation:

I concur with staff's request.

Signature: Andy Garman

Date: March 27, 2024



**BUDGET AMENDMENT REQUEST
FY 2023-2024**

BUDGET AMENDMENT NO. 10
Amendment 10.1
USE OF FUNDS

SOURCE OF FUNDS

CODE	ACCOUNT	AMOUNT		CODE	ACCOUNT	AMOUNT
900-599900	General Fund Contingency Manager's Contingency	35,000.00		420-544000	General Fund Town Manager Professional Fees	35,000.00
TOTAL CHARGES		\$ 35,000.00		TOTAL CREDITS		\$ 35,000.00

JUSTIFICATION

Used professional services funds towards Town campus master plan. Requesting funding to assist with:
Survey and appraisal needed for LWF acquisition grant. Grant assistance needed for projects including NFWF NCR and
Local Assistance for Stormwater Infrastructure grant.

ADMINISTRATIVE SERVICES
RECOMMENDED BY _____ DATE 3/4/2024

APPROVED BY BOC: _____ DATE _____

POSTED TO GENERAL LEDGER:

INITIALS _____



**BUDGET AMENDMENT REQUEST
FY 2023-2024**

BUDGET AMENDMENT NO. 10
Amendment 10.2
USE OF FUNDS

SOURCE OF FUNDS

CODE	ACCOUNT	AMOUNT		CODE	ACCOUNT	AMOUNT
11-499000	<u>Capital Investment Fund Revenues</u> Appropriated Fund Balance	35,000.00		911-590081	<u>Capital Investment Fund Expenditures</u> Transfer to General Fund	35,000.00
10-492111	<u>General Fund Revenues</u> Transfers-CIF	35,000.00		420-544003	<u>General Fund Expenditures-Town Manager</u> Professional Fees from CIF	35,000.00
TOTAL CHARGES		\$ 35,000.00		TOTAL CREDITS		\$ 35,000.00

JUSTIFICATION

Funding needed for professional fees including:
Workforce housing plans, further work needed for Town Campus Master Plan, including fitness facility.

ADMINISTRATIVE SERVICES 3/27/2024
RECOMMENDED BY DATE

APPROVED BY BOC: DATE

POSTED TO GENERAL LEDGER:

INITIALS



**BUDGET AMENDMENT REQUEST
FY 2023-2024**

BUDGET AMENDMENT NO. 10
Amendment 10.3
USE OF FUNDS

SOURCE OF FUNDS

CODE	ACCOUNT	AMOUNT		CODE	ACCOUNT	AMOUNT
11-492000	<u>Capital Investment Fund</u> <u>Revenues</u> Transfer-General Fund	10,800.00		911-590081	<u>Capital Investment Fund</u> <u>Expenditures</u> Transfer to General Fund	96,000.00
11-499000	Appropriated Fund Balance	85,200.00				
10-492111	<u>General Fund</u> <u>Revenues</u> Transfers-CIF	96,000.00		625-577407	<u>General Fund</u> <u>Expenditures-Streets and Stormwater</u> Capital Outlay Infrastructure	100,000.00
625-577500	<u>General Fund</u> <u>Expenditures-Streets and Stormwater</u> Capital Outlay Vehicles	4,000.00				
625-532300	<u>General Fund</u> <u>Expenditures-Streets and Stormwater</u> Utilities	1,500.00		900-590093	<u>General Fund</u> <u>Expenditures</u> Transfer-CIF	10,800.00
625-543300	Department Supplies	4,300.00				
625-543600	Maint./Repair Equipment	5,000.00				
TOTAL CHARGES		\$ 100,000.00		TOTAL CREDITS		\$ 100,000.00

JUSTIFICATION

Funding needed for Old Nags Head Place.
\$10,800-transferred from operating accounts to the CIF.
\$85,200-appropriate from CIF fund balance.
\$4,000-transfer between capital line items (unspent funds-stormwater truck).

ADMINISTRATIVE SERVICES 3/27/2024
RECOMMENDED BY DATE

APPROVED BY BOC: DATE

POSTED TO GENERAL LEDGER:

INITIALS



Agenda Item Summary Sheet

Item No: **E-2**
Meeting Date: **April 3, 2024**

Item Title: Consideration of Tax Adjustment Reports

Item Summary:

Attached please find the list of adjustments to the 2023 Tax Levy (per information received from Dare County) for the monthly Property and MSD valuations.

These reports are submitted for your approval at the April 3rd Board of Commissioners meeting.

Number of Attachments: 2

Specific Action Requested:

Tax reports provided for Board review and approval.

Submitted By: Linda Bittner, Tax Collector

Date: March 27, 2024

Finance Officer Comment:

No unbudgeted fiscal impact.

Signature: Amy Miller

Date: March 27, 2024

Town Attorney Comment:

N/A

Signature: John Leidy

Date: March 27, 2024

Town Manager Comment and/or Recommendation:

I concur with staff.

Signature: Andy Garman

Date: March 27, 2024

Town of Nags Head, North Carolina
Schedule of Ad Valorem 2023-2024 Taxes Receivable
2023 Tax Levy As of March 26, 2024 for the April 3, 2024 BOC Mtg

	BEACH NOURISHMENT DISTRICT			MSD Excluding Registered Motor Vehicles	Registered Motor Vehicles
	MSD Valuation	Rate	Total Levy		
Original MSD Levy:					
MSD Beach Nourishment at Current 2023 Dist 1 Rate	578,093,598	0.00143	826,674.06	826,674.06	
MSD Beach Nourishment at current 2023 Dist 2 Rate	473,945,007	0.00143	677,741.67	677,741.67	
MSD Beach Nourishment at Current 2023 Dist 3 Rate	1,053,729,707	0.00005	52,687.93	52,687.93	
MSD Beach Nourishment at Current 2023 Dist 4 Rate	665,352,580	0.00010	66,535.07	66,535.07	
MSD Beach Nourishment at Current 2023 Dist 6 Rate	374,308,126	0.00005	18,716.25	18,716.25	
Registered Motor Vehicles at Current 2023 Dist 1 Rate	946,623	0.00143	1,353.69		1,353.69
Registered Motor Vehicles at Current 2023 Dist 2 Rate	1,226,364	0.00143	1,753.71		1,753.71
Registered Motor Vehicles at Current 2023 Dist 3 Rate	3,717,349	0.00005	185.87		185.87
Registered Motor Vehicles at Current 2023 Dist 4 Rate	2,954,779	0.00010	295.48		295.48
Registered Motor Vehicles at Current 2023 Dist 5 Rate	402,145	0.00000	0.00		0.00
Registered Motor Vehicles at Current 2023 Dist 6 Rate	2,302,511	0.00005	112.03		112.03
Registered Motor Vehicles at 2022 Dist 1 Rate	272,667	0.00143	389.90		389.90
Registered Motor Vehicles at 2022 Dist 2 Rate	354,796	0.00143	507.37		507.37
Registered Motor Vehicles at 2022 Dist 3 Rate	1,312,015	0.00005	65.65		65.65
Registered Motor Vehicles at 2022 Dist 4 Rate	899,152	0.00010	89.99		89.99
Registered Motor Vehicles at 2022 Dist 5 Rate	59,870	0.00000	0.00		0.00
Registered Motor Vehicles at 2022 Dist 6 Rate	1,155,314	0.00005	57.81		57.81
Registered Motor Vehicles at 2021 rate	22,000	0.00143	5.28		5.28
Penalties			0.00		
Total	3,161,054,603		1,647,171.76	1,642,354.98	4,816.78
Discoveries & Adjustments:					
Current year discoveries & adjustments	8,221		7.64	7.64	
Total	8,221		7.64	7.64	
Releases & Adjustments:					
DMV Current year valuation adjustments	0		0.00	0.00	0.00
DMV Current year tax releases	0		(0.12)	0.00	(0.12)
Real/Personal Current year releases & adjustments and circuit breakers	127,576		(6.42)	(6.42)	
Total	127,576		(6.54)	(6.42)	(0.12)
Write-offs (under \$1.00) or Adjustments:			0.00	0.00	
Total MSD Valuation	3,161,190,400				
Net levy		1,647,172.86		1,642,356.20	4,816.66
TOTAL UNCOLLECTED MSD AS OF 03/26/24:		(10.00)		(10.00)	0.00
CURRENT YEAR MSD COLLECTED:		1,647,162.86		1,642,346.20	4,816.66
CURRENT MSD COLLECTION PERCENTAGE:		99.999%		99.999%	100.000%

Dist.3&6

Town of Nags Head, North Carolina
Schedule of Ad Valorem 2023-2024 Taxes Receivable
2023 Tax Levy As of March 26, 2024 for the April 3, 2024 BOC Mtg

	Town-Wide Tax			Total Levy	
	Property Valuation	Rate	Total Levy	Property Excluding Registered Motor Vehicles	Registered Motor Vehicles
Original levy:					
Property taxed at current 2023 rate	3,057,530,927	0.003300	10,089,869.38	10,089,869.38	
Registered Motor Vehicles at current 2023 rate	29,487,932	0.003300	97,293.11		97,293.11
Registered Motor Vehicles at 2022 year's rate	12,930,597	0.002875	37,175.47		37,175.47
Registered Motor Vehicles at 2021 year's rate	102,612	0.002875	295.01		295.01
Penalties	0		7,355.82	7,355.82	
Total	3,100,052,068		10,231,988.79	10,097,225.20	134,763.59
Discoveries & Adjustments:					
Current year discoveries & adjustments tax	1,837,704		5,032.44	5,032.44	
Town wide beach nourishment tax			463.16	463.16	
Corporate Utilities discoveries & tax	22,654,828		69,097.22	69,097.22	
Corporate Utilities town wide beach nourishment			5,663.71	5,663.71	
Penalty Discoveries			1,746.31	1,746.31	
Total	24,492,532.00		82,002.84	82,002.84	
Releases & Adjustments:					
Current year releases/adjustments/circuit breaker	(956,727)		(4,197.93)	(3,741.52)	(456.41)
Town wide beach nourishment/circuit breaker			(306.78)	(306.78)	
Penalty Releases			(226.63)	(226.63)	
Total	(956,727)		(4,731.34)	(4,274.93)	(456.41)
Write-offs (under \$1.00) or Adjustments:			(4.13)	(4.13)	
Total Property Valuation	3,123,587,873				
Net levy		10,309,256.16		10,174,948.98	134,307.18
Uncollected Taxes & Penalties		(13,223.58)		(13,223.58)	0.00
Uncollected Town Wide Beach Nourishment		(998.40)		(998.40)	0.00
TOTAL UNCOLLECTED TAXES AS OF 03/26/24:		(14,221.98)		(14,221.98)	0.00
CURRENT YEAR TAXES COLLECTED:		10,295,034.18		10,160,727.00	134,307.18
CURRENT LEVY COLLECTION PERCENTAGE:		99.862%		99.860%	100.000%



Agenda Item Summary Sheet

Item No: **E-3**
Meeting Date: **April 3, 2024**

Item Title: Approval of minutes from Board of Commissioners meetings/workshops

Item Summary:

Attached for Board review and approval are the following DRAFT Board of Commissioners meeting/workshop minutes:

March 6, 2024 Regular Board of Commissioners meeting
March 6, 2024 Budget Workshop
March 20, 2024 Recessed Board of Commissioners meeting

Number of Attachments: 3

Specific Action Requested:

Provided for Board review and approval.

Submitted By: Carolyn F. Morris, Town Clerk

Date: March 27, 2024

Finance Officer Comment:

No unbudgeted costs associated with this agenda item.

Signature: Amy Miller

Date: March 27, 2024

Town Attorney Comment:

N/A

Signature: John Leidy

Date: March 27, 2024

Town Manager Comment and/or Recommendation:

N/A

Signature: Andy Garman

Date: March 27, 2024



***DRAFT* MINUTES
TOWN OF NAGS HEAD
BOARD OF COMMISSIONERS
REGULAR MEETING
WEDNESDAY, MARCH 6, 2024**

The Nags Head Board of Commissioners met in the Board Room located at 5401 S Croatan Highway, Nags Head, North Carolina on Wednesday, March 6, 2024 at 9:00 a.m. for a Regular Meeting.

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

Board members Absent: None

Others present: Town Manager Andy Garman; Attorney John Leidy; Amy Miller; Kelly Wyatt; David Ryan; Perry Hale; Chris Montgomery; Randy Wells; Nancy Carawan; Joe Costello; Roberta Thuman; James Phillips; Dilyana Gnafakis; Dylan Berry; Paige Griffin; Debbie Swick; Peggy Saporito; Molly Vaughan; Donna Creef; Duke Geraghty; Brittany Phillips; and Town Clerk Carolyn F. Morris

CALL TO ORDER

Mayor Cahoon called the meeting to order at 9 a.m. A moment of silence was followed by the Pledge of Allegiance. Mayor Cahoon asked everyone to remember the family and friends of the local, well-known fishermen recently lost in a boating accident – Charlie Griffin and Chad Dunn.

ADOPTION OF AGENDA

MOTION: Mayor Pro Tem Siers made a motion to approve the March 6th agenda as presented. The motion was seconded by Comr. Brinkley which passed unanimously.

RECOGNITION

Police Chief Perry Hale introduced Police Officers Dylan Berry and Dilyana (Dee Dee) Gnafakis who were welcomed by the Board to Town employment.

Fire Chief Randy Wells introduced Fire Engineer/EMT James Phillips who was recognized by the Board for five years of service.

Police Chief Perry Hale introduced Dep Police Chief Chris Montgomery who was recognized and congratulated by the Board for 25 years of service. Dep Police Chief Montgomery was presented a plaque and engraved tie-tac for his years of service.

Mayor Cahoon stated that employees' longevity speaks to our staff, our management and our community that leads to this kind of service.

PRESENTATION – Arts & Culture Committee

Events Coordinator Paige Griffin summarized her report which read in part as follows:

"Planning Staff and members of the Nags Head Committee for Art and Culture will be providing a brief presentation to the Board of Commissioners at their March 6, 2024 meeting. The intent of the presentation is to highlight efforts by the Committee during the 2023/2024 Season, and to provide information on what the Committee would like to achieve during the upcoming 2024/2025 Season.

'2023 Season

The 2023 Farmers Market season was yet another successful one. The online application was open for just under two weeks and we received approximately 130 applications. To manage parking and minimize concerns and conflicts, the Committee for Art and Culture decided to select only 60 vendors for participation in the 2023 Summer Market. However, we ended up with an average of 66 vendors participating. Out of these, 37 were given preference because they specialized in consumables such as fresh fruit, vegetables, cheeses, baked goods, fermented foods, and sauces.

'While many vendors were local, we also had participants from as far as Currituck, Swan Quarter, Creswell, Columbia, Hertford, Edenton, and Elizabeth City. Their presence at the market is crucial to its success, and we are grateful to have them.

'The market saw its highest visitation in July, with upwards of 1,000 visitors. This was during the Fourth of July weekend and unfortunately led to parking issues. Despite this, all markets were well attended throughout the season, averaging approximately 650 visitors each.

'The 2023 Summer Concert Series was also successful, with 10 bands scheduled and 9 performing. Additionally, our first season offering Family Fun Nights was a hit.

'We organized four Holiday Markets, three on Saturday mornings and one on a Thursday evening. These markets featured approximately 78 vendors and saw over 350 visitors per market, with an increase in vendor participation compared to the previous season. Fortunately, these markets did not conflict with Nags Head Elementary School, as sometimes happens during our summer markets. The festive atmosphere, holiday music, and lights were well-received by visitors, locals, and vendors alike.

'The 3rd Annual Tree Lighting Ceremony on November 25th was a success, with many returning visitors. Santa Claus also made an appearance, adding to the festive spirit. The event was made possible by collaborative efforts from various town departments, ensuring both safety and success. This is an event we hope to continue and expand upon, potentially adding more lighting and decorations to the park.

'On December 14th, we hosted the 2nd annual Flashlight Candy Cane Hunt at Dowdy Park. Learning from the previous year, we divided participants into two age groups, which was well-received. The event was a quick but enjoyable experience for the locals.

'The Winter Markets are still occurring, however the first two (January 13th and February 10th) were very successful and visitors have expressed so much appreciation for the ability to continue to pick up fresh foods from our wonderful vendors in the off-season.

'Social media response continues to be positive and encouraging, reflecting the community's ongoing support for these events.

'2024 Season

The Committee for Art and Culture has been actively discussing the upcoming 2024 Season Events. To address parking concerns, we have scheduled markets from June 13th, 2024, through August 15th, 2024, aligning with the period when Nags Head Elementary School is not in session. This timeframe allows for ten (10) markets, as we are unable to hold markets during the week once school resumes.

'As the market's popularity grows, it becomes challenging to maintain a manageable number of vendors while accommodating both seasoned participants and new artisans. Paige has informally surveyed previous market vendors, of which there is anticipated to be approximately 24 returning vendors specializing in perishables and consumables, 36 returning artisans, and potentially 13 new perishable vendors, leaving little to no space for new artisans to be accepted.

'The 2024 Summer Concert Series is set to begin on June 12th running through August 21st, featuring performances each Wednesday evening from 6:30 to 8:00 pm. Event Coordinator Paige Griffin is putting together an exciting lineup of bands spanning various genres. While we regret the absence of the 82nd Airborne Division Band in 2024, we are optimistic about the possibility of welcoming the Military Rhythm and Blues band this season.

'In addition to the four (4) Holiday Markets, the committee intends to continue offering Family Fun Nights. These monthly evening events, held from June through September, each revolve around a theme. We are exploring themes such as storytelling, an evening with the Corolla Wild Horse Fund (and Riptide) among others. Vendors that complement each theme will be invited, providing local artisans with further engagement opportunities.

'We plan to host Winter/Off-Season Markets again in the coming season, building upon their positive reception last season. These markets exclusively feature producers and consumables, offering continuous opportunities for vendors and visitors to purchase fresh meat, eggs, produce, and prepared foods.

'Thanks to the acquisition of our own movie equipment, facilitated by Art and Culture Committee member Jeremy Russell, we can now schedule and screen movies more frequently, pending the acquisition of our annual movie licensure. We hope to be showing several movies in the coming year.

'Furthermore, we aim to continue offering weekly fitness opportunities, family-friendly movie screenings, organizing Kids Day at the Park, and expanding next year's Tree Lighting Ceremony and Flashlight Candy Cane Hunt. Despite limited participation in the Holiday Decorating Contest over the past two years, we are exploring new strategies to reignite interest in the event moving forward.

'The committee remains committed to the Art Mast Project, with local artists Kate Lawrence and Jackie Koenig currently working on art panels slated for installation this summer.

'Additionally, we are considering several new projects and events for the upcoming year, including a public art and pedestrian safety initiative to paint an intersection within the town, collaborating with a local artist to create a mural at the skate park, and organizing a "Paint & Skate" gathering to engage the community in collaborative mural creation. Other ideas include establishing a nature loom at Barnes Street Park, potentially screening

movies at the park, and brainstorming new concepts and ideas for Whalebone Park following upcoming improvements.

'As always, the Committee for Art and Culture will participate in the 35th annual Artrageous Kids Art Festival on Saturday, May 11th, from 10 am to 2 pm at Dowdy Park, with the theme "Creativity Starts Here"!

'As the interest in our community events continues to surge, we are actively exploring sponsorship opportunities each season.

'With the increased workload and responsibilities, our staff, particularly Paige Griffin, is feeling the strain of managing effectively while maintaining the unique atmosphere and safety of our events. Therefore, we are requesting that the Board of Commissioners consider including funds for seasonal part-time help at the market. We envision this position being needed for approximately 10 hours/week through the height of the season offerings (approximately 10 weeks). The total request would not exceed \$5,000.

'Members of the Planning Staff, Event Coordinator Paige Griffin, and representatives from the Committee for Art and Culture will be available following the presentation to address any questions and seek input from the Board of Commissioners."

Ms. Griffin thanked the volunteers for the number of hours volunteered, especially Peggy Saporito and Molly Vaughan. She also expressed her appreciation for the support of the community for the park activities.

Mayor Cahoon stated that he appreciates the management of Dowdy Park and said that Dowdy Park stands out for its quality and maintaining that balance is not easy.

Board members spoke in favor of the Dowdy Park activities and thanked the Arts & Culture Committee members and Ms. Griffin for all the hard work.

PUBLIC COMMENT

PUBLIC COMMENT – DEBBIE SWICK

Debbie Swick, Southern Shores resident; creator of Ban Balloon Releases in NC; a proposal was recently sent to the Board concerning legislation that would ban balloons – she is also working with the State Senate for legislation; this is a very necessary item for the environment and for the wildlife; she has the support of the NEST organization, the Dunes of Dare, the Outer Banks Women's Club, the NC Beach Buggy Association, the National Park Service, the NC Association of Realtors, the NC Aquariums, and several other agencies; she asked the Board to endorse her proposed ordinance banning balloons; she is educating all she can and speaking at organizations and would like to be able to have legislation to back up what she is discussing.

There being no one else present who wished to speak, Attorney Leidy concluded Public Comment at 9:38 a.m.

CONSENT AGENDA

The Consent Agenda consisted of the following items:

Consideration of Budget Amendment #9 to FY 23/24 Budget
Consideration of Tax Adjustment Report
Report of Tax Delinquent List

Approval of minutes (February 7, 2024 Board of Commissioners meeting minutes)
Consideration of revised Ocean Rescue Lifeguard Pay Plan (From Feb 7th Board meeting)
Consideration of text amendments to Town Code Chapter 6 *Animals* - Definitions
Consideration of amendment to Traffic Control Map re: *No Parking Here to Corner* on Vansciver Drive
Consideration of cart rollback contract for May – Oct 2024

Request for Public Hearing to consider text amendments submitted by Albemarle & Associates, PE on behalf of Golasa Holdings, LL to allow the long-term rental of units within existing hotels and motels

Request for Public Hearing to consider text amendments to prohibit driving over and/or parking on septic systems when adjacent to driveway, drive aisles, and parking areas

MOTION: Comr. Brinkley made a motion to approve the Consent Agenda with the removal of agenda item #8 entitled "Consideration of cart rollback contract for May – Oct 2024 for further discussion. The motion was seconded by Mayor Pro Tem Siers which passed unanimously.

Consent Agenda Item #E-8 – Consideration of cart rollback contract for May – Oct 2024

Comr. Brinkley asked for an overview of the cart rollback program. Town Manager Garman explained that this program came about as a result of carts not being pulled back and trash being blown out, etc. Between May and the end of October the Town hires a company, twice weekly and paid for by the property owner, to move the carts out to the right-of-way and move the carts back to the property. The fees pay for the entire cost of the contract.

MOTION: Comr. Brinkley made a motion to approve the cart rollback contract with Trash Detail, LLC as presented. The motion was seconded by Mayor Pro Tem Siers which passed unanimously.

Budget Amendment #9, as approved, is attached to and made a part of these minutes as shown in Addendum "A".

The Tax Adjustment Report, as approved, is attached to and made a part of these minutes as shown in Addendum "B".

The Tax Delinquent List summary, as approved, read in part as follows:

"At the February 7th Board of Commissioners meeting, Board approval was received to advertise tax liens in the newspaper on Wednesday, March 20, 2024 in accordance with NCGS 105-369.

'Attached please find the preliminary tax delinquent listing as of Thursday, February 29, 2024.

'(Property owners have until Friday, March 15, 2024 to pay and be removed from the tax delinquent listing before the advertisement is posted.)"

The Ocean Rescue Lifeguard Pay Plan (From Feb 7th Board meeting) summary, as approved, read in part as follows:

"Per the decision of the Board of Commissioners at its February regular meeting, the starting rate for Ocean Rescue Staff will increase to \$19.00 for the 2024 season to align with the presentation that Ocean Rescue Captain Chad Motz provided at the February 7, 2024 Board of Commissioners Meeting. This change will be effective for the remainder of FY 2024 and for FY 2025.

'Please find attached a revised Pay Plan to include the updated pay for lifeguards.
(To include budget amendment with item E-1.)"

The summary re: text amendments to Town Code Chapter 6 *Animals* – Definitions, as approved, read in part as follows:

"Attached for Board review and adoption is a proposed ordinance amending Town Code Chapter 6 *Animals* re: Definitions.

'Staff would like to modify the Town Code, per recommendation of the existing Dangerous Animal Appeal Board, to include the Town Manager as one member of the five (5) member board along with four (4) Town residents.

'In addition, staff recommends changing the term limits from two (2) years to three (3) years to be consistent with other Board appointments."

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

The summary sheet re: amendment to Traffic Control Map re: *No Parking Here to Corner* on Vansciver Drive, as approved, read in part as follows:

"Please find attached a memo from Police Chief Perry Hale requesting to amend the Traffic Control Map to designate a portion of W Vansciver Drive north from its intersection with Deering Street as "No Parking Here to Corner". Residents have noted that issues of people parking on their properties and parking too close to the Stop Sign have increased due to the growth of this area.

'Attached please find a map designating the area as well as an ordinance amending the Traffic Control Map for Board review and consideration."

The ordinance amending the Traffic Control Map, as adopted, is attached to and made a part of these minutes as shown in Addendum "D".

The Request for Public Hearing to consider text amendments submitted by Albemarle & Associates, PE on behalf of Golasa Holdings, LL to allow the long-term rental of units within existing hotels and motels, as approved, read in part as follows:

"John Delucia of Albemarle & Associates, PE has submitted a text amendment request on behalf of Golasa Holdings, LLC, which if adopted, would amend the Unified Development Ordinance to allow the long-term rental of units within existing hotel and motel units. The Planning Board discussed the requested amendments with the applicant and planning staff at their December 19, 2023, January 16, 2024, and February 20, 2024 meetings.

'As a result of these meetings, an ordinance has been drafted which would allow the conversion of existing hotel units intended for transient occupancy, to be converted to long-term rental occupancy units with the following supplemental regulations:

- This would apply to hotels/motels within the C-2, General Commercial zoning designation constructed prior to November 10, 1972. When applying these parameters, eligible properties include Seahorse Inn, Owens Motor Court, Tarheel Motel, First Colony, and Nags Head Beach Inn.

- The conversion of hotel units to long-term rental would be approved via the Special Use Permit process. Reverting to hotel units may be done administratively if there has been no site or structural improvements resulting in an increase in the degree of nonconformity.
- All units within the hotel development shall be converted to long-term occupancy, a hotel structure could not have both long and short-term occupancies co-mingled.
- Long-term occupancy shall mean occupancy for a period of 90 consecutive days or more.
- A percentage of the units shall be dedicated to workforce housing.
- Interior space dimensions of each unit shall meet the minimum requirements of the NC Building Code.
- The hotel development shall meet current NC Fire Prevention code requirements.
- A minimum of two (2) parking spaces shall be required for each unit.
- Utility meters for individual units are prohibited and the hotel must operate under a single-unified management operation.
- All goods, material, equipment, etc. shall be stored in an approved location, not visible from public rights-of-way or neighboring properties."

The Request for Public Hearing to consider text amendments to prohibit driving over and/or parking on septic systems when adjacent to driveway, drive aisles, and parking areas, as approved, read in part as follows:

"At their October 24th, 2023 meeting, the Septic Health Advisory Committee (SHAC) discussed the importance of prohibiting, or at a minimum discouraging, driving over and/or parking on top of active septic and drain field areas on residential properties. While providing the Planning Board with an update on the SHAC at their November 2023 meeting, it was the consensus of the Planning Board to initiate the text amendment process to provide protection of septic systems from vehicle parking and driving. Staff has drafted language which would require a that physical barrier be put in place when the septic system area is adjacent to any portion of a parking space, turnaround area, driveway, or drive aisle. Acceptable barriers include, but are not limited to, fencing, posts with rope, raised planters or landscape beds, landscape timers or other treatments as approved by the Unified Development Ordinance (UDO) Administrator. As proposed, this amendment would only apply to new construction or substantial improvement to residential properties. Staff recognizes that there will be outreach needed in advance of implementing this ordinance should it be adopted.

'Recognizing the potential impact of this amendment on property owners who do not currently have issues with parking on their septic areas and noting that such parking often occurs at rental homes, staff is actively exploring alternative options to ensure septic area safety. One approach under consideration is the inclusion of language expressly prohibiting parking on septic areas. In cases where a violation is noted, a Notice of Violation would be issued, at which time the placement of a physical barrier to preclude any future violations could be required. This approach would address parking on septic on systems via a formal violation of the Unified Development Ordinance with a specified remedy, as opposed to the draft language which is more proactive but may unnecessarily impact property owners who do not currently have a problem.

'Planning Staff and Planning Board Recommendation

Planning staff recommends adoption of this text amendment as proposed while continuing to draft additional/alternative language to address the concern.

'At their February 20, 2024, meeting the Planning Board voted unanimously to recommend adoption of the proposed text amendment as presented. Planning Board members also noted that additional consideration should still be given to limiting the impact of this ordinance to those properties that do not have a history of parking on their septic system."

PUBLIC HEARINGS

Public Hearing to consider text amendments to the Unified Development Ordinance re: prohibiting drive-through restaurants

Attorney John Leidy opened the Public Hearing to consider text amendments to the UDO re: prohibiting drive-through restaurants. The time was 9:43 a.m.

Notice of the Public Hearing was published in the *Coastland Times* on Wednesday, February 21, 2024 and on Wednesday, February 28, 2024, as required by law.

Dep Planning Director Joe Costello summarized his report which read in part as follows:

"At their January 3rd meeting, the Board of Commissioners voted unanimously to direct staff to initiate the text amendment process to eliminate the use of "Restaurant, Drive Through" as a permissible use within the Unified Development Ordinance (UDO) to create consistency between the UDO and the 2017 Comprehensive Land Use Plan's guidance.

'Currently drive-through restaurants are only allowed in the following instances:

Within the C-2, General Commercial Zoning District via the Special Use Permit process with supplemental regulations that are described in Section 7.29 of the Unified Development Ordinance.

'Within the Village at Nags Head Special Planned Development District, Commercial-1 and Commercial-2 Zoning District via the Special Use Permit process with supplemental regulations that are described in Section 9.37.5 of the Unified Development Ordinance.

'Detailed policy considerations and analysis were provided to the Planning Board and Board of Commissioners during their ongoing review of a text amendment application submittal made by the Outlets Nags Head to expand the use of "Restaurant, Drive Through," to be included within Commercial Mixed-Use developments.

'The most recent staff report was provided to the Board of Commissioners at their January 3, 2024, meeting and is included as an attachment for reference. The attachment provides context as to why the Board of Commissioners initiated a text amendment process to remove the use of "Restaurant, Drive Through" from the UDO. The Village at Nags Head POA reviewed the proposed text amendment at their January meeting and was supportive of removing the use of Restaurant, Drive Through from the Village's Special Planned Development Ordinance. The timeline below details the major events leading up to the Board of Commissioners recommendation to remove the use of "Restaurant, Drive Through" as an allowable use within the Unified Development Ordinance.

'Timeline of Events

- April 13, 2023: Text Amendment Application submittal.
- May 16, 2023: The Planning Board considered a text amendment application and Starbucks sketch plan. The Planning Board voted unanimously to recommend denial of the text amendment.
- June 7, 2023: The Board of Commissioners approved a Request for Public Hearing to consider text amendment.
- July 18, 2023: The Planning Board considered a revised text amendment application. The Planning Board voted unanimously to recommend denial of the text amendment.
- September 11, 2023: Text Amendment Application third submittal received.
- August 2, 2023: The Board of Commissioners approved a Request for Public Hearing to consider text amendment unanimously.
- October 17, 2023: Planning Board considered a revised text amendment application. The Planning Board voted unanimously to recommend denial of the text amendment.

- December 3, 2023: Board of Commissioners requested the Planning Board resolve the apparent conflict between the Comprehensive Land Use Plan and the Unified Development Ordinance.
- December 19, 2023: Planning Board considered text amendment application and how to resolve the conflict between the UDO and the Comprehensive Land Use Plan. The Planning Board voted unanimously to recommend denial of the text amendment.
- January 3, 2024: The Board of Commissioners considered a text amendment application and how to resolve the conflict between the UDO and the Comprehensive Land Use Plan. The Board of Commissioners denied the text amendment application and made a motion that directed planning staff to initiate a text amendment process removing the use of Restaurant, Drive Through from the UDO.
- January 16, 2024: The Planning Board voted unanimously to recommend approval of the text amendments as proposed to remove the use of Restaurant, Drive Through from the UDO.

'Staff believes that the proposed amendments reflect the Board of Commissioner's guidance. Please note that this amendment specifically pertains to the removal of drive-through restaurant use from the Unified Development Ordinance. Other uses commonly associated with drive-through facilities, such as banks and pharmacies, are not affected by this proposed amendment.

'Planning staff will be available at the Board of Commissioners March 6, 2024, meeting for further discussion. If the Board of Commissioners is inclined to adopt this proposed text amendment, please reference Appendix A for the Statement of Consistency with the Town's adopted Comprehensive Land Use Plan requirements."

There being no one present who wished to speak, Attorney Leidy concluded the Public Hearing at 9:45 a.m.

Comr. Lambert stated that drive-throughs are not seen in her vision of Nags Head. She supports the text amendment as presented.

MOTION: Comr. Lambert made a motion to adopt the ordinance amending the Unified Development Ordinance prohibiting drive-through restaurants. The motion was seconded by Comr. Sanders.

Mayor Cahoon said that previously he was the lone vote to allow drive-throughs in shopping centers as the properties around the shopping center did have drive-throughs – however, his intent is to support the ordinance.

CONTINUATION OF MOTION: The motion passed unanimously.

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

REPORTS AND RECOMMENDATIONS FROM THE PLANNING BOARD AND THE PLANNING AND DEVELOPMENT DIRECTOR

Update from Planning Director

Planning Director Kelly Wyatt summarized her monthly report which read in part as follows:

"This memo provides an overview of selected Planning and Development Department activities, projects, and initiatives. If requested, Staff will be prepared to discuss any of this information in detail at the Board of Commissioners meeting on March 6th, 2024.

'Monthly Activity Report

Attached for the Board's review is the Planning and Development Monthly Report for January 2024. In addition to permitting, inspections, code enforcement, and Todd D. Krafft Septic Health Initiative activities, Staff was involved in the following meetings or activities of note during the month:

- Tuesday, February 6th - Technical Review Committee Meeting
- Wednesday, February 7th - Board of Commissioners Meeting
- Thursday, February 8th - CRS Users Group Meeting
- Thursday, February 8th – Board of Adjustment Meeting (Harvey Appeal)
- Saturday, February 10th – Winter Market from 9am - noon
- Wednesday, February 14th – Committee for Arts and Culture Meeting
- Thursday, February 15th – Townwide Staff Meeting
- Tuesday, February 20th – Planning Board Meeting
- Wednesday, February 21st – Board of Commissioners mid-month meeting (if needed)

'Planning Board - Pending Applications and Discussions

The Planning Board's most recent meeting was held on Tuesday, February 20th, 202, and included the following:

o Consideration of text amendments that if adopted would allow the long-term rental of units within existing hotels and motels. The Planning Board was unanimously supportive of this text amendment, however requested a few revisions be presented at their March 19th meeting. It was the consensus to send this item forward for the Board of Commissioners consent agenda in March and Public Hearing in April 2024.

o Consideration of text amendments to prohibit driving over and/or parking on septic systems when adjacent to driveways, drive aisles, and parking areas. The Planning Board voted unanimously to recommend adoption of the proposed text amendment as presented. Planning Board members also noted that additional consideration should still be given to limiting the impact of this ordinance to those properties that do not have a history of parking on their septic system.

o Nomination of Planning Board members Meade Gwinn and Molly Harrison to serve on the Multi-Family Dwelling Taskforce.

o Presentation of a map delineating areas of protected vegetated buffers. This is a map for internal use to bring awareness to areas within the Town with protected buffers such as those installed as part of the 2003 NCDOT Enhancement Planting project and those that required as part of a subdivision plat approval and noted on the recorded plat.

The Planning Board's next meeting is scheduled for Tuesday, March 19th, 2024. Currently, the agenda is expected to include consideration of a text amendment submitted by Jernigan Oil Company to allow the use of LED digital signage, and final consideration of the draft ordinance to allow the long-term rental of existing hotel units.

'Board of Adjustment – Recent and Pending Applications

At their February 8, 2024, meeting the Board of Adjustment heard an Appeal of Administrative Decision submitted by Bryan Harvey with regard to the issuance of a Notice of Violation for utilizing a detached accessory structure as an unpermitted second dwelling unit. The subject property is located at 309 W. Soundside Road, Nags Head. The Board of Adjustment voted unanimously to affirm planning staff's issuance of the Notice of Violation; however they did ask that staff, the Planning Board and Board of Commissioners consider revisions to the UDO as necessary to provide more clarity on uses such as accessory structures, accessory uses, and accessory dwelling units. Staff anticipates this to be addressed during the process of drafting potential ordinance language as it relates to Accessory Dwelling Units (ADU's) as was requested as part of the 2024 Strategic Plan.

'Additional Updates

- DWMP/Septic Health Advisory Committee – Staff has drafted and presented to the Planning Board ordinance language that would require the placement of a physical barrier to be put in place when a dwellings septic system area is adjacent to any portion of a parking space, turnaround area, driveway, drive-aisle. This was proposed following discussions by the Septic Health Advisory Committee in an effort to prohibit people from driving over and/or parking on septic systems and potentially damaging them. At their February 20th meeting the Planning Board voted unanimously to recommend adoption of the proposed text amendment believing this was a step in a positive direction but noted that additional consideration should be given to limiting the impact of this ordinance, if possible, to those properties to seem to have the most issues with parking on septic areas.

'Recognizing the potential impact of this amendment on property owners who would not/do not currently have issues with parking on their septic areas and noting that such parking often occurs due to excess or overflow parking associated with the over-occupancy of rental homes, staff is actively exploring alternative options to ensure septic area safety. One approach under consideration is the inclusion of language expressly prohibiting parking on septic areas. In cases where a violation is noted, a Notice of Violation would be issued, at which time the placement of a physical barrier to preclude any future violations could be required. This approach would address parking on septic on systems via a formal violation of the Unified Development Ordinance with a specified remedy, as opposed to the language currently drafted which is a more proactive approach but may unnecessarily impact property owners in some instances.

- Estuarine Shoreline Management Plan – Town staff continues to focus on applying for the necessary grants to continue the implementation of the Estuarine Shoreline Management Plan. An update on this has been provided as part of the Board of Commissioners FY 24/25 Budget Workshop being held on March 6, 2024.

- Electric Vehicle Action Plan – Lowire Technologies has been contracted to order and install the Level 2 EV Chargers (EvoCharge). Lowire is scheduled to begin the underground pipe work the week of March 4th and then commence the installation of the chargers right afterwards. The EV charging units and materials have been ordered and should be arriving soon. Public Services will install safety bollards and complete the parking lot striping as appropriate. Planning has designed the necessary signage to meet the grant requirements and is prepared to have signage fabricated in the upcoming weeks.

- Sand Relocation and Dune Management Cost Share Program – As of March 1, 2024 262,500 of the \$320,000 allocated to the Dune Management Cost Share Program has been encumbered by 87 applicants. Additionally, we have received 187 Sand Relocation Applications of which 180 have been approved and issued authorization letters. Under this program, sand can be relocated through April 30th. Staff intend to stop accepting new applications for sand relocation on or around April 15th in order to begin inspecting the sand projects and closing them out.

- Dowdy Park Events/Farmers Market/Holiday Markets/Art & Culture – The Committee for Art & Culture will be providing the Board of Commissioners with a presentation at their March 6, 2024 meeting. This presentation will include an update on the previous season and their vision for the upcoming season including markets, summer concerts and family fun nights. In addition, the next Winter Market will be held on Saturday, March 9th from 9am – noon at Dowdy Park.

'Upcoming Meetings and Other Dates

- Tuesday, March 5th - Technical Review Committee Meeting
- Wednesday, March 6th - Board of Commissioners Meeting
- Saturday, March 9th – Winter Market at Dowdy Park from 9am – noon
- March 11th – 15th – Joe Costello at NFIP Training
- Wednesday, March 13th – Committee for Art and Culture Meeting
- Thursday, March 14th – Board of Adjustment Meeting (no hearings)
- Thursday, March 14th – CAMA Land Use Planning Webinar

- Tuesday, March 19th – Planning Board Meeting
- Wednesday, March 20th – Board of Commissioners mid-month meeting (if needed)”

OLD BUSINESS/ITEMS TABLED FROM PREVIOUS MEETINGS

From Feb 7th Board Meeting – Public Hearing held Feb 7th – Appointment to Multi-Family Ordinance Working Group

Town Manager Garman summarized the agenda summary sheet which read in part as follows:

“After several months of diligent work, the Planning Board has put forth an ordinance to re-establish multi-family as an allowable use within the Town and to create appropriate multi-family development standards which further town goals. As a result of the workshop held between the Board of Commissioners and the Planning Board last summer, the draft ordinance restricts multi-family development to a combination of long-term and workforce housing with the goal of preventing additional short-term rentals in the form of higher density development. The draft ordinance also creatively sets forth new standards for small multi-family projects.

‘At its February regular meeting, the Board held a public hearing on the draft ordinance and received comments that the draft ordinance may be too cumbersome as currently written to facilitate and encourage the development of workforce/long-term housing. It was also noted that the draft standards could be difficult for property owners to navigate. In light of these concerns, the Board requested that the Town establish a working group to review and make recommendations on the draft ordinance. The Board requested that staff provide a recommendation for the March meeting regarding the composition and charge for the group. Staff would suggest an ad hoc working group consisting of two members of the Board of Commissioners, two Planning Board members (the Planning Board nominated Vice-Chair Meade Gwinn and Member Molly Harrison), one town resident, one business owner, and two individuals representing the Dare County Homebuilders Association and/or Outer Banks Association of Realtors.

‘Staff would suggest the following committee charge:

- To consider the draft multi-family ordinance written by the Planning Board.
- To preserve the intent of the ordinance, to protect the character of Nags Head, and to provide new alternatives for workforce/long-term housing without increasing the stock of short-term rentals.
- To evaluate conditions/standards which would render such projects unfeasible due to financing, construction, configuration, or management.
- To suggest additional measures that would achieve the aforementioned goals.

‘The working group should invite and consider information provided by subject matter experts in multi-family financing and management, and on other relevant topics. Staff would suggest approximately three months for the group to report their findings (June 2024 BOC meeting).”

MOTION: Mayor Pro Tem Siers made a motion to appoint Meade Gwinn and Molly Harrison from the Planning Board to the Multi-Family Ordinance Working Group. The motion was seconded by Comr. Sanders which passed unanimously.

MOTION: Mayor Pro Tem Siers made a motion to appoint Comr. Brinkley and Comr. Lambert from the Board of Commissioners to the Multi-Family Ordinance Working Group. The motion was seconded by Comr. Brinkley which passed unanimously.

MOTION: Comr. Brinkley made a motion to appoint Town resident Basil Belsches to the Multi-Family Ordinance Working Group. The motion was seconded by Mayor Pro Tem Siers which passed unanimously.

MOTION: Comr. Brinkley made a motion to appoint business owner Chris Greening of TW's Bait and Tackle to the Multi-Family Ordinance Working Group. The motion was seconded by Mayor Pro Tem Siers which passed unanimously.

MOTION: Mayor Pro Tem Siers made a motion to appoint Outer Banks Homebuilders Association rep Duke Geraghty and Outer Banks Association of Realtors Government Affairs rep Donna Creef to the Multi-Family Ordinance Working Group. The motion was seconded by Comr. Brinkley which passed unanimously.

Committee members are encouraged to invite other community members such as banking representatives to discuss the financial aspect, etc. to help resolve the charge of the committee.

Mayor Cahoon stated that the Town Manager and the Planning Director will be at the disposal of the committee as needed. The chair position can be elected among the members.

MOTION: Mayor Pro Tem Siers made a motion to approve the Multi-Family Ordinance Working Group charge as recommended by staff. The motion was seconded by Comr. Brinkley which passed unanimously.

Mayor Pro Tem Siers pointed out that the Planning Board took on an enormous project and came up with a great ordinance in some aspects; he wants to make sure the Planning Board knows how much the Board appreciates their work.

CONTINUATION OF MOTION: The motion passed unanimously.

The Multi-Family Ordinance Working Group charge, as approved, read in part as follows:

- To consider the draft multi-family ordinance written by the Planning Board.
- To preserve the intent of the ordinance, to protect the character of Nags Head, and to provide new alternatives for workforce/long-term housing without increasing the stock of short-term rentals.
- To evaluate conditions/standards which would render such projects unfeasible due to financing, construction, configuration, or management.
- To suggest additional measures that would achieve the aforementioned goals.

From Feb 7th Board Meeting – Consideration of text amendments to Town Code Chapter 8 *Beaches and Waterways* re: new Ocean Rescue Flag System - swimming conditions

Fire Chief Randy Wells presented the agenda summary sheet which read in part as follows:

"At the February 7th Board of Commissioners meeting, Ocean Rescue Captain Chad Motz provided an update on the 2023 Ocean Rescue Operations. In addition, he discussed changing the Beach Warning Flag System, to align with National/International standards. Board members spoke in favor of the new flag system.

'Attached please find an ordinance amending Town Code Sec. 8-2. *Swimming; prohibited during dangerous conditions* to incorporate the new flag system for Board consideration."

MOTION: Comr. Brinkley made a motion to adopt the ordinance amending Chapter 8 *Beaches and Waterways* re: new Ocean Rescue Flag System, as presented. The motion was seconded by Mayor Pro Tem Siers which passed unanimously.

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

NEW BUSINESS

Committee Reports

Comr. Brinkley – Jennette’s Pier Advisory Committee – He reported that an update was received from Pier Manager Mike Remige and that 2023 was the weakest visitation in the past two years - this was felt to be due to inclement weather and poor fishing; several main projects are being done such as a roof replacement, jointly with Coastal Studies Institute (CSI), which will allow for more weather monitoring; more scientific equipment has been purchased; they have also hired some additional educational instructors.

Mayor Pro Tem Siers – he noted that at the recent Dare County Tourism Board meeting an extension was granted to June 2025 for the Town’s Whalebone Park restroom project.

Comr. Lambert – the Government Education Access Channels Committee (GEACC) met and the Channel released a Septic Health Video for Dare County, an issue that Nags Head takes very seriously; she encouraged viewing of the video and she noted that it may help other towns have more of an interest in the program.

Consideration of Board/Committee appointments

Dangerous Animal Appeal Board

MOTION: Mayor Pro Tem Siers made a motion to reappoint Marvin Demers and Bobby Gentry to the Dangerous Animal Appeal Board. The motion was seconded by Comr. Brinkley which passed unanimously.

MOTION: Mayor Pro Tem Siers made a motion to appoint two new members to the Dangerous Animal Appeal Board – Corey McNeilly and Robert Snyder. The motion was seconded by Comr. Brinkley which passed unanimously.

Albemarle Regional Planning Organization – Rural Transportation Coordination Committee

MOTION: Mayor Pro Tem Siers made a motion to appoint Dep Planning Director Joe Costello to represent the Town on the Albemarle Regional Planning Organization – Rural Transportation Coordination Committee, replacing Planning Director Kelly Wyatt. The motion was seconded by Comr. Brinkley which passed unanimously.

Consideration of revised Residential Recycling Contract / Ordinance

Finance Officer Amy Miller summarized her memo which read in part as follows:

“The Town’s recycling subscription service contract with TFC ends in May. The Town recently solicited an RFQ for interested parties to submit proposals to receive an exclusive franchise for a three-year residential curbside subscription-based recycling collection service in Nags Head. This also includes collection at certain Town owned and maintained locations.

‘The request involved:

- Curbside collection on Mondays, beginning May 6, 2024, using carts provided by the Town of Nags Head.
- Transfer of materials to an approved processing site.
- Transport, brokering, and sale of selected recyclable materials from participating residential housing units.
- Reporting of cart service and capacity issues.

- Monthly reporting of tonnages and participation.
- Location of where recyclables are taken, and method of recycling required to be included in the bid.
- Demonstrating the ability of the bidder to effectively market, sell, broker, or otherwise beneficially dispose of recyclable materials in a manner other than landfilling and incineration.
- Excluding contamination, no more than 10% by weight of all recyclable materials are to be landfilled and/or incinerated without the express written permission of the Town Manager.

'The Town would like to award the contract to the proposer that it deems to be in the best interest of the Town. The Town received one responsive bid from TFC, and staff recommends continuing awarding the contract to TFC. Based on their proposal, TFC has increased their rates, from \$15.33 to \$19.85 per month per subscriber. Staff recognizes that this is a significant increase.

'The town currently subsidizes the monthly rate offered to customers at \$5 a month. TFC charges \$15.33 per month per subscriber; \$10.33 is billed to the customer, and \$5 is billed to the Town. The Board may wish to consider increasing the monthly subsidy. In order to preserve the subsidy ratio as it currently exists (the subsidy is roughly 32% of the monthly fee), the subsidy would need to increase to \$6.50 per month per subscriber. The new monthly fee is \$19.85, so increasing the subsidy to \$6.50 would result in the customer paying \$13.35 per month. For comparison purposes, recycling subscribers in Kitty Hawk currently pay \$16.20 per month. Subscribers in Colington and Kill Devil Hills pay \$13.99 per month. Increasing the subsidy to \$6.50 per month per subscriber would increase the town's current budget by \$16,200 per year. A budget amendment can be brought forward later in the fiscal year if the board would like to increase the subsidy.

'Proposed ordinance changes:

Section 30-27 Additional required services.

F. The Town of Nags Head Public Services Department shall be notified each service day when recycling collection is complete.

'Section 30-29 Length of franchise.

It is intended that the franchise be for a term of three years, beginning on or around May 1, 2024, and ending three years from the date of agreement execution. At the end of the initial term, the town may renew the contract for an additional period of time to be agreed upon by the parties.

'Sec. 30-31. - Payment for services.

(a) As compensation for performing the services required under this Ordinance, the franchisee shall be authorized to collect from subscribers reasonable fees set by Nags Head and collected from subscribers in accordance with the Town ordinance and terms of the contract. The initial fee schedule shall be in the amount of \$19.85 for the first cart per month at each participating location, exclusive of any subsidies offered by the town. Participants may subscribe for additional carts to be serviced at a cost of \$14.90 per cart per month. 'The escalation clause has not changed in TFC's proposal (they may request annual increases based on the CPI for garbage), however TFC was open to negotiations if the proposal was approved. This part of the ordinance could be brought back if TFC agreed to a change. Staff is requesting the Board to approve the proposed ordinance changes and authorize the town manager to enter into and execute a contract with TFC. Staff would also like the Board's direction on the subsidy."

Mayor Pro Tem Siers suggested negotiating with TFC Recycling to possibly do pick-ups twice per month instead of four times per month. Since they also serve the Town of Duck, being on the same schedule as Duck may save funds. He also expressed concern that the Town is subsidizing the Town of Duck – for trucks that are already here on the beach.

Town Manager Garman stated that a certain amount of money is required by the company in order to provide the service.

Mayor Pro Tem Siers also mentioned the excessive speed of the trucks has been reported to him.

Mayor Cahoon suggested a two week investigation to allow Town staff to do more due diligence.

Town Manager Garman was asked to find out if TFC Recycling would be willing to provide the recycling pickup service at twice per month, if the subscriber prefers a reduced service level.

MOTION: Mayor Cahoon made a motion to table the Residential Recycling Contract/Ordinance agenda item to the March 20th mid-month meeting for further discussion. The motion was seconded by Comr. Brinkley which passed unanimously.

CLOSED SESSION ON AGENDA NOT NEEDED

Mayor Cahoon confirmed with Manager Garman that the scheduled Closed Session was not needed for today's meeting.

ITEMS REFERRED TO AND PRESENTATIONS FROM TOWN MANAGER

Town Manager Garman - Update on Public Services Facility

Town Engineer David Ryan provided a brief update:

- The septic system was installed this week
- Utility connections were being made with Piedmont Natural Gas, Dominion Energy, as well as other companies for telephone and communication lines.

One building had no progress last month – the vehicle storage building. This past month has seen progress with foundation work and the soon-to-start installation of metal building components.

Late April is scheduled for occupation of the Administration building followed by occupation of the Water Distribution building.

In response to inquiry from Mayor Pro Tem Siers, Engineer Ryan said that October/November 2024 is the timeframe expected for total completion of the site.

BOARD OF COMMISSIONERS AGENDA

Comr. Lambert – Consideration of Government Education Access Channels Committee FY 24/25 Budget

Comr. Lambert presented the proposed budget for FY 24/25 for the GEACC.

MOTION: Comr. Lambert made a motion to approve the GEACC FY 24/25 Budget as presented. The motion was seconded by Mayor Pro Tem Siers which passed unanimously.

Mayor Cahoon expressed his appreciation for the work done by the Government Education Access Channels Committee.

The GEACC narrative and FY 24/25 budget, as approved, is attached to and made a part of these minutes as shown in Addendum "G".

Comr. Brinkley – Town’s License Plate Readers

Comr. Brinkley questioned Police Chief Hale re: comments he had seen on Facebook regarding concerns about the License Plate Readers that the Town recently installed in several locations. Comr. Brinkley asked if anyone was monitoring the cameras.

Police Chief Hale explained that the cameras take a “still” picture and cannot be monitored. He emphasized that there has to be an active investigation in order to look for something specific. He explained how the readers have already assisted greatly with obtaining the location of perpetrators of felonies. The cameras do not look into individual vehicles, they don’t note expired licenses, registration tags, etc. The cameras are unable to take this type of action.

Comr. Lambert – Duck documentary on Winged Horses

Comr. Lambert mentioned that at the last Government Education Access Channel Committee meeting, everyone was informed of an upcoming Town of Duck documentary on the Outer Banks Winged Horses. Members were asked to contact the Town of Duck if anyone had information on them or had one.

MAYOR’S AGENDA

Mayor Cahoon - Resolution in support of legislation re: wastewater systems

Mayor Cahoon presented a resolution in support of legislation re: onsite wastewater systems.

MOTION: Mayor Pro Tem Siers made a motion to adopt the resolution in support of the NC General Assembly modifying session law code in the 2024 short session to address onsite wastewater systems in our unique environment. The motion was seconded by Comr. Brinkley which passed unanimously.

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

‘WHEREAS, Nags Head is a coastal community where the vast majority of residential dwellings utilize on site wastewater treatment and dispersal systems; AND

‘WHEREAS, Nags Head is unique in the amount and type of land available and requires all avenues for consideration to best address on site wastewater system configurations and repair options; AND

‘WHEREAS, Nags Head does not have large, standardized, uniform subdivisions and instead has countless uniquely configured properties, with many small lots (i.e. 6,000+ sq. ft); AND

‘WHEREAS, Nags Head has passed local ordinances restricting the cutting down of oak trees and other vegetation which puts enforcement of the 2023 rule changes in conflict with town ordinances; AND

‘WHEREAS, complying with the 2023 rule changes may present undue financial hardships on numerous property owners which may discourage them from applying for repair permits to address damaged systems or potentially attempting other unapproved solutions which will be much worse environmentally; AND

‘WHEREAS, the Dare County Department of Health and Human Services employs professional, qualified Registered Environmental Health Specialists who are authorized by the State of North Carolina to evaluate onsite wastewater system installations and have used Best Professional Judgement for over 40 years to

determine effective onsite system configurations and solutions.

‘THEREFORE, BE IT RESOLVED, that the Nags Head Board of Commissioners respectfully requests that the NC General Assembly modify NC 15A NCAC SUBCHAPTER 18E - WASTEWATER TREATMENT AND DISPERSAL SYSTEMS SECTION .0100 - GENERAL in the short session of 2024 by clearly stating that rules adopted in 2023 are not to be retroactive in any capacity, including malfunctions, and that the Registered Environmental Health Specialists have unrestricted Best Professional Judgement for addressing onsite wastewater system and wastewater system malfunction for which an IP, CA, OP, NOi, ATO, Certificate of Completion or any other equivalent approval has been issued prior to 01/01/24.

‘FURTHERMORE, BE IT RESOLVED, that professionals with the Dare County Department of Health and Human Services have identified a number of provisions in the 2023 rule changes which are impractical, severely restrictive, or overly cost burdensome, and that the NC General Assembly should undertake revisions to these regulations using local input in order to enable solutions that recognize the unique conditions of Nags Head and Dare County while protecting the environment and minimizing cost and land disturbance.”

ADJOURNMENT

MOTION: Mayor Cahoon made a motion to recess to the FY 24/25 Budget Workshop and further to a mid-month meeting on March 20, 2024 at 9 am in the Board Room. The motion was seconded by Comr. Brinkley which passed unanimously. The time was 10:42 a.m.

Carolyn F. Morris, Town Clerk

Date Approved: _____

Mayor: _____
Benjamin Cahoon



***DRAFT* MINUTES
TOWN OF NAGS HEAD
BOARD OF COMMISSIONERS
BUDGET WORKSHOP
WEDNESDAY, MARCH 6, 2024**

The Nags Head Board of Commissioners met in the Board Room located at 5401 S Croatan Highway, Nags Head, North Carolina on Wednesday, March 6, 2024 for a FY 24/25 Budget Workshop that followed the Regular Meeting.

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

Board members Absent: None

Others present: Town Manager Andy Garman; Amy Miller; Kelly Wyatt; Joe Costello; David Ryan; Nancy Carawan; Brittany Phillips; and Town Clerk Carolyn F. Morris

CALL TO ORDER

Mayor Cahoon called the Budget Workshop to order at 10:55 a.m.

PRE-BUDGET OVERVIEW

Town Manager Garman reported that, as done in the past, staff will start with a pre-budget session – to look for some general feedback from the Board to help with the Capital Improvement Program (CIP) review in April 2024.

Finance Officer Amy Miller summarized the following slides titled as follows:

Process

The Budget Calendar was presented.

Major Considerations (FY 24-25)

Municipal Service District (MSD) rates; Water rates; Continued implementation of CIP;

- Financial planning using the Capital Investment Fund (CIF)

Employee costs and initiatives to include COLA and Health insurance

Shared revenues

Grants Planning – Grants submitted

- Grants are constantly being researched by staff/consultants

Priorities

Public Services Debt

General Fund Split 80% - Water Fund Split 20%

Revenue

Occupancy, land transfer, and sales tax (shared revenues) estimated to come in 9% over budget

One cent tax increase approximately \$315,000
One percent in water rates approximately \$40,000
Sales and occupancy taxes may be budgeted \$1 million over FY 24 projected amounts
- Approximately 75% of the increase is due to increased shared revenue allocation
Growth – 3% sales and occupancy taxes, 1% land transfer

Total Rewards

Strategic initiative – performance-based merit structure including evaluation component
Three percent (3%) health insurance increase
- Approximately \$56,400 budget impact
- Transition to Aetna from MedCost
January consumer price index (CPI) 3.1%
- CPI historically tied to the COLA for the budget
Capital Planning

Grants Submitted

Commercial cardboard dumpsters
Juncos St Beach Access improvements
SaaS IT security grant
LWF acquisition NH Woods conservation easement
LWF restoration Event Site
CSDM FY 27 nourishment engineering
Golden Leaf FY 24 drainage S Memorial
Golden Leaf FY 25 drainage Wrightsville/Memorial
Local Assistance for Stormwater Infrastructure Investments Program (LASII PA#4)

Future Grants

Solar panel rebate
Sidewalk and Event site shoreline
April 15th – CAMA pre-application June Street
Estuarine Shoreline Master Plan – WRDG, CCAP, NC Coastal Fed, NFWF NCR

Town Manager Garman briefly summarized the following:

- Future Fitness opportunities - For the old CID Building across from Town Hall
- Ocean Rescue housing
- Employee items such as Cost of Living increase
- Golden Leaf Grant from the Golden Leaf Foundation

MAJOR INITIATIVES

Town Manager Garman requested Board feedback on several major initiatives:

Parks and Recreation - Whalebone Park

Town Manager Garman summarized the project to build a restroom facility in a small portion of the Whalebone Park parking lot – currently looking at design plans for this area. Need to update the Town's Park and Recreation Master Plan.

Mayor Cahoon confirmed with staff that the Master Plan update can be done in-house. He would like to see the improvements made at this park site – restrooms and shelter/shade are very much needed. It was pointed out that the Town of Kill Devil Hills had to dedicate an employee to their Splash Pad the first year.

It was Board consensus that while not opposed to the work on the Splash Pad, to look for planning next year with some grant assistance. Comr. Lambert suggested that business owners may be interested in sponsoring some of these updates/projects.

Estuarine Shoreline Initiatives

Finance Officer Amy Miller summarized staff's request to apply for a grant to implement recommendations from the Estuarine Shoreline Management Plan to include protection of the sound side shoreline with specific "islands" in the sound right off the shoreline. She requested Board input on plans to apply for a grant to research shoreline easements from private property owners. Manager Garman said that he is not sure yet of what exactly will be designed and constructed; he is also not sure yet of how it will be permitted. He said that if grants were received, this would be a pilot site and would be groundbreaking for our area. A funding match (\$40,000 was noted) by the Town would be helpful for the grant approval.

It was Board consensus to agree to utilize \$40,000 to move forward on the Estuarine Shoreline Initiatives grant.

Land and Water Fund Restoration Grant – Finance Officer Amy Miller reported that the grant application incorporates 50' buffer on the sound side; staff has applied for \$600,000 – resolutions for the conservation easement on the buffer will be presented to the Board at an upcoming meeting for consideration. Board members concurred.

CCAP Grant – Dare County Community Conservation Assistance Program Grant - Finance Officer Amy Miller discussed Town funds to move this project forward. The program is to reduce pollution into the water by installing best management practices (BMPs) on developed lands. Mayor Cahoon questioned if staff is spreading itself too thin; Comr. Brinkley wants to see what is going on in other parts of the Town. It was Board consensus to move this project into the future for consideration and to make no commitment at this time.

Workforce Housing for Ocean Rescue – Staff is working on conceptual plans to provide housing for Ocean Rescue staff at the former Outer Banks Medical Center (OBMC) site and will seek feedback on adding a project to the CIP. Mayor Pro Tem Siers pointed out that modular units can be done quicker with a lot less money; he feels staff should explore going three stories instead of just two. Board members spoke in favor of going back to the architect and asking about the costs for modular units – and three stories.

Pedestrian Plan Prioritization – Town Engineer David Ryan explained that last year the Board approved a five-year CIP for pedestrian projects – there are 20 different projects identified; he pointed out that the W Blue Jay Street / W Bay Meadow Drive pedestrian path was proposed for FY 25 along with the multi-use path survey; after discussion Windjammer will be moved up to FY 25 and substituted for one of the proposed projects; he will also see about applying for grant funding.

Town Hall Campus Master Plan – Staff will be working on this more and plan on bringing it back for the April 2024 Budget Workshop.

Board members thanked staff for their work and input on today's budget workshop.

ADJOURNMENT

The Board adjourned at 12:15 p.m.

Carolyn F. Morris, Town Clerk

Date Approved: _____

Mayor: _____
Benjamin Cahoon



DRAFT MINUTES
TOWN OF NAGS HEAD
BOARD OF COMMISSIONERS
RECESSED MEETING
WEDNESDAY, MARCH 20 2024

The Nags Head Board of Commissioners met in the Board Room located at 5401 S Croatan Highway, Nags Head, North Carolina on Wednesday, March 20, 2024 at 9:00 a.m. for a Recessed Meeting.

Board members Present: Mayor Ben Cahoon; Comr. Kevin Brinkley; Comr. Bob Sanders; and Comr. Megan Lambert

Board members Absent: Mayor Pro Tem Michael Siers

Others present: Town Manager Andy Garman; Town Attorney John Leidy; Amy Miller; Karen Snyder; Dep Town Clerk Brittany Phillips; Public Services Director Nancy Carawan; Police Chief Perry Hale; former Comr. Susie Walters; and TFC Rep, Victoria Norcini

CALL TO ORDER

Mayor Cahoon called the meeting to order at 9:01 a.m. A moment of silence acknowledging the passing of former Town employee, Robert "Murph" Issacs, Jr., was followed by the Pledge of Allegiance.

ADOPTION OF AGENDA

MOTION: Comr. Brinkley moved to approve the March 20th meeting agenda as presented. The motion was seconded by Comr. Sanders and passed unanimously. (Mayor Pro Tem Siers was excused.)

PUBLIC COMMENT

Attorney Leidy opened Public Comment at 9:03 a.m.

Susie Walters; Nags Head resident; requested that the Board re-analyze their strategic goals, the adopted and approved land-use plan, and the community expectations to budget and subsidize the Town recycling service.

There being no one else present who wished to speak, Attorney Leidy closed the Public Comment period at 09:05 a.m.

Mayor Cahoon acknowledged the following email comments from Nags Head residents Mike Anzalone and Diane Wehner regarding the recycling service contract, which read in part as follows:

From Mike Anzalone: "Sir I am with you on recycling. After watching the town mtg we also only put our recycling out twice per month, not each week and I was already wondering if wanted to keep this going since paying \$124/year for it. If they are going to increase the cost I might just drop recycling. While I'd hate to do

that I'm already wondering if I want to keep paying \$124/year. At \$150+ per year for something we use about 12-20 times per year I'm not sure I'd continue to do recycling."

From Diane Wehner: "I will not be able to attend the commissioners meeting on Wednesday, but I do want to express that I believe recycling is an important Town service. I would be happy to forgo two weekly trash pickups for the Town to continue subsidizing and/or offer recycling to the entire community. Thanks for all you do."

OLD BUSINESS/ITEMS TABLED FROM PREVIOUS MEETINGS

From the March 6th Board Meeting - Consideration of revised Residential Recycling Contract and Town subsidy

The summary sheet read in part as follows:

"At its March regular meeting, the Board discussed a proposal by Tidewater Fibre Corp (TFC) recycling to continue with a subscription-based recycling service for the Town at a rate of \$19.85 per month. The current rate is \$15.33 per month. Therefore, the new proposal would increase the monthly cost by \$4.52 per month. Recognizing that the proposal represents a significant cost increase to the subscriber, the Board requested that staff determine whether the service could be offered twice a month rather than once a week. The Board also requested that staff negotiate the monthly rate.

"TFC has stated that service can be offered twice a month for a rate of \$15.58 per month. However, it is "all or nothing," meaning that the entire town must be serviced either weekly or bi-weekly in any given month. Additionally, if extra pickups are needed during bi-weekly months, for example if there was a holiday, then that month would be charged as weekly recycling, \$19.85. The Town of Duck currently contracts with TFC to provide weekly town-wide recycling service from May 1 to October 31 and bi-weekly service the rest of the year. If the Town were to select bi-weekly service for the same period of time, subscribers would save \$25.62 over a six-month period; however, they would lose 12 days of service.

"TFC did not agree to lower the rate provided in the original proposal for once-a-week service.

"Taking price point into consideration with the "all or nothing" approach, staff recommends approving the contract with TFC for weekly, year-round recycling. Staff would also like the Board's direction on maintaining or increasing the current Town subsidized portion for those participating in the program. Staff has suggested increasing the subsidy from \$5 per month per subscriber to \$6.50 per month per subscriber.

"Staff would note that TFC's proposal would hold the price for two years, with a 7.5% escalation for the third year of the contract."

Mayor Cahoon relayed that Mayor Pro tem Siers is in favor of continuing the contract but not increasing the subsidy.

MOTION: Comr. Brinkley moved to approve the contract with TFC as recommended by staff including the increase of the monthly subsidy from \$5.00 to \$6.50 a month. Comr. Lambert seconded, and the motion passed unanimously. (Mayor Pro Tem Siers was excused.)

ITEMS REFERRED TO AND PRESENTATIONS FROM TOWN ATTORNEY

Attorney Leidy – had nothing to report.

ITEMS REFERRED TO AND PRESENTATIONS FROM TOWN MANAGER

Town Manager Garman – had nothing to report.

BOARD OF COMMISSIONERS AGENDA

Comr. Brinkley complemented the recent Nags Head Police Dept. social media campaign regarding stopping at red lights and the additional enforcement by our officers.

MAYOR'S AGENDA

Mayor Cahoon echoed Comr. Brinkley's comment complementing the Nags Head Police Dept. Regarding the proposal on Ban Ballon Releases in NC presented during the March 6, 2024 public comment period, he would like to see the Town consider the possibility of banning ballon releases from Town Property and public beaches as a first step. Comr. Brinkley recommended handling through the crowd gathering permit process.

CLOSED SESSION

Request for Closed Session

MOTION: Mayor Cahoon moved to enter Closed Session to discuss possible acquisition of real property at 4222 S Croatan Hwy in accordance with GS 143-318.11(a)(5). The motion was seconded by Comr. Sanders and passed unanimously. The time was 09:20 a.m. (Mayor Pro Tem Siers was excused.)

OPEN SESSION

The Board re-entered Open Session at 10:24 a.m. Attorney Leidy reported that no actions were taken during closed session.

ADJOURNMENT

MOTION: Comr. Brinkley moved to adjourn. The motion was seconded by Comr. Lambert and passed unanimously. (Mayor Pro Tem Siers was excused.) The time was 10:25 a.m.

Brittany Phillips, Dep Town Clerk

Date Approved: _____

Mayor: _____
Benjamin Cahoon



Agenda Item Summary Sheet

Item No: **E-4**

Meeting Date: **April 3, 2024**

Item Title: Consideration of ordinance changes to Chapter 30 *Solid Waste Management* and revised Franchise Agreement

Item Summary:

Please find attached the ordinance changes to Chapter 30 *Solid Waste Management* and revised Franchise Agreement reflecting the new contract with TFC Recycling that was approved by the Board at its March 20, 2024, meeting.

Number of Attachments: 2

Specific Action Requested:

Provided for Board consideration is the revised ordinance and Franchise Agreement incorporating changes from the new TFC Recycling contract.

Submitted By: Administration

Date: March 25, 2024

Finance Officer Comment:

A budget amendment for the \$1.50 subsidy increase per household for May and June will be brought forward at the end of the fiscal year, if necessary. It is possible that the increase in subsidy could be paid for with already budgeted funds.

Signature: Amy Miller

Date: March 25, 2024

Town Attorney Comment:

N/A

Signature: John Leidy

Date: March 25, 2024

Town Manager Comment and/or Recommendation:

I concur with the proposed changes and agreement.

Signature: Andy Garman

Date: March 25, 2024



AN ORDINANCE AMENDING THE TOWN CODE OF THE TOWN OF NAGS HEAD, NORTH CAROLINA AS IT PERTAINS TO CHAPTER 30 SOLID WASTE MANAGEMENT

NOW, THEREFORE, BE IT ORDAINED by the Board of Commissioners of the Town of Nags Head, North Carolina, that Chapter 30 of the Town Code of Ordinances shall be amended.

PART I. That **Chapter 30 SOLID WASTE MANAGEMENT**, Article II Franchises be amended as follows:

Section 30-27. Additional required services.

F. The Town of Nags Head Public Services Department shall be notified each service day when recycling collection is complete.

Section 30-29. Length of franchise.

It is intended that the franchise be for a term of three years, beginning on or around May 1, 2024, and ending three years from the date of agreement execution. At the end of the initial term, the town may renew the contract for an additional period of time to be agreed upon by the parties.

Sec. 30-31. - Payment for services.

(a) As compensation for performing the services required under this Ordinance, the franchisee shall be authorized to collect from subscribers reasonable fees set by Nags Head and collected from subscribers in accordance with the Town ordinance and terms of the contract. The initial fee schedule shall be in the amount of \$19.85 for the first cart per month at each participating location, exclusive of any subsidies offered by the town. Participants may subscribe for additional carts to be serviced at a cost of \$14.90 per cart per month.

Sec. 30-32. Rate review and adjustment.

- (b) (a) The initial fee will not change for two years. There will be a 7.5% escalation rate above the initial fee beginning in the third year of the agreement. Rate adjustment applications shall be filed by the franchisee ninety (90) days prior to the end of the initial three-year term to provide adequate time for consideration by the Board of Commissioners. Rate adjustments at the end of the initial three-year term may be sought for all reasonable grounds. If approved by Nags Head Board of Commissioners in an open meeting, a rate adjustment shall not be effective until at least 60 days from date of approval in order for the franchisee to give all clients a minimum 60 day notice of the approved rate adjustment.

PART II. Effective Date.

This ordinance amendment shall be in full force and effect upon the date of adoption by the Board of Commissioners.

ATTEST:

Benjamin Cahoon, Mayor
Town of Nags Head

Carolyn F. Morris, Town Clerk

APPROVED AS TO FORM:

John Leidy, Town Attorney

Date adopted: **April 3, 2024**

Motion to adopt by Commissioner _____

Motion seconded by Commissioner _____

Vote: _____ AYES _____ NAYS _____

**NORTH CAROLINA
DARE COUNTY**

FRANCHISE AGREEMENT

THIS FRANCHISE AGREEMENT entered into this the 3rd day of April 2024 by and between the Town of Nags Head and Tidewater Fibre Corporation (d/b/a TFC Recycling) for the right to operate an exclusive franchise for the collection and processing of recycling materials from residential units in the Town. The parties, for and in consideration of the mutual promises and obligations set forth herein, do agree as follows:

- I. The Town of Nags Head, by Ordinance duly enacted, has authorized the Town Manager to enter into this Agreement on behalf of the Town with Tidewater Fibre Corporation for an exclusive franchise for the collection and processing of recyclable materials from residential units in the Town.
- II. The franchise granted by the adoption of the Ordinance shall be subject to the following rights of the Town, but this enumeration shall not be exclusive or impair the right of the Board of Commissioners to insert in such franchise any provision within the power of the Town:
 - A. To repeal the same for misuse, non-use, or failure to comply with the provisions thereof.
 - B. To require proper and adequate service and maintenance thereof at the highest practicable standard of efficiency.
 - C. To establish reasonable standards of service, quality of products and prevent unjust discrimination in service or rates.
 - D. To require continual and uninterrupted service to the public in accordance with the terms of the franchise throughout the entire period thereof.
 - E. To use, control and regulate the use of its streets, alleys, bridges and public places and the space above and beneath them.
 - F. To impose such other regulations as may be determined by the Board of Commissioners to be conducive to the safety, welfare, and accommodation of the public.
- III. Definitions: For the purposes of this Agreement, the following definitions shall apply unless the context clearly indicates or requires a different meaning:

When not inconsistent with the context, words used in the present tense include the future tense, words in the plural number include the singular number and words in the singular number include the plural number. The words "shall" and "will" are mandatory and "may" is permissive. Words not defined shall be given their common and ordinary meaning.

Effective Date. The date the franchise becomes effective in accordance with the franchise ordinance and the rules and procedures of the Town and this Agreement.

Franchise Ordinance. The document, which grants a franchise pursuant to Article II, Chapter 30 of the Nags Head Town Code of Ordinances.

Franchise Agreement. The document executed by the Town and the Grantee pursuant to the authority of the Franchise Ordinance.

Franchise Area.

- a. The geographic area for which the franchise is granted under the authority of Chapter 30.
- b. If not otherwise specifically stated in the franchise ordinance, the franchise area shall be the entire geographic area within the Town as it is now, or may in the future, be constituted.

Franchisee. A person who is granted a franchise or that person's lawful successors, transferees or assigns.

Grantor. The Town of Nags Head.

Person. Any corporation, partnership, proprietorship, individual, organization, company, governmental entity, or any natural person.

Reasonable Notice.

- a. Written notice addressed to the Town or grantee at the location as the parties have designated in the franchise agreement at the address to which notice shall be transmitted to it, which notice shall be sent by certified mail and postmarked not less than seven (7) business days prior to that date on which the party giving the notice shall commence any action which requires the giving of notice.
- b. In computing the seven (7) days, holidays recognized by the Town shall be excluded.

Resident. Any person residing in the Town.

Right-of-Way. Each of the following of which have been, are hereafter dedicated to the public and maintained by any public authority or by others and located within the Town, including without limitation, the surface and space within, above and below any real property in which the Town has an interest in law or equity, whether held in fee, or other estate or interest, or as trustee for the public, including, but not limited to, any public street, boulevard, road, highway, freeway, lane, alley, court, sidewalk, parkway, swell, river, tunnel, viaduct,

bridge, park, or any place, area, easements, rights-of-way in similar public property and areas, or real property owned by or under the control of the Town.

Subscriber. Any person who elects to subscribe to the curbside recycling service provided by the franchisee.

Town. The Town of Nags Head, North Carolina as it is now, or may in the future, be constituted.

Town Administrator. A person designated by the Town Manager to represent the Town in all business with the franchisee.

Curbside Collection Site. A space within four feet of the paved portion of Nags Head Streets.

Eligible Dwelling Units. All single family, two family and multi-family dwelling units serviced by roll-off carts and presently being served by the Town's residential solid waste collection service and all future such units which may be constructed in Nags Head.

Participating Customers. All single family, two family and multi-family residential customers presently being served by Nags Head Public Services Department and Solid Waste Division who contract with franchisee for the subscription type voluntary curbside recycling program outlined in the franchise.

Recyclable Materials Cart. A 90-to-98-gallon roll-out type container, including a lid and wheels, with a standard recycling logo, and be of a color approved by the Town of Nags Head.

Schedule of Collection. A schedule for the collection of recyclables approved by the Town Administrator.

- IV. Terms of a Franchise. It is intended that the franchise be for a term of three years, beginning on or around May 1, 2024 and ending three years from the date of agreement execution. At the end of the initial term, the town may renew the contract for an additional period of time to be agreed upon by the parties.
- V. Scope of Services. The selected franchisee will provide personnel, equipment, materials, and other appurtenances, as may be required, to:
 - A. Provide residential curbside collection, on a weekly basis, to include commingled recyclable materials within Nags Head's corporate limits. Collection will occur on Mondays utilizing the existing 96-gallon blue recycling carts. Recyclable materials may include, but not be limited to, old newsprint, clear and colored glass, aluminum beverage containers, tin cans, steel cans, bi-metal cans, plastic bottles, tubs, jugs, and jars, magazines, phonebooks, corrugated cardboard, pressboard, paperboard, and mail from the contractual customers.

- B. Transport collected recyclable materials to a materials recovery facility or any recyclable materials handling and disposition facility other than an incinerator or a landfill.
- C. Make monthly reports to Nags Head detailing weight and constituents of materials collected, methods of processing and/or final disposal, and participation rates of subscribers.
- D. Notify the town Public Services department each service day whenever there is an issue servicing carts or when there are recycling cart capacity issues (i.e., overflow of recycling containers).
- E. Perform account management of subscribers including service billing and collecting (accounts payable/accounts receivable) from participating customers, and keeping and maintaining other financial records, including independent audits. The franchisee shall collect all recyclable materials. The parties may agree to add other items as the market for recyclable materials allows. The franchisee will be responsible for preparing and distributing information to participating customers describing the change and how to comply therewith.

VI. Additional Required Services.

- A. The franchisee will be responsible for all recyclables collected in accordance with this franchise including any recycling processing costs or disposal charges for contamination, defined as items not included in the list of recyclable materials. Excluding contamination, no more than 10% by weight of all recyclable materials are to be landfilled and/or incinerated without the express written permission of the Town Manager.
- B. The franchisee shall coordinate with the town when subscribers need carts. The town will handle the sale and distribution of recycling carts.
- C. The franchisee is responsible for picking up and removing any materials that have blown out or dropped from trucks or the collection container due to any reason, even if a return trip is required.
- D. All trucks used for collection will be properly marked with recycling signage for identification purposes.
- E. The franchisee shall require each employee to be courteous at all times, to work quietly and shall not allow the use of loud or profane language. The franchisee shall require each employee to work in a diligent manner. The franchisee shall immediately investigate any notice of employee misbehavior and take prompt and appropriate action. Any official or employee of franchisee who is under the influence of alcohol or drugs or demands pay from the residents of a dwelling unit for services rendered, or verbally or physically abuses any resident of a dwelling

unit, shall be immediately removed from work, and shall provide no other service to the Town of Nags Head.

- F. The Town of Nags Head Public Services Department shall be notified each service day when recycling collection is complete.
- G. From May 1 to September 30, routes shall begin no earlier than 3 am and finish no later than 12 noon unless authorized by the town. From October 1 to April 30, routes shall begin no earlier than 5 am and finish no later than 1 pm unless authorized by the town. The franchisee shall provide to the town a complete list and map of subscribers.
- H. Leaks and spills shall be handled quickly and appropriately based on the type and amount and according to State and Federal spill response guidelines. Equipment shall be well maintained so as not to allow liquid or solid waste to leak or blow out of the collection equipment.
- I. Holiday collections will be coordinated with the town.
- J. Collection Impediments:
 - 1. Private Streets. The collection routes include private streets, which do not meet town standards and thus may be too narrow for a side loading vehicle to collect and empty recycling carts. In addition, the available turning radius may not accommodate standard collection vehicles. The town requires these streets to be included in the franchisee's proposal for residential curbside recycling services. The franchisee will be responsible for determining an acceptable method of collection for these private streets and arranging for any special accommodations that may be necessary to collect recyclables in these areas.
 - 2. Residences Served by Dumpsters. The collection routes also include residences that currently receive garbage collection services via dumpster due to neighborhood configuration. These residences, too, shall be included in the franchisee's proposal for residential curbside recycling services. The franchisee will be responsible for determining an acceptable method of collection and arranging for any special accommodations that may be necessary to collect recyclables in these areas.

VII. Miscellaneous Provisions.

- A. The franchisee shall furnish all labor, equipment, and supervision necessary to accomplish its full and satisfactory performance of the service. The franchisee shall use only personnel qualified to perform the work assigned and shall see that all work is performed in an efficient and workmanlike manner and in compliance with Federal and State OSHA standards.

- B. EEO. Franchisee shall not discriminate against any employee or applicant for employment because of sex, race, religion, color, creed, handicap, national origin, or ancestry. Franchisee shall post conspicuously a notice of its Equal Employment Opportunity Policy.
- C. Franchisee as Independent Contractor. Nothing in this franchise ordinance may be construed to create the relationship of employer and employee between the franchisee or provider's employees or agents and the town. The franchisee and any sub-contractor employed by the franchisee with the town's consent shall comply with all minimum wage standards, worker's compensation, unemployment compensation and all other federal, state, and local laws pertinent to its employees. The franchisee and any sub-contractor employed by the franchisee with the town's consent shall abide by all applicable local, state, and federal laws and regulations pertaining to the activities carried on under this contract and to its employees and equipment used to fulfill the terms of the service. The franchisee shall take all actions necessary to ensure that any approved sub-contractor complies with all the requirements of this paragraph.
- D. Franchisee's Equipment. The franchisee shall maintain all trucks and equipment used in the performance of this contract in a reasonable clean condition.
- E. Designated Contact Person. The franchisee agrees to assign qualified personnel to oversee the service provided and agrees to provide the names of the personnel to the town.
- F. Continuous Service Required. The franchisee agrees that in the event of equipment breakdown, strike, or other occurrence which would delay or prevent timely performance of its obligations, it shall immediately take action necessary, including, but not limited to, replacement of equipment and personnel in order to assure prompt restoration of regular services and in any case before the next regular collection date.
- G. Excuse of Performance. The performance of any obligation related to the service may be temporarily suspended in the event that performance is prevented by a cause or causes beyond the control of the franchisee and shall be resumed as soon as possible. Such causes shall include, but not be limited to; acts of God, acts of war, riot, fire, explosion, accident, hurricane, and flood.
- H. In the event of flood or hurricane or other natural disaster which interrupts the town's business, the town reserves the right, at no cost to the town, to notify the franchisee to suspend collections until the emergency condition has ended.
- I. Inspection. All services performed by the franchisee shall be subject to the inspection and approval of the town. When the town determines that franchisee's performance is unsatisfactory, the franchisee shall immediately commence action necessary to remedy the problem.

- J. Franchisee to Supply All Licenses. The franchisee shall, at its own expense, purchase and keep in force all business licenses and other licenses and permits required by federal, state, or local law, ordinances, and regulations pertinent to the franchisee's service.
- K. Environmental Considerations. Any costs associated with violations of the law including, but not limited to, remediation, clean-up costs, fines, administrative or civil penalties or charges, and third party claims imposed by any regulatory agency or by any third party as a result of the noncompliance with federal, state or local environmental laws and regulations or nuisance statutes by the franchisee or by sub-contractors, consultants, sub-consultants, or any other persons, corporations or legal entities retained by the franchisee for this service, shall be paid by the franchisee.

VIII. Refusal to Collect.

- A. When service is refused at any eligible dwelling unit, information shall be provided to that dwelling unit, by the franchisee, describing the reasons for the refusal and the appropriate remedial action, which must be taken in order to have the bin collected in the future. The franchisee shall also contact the Town Administrator by the end of the day of any recyclable materials which were refused, and the reasons for the refusal. This notice may be by fax, electronic mail, or other written communication. The franchisee may telephone the Town Administrator and follow the oral notice by written communication provided the oral and written notices are made on the same day as the refusal.
- B. When a participating customer complains to the franchisee that a cart has not been collected or has been missed, it shall be the duty of the franchisee to respond to any and all complaints received and take whatever steps may be necessary to remedy the complaint. The franchisee shall remedy the complaint on or before 9:30 a.m. on the next business day after the complaint has been received.

IX. Public Information Program.

It will be the responsibility of the franchisee to design and implement a program for the purpose of informing those who will be receiving curbside recycling services under this contract concerning the proper method for preparing recyclable materials, use of the recycling container, role of curbside recycling, date, and time of program initiation. This program will include distribution of informational brochures to eligible dwelling units. The cost for this program shall be borne by the franchisee and all proposed activities, brochures, mailings, advertisements, etc. shall be approved by the Town Administrator prior to use. All actions taken and all materials prepared as a part of the public information program will be submitted to the Town Administrator for approval prior to implementation or use. The franchisee will deliver brochures or such other information on residential curbside recycling or the franchise, which is produced by Nags Head on request by the Town.

- X. Reporting Requirements. The franchisee shall be required to supply the Town Administrator with monthly reports on or before the 5th day of the following month which include:
- A. A listing by street address of the residences, which have been refused curbside recycling services by the franchisee at least one time within the past month and the reasons for that refusal.
 - B. A summary of all recyclable materials collected at the curbside reported on a weight basis and delineated as to the various types of individual recyclable constituents, which are being collected as part of this program, to the extent summary of all materials, delineated by weight, which were collected at the curbside, but which were land filled and/or incinerated. Loads that are not delivered to a materials recovery facility due to mechanical failure, contamination, etc. should be reported immediately to the Town Administrator.
 - C. In addition, the franchisee will submit an annual report to the Town Administrator each year within 90 days after the anniversary date of the contract in which the franchisee/contractor will summarize:
 - i. Total weight of materials recycled, and land filled/incinerated over the previous year.
 - ii. Average annual participation rate aggregated from monthly data.
 - iii. Efforts undertaken by the franchisee/contractor as part of the public information program required by this contract and the observed effects of this program.
 - iv. Suggestions from the franchisee, based on the previous year's experience, for modifications to the current curbside recycling program which may increase recycling, increase convenience to residents served by the program, or decrease program costs.
 - D. Any other reporting as deemed necessary by the Town Administrator to aid in its own reporting to local, state, or federal agencies or for analysis of the effect on the waste stream and/or the effectiveness and efficiency of the overall program.

XI. Payment for Services.

- A. As compensation for performing the services required under this Ordinance, the franchisee shall be authorized to collect from subscribers' reasonable fees set by Nags Head and collected from subscribers in accordance with the duly adopted fee schedule for the Town. The initial fee schedule shall be in the amount of \$19.85 for the first cart per month at each participating location, exclusive of any subsidies offered by the town. Participants may subscribe for additional carts to be serviced at a cost of \$14.90 per cart per month.

- B. All revenues received by the franchisee from the sale of recyclable materials collected by the franchisee and all fees received by the franchisee from subscribers for services provided hereunder shall become the property of the franchisee.
- C. Nags Head shall not be responsible for the payment of any federal, state, or local taxes due as a result of compensation received by the franchisee pursuant to this franchise and the franchise agreement.

XII. Rate Review and Adjustment.

- A. The initial fee will not change for two years. There will be a 7.5% escalation rate about the initial fee beginning in the third year of the agreement.
- B. A request for rate adjustment may be made at the end of the initial three-year term executed by both parties. Rate adjustment applications shall be filed by the franchisee ninety (90) days prior to the end of the term to provide adequate time for consideration by the Board of Commissioners. Rate adjustments may be sought for all reasonable grounds. If approved by Nags Head Board of Commissioners in an open meeting, a rate adjustment shall not be effective until at least 60 days from date of approval in order for the franchisee to give all clients a minimum 60-day notice of the approved rate adjustment.
- C. If a rate adjustment is sought pursuant to this Ordinance, the Town Administrator or Commissioners may require the franchisee to provide a financial audit for the previous year of operations. The audit shall be completed according to generally accepted accounting principles and shall be at no cost to the Town. The auditor shall be chosen by Nags Head with the concurrence of the franchisee. The franchisee shall be entitled to recover the reasonable costs of the audit through the franchisee's rates.
- D. In the event of changes in market conditions for recyclable materials including, but not limited to, any significant increase or decrease in the value of recyclables; a change in commercially reasonable market availability for a processed recyclable; changes in market specifications affecting the value of specific recyclables; changes in law including, but not limited to, regulations establishing a deposit system on beverage containers; acts of a foreign government; or other events beyond the reasonable control of either party that makes the marketing of a recyclable or recyclables commercially impractical or creates a windfall for the Contractor, the parties agree to:
 - i. Adjust the compensation or compensation structure of the Agreement;
 - ii. Add or remove recyclables from the collection program; or
 - iii. Authorize the Contractor to dispose of recyclables.

No amendments to the Agreement under this section are allowed without the mutual consent of both parties executed in writing by a duly authorized representative of each of the parties. In the event the parties are unable to reach an agreement, the contract shall remain in full force.

XIII. Termination of Franchise.

Violation by the franchisee of any local, state, or federal law or any term or provision of this franchise agreement or filing bankruptcy or failing to maintain insurance required by this ordinance, may result in immediate termination of the franchise without notice by Nags Head, except that either party may terminate the franchise agreement upon 120 days written notice to the other and to all subscribers.

XIV. Insurance Requirements.

During the term of this franchise, franchisee/contractor shall maintain in full force and effect the following insurance, naming Nags Head as an additional insured. Certificates of insurance shall be submitted to Nags Head within 10 days of the enactment of the Franchise Ordinance and prior to commencing operation under this agreement.

Coverage	Liability Limits
Worker's Compensation	Statutory
Employer's Liability	\$500,000
Bodily Injury Liability	\$1,000,000 each occurrence
Except Automobile	\$1,000,000 aggregate
Property Damage Liability	\$1,000,000 each occurrence
Except Automobile	\$1,000,000 aggregate
Automobile Bodily Injury	\$1,000,000 each person
Automobile Property Damage Liability	\$1,000,000 each occurrence
Excess Umbrella Liability	\$1,000,000 each occurrence

XV. General Indemnity.

The franchisee shall hold harmless and indemnify Nags Head, its employees, attorneys and agents from any claims, damages, losses, and liabilities resulting from the work performed under the provisions of the franchise ordinance and this agreement.

XVI. Modification of this Agreement.

There may be no modification of this Franchise Agreement except in writing, approved by Nags Head and the franchisee. The franchisee may not subcontract with any entity or assign its rights under the franchise ordinance and agreement without the express consent of Nags Head Board of Commissioners.

All written notices required by the Ordinance and this Agreement shall be sent as follows:

The Town of Nags Head
Town Manager
P. O. Box 99
Nags Head, NC 27959

Tidewater Fibre Corporation
d/b/a TFC Recycling
Authorized Agent: Paul Stacharczyk
Senior Vice President/Chief Operating Officer
1958 Diamond Hill Road
Chesapeake, Virginia 23324

IN WITNESS THEREOF, the Parties have executed this Agreement, the day and year first above written.

Andy Garman, Town Manager

Authorized Agent, TFC Recycling

ATTEST:

ATTEST:

Carolyn F. Morris, Town Clerk

Secretary

(SEAL)



Agenda Item Summary Sheet

Item No: **E-5**

Meeting Date: **April 3, 2024**

Item Title: Consideration of resolutions in support of conservation easements in Nags Head Woods and at the Soundside Event site

Item Summary:

Attached for Board review and adoption are two resolutions in support of future conservation easements in Nags Head Woods (three parcels) and at the Soundside Event site (shoreline buffer on four parcels). The resolutions express the Town's support for application of the 2024 NC Land and Water Fund (NCLWF) Program Grants as follows:

- The Town will work to develop a conservation easement for environmental protection on the three parcels in Nags Head Woods and for a 50' shoreline buffer on the four parcels at the Soundside Event site in support of a living shoreline.
- The Town will continue to work with The Nature Conservancy to create, dedicate, hold, and monitor the Nags Head Woods easement and with the Dare County Tourism Board for protection of the estuarine shoreline at the Soundside Event Site. All these easement would be subject to final board approval at a later date.

Number of Attachments: 4

Specific Action Requested:

Resolutions provided for Board review and adoption.

Submitted By: Amy Miller, Dep Town Manager/Finance Officer

Date: February 28, 2024

Finance Officer Comment:

The Town has applied for two 2024 NCLWF grants: Nags Head Woods (acquisition) for a conservation easement, giving up rights on the properties including development and timber. The Nature Conservancy will hold and monitor the easement. Soundside Event Site (restoration) to design and construct a living shoreline on approx. 550 linear feet including the parcels owned by the Town and the Tourism Board, both jointly and separately. This represents one of the pilot sites in the adopted Estuarine Shoreline Master Plan. The easement would be for a 50' shoreline buffer (minimum). Each separate grant application included a Letter of Intent. One from TNC to hold and monitor the Nags Head Woods easements, and one from the Tourism Bureau in support of the living shoreline conservation easement on their properties.

Signature: Amy Miller

Date: February 28, 2024

Town Attorney Comment:

N/A

Signature: John Leidy

Date: February 28, 2024

Town Manager Comment and/or Recommendation:

The Town has applied for grants for these projects. Any easements would be subject to final board approval and dedication and acceptance by the parties at a later date. Easements would be contingent upon receipt of grants.

Signature: Andy Garman

Date: February 28, 2024



RESOLUTION IN SUPPORT OF A CONSERVATION AGREEMENT

WHEREAS, the Town is the owner of parcels 026404001, 005946000, and 006114000 located in Dare County, North Carolina; and

WHEREAS, the Town recognizes the need for and the benefits to the public by setting aside and protecting the Nags Head Woods Natural Area; and

WHEREAS, the Town desires to dedicate this addition to Nags Head Woods for use in perpetuity as a nature preserve; and

WHEREAS, the Nature Conservancy is dedicated to preserving unique and unusual areas in their natural state and desires to establish such a natural area for educational study and for the enjoyment of the public; and

WHEREAS, the Town and the Nature Conservancy have entered into a natural area lease agreement plan with the Nature Conservancy managing the property; and

WHEREAS, the Town and the Nature Conservancy are joint property owners on an adjoining parcel that has a recorded conservation easement.

NOW THEREFORE, BE IT RESOLVED BY THE BOARD OF COMMISSIONERS OF THE TOWN OF NAGS HEAD:

1. That the Town of Nags Head supports a conservation easement on parcels 026404001, 005946000, and 006114000 located in Dare County, North Carolina; and
2. That the Town of Nags Head has applied for an NC Land and Water Fund acquisition grant where upon grant award, The Nature Conservancy would hold and monitor the conservation easement on the aforementioned three parcels. If awarded, the Town will comply with the NC Land and Water Fund grant requirements for The Nature Conservancy to hold and monitor said conservation easement.

Adopted this the 3rd day of April 2024.

Benjamin Cahoon, Mayor
Town of Nags Head

ATTEST:

Carolyn F. Morris, Town Clerk



**RESOLUTION IN SUPPORT FOR 2024 NC LAND AND WATER FUND
RESTORATION PROGRAM GRANT**

WHEREAS, the Town is a joint owner with the Dare County Tourism Board of parcels 008854000, 012422000, 012422001, and the primary owner of parcel 026487000 located in Dare County, North Carolina; and

WHEREAS, the Town is in favor of grant funding from the NC Land and Water Fund Restoration Program to support the Town's estuarine shoreline project; and

WHEREAS, the Town is committed to working towards solutions and techniques to address the ongoing shoreline erosion within the estuarine shoreline area; and

WHEREAS, the Town and the Dare County Tourism Board are working together to ensure the success of a living shoreline project.

**NOW THEREFORE, BE IT RESOLVED BY THE BOARD OF COMMISSIONERS OF THE
TOWN OF NAGS HEAD:**

1. That the Town of Nags Head will work with the NC Land and Water Fund and the Dare County Tourism Bureau to develop a conservation easement for the required property buffer for the purposes of environmental protection and recreational uses of the estuarine shoreline environment on following parcels located in Dare County, North Carolina: 008854000, 012422000, 012422001, jointly owned with the Dare County Tourism Board and 026487000 primarily owned by the Town; and
2. That the Town of Nags Head supports this project as an important example that other North Carolina coastal communities could use as a model for managing and restoring their shorelines.

Adopted this the 3rd day of April 2024.

Benjamin Cahoon, Mayor
Town of Nags Head

ATTEST:

Carolyn F. Morris, Town Clerk

27 February 2024

Jill Fusco
Eastern Field Representative
NC Land and Water Fund
Division of Land and Water Stewardship
Department of Natural and Cultural Resources
121 W. Jones Street, Raleigh, NC 27603

RE: Town of Nags Head - NC Land and Water Fund 2024 grant application

The Town of Nags Head, NC is submitting a grant application to NC Land and Water Fund for the sale of conservation easements on 3 tracts of undeveloped land adjoining The Nature Conservancy's (TNC) Nags Head Woods Preserve. The tracts are as follows:

- 2112 S. Pond Avenue, Nags Head, NC, 27959 (Parcel 026404001, 284.7 acres)
- 3125 S. Old Nags Head Woods Road, Nags Head, NC, 27959 (Parcel 005946000, 4.3 acres)
- 308 W. Nags Way Court, Nags Head, NC, 27959 (Parcel 006114000, 7.7 acres)

It is our understanding that the Town will place an easement on parcels 005946000 and 006114000 and on approximately 258.8 acres of parcel 026404001 while reserving approximately 25.9 acres for municipal uses. These lands connect to other protected properties within the Nags Head Woods Ecological Preserve and serve as a gateway to a larger area of conservation.

Since 1985, the Town and TNC have had an agreement for the management of these tracts as part of Nags Head Woods Ecological Preserve. The Town owns several other properties in Nags Head Woods including a 376-acre tract jointly owned with TNC which have been placed under conservation management using a similar conservation easement. The Town and TNC have worked together to preserve Nags Head Woods by acquiring properties separately and jointly. Approximately 72% of the 1,200 acres are permanently protected. The Town's three parcels that make up their grant request are 22% of the unsecured areas within the Preserve.

Nags Head Woods is the largest contiguous area of globally rare, deciduous maritime forest on a barrier island along the East Coast. There are seven plant community types in the Preserve and in all, over 550 species of plants have been documented, including eight species that are considered rare in NC. The Preserve hosts more than 150 species of birds with over 50 species of which nest there. The area is bounded to the north by the Run Hill State Natural Area and to the south by Jockey's Ridge State Park. Together, these natural areas have been designated a National Natural Landmark by the US National Park Service.

The Nature Conservancy fully supports application by the Town of Nags Head to the NC Land and Water Fund for funds to ensure permanent protection of these properties. We look forward to assisting with the project and to our continued collaboration with the Town on management of Nags Head Woods Preserve.

Best Regards,



Deputy State Director, The Nature Conservancy – North Carolina



THE OUTER BANKS VISITORS BUREAU
One Visitors Center Circle, Manteo, NC 27954
252.473.2138 | outerbanks.org

LETTER OF SUPPORT FOR 2024 NCLWF RESTORATION PROGRAM GRANT

February 26, 2024

RE: NC Land and Water Fund 2024 grant application

We are writing in favor of grant funding from the NC Land & Water Fund Restoration Program to support the Town of Nags Head's estuarine shoreline project. As an estuarine shoreline property owner at the proposed project site location on Croatan Highway (parcels 030879000, 030880000, 030881000, 008795000, 008854000, 012422000 and 012422001) we are interested in, and committed to working towards solutions and techniques to address the ongoing shoreline erosion within the estuarine shoreline area. This living shoreline projects is taking an innovative and comprehensive approach that will allow for new nature-based solutions to be implemented for the appropriate management of sensitive habitats, and a coordinated and collaborative effort with ongoing town studies and plans.

The Town of Nags Head and the Dare County Tourism Board (dba Outer Banks Visitors Bureau) are working together to ensure the success of the living shoreline project and allow for a seamless approach to moving projects forward on the ground. We will work with the NCLWF and the Town to develop a conservation easement for the required property buffer for the purposes of environmental protection and recreational uses of the estuarine shoreline environment as required by an awarded grant. We support this project as an important example that other North Carolina coastal communities could use as a model for managing and restoring their shorelines. Grant funding from NC Land & Water Fund is essential and timely for the completion of this project, which has local, regional, and statewide benefits and importance. Thank you for your consideration.

Sincerely,

A handwritten signature in black ink, appearing to read "L. Nettles".

Lee Nettles
Executive Director, Outer Banks Visitors Bureau
February 26, 2024

A handwritten signature in black ink, appearing to read "Diane Bognich".

Diane Bognich
Director of Finance and Administration, Outer Banks Visitors Bureau
February 26, 2024



Agenda Item Summary Sheet

Item No: **E-6**

Meeting Date: **April 3, 2024**

Item Title: Consideration of Capital Project Ordinances

Item Summary:

At the April 3rd Board of Commissioners meeting, staff is requesting Board consideration of the following Capital Project Ordinances:

- Consideration of Capital Project Ordinance, amendment #3, for Public Services Complex Project. This ordinance falls within the not-to-exceed amount the Board approved.
- Consideration of Water Capital Project Ordinance, amendment #1, for Public Services Complex Project and Advanced Metering Infrastructure Projects. This ordinance falls within the not-to-exceed amount the Board approved.

Number of Attachments: 2

Specific Action Requested:

Provided for Board review and adoption.

Submitted By: Finance Director Amy Miller

Date: March 27, 2024

Finance Officer Comment:

These ordinances budget for interest income received on LOBs escrow funds. The interest is required to be spent on the project the funds were borrowed for. These funds will account for change orders and other items associated with the Public Services Complex project. An arbitrage budget has been added in case we do not meet our two-year spending exception. The Town is currently meeting the spending requirements of the Two-Year Spending Exception and is complying with US Treasury Regulations. If we continue to meet the eighteen- and twenty-four-month spending requirements no arbitrage will be owed. No arbitrage is currently owed.

Signature: Amy Miller

Date: March 27, 2024

Town Attorney Comment:

N/A

Signature: John Leidy

Date: March 27, 2024

Town Manager Comment and/or Recommendation:

I concur with staff's request.

Signature: Andy Garman

Date: March 27, 2024



CAPITAL PROJECT ORDINANCE
Public Works Complex
(Amendment #3)

BE IT ORDAINED by the Governing Board of the Town of Nags Head, North Carolina, that, pursuant to Section 13.2 of Chapter 159 of the General Statutes of North Carolina, the following capital project ordinance as adopted January 5, 2022, amended August 3, 2022, amended March 1, 2023, is hereby further amended as follows:

Section 1. This ordinance is to establish a budget for the Public Works Complex.

Section 2. The following budget shall be conducted within the Capital Projects Fund (fund #41).

Section 3. The officers of this unit are hereby directed to proceed with the capital project within the terms of the budget contained herein.

Section 4. The following amounts are appropriated for the project:

Construction design and oversight	\$ 1,382,623
Building	11,953,095
Equipment	1,119,413
Professional fees	265,938
Arbitrage liability	261,185
Contribution to Capital Investment Fund	<u>489,950</u>
Total Expenditures	<u>\$ 15,472,204</u>

Section 5. The following revenues are anticipated to be available to complete this project:

Contribution from General Fund	\$ 489,950
Interest Income	610,000
Bond Proceeds, Limited Obligation Bonds, Series 2023	<u>14,372,254</u>
Total revenues	<u>\$ 15,472,204</u>

Section 6. The Finance Officer is hereby directed to maintain within the Capital Project Fund sufficient detailed accounting records to satisfy federal, state, and local regulations.

Section 7. The Finance Officer is directed to report, on a quarterly basis, on the financial status of each project element.

Section 8. Copies of this project ordinance shall be furnished to the Clerk of the Governing Board, and to the Budget Officer and Finance Officer for direction in carrying out this project.

Adopted this 3rd day of April 2024.

Benjamin Cahoon, Mayor

ATTEST:

Carolyn F. Morris, Town Clerk



**WATER CAPITAL PROJECT ORDINANCE for
APPROVED WATER CIP PROJECTS**
(Amendment #1)

BE IT ORDAINED by the Governing Board of the Town of Nags Head, North Carolina, that, pursuant to Section 13.2 of Chapter 159 of the General Statutes of North Carolina, the following capital project ordinance adopted March 1, 2023, is hereby further amended:

Section 1. The projects authorized are those approved by the Board of Commissioners.

Section 2. The following budget shall be conducted within the Water Capital Projects Fund (fund #65).

Section 3. The officers of this unit are hereby directed to proceed with the capital projects within the terms of the budget contained herein.

Section 4. The following amounts are appropriated for the project:

Public Services Complex	\$ 3,616,785
Advanced Metering Infrastructure	<u>1,849,830</u>
Total Water Capital Reserve Fund Expenses	<u>\$ 5,466,615</u>

Section 5. The following revenues are anticipated to be available to complete this project:

Bond proceeds, Limited Obligation Bonds, Series 2023	\$ 5,316,615
Interest Income	<u>150,000</u>
Total Water Capital Reserve Fund Revenues	<u>\$ 5,466,615</u>

Section 6. The Finance Officer is hereby directed to maintain within the Capital Project Fund sufficient detailed accounting records to satisfy federal, state, and local regulations.

Section 7. The Finance Director is directed to report, on a quarterly basis, on the financial status of each project element.

Section 8. Copies of this project ordinance shall be furnished to the Clerk of the Governing Board, and to the Budget Officer and Finance Officer for direction in carrying out this project.

Adopted this 3rd day of April 2024.

Benjamin Cahoon, Mayor

ATTEST:

Carolyn F. Morris, Town Clerk



Agenda Item Summary Sheet

Item No: **E-7**
Meeting Date: **April 3, 2024**

Item Title: Consideration to increase Dune Management Cost Share Program

Item Summary:

To better assist oceanfront property owners with overall dune management, staff requests an additional \$80,000 funding allocation towards the cost share program which includes dune vegetation, sand fence installation, and ocean sand relocation activities in the upcoming season.

The \$400,000 allocation would allow us to initially approve up to that amount of requests contingent upon reimbursement requirements being met. We are receiving up to seven sand relocation requests a day with three of those also requesting dune management cost share money. Homeowners initially do not have to have paperwork in place when their funding is set aside. Currently the full \$320,000 has been accounted for and we have homeowners on a waitlist. We are requesting to set aside up to \$400,000 as requests come in.

Number of Attachments: 1

Specific Board Action Requested:

Approval of increasing the dune management cost share program to \$400,000 this fiscal year.

Submitted By: Administration

Date: March 26, 2024

Finance Officer Comment:

No additional funding is requested per attached memo.

Signature: Amy Miller

Date: March 26, 2024

Town Attorney Comment:

N/A

Signature: John Leidy

Date: March 26, 2024

Town Manager Comment and/or Recommendation:

I concur with staff and will participate in the discussion as necessary.

Signature: Andy Garman

Date: March 26, 2024

Benjamin Cahoon
Mayor

Michael Siers
Mayor Pro Tem

Andy Garman
Town Manager



Town of Nags Head
Post Office Box 99
Nags Head, NC 27959
Telephone 252-441-5508
Fax 252-441-0776
www.nagsheadnc.gov

Kevin Brinkley
Commissioner

Bob Sanders
Commissioner

Megan Lambert
Commissioner

TO: Board of Commissioners

From: Andy Garman, Town Manager

Date: March 26, 2024

Re: Dune management cost share program

To better assist oceanfront property owners with overall dune management, staff requests an additional \$80,000 funding allocation towards the cost share program which includes dune vegetation, sand fence installation, and ocean sand relocation activities in the upcoming season.

As a point of reference, the Town processed the below number of sand relocation permits the past three years:

- FY20-21, 155 sand relocation permits.
- FY21-22, 190 sand relocation permits.
- FY22-23, 266 sand relocation permits.
- FY23-24 (year to date), 243 sand relocation permits.

Dune vegetation stabilization is required for sand relocation reimbursement, with a cap of \$3,500. If sand is not being moved, \$1,000 is the cap for plants and fencing, which does include labor and materials. Currently the application interval for planting and sand fence installation is every year, and the application interval for the sand relocation is once every three years. FY23-24 is the second year of the three-year cycle for the sand relocation reimbursement program.

<i>Activity</i>	<i>FY20-21</i>	<i>FY21-22</i>	<i>FY22-23</i>	<i>FY23-24</i>	Application Interval	Application Dates
Planting	<i>Yes</i>	<i>Yes</i>	<i>Yes</i>	<i>Yes</i>	Every Year	Oct. 1 - June 30
Sand Fence Installation	<i>No</i>	<i>Yes (Mid-Way)</i>	<i>Yes</i>	<i>Yes</i>	Every Year	Oct. 1 - June 30
Sand Relocation	<i>No</i>	<i>No</i>	<i>Yes</i>	<i>Yes</i>	Once Every Three Years	Nov. 15 – April 15
Max. Funding Amount per Parcel	<i>\$500</i>	<i>\$1,000</i>	<i>\$3,500</i>	<i>\$3,500</i>		
Total Program Funding	<i>\$20,000</i>	<i>\$20,000</i>	<i>\$320,000</i>	<i>\$320,000</i> <i>\$400,000 Proposed</i>		
Total Amount Disbursed	<i>\$4,000</i>	<i>\$9,931</i>	<i>\$217,152</i>	<i>\$84,209</i> <i>(requests still being processed)</i>		
Total Amount Remaining	<i>N/A</i>	<i>N/A</i>	<i>\$102,848</i>	<i>\$235,791</i> <i>\$315,791 Proposed</i>		

If program funding is increased to \$400,000, a budget ordinance will not be necessary. Since the funding source is the beach nourishment multi-year capital project fund, unspent funds from the prior year's program are automatically carried over without an amendment. Initial funding request discrepancies may occur when the actual cost is less than the approved allocation. Additionally, if a homeowner is approved but does not submit their required paperwork for reimbursement by the June deadline (this year it is by June 24th), they are not eligible for reimbursement. The \$400,000 allocation would allow us to initially approve up to that amount of requests contingent upon reimbursement requirements being met. We are receiving up to seven sand relocation requests a day with three of those also requesting dune management cost share money. Homeowners initially do not have to have paperwork in place when their funding is set aside. Currently the full \$320,000 has been accounted for and we have homeowners on a waitlist. We are requesting to set aside up to \$400,000 as requests come in.

Staff is available to answer any questions.



Agenda Item Summary Sheet

Item No: **E-8**
Meeting Date: **April 3, 2024**

Item Title: Consideration of change order to the Old Nags Head Place Stormwater Drainage Project

Item Summary:

Please find attached Change Order #6 to the Old Nags Head Place Stormwater Drainage Project. Staff is seeking Board of Commissioners authorization for the implementation of an underdrain system along Curlew St. and the southern portion of Linda Lane to mitigate elevated groundwater conditions. The additional construction cost associated with this request is \$93,492.50.

Number of Attachments: 1

Specific Action Requested:

Provided for Board consideration is Change Order #6 to the Old Nags Head Place Stormwater Project.

Submitted By: Town Engineer David Ryan

Date: March 28, 2024

Finance Officer Comment:

A budget amendment has been provided for approval, which includes a contingency of approx. \$6,500, bringing the total amendment to \$100,000.

Signature: Amy Miller

Date: March 28, 2024

Town Attorney Comment:

N/A

Signature: John Leidy

Date: March 28, 2024

Town Manager Comment and/or Recommendation:

I concur with the proposed change order.

Signature: Andy Garman

Date: March 28, 2024

Date of Issuance: March 28, 2024	Effective Date: April 3, 2024
Owner: Town of Nags Head	Owner's Contract No.: PO-
Contractor: Envirotech Unlimited Construction	Contractor's Project No.: N/A
Engineer: David Ryan, PE	Engineer's Project No.: N/A
Project: Old Nags Head Place Drainage Restoration	Contract Name: ONHP Drainage

The Contract is modified as follows upon execution of this Change Order based upon the following:

Cost Increase- \$93,942.50 for addition of (7) drainage structures, with 1,475 l.f. of variable diameter underdrain piping along Curlew St and S. Linda Lane and incidental work

Attachments: *Envirotech e-mail quote dated March 27, 2024*

CHANGE IN CONTRACT PRICE	CHANGE IN CONTRACT TIMES
Original Contract Price: \$ <u>514,950.00</u>	Original Contract Times: Substantial Completion: <u>April 13, 2024</u> Final Completion: <u>April 23, 2024</u> days or dates
[Increase] [Decrease] from previously approved Change Orders No. <u>0</u> to No. <u>5</u> : \$ <u>94,933.08</u>	[Increase] [Decrease] from previously approved Change Orders No. <u>0</u> to No. <u>5</u> : Substantial Completion: <u>15 days</u> Final Completion: <u>15 days</u> days
Contract Price prior to this Change Order: \$ <u>609,883.08</u>	Contract Times prior to this Change Order: Substantial Completion: <u>April 28, 2024</u> Final Completion: <u>May 8, 2024</u> days or dates
[Increase] [Decrease] of this Change Order: \$ <u>93,492.50</u>	[Increase] [Decrease] of this Change Order: Substantial Completion: <u>45 days</u> Final Completion: <u>45 days</u> days or dates
Contract Price incorporating this Change Order: \$ <u>703,375.58</u>	Contract Times with all approved Change Orders: Substantial Completion: <u>June 12, 2024</u> Final Completion: <u>June 22, 2024</u> days or dates

ACCEPTED:
BY: _____

ACCEPTED:
BY: _____

TITLE: Town Manager

TITLE:

This instrument has been preaudited in the manner
Required by the Local Government Budget and
Fiscal Control Act.

Finance Officer



Agenda Item Summary Sheet

Item No: **G-1**
Meeting Date: **April 3, 2024**

Item Title: Update from Planning Director

Item Summary:

Please find attached a monthly update, with attachments, from Planning Director Kelly Wyatt.

Number of Attachments: 1

Specific Action Requested:

Provided for Board information and update.

Submitted By: Planning and Development

Date: March 27, 2024

Finance Officer Comment:

N/A

Signature: Amy Miller

Date: March 27, 2024

Town Attorney Comment:

N/A

Signature: John Leidy

Date: March 27, 2024

Town Manager Comment and/or Recommendation:

I will participate in the discussion as necessary.

Signature: Andy Garman

Date: March 27, 2024



MEMORANDUM

Town of Nags Head

Planning & Development Department

To: Board of Commissioners
Planning Board

From: Kelly Wyatt, Planning Director
Joe Costello, Deputy Planning Director

Date: March 27, 2024

Subject: Planning and Development Director's Report (G-1)

This memo provides an overview of selected Planning and Development Department activities, projects, and initiatives. If requested, Staff will be prepared to discuss any of this information in detail at the Board of Commissioners meeting on April 3rd, 2024.

Monthly Activity Report

Attached for the Board's review is the *Planning and Development Monthly Report for February 2024*. In addition to permitting, inspections, code enforcement, and Todd D. Krafft Septic Health Initiative activities, Staff was involved in the following meetings or activities of note during the month:

- Tuesday, March 5th - Technical Review Committee Meeting
- Wednesday, March 6th - Board of Commissioners Meeting
- Saturday, March 9th – Winter Market at Dowdy Park from 9am – noon
- March 11th – 15th – Joe Costello at NFIP Training
- Wednesday, March 13th – Committee for Arts and Culture Meeting
- Thursday, March 14th – Board of Adjustment Meeting (no hearings)
- Thursday, March 14th – CAMA Land Use Planning Webinar
- Tuesday, March 19th – Planning Board Meeting
- Wednesday, March 20th – Board of Commissioners mid-month meeting (if needed)
- Thursday, March 27th – Living Shoreline Meeting

Planning Board - Pending Applications and Discussions

The Planning Board's most recent meeting was held on Tuesday, March 19, 2024, and included the following:

- Consideration of text amendments that if adopted would allow the long-term rental of units within existing hotels and motels. The Planning Board voted 5-1 to recommend adoption of the proposed amendments as presented.
- Consideration of a text amendment submitted by Jordan Harrell of Jernigan Oil Company, Inc. to allow the use of digital LED price signage at gas stations. The Planning Board voted 5-1 to recommend adoption of the proposed amendment as presented. Staff is working with the Town Attorney to ensure these proposed amendments are consistent with recent content neutral sign regulations.
- Discussion and initiation of text amendment related to the installation of netting as a barrier to prevent golf balls from leaving the boundaries of Nags Head Golf Links golf course and causing

damage to private property.

- Discussion of text amendment to prohibit driving over and/or parking on septic systems when adjacent to driveways, drive aisles, and parking areas. Planning Board members concurred that staff should explore drafting language that minimizes the impact on properties that would be unnecessarily affected by the new regulations.

The Planning Board's next meeting is scheduled for Tuesday, April 16th, 2024. Currently, the agenda is expected to include consideration of revised ordinance language prohibiting driving and/or parking on septic systems adjacent to driveways, drive aisles, and parking areas.

Board of Adjustment – Recent and Pending Applications

There were no items for the Board of Adjustments consideration in March 2024.

Additional Updates

- **DWMP/Septic Health Advisory Committee** – The Septic Health Advisory Committee's next quarterly meeting will be scheduled for late April 2024. Prior to the meeting, staff will collaborate with the committee to develop another version of the draft ordinance aimed at prohibiting driving over and/or parking in septic areas. In response to concerns about the potential impact of the previously proposed amendment on property owners who do not currently face issues with parking on their septic areas, staff is preparing an alternative option for consideration. This alternative ordinance will explicitly prohibit driving over and/or parking in septic areas. If a violation is observed, a Notice of Violation will be issued, and the installation of a physical barrier may be required to prevent future violations. This approach seeks to address parking on septic systems through a formal violation of the Unified Development Ordinance with a clear remedy, rather than the more proactive but potentially overreaching language of the current draft.
- **Estuarine Shoreline Management Plan** – Town staff continues to focus on applying for the necessary grants to continue the implementation of the Estuarine Shoreline Management Plan. Currently, staff are preparing a pre-proposal for a grant from the National Fish and Wildlife Foundation's National Coastal Resilience Fund. This grant is for the design phase of the Villa Dunes and Soundside Road pilot sites. Should we be invited to submit a full proposal, the deadline for submission will be July 2, 2024.
- **Electric Vehicle Action Plan** – As we proceed with the purchase and installation of two Level 2 EV Chargers, we have discovered that the underground geothermal system for Town Hall is situated near the intended location for the chargers. We are currently examining the geothermal plans and will provide an update on the next steps at your May 2024 meeting.
- **Sand Relocation and Dune Management Cost Share Program** – As of March 28, 2024, the entire \$320,000 allocated to the Dune Management Cost Share Program has been distributed among 107 applicants. Staff has proposed that additional funding be allocated to this program (see Item E-7). We have also received 235 Sand Relocation Applications, with 230 approved and authorization letters issued. The sand relocation program allows for sand to be moved until April 30th. Staff plans to stop accepting new applications for sand relocation around April 15th to begin doing final inspections and closing them out.
- **Public Beach and Coastal Waterfront Access Grant Program** – Staff are working on the pre-application for this Public Beach and Waterfront Access Grant through the Division of Coastal Management (DCM) for renovations to the June Street Beach Access. The pre-application is due April 15th, 2024.
- **Permitting Update 2nd Quarter** – See below the total number of permits accepted

and the average turnaround time. These numbers do not include trade permits.

2023	Total Permits	Avg Turnaround/days
October	75	4.0
November	63	3.0
December	45	2.2

- **Dowdy Park Events/Farmers Market/Holiday Markets/Art & Culture** – Vendor applications for the 2024 Dowdy Park Farmers Market were open from March 26th to March 28th. Due to various constraints, we were only able to accept approximately ten new vendors this season, in addition to welcoming back our returning vendors. We received over 50 applications, which the Committee for Art and Culture will review and make selections from at their April 10th meeting. Event Coordinator Paige Griffin has finalized the lineup for the upcoming 2024 Summer Concert Series, with an announcement and poster distribution throughout the town coming soon. Paige is also finalizing the schedule for this season's Family Fun Nights. The final Winter Market of the season will be held on Saturday, April 13, 2024, from 9 am to noon at Dowdy Park.

Upcoming Meetings and Other Dates

- Tuesday, April 2nd - Technical Review Committee Meeting
- Wednesday, April 3rd - Board of Commissioners Meeting
- Wednesday, April 10th – Committee for Art and Culture Meeting
- Thursday, April 11th – Board of Adjustment Meeting (no hearings)
- Saturday, April 13th – Winter Market at Dowdy Park from 9am – noon
- Monday, April 15th – June Street CAMA Grant Pre-Application Due
- Monday, April 15th – Multi-Family Working Group Meeting
- Tuesday, April 16th – Planning Board Meeting
- Wednesday, April 17th – Board of Commissioners mid-month meeting (if needed)
- Wednesday, April 24th – CRS 2024 Cycle Verification Meeting (in-person)

**TOWN OF NAGS HEAD PLANNING AND DEVELOPMENT
MONTHLY REPORT
FEBRUARY 2024**

DATE SUBMITTED: March 7, 2024

	Feb-24	Feb-23	Jan-24	2023-2024 FISCAL YTD	2022-2023 FISCAL YTD	FISCAL YEAR INCREASE/ DECREASE
BUILDING PERMITS ISSUED - RESIDENTIAL						
New Single Family	2	0	1	11	11	0
New Single Family, 3000 sf or >	1	0	0	4	6	(2)
Duplex - New	0	0	0	1	0	1
Sub Total - New Residential	3	0	1	16	17	(1)
Miscellaneous (Total)	47	69	53	323	336	(13)
<i>Accessory Structure</i>	3	6	4	27	26	1
<i>Addition</i>	1	1	2	22	16	6
<i>Demolition</i>	1	1	1	5	1	4
<i>Move</i>	0	0	0	0	0	0
<i>Remodel</i>	10	13	14	74	94	(20)
<i>Repair</i>	32	48	32	195	199	(4)
Total Residential	50	69	54	339	353	(14)
BUILDING PERMITS ISSUED - COMMERCIAL						
Multi-Family - New	0	0	0	0	0	0
Motel/Hotel - New	0	0	0	0	0	0
Business/Govt/Other - New	0	0	0	0	1	(1)
Subtotal - New Commercial	0	0	0	0	1	(1)
Miscellaneous (Total)	7	6	13	54	50	4
<i>Accessory Structure</i>	3	2	3	21	16	5
<i>Addition</i>	0	0	0	0	0	0
<i>Demolition</i>	0	1	1	1	1	0
<i>Move</i>	0	0	0	0	0	0
<i>Remodel</i>	3	1	1	14	18	(4)
<i>Repair</i>	1	2	8	18	15	3
Total Commercial	7	6	13	54	51	3
Grand Total	57	75	67	393	404	(11)
SUB-CONTRACTOR PERMITS						
Electrical	50	55	61	362	360	2
Gas	2	5	3	27	24	3
Mechanical	27	38	40	224	256	(32)
Plumbing	8	15	16	86	64	22
Fire Sprinkler	0	0	1	3	3	0
VALUE						
New Single Family	\$1,349,213	\$0	\$469,000	\$5,677,495	\$5,592,026	\$85,469
New Single Family, 3000 sf or >	\$1,507,945	\$0	\$0	\$2,642,945	\$5,998,733	(\$3,355,788)
Duplex - New	\$0	\$0	\$0	\$711,000	\$0	\$711,000
Misc (Total Residential)	\$1,273,570	\$1,769,966	\$1,996,094	\$12,420,285	\$11,974,464	\$445,821
Sub Total Residential	\$4,130,728	\$1,769,966	\$2,465,094	\$21,451,725	\$23,565,223	(\$2,113,498)
Multi-Family - New	\$0	\$0	\$0	\$0	\$0	\$0
Motel/Hotel - New	\$0	\$0	\$0	\$0	\$0	\$0
Business/Govt/Other - New	\$0	\$0	\$0	\$0	\$6,425,994	(\$6,425,994)
Misc (Total Commercial)	\$123,645	\$106,800	\$561,068	\$3,211,637	\$1,854,174	\$1,357,463
Sub Total Commercial	\$123,645	\$106,800	\$561,068	\$3,211,637	\$8,280,168	(\$5,068,531)
Grand Total	\$4,254,373	\$1,876,766	\$3,026,162	\$24,663,362	\$31,845,391	(\$7,182,029)

**TOWN OF NAGS HEAD PLANNING AND DEVELOPMENT
MONTHLY REPORT
FEBRUARY 2024**

DATE SUBMITTED: March 7, 2024

	Feb-24	Feb-23	Jan-24	2023-2024 FISCAL YTD	2022-2023 FISCAL YTD	FISCAL YEAR INCREASE/ DECREASE
ZONING						
Zoning Permits	62	78	70	430	392	38
Soil & Erosion	2	N/A	2	15	N/A	N/A
Stormwater Plans	3	N/A	1	22	N/A	N/A
CAMA						
CAMA LPO Permits	1	4	5	25	19	6
CAMA LPO Exemptions	8	8	11	37	41	0
Sand Relocations	42	58	53	183	113	N/A
CODE COMPLIANCE						
Cases Investigated	28	167	26	223	447	(224)
Warnings	3	12	2	24	71	(47)
NOVs Issued	24	33	22	196	107	89
Civil Citations (#)	0	0	0	1	10	(9)
Civil Citations (\$)	\$0	\$0	\$0	\$0	\$23,150	(\$23,150)
SEPTIC HEALTH						
Tanks inspected	6	11	8	76	86	(10)
Tanks pumped	13	6	9	85	57	28
Water quality sites tested	1	1	1	67	120	(53)
Personnel Hours in Training/School	16	56	5	275	148	127


Kelly Wyatt, Planning Director



Agenda Item Summary Sheet

Item No: **G-2**
Meeting Date: **April 3, 2024**

Item Title: Discussion of potential Accessory Dwelling Unit ordinance per 2023 Fall Retreat and Strategic Plan

Item Summary:

In November 2023, during their retreat, the Board of Commissioners directed planning staff to explore the development of an Accessory Dwelling Units (ADU) ordinance, incorporating a range of optional provisions and regulatory standards to determine whether this type of use could be supported by the community under certain circumstances. This is Action Item #2.2 under the Development Goals within the most recently adopted version of the Board's Strategic Plan. This menu of options for consideration would cover various aspects, including permitted zoning districts, geographic areas, minimum lot size requirements, maximum unit size limitations, height restrictions, deed restrictions, and parking considerations.

The Planning Department previously conducted research, prepared, and presented a draft ADU ordinance to the Board of Commissioners in September 2019, which was not adopted at that time. The previous ordinance is included as an attachment. The recent discussion surrounding ADU's related to whether they could serve to provide workforce or long-term housing, most likely incorporating deed restrictions. Staff will provide a brief presentation on ADUs at the Board's April meeting with the goal of creating discussion and seeking direction from the Board on how to proceed with this initiative.

Number of Attachments: 1

Specific Action Requested:

Discussion of potential Accessory Dwelling Unit (ADU) Ordinance per the Strategic Plan (Action Item 2.2)

Submitted By: Planning and Development

Date: March 28, 2024

Finance Officer Comment:

Insufficient information to determine fiscal impact.

Signature: Amy Miller

Date: March 28, 2024

Town Attorney Comment:

I will participate in the discussion as necessary.

Signature: John Leidy

Date: March 28, 2024

Town Manager Comment and/or Recommendation:

I will participate in the discussion.

Signature: Andy Garman

Date: March 28, 2024

(DRAFT)
**AN ORDINANCE AMENDING THE CODE OF ORDINANCES
OF THE TOWN OF NAGS HEAD, NORTH CAROLINA PERTAINING TO THE
ALLOWANCE AND REGULATION OF ACCESSORY DWELLING UNITS**

ARTICLE I. Purpose(s) and Authority.

WHEREAS, pursuant to N.C.G.S. § 160A-381, the Town of Nags Head (the “Town”) may enact and amend ordinances regulating the zoning and development of land within its jurisdiction and specifically the location and use of buildings, structures and land; pursuant to this authority and the additional authority granted by N.C.G.S. Chap. 160A, Art. 19 et. seq, the Town has adopted comprehensive zoning regulations and has codified the same within the Unified Development Ordinance, Part II of the Town Code, adopted pursuant to N.C.G.S. § 160A-363, which allows the Town to combine certain land development ordinances into a unified ordinance; and

WHEREAS, the Board of Commissioners requested preparation of an ordinance allowing Accessory Dwelling Units for consideration by the Planning Board and Board of Commissioners; and

WHEREAS, the Town of Nags Head 2017 Comprehensive Plan encourages accessory dwellings in appropriate locations, noting that such units may be a means to address affordable housing and diversify available accommodations; and

WHEREAS, the Town of Nags Head 2017 Comprehensive Plan references that accessory dwellings are commonly subordinate in size to a main dwelling and can provide housing for workers and also for family members who need care but wish to have independent living quarters; and further that maid’s quarters were commonly constructed as accessory dwelling units to the cottages in the Nags Head Historic Cottage Row, and that the concept could be reestablished to address several needs including accommodations for seasonal, year-round residents, and the town’s aging population; and

WHEREAS, the Town of Nags Head 2017 Comprehensive Plan includes a policy and action supporting the allowance of accessory dwelling units and housing appropriate for seasonal populations within the town, with a qualification that regulations are consistent with the Town’s size limitations for large residential dwellings; and

WHEREAS, the Board of Commissioners finds that these text amendments are consistent with the goals, objectives and policies of the Town’s adopted Comprehensive Plan, and that this action is reasonable and in the public interest, and is in the interest of and not contrary to the public’s health, safety, morals and general welfare for the Town to amend the Town’s Unified Development Ordinance as stated below.

ARTICLE II. Construction.

For purposes of this ordinance amendment, underlined words (underline) shall be considered as additions to existing Town Code language and strikethrough words (~~strikethrough~~) shall be considered deletions to existing language. Any portions of the

adopted Town Code which are not repeated herein, but are instead replaced by an ellipsis (“...”) shall remain as they currently exist within the Town Code.

ARTICLE III. Amendment of the Unified Development Ordinance.

NOW, THEREFORE, BE IT ORDAINED by the Board of Commissioners of the Town of Nags Head, North Carolina, that the Unified Development Ordinance of the Town Code shall be amended as follows:

PART I. That **Appendix A., Definitions, Section A.4, Definitions**, be amended by deleting the definition for “Dwelling, accessory” in its entirety and replacing with the following definition:

Dwelling, accessory means the accessory use of land by establishment of a secondary dwelling unit in conjunction with, and clearly subordinate to, a principal dwelling unit, whether part of the same structure as the principal dwelling unit or as a detached structure on the same lot for use by persons intending to establish residency or otherwise occupy the dwelling unit for a period of 30 days or greater. Any property or structure constructed, designed, or advertised or actually used in such a manner as to meet this definition shall be presumed to be an accessory dwelling unit.

PART II. That **Article 6., Zoning Districts, Section 6.6, Table of Uses and Activities**, be amended by replacing the existing row for “Dwelling, Accessory” and inserting a row therefor as it appears in Attachment A to this Ordinance.

PART III. That **Article 7., Supplemental Regulations, Part II., Residential, Section 7.3, Dwelling, Accessory**, be amended by deleting the section in its entirety and replacing with the following:

SECTION 7.3 DWELLING, ACCESSORY.

Accessory dwellings are permitted as an accessory use to a single-family dwelling in accordance with Section 6.6, Tables of Uses and Activities, provided the following requirements and conditions are met:

7.3.1. No more than one accessory dwelling shall be permitted on a single residential lot.

7.3.2. The enclosed habitable living area of the accessory dwelling shall not exceed 50% of the size of the principal dwelling or 600 square feet, whichever is less.

7.3.3. The cumulative enclosed habitable living area for the accessory dwelling and the principal dwelling shall not exceed 3,500 square feet if the lot is less than 16,000 square feet. Cumulative enclosed habitable living area shall not exceed 5,000 square feet if the lot is 16,000 square feet or greater. If the cumulative area exceeds 3,500 square feet, both the principal and

accessory dwelling shall comply with the standards for large residential dwellings.

7.3.4. If the accessory dwelling is located in a detached structure, separate from the principal dwelling, the height of the detached structure shall not exceed one and one-half (1 ½) stories.

7.3.5. Accessory dwellings may only be located within structures built in accordance with the North Carolina Residential Building Code; the use of manufactured or mobile homes, travel trailers, motorhomes, campers or similar vehicles as accessory dwellings is prohibited.

7.3.6. For accessory structures containing an accessory dwelling, the minimum five (5) foot setback from property lines shall be increased to ten (10) feet; if such structures or portions thereof are located forward of the midpoint of the principal structure (the halfway point of the principal structure, including decks, measured from the front to the rear of the structure) such structures shall meet all principal structure setbacks.

7.3.7. Pursuant to Sections 10.12 and 10.16 of this Unified Development Ordinance, bedrooms within an accessory dwelling shall be included in any calculation to determine the number of required parking spaces for a single-family dwelling; one (1) additional off-street parking space shall be provided for the accessory dwelling above that which is required for the single-family dwelling by Sections 10.12 and 10.16.

7.3.8. The accessory dwelling shall share the same electrical and water meter as the principal dwelling.

7.3.9. The owner must obtain a permit from the county environmental health department indicating that the septic system has sufficient capacity to support the use and development of the property. Total occupants residing on the property shall not exceed the number specified by the septic improvement permit.

7.3.10. Before granting a conditional use permit for an accessory dwelling in districts where applicable, the Board of Commissioners shall make the following affirmative findings, in addition to those findings required in Section 3.8.4.6. of this Unified Development Ordinance:

7.3.10.1. The exterior design of the accessory dwelling is compatible with the existing single-family dwelling on the lot through architectural use of building forms, scale, and construction materials;

7.3.10.2. The accessory dwelling will maintain a compatible relationship to adjacent properties in terms of location and design, and will not significantly reduce the privacy of adjacent properties; and

7.3.10.2. The accessory dwelling will not result in excessive noise, traffic, or parking congestion.

PART IV. That the Table of Contents for **Article 7., Supplemental Regulations**, shall be amended by replacing "Section 7.3 Dwelling, Accessory (Reserved)" with "Section 7.3 Dwelling, Accessory".

PART V. That **Section 5.2, Nonconforming Lots of Record, Section 5.2.2.** be amended as follows:

5.2.2. In any district in which single-family dwellings are permitted, a single-family dwelling and customary accessory building may be erected, and permitted accessory uses shall be allowed subject to necessary approvals, on any single lot which met all legal requirements at the time of its creation and recording in the Dare County Register of Deeds, subject to the following provisions:

ARTICLE IV. Severability.

All Town ordinances or parts of ordinances in conflict with this ordinance amendment are hereby repealed. Should a court of competent jurisdiction declare this ordinance amendment or any part thereof to be invalid, such decision shall not affect the remaining provisions of this ordinance amendment nor the Unified Development Ordinance or Town Code of the Town of Nags Head, North Carolina which shall remain in full force and effect.

ARTICLE V. Effective Date.

This ordinance amendment shall be in full force and effect on October 7, 2019, the adopted effective date of the Unified Development Ordinance.

Benjamin Cahoon, Mayor
Town of Nags Head

ATTEST:

Carolyn F. Morris, Town Clerk

APPROVED AS TO FORM:
Town Attorney _____
Date adopted: _____
Motion to adopt by Commissioner _____
Motion seconded by Commissioner _____

Vote: _____ AYES _____ NAYS

August 28, 2019 DRAFT



Agenda Item Summary Sheet

Item No: **G-3**
Meeting Date: **April 3, 2024**

Item Title: Consider the appointment of citizen representatives to participate in the update of the Outer Banks Regional Hazard Mitigation Plan

Item Summary:

In 2019, Dare County, Currituck County, and the towns of Manteo, Nags Head, Kitty Hawk, Kill Devil Hills, Southern Shores, and Duck collaborated to update their Hazard Mitigation Plan, an effort known as the Outer Banks Regional Hazard Mitigation Plan. This plan was adopted by the Board of Commissioners on July 1, 2020. Dare County Emergency Management is preparing for the update of this plan and, as was done in the 2019 process, is requesting that in addition to town staff, that the town appoint two citizen representatives to participate in the update effort. For Nags Head, the team will include Deputy Fire Chief Shane Hite, Director of Planning and Development Kelly Wyatt, Deputy Director of Planning and Development Joe Costello, Code Enforcement Officer Ed Snyder, and two citizen representatives. Megan Lambert and Meade Gwinn served as the citizen representatives for the 2019/2020 planning process. Staff is requesting the Board of Commissioners reappoint Megan Lambert and consider appointing Planning Board member David Thompson to the committee for the upcoming Hazard Mitigation Plan Update. While Meade Gwinn has indicated his inability to participate in the update, Mr. Thompson has expressed his availability and interest in joining the effort.

Number of Attachments: 1

Specific Action Requested:

Consider the appointment of citizen representatives to the Hazard Mitigation Plan Update Committee.

Submitted By: Planning and Development

Date: March 27, 2024

Finance Officer Comment:

Insufficient information to determine fiscal impact.

Signature: Amy Miller

Date: March 27, 2024

Town Attorney Comment:

N/A

Signature: John Leidy

Date: March 27, 2024

Town Manager Comment and/or Recommendation:

I will participate in the discussion.

Signature: Andy Garman

Date: March 27, 2024



MEMORANDUM

Town of Nags Head

Planning & Development Department

To: Board of Commissioners
From: Kelly Wyatt, Planning Director
Date: March 26, 2024
Subject: Outer Banks Regional Hazard Mitigation Plan Update

In 2019, Dare County, Currituck County, and the towns of Manteo, Nags Head, Kitty Hawk, Kill Devil Hills, Southern Shores, and Duck collaborated to update their Hazard Mitigation Plan, an effort known as the Outer Banks Regional Hazard Mitigation Plan. This plan was adopted by the Board of Commissioners on July 1, 2020 and can be viewed [HERE](#).

While developing and updating hazard mitigation plans is a best practice, especially for areas prone to hazards like our town, it is also a requirement for local governments to be eligible for FEMA Disaster Assistance and Mitigation Grants.

The Hazard Mitigation Plan plays a crucial role in the town's participation in the Community Rating System (CRS) program. The CRS program rewards communities that implement floodplain management practices beyond the minimum standards of the National Flood Insurance Program (NFIP). These practices aim to enhance public safety, reduce property and infrastructure damage, minimize economic disruption, alleviate human suffering, and protect the environment. By participating in the CRS program, all town property owners benefit from a discount on flood insurance.

Dare County Emergency Management is currently preparing for the update of the Outer Banks Regional Hazard Mitigation Plan. As in the 2019 effort, Dare County will lead the process, while Nags Head staff will participate in meetings, provide feedback, and vet any town-specific information. Public involvement will be a critical component of this process. A planning team will be formed to gather community feedback and ensure compliance with CRS program criteria for Hazard Mitigation Plans. The Dare County team will include representatives from the county, each town, and members of the public from each community.

For Nags Head, the team will include Deputy Fire Chief Shane Hite, Director of Planning and Development Kelly Wyatt, Deputy Director of Planning and Development Joe Costello, Code Enforcement Officer Ed Snyder, and two citizen representatives.

Megan Lambert and Meade Gwinn served as the citizen representatives for the 2019/2020 planning process. Currently, staff is requesting Board of Commissioners reappoint Megan Lambert and consider appointing Planning Board member David Thompson to the committee for the upcoming Hazard Mitigation Plan Update. While Meade Gwinn has indicated his inability to participate in the update, Mr. Thompson has expressed his availability and interest in joining the effort.



Agenda Item Summary Sheet

Item No: **H-1**
Meeting Date: **April 3, 2024**

Item Title: Committee Reports

Item Summary:

At the April 3rd Board of Commissioners meeting, Board members will provide reports from meetings they have attended on behalf of the Town.

Number of Attachments: 0

Specific Action Requested:

Provided for Board information and update.

Submitted By: Administration

Date: March 27, 2024

Finance Officer Comment:

N/A

Signature: Amy Miller

Date: March 27, 2024

Town Attorney Comment:

N/A

Signature: John Leidy

Date: March 27, 2024

Town Manager Comment and/or Recommendation:

N/A

Signature: Andy Garman

Date: March 27, 2024



Agenda Item Summary Sheet

Item No: **H-2**
Meeting Date: **April 3, 2024**

Item Title: Consideration of amendment to Traffic Control Map – “No Parking – Tow Away Zone” on Oneto Lane and E Gallery Row

Item Summary:

Please find attached a memo from Police Chief Perry Hale requesting to amend the Traffic Control Map to designate Oneto Lane and E Gallery Row as “No Parking Between Signs - Tow Away Zone”. Town sanitation trucks have difficulty negotiating Oneto lane to pick up trash carts due to vehicles parking on both sides of the street. In addition, residents would prefer to maintain curbside sanitation collection in that area.

The “No Parking Between Signs – Tow Away Zone” designation is also requested for Gallery Row to allow sanitation trucks to navigate the route.

Attached please find a memo from Police Chief Hale, a map depicting the area as well as an ordinance amending the Traffic Control Map for Board review and consideration on April 3rd.

Number of Attachments: 3

Specific Action Requested:

Attached ordinance designating both sides of Oneto Lane and on E. Gallery Row from NC12 to Oneto Lane as “No Parking Between Signs – Tow Away Zone” for Board consideration.

Submitted By: Public Safety – Police Chief Hale

Date: March 27, 2024

Finance Officer Comment:

Minimal fiscal impact to include the cost of signage.

Signature: Amy Miller

Date: March 27, 2024

Town Attorney Comment:

N/A

Signature: John Leidy

Date: March 27, 2024

Town Manager Comment and/or Recommendation:

I concur with staff’s request and will participate in the discussion as necessary.

Signature: Andy Garman

Date: March 27, 2024



Nags Head Police Department

5401 S. Croatan Hwy.
Post Office Box 99
Nags Head, North Carolina 27959
Telephone (252) 441-6386
Fax (252) 441-7335
www.nagsheadnc.gov

Perry Hale
Chief of Police

Chris Montgomery
Deputy Chief of Police

Service - Professionalism - Integrity - Strength

MEMORANDUM

TO: Andy Garman, Town Manager
FROM: P. Hale, Chief of Police
DATE: March 28, 2024
RE: Traffic Control Map Amendment; E. Gallery Row / Oneto Lane

East Gallery Row and Oneto Lane have become congested over the past few years with the number of vehicles arriving at each residence and visitors have been parking along the right of way and street on both Oneto Lane and E. Gallery Row. This in return has caused issues with the town's trash trucks having access to the carts located at each property. A solution for a centralized dumpster was put in place earlier this year but was not popular with property owners. For the town to operate the trash trucks in this area, I am recommending both streets be deemed "No Parking Between Signs" / "Tow Away Zone" on both sides of Oneto Lane and "No Parking Between Signs / Tow Away Zone" on E. Gallery Row from NC12 to Oneto Lane.

I will be available at the Board meeting to respond to questions or comments.



ORDINANCE AMENDING THE NAGS HEAD TRAFFIC CONTROL MAP

BE IT ORDAINED by the Board of Commissioners of the Town of Nags Head, North Carolina, that the Nags Head Traffic Control Map is hereby amended as follows:

- PART I.** Designation of *No Parking Between Signs – Tow Away Zone* at the following locations:
- On both sides of Oneto Lane
 - On E Gallery Row from NC12 to Oneto Lane
- PART II.** All ordinances or parts of ordinances in conflict with this ordinance are hereby repealed.
- PART III.** This ordinance shall become effective upon notation being made on the Nags Head Traffic Control Map and the erection of appropriate signage.

This the 3rd day of April 2024.

Benjamin Cahoon, Mayor
Town of Nags Head

ATTEST:

Carolyn F. Morris, Town Clerk

APPROVED AS TO FORM:

John Leidy, Town Attorney

ADOPTED **April 3, 2024**

MOTION TO ADOPT BY: _____
SECONDED BY: _____
VOTE: _____ AYES _____ NOES

Town of Nags Head
Traffic Control Map Amendment

 No Parking Between Signs -
Tow Away Zone

1" = 60'





Agenda Item Summary Sheet

Item No: **J-1**
Meeting Date: **April 3, 2024**

Item Title: Town Manager Garman – Update on Public Services Facility

Item Summary:

Town Manager Andy Garman, along with Town Engineer David Ryan, will present an update on the construction progress of the new Public Services Facility at the April 3rd Board of Commissioners meeting.

Number of Attachments: 0

Specific Action Requested:

Provided for Board information and update.

Submitted By: Administration

Date: March 27, 2024

Finance Officer Comment:

I will respond to questions as necessary.

Signature: Amy Miller

Date: March 27, 2024

Town Attorney Comment:

N/A

Signature: John Leidy

Date: March 27, 2024

Town Manager Comment and/or Recommendation:

Update provided for Board information.

Signature: Andy Garman

Date: March 27, 2024



Agenda Item Summary Sheet

Item No: **J-2**
Meeting Date: **April 3, 2024**

Item Title: Town Manager Garman – Update on Dare County Housing Task Force

Item Summary:

At the April 3rd Board of Commissioners meeting, Town Manager Andy Garman will provide a verbal update on the Dare County Housing Task Force.

Number of Attachments: 0

Specific Action Requested:

Provided for Board information and update.

Submitted By: Administration

Date: March 27, 2024

Finance Officer Comment:

N/A

Signature: Amy Miller

Date: March 27, 2024

Town Attorney Comment:

N/A

Signature: John Leidy

Date: March 27, 2024

Town Manager Comment and/or Recommendation:

Update on the Dare County Housing Task Force provided for Board information.

Signature: Andy Garman

Date: March 27, 2024



Agenda Item Summary Sheet

Item No: **J-3**
Meeting Date: **April 3, 2024**

Item Title: Town Manager Garman – Discussion of proposed modifications to brush/bulk yard operations

Item Summary:

At the April 3rd Board of Commissioners meeting, Town Manager Andy Garman will provide a verbal update on proposed modifications to the Town's brush/bulk yard operations.

Number of Attachments: 0

Specific Action Requested:

Provided for Board information and update.

Submitted By: Administration

Date: March 27, 2024

Finance Officer Comment:

N/A

Signature: Amy Miller

Date: March 27, 2024

Town Attorney Comment:

N/A

Signature: John Leidy

Date: March 27, 2024

Town Manager Comment and/or Recommendation:

Update on proposed changes to the brush/bulk yard operations provided for Board information and discussion.

Signature: Andy Garman

Date: March 27, 2024



Agenda Item Summary Sheet

Item No: **L-1**
Meeting Date: **April 3, 2024**

Item Title: Mayor Cahoon – Consideration of NCLM Voting Delegate

Item Summary:

Mayor Cahoon has requested appointment as the Town's Voting Delegate for the North Carolina League of Municipalities (NCLM) upcoming election for Board of Directors. Please find attached the information provided by the League for this purpose.

Number of Attachments: 1

Specific Action Requested:

Provided for Board discussion and appointing of voting delegate for the NCLM Board of Directors.

Submitted By: Administration

Date: March 27, 2024

Finance Officer Comment:

N/A

Signature: Amy Miller

Date: March 27, 2024

Town Attorney Comment:

N/A

Signature: John Leidy

Date: March 27, 2024

Town Manager Comment and/or Recommendation:

N/A

Signature: Andy Garman

Date: March 27, 2024

From: [North Carolina League of Municipalities](#)
To: [Carolyn Morris](#)
Subject: Designate Your Voting Delegate
Date: Thursday, March 21, 2024 9:36:41 AM



Delegate Your Voting Delegate

The nomination period for the 2024-2025 Board of Directors is now open and will run through March 31. Once again, we will hold an electronic voting process for board elections.

During CityVision, held April 23-25 in Winston-Salem, League members will attend the annual business meeting where the 2024-2025 electronic Board of Directors election results will be announced.

You are receiving this because each member municipality shall **designate one voting delegate** who is eligible to cast a single vote for the 2024-2025 League Board of Directors in advance of the annual business meeting.

Please complete the [Voting Delegate form](#) to identify your municipality's voting delegate to ensure delivery of electronic ballot and voting instructions by April 12, 2024.

VOTING DELEGATE FORM

If you have already designated your municipalities' voting delegate, your delegate has been recorded, thank you!

Electronic Voting Timeline

- The designated voting delegate shall receive their credentials and voting instructions on or before **April 12, 2024**.
- The appointed voting delegate shall vote on the slate of candidates via electronic means between **April 12 - April 19, 2024**.
- The election results shall be presented to the membership at CityVision 2024, **April 25, 2024**, at the **NCLM Annual Business Meeting** during the CityVision conference.



WORKING AS ONE. ADVANCING ALL.

CONTACT US



Stay Connected with the North Carolina League of Municipalities

434 Fayetteville Street, Suite 1900, Raleigh, NC 27601

[Manage Preferences](#)



Agenda Item Summary Sheet

Item No: **L-2**
Meeting Date: **April 3, 2024**

Item Title: Mayor Cahoon – Request for Lightkeeper / Nags Header Nominations

Item Summary:

Mayor Cahoon will request nominations for Town's Lightkeeper / Nags Header program to be delivered to the Town Clerk by May 1, 2024. Attached is the list of past recipients of these awards.

Number of Attachments: 1

Specific Action Requested:

Provided for information.

Submitted By: Administration

Date: March 25, 2024

Finance Officer Comment:

No unbudgeted fiscal impact.

Signature: Amy Miller

Date: March 25, 2024

Town Attorney Comment:

N/A

Signature: John Leidy

Date: March 25, 2024

Town Manager Comment and/or Recommendation:

N/A

Signature: Andy Garman

Date: March 25, 2024

Nags Head Lightkeepers

2000 - 2001 Carl Nunemaker

2001 - 2002 Donald Bryan

2002 - 2003 Mike Kelly

2003 - 2004 David Oaksmith

2004 - 2005 Drew Wilson

2005 – 2006 Russell Twiford

2007 – 2008 Lillie “Doll” Gray

2008 – 2009 Glen Eure

2009 – 2010 John Harris

2011- 2012 Doris Gard

2016 – 2017 Tom White

2021-2022 John and Annette Ratzenberger

2022-2023 Sandra Austin

Nags Header

2005 Nellie Myrtle Midgette Pridgen

2005 George Stonewall Crocker

2013 Alvin S Hibbs

2016 Martin Kellogg

2023 Richard “Dick” and Jo Fessler



Agenda Item Summary Sheet

Item No: **M-1**
Meeting Date: **April 3, 2024**

Item Title: Town Manager Garman - Request for Closed Session

Item Summary:

At the April 3rd Board meeting, Town Manager Garman will request a Closed Session to discuss the possible acquisition of real property, located at 4222 S Croatan Highway, in accordance with GS 143-318.11(a)(5).

Number of Attachments: 0

Specific Action Requested:

Request for Closed Session.

Submitted By: Administration

Date: March 27, 2024

Finance Officer Comment:

N/A

Signature: Amy Miller

Date: March 27, 2024

Town Attorney Comment:

N/A

Signature: John Leidy

Date: March 27, 2024

Town Manager Comment and/or Recommendation:

Request for Closed Session.

Signature: Andy Garman

Date: March 27, 2024