



**MINUTES
TOWN OF NAGS HEAD
BOARD OF COMMISSIONERS
REGULAR MEETING
WEDNESDAY, JUNE 5, 2024**

The Nags Head Board of Commissioners met at the Board Room located at 5401 S Croatan Highway, Nags Head, North Carolina on Wednesday, June 5, 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; Randy Wells; Chad Motz; Nancy Carawan; Joe Costello; Lily Nieberding; Greg Daisey; Kevin Goudy; Linda Bittner; Brittany Phillips; Roberta Thuman; Bob Muller; Carole Muller; Gary Gray; Wally Gray; Terry Gray; Anna Sadler; Meade Gwinn; Megan Vaughan; Jim Morris; Ann-Cabell Baum; and Town Clerk Carolyn F. Morris

CALL TO ORDER

Mayor Cahoon called the meeting to order at 9 a.m. He recognized former Nags Head Comr. Anna Sadler, former Nags Head Mayor Bob Muller, and Kill Devil Hills Comr. Terry Gray in the audience. A moment of silence was followed by the Pledge of Allegiance.

ADOPTION OF AGENDA

MOTION: Mayor Pro Tem Siers made a motion to approve the June 5th agenda as presented. The motion was seconded by Comr. Brinkley which passed unanimously.

RECOGNITION

INTRODUCTION OF LIFEGUARDS

Ocean Rescue Director Chad Motz introduced the 2024 summer season lifeguards via video presentation. Each lifeguard introduced themselves; the video was well received by Board members as well as the audience. Board members thanked Director Motz for the presentation and wished for a safe summer season.

NEW EMPLOYEE - Public Services Director Nancy Carawan introduced new Sanitation Equipment Operator Kevin Goudy who was welcomed by the Board to Town employment.

NEW EMPLOYEE - Planning Director Kelly Wyatt introduced new Planner Greg Daisey who was welcomed by the Board to Town employment.

TWENTY YEARS – Planning Director Kelly Wyatt recognized Permitting Coordinator Lily Nieberding who was congratulated by the Board for twenty years of service.

PRESENTATION – Finance Officer/Dep Town Manager Amy Miller introduced Tax Collector Linda Bittner who was recognized as having recently been awarded Outstanding Tax Collector of 2024 by the NC Tax Collectors' Association. She was congratulated by the Board on this award which is usually awarded to counties and not towns.

PRESENTATION – 2024 Town Lightkeeper and Nags Header Awards

2024 Town Lightkeeper

Mayor Cahoon summarized the history behind the Lightkeeper award – he then recognized Bob Muller as the 2024 Town Lightkeeper who joined the list of Town Lightkeepers which began in 2000 with Carl Nunemaker.

Mayor Cahoon spoke the following about the Nags Head Lightkeeper and Mr. Bob Muller:

"The Nags Head Lightkeeper award was developed to honor persons who have shaped the image and direction of Nags Head, making significant contributions to the Town through their time, actions, talents, and dedication. Nominees are to be outstanding individuals who have been involved in community service such as boards, commissions, task forces, agencies, volunteer organizations or community groups (formal and informal, of all kinds) and shall have demonstrated a sustained commitment to our community. They are to be perceived by the citizens of Nags Head as leaders who may have been active in local, county, or state government. Nominees may have served to influence decision-making on issues and may demonstrate, through their civic involvement, how the quality of life in their community has been enhanced. They may also have been engaged in the arts or commerce in such a way that they have elevated the profile of Nags Head. Or they may have been involved in the development of events (festivals, parades, shows, etc.) which celebrate the town.

'This year's nominee is all of these things and more. Their service on this Board and leadership of the Town is noteworthy, and many citizens still look to them for leadership. Long since out of office, they continue to serve our community in a myriad of ways, with enhancement of the community always on their mind, expressed in their phone calls, correspondence, appearances, and across various forms of media. And their service to the visual, literary, and performing arts is virtually equal to their service to the town.

'Dedicated to environmental protection, our nominee played a central role in creating the Town's Todd D. Krafft Septic Health Initiative, chairing the Town's first Septic Health Initiative Task Force. In 2005 he was inducted into the Steve Steinbeck Onsite Water Protection Hall of Fame which recognizes a select group of individuals who have upon their own initiative performed above and beyond normal expectations.

'Bob Muller graduated from the Westtown School in Westtown, PA with a Bachelors Degree in Political Economics from Williams College in 1973. He and his wife moved to Nags Head in 1977 and are long time residents of Nags Head Cove. As we all know, he was long time Postmaster and as some will remember, a part-time DJ. Prior to becoming a Nags Head Commissioner, and later the Town's mayor from 2001 – 2005, Bob served on our Planning Board and Board of Adjustment. And he has served or continues to serve numerous community organizations over the last 37 or so years including the Don & Catherine Bryan Cultural Series, the Outer Banks Community Foundation, the Outer Banks Community Development Corporation, the Nature

Conservancy at Nags Head Woods, the Friends of Jockey's Ridge, the Duke University Nonprofit Management Program, the Policy Committees for the North Carolina League of Municipalities, and the Nags Head Firemen's Relief Fund Board.

'The Nags Head 2024 Lightkeeper is the honorable Bob Muller, who is here with his wife to accept the award.'

Board members congratulated Mr. Muller and then participated in a photo with him and his wife Carole.

2024 Nags Header

Mayor Cahoon summarized the history behind the Nags Header award – he then awarded Lillie Daniels "Doll" Gray the 2024 Nags Header award who joined the list of those who have received the award which began in 2005 with Nellie Myrtle Midgette Pridgen.

Mayor Cahoon spoke the following about the Nags Header Award and Ms. Doll Gray:

'The Nags Header award recognizes a special individual, since deceased, who contributed over a period of years to the development of the Town. Nominations may include former residents of the town as well as non-resident business owners who have helped shape the image and direction of the Town of Nags Head. Lillie Daniels "Doll" Gray was such a person. Ms. Gray died on August 6, 2023 at the age of 94. A true local Banker, with deep roots, she was born Lillie Daniels, in Wanchese. She was the great-granddaughter of Peter Gallop, the longest-serving lightkeeper of the Bodie Island Lighthouse.

'Ms. Doll was one-time owner-operator of a crab house near the Manteo bridge, and later the owner of Snow Bird Drive-In, which is still in operation today. She was very active in her community, serving for 17 years as Nags Head Postmaster. For a time, on her watch, just about every newborn in Nags Head was weighed at the Nags Head Post Office.

'She continued to serve her community, being elected to the Nags Head Board of Commissioners from 1989 to 1997 and serving a stint as Mayor Pro Tem. In 2007, Doll received the Nags Head Lightkeeper Award. Ms. Doll was a founding member of the Ark Church, where she faithfully attended until her illness no longer allowed.

'The nomination form for this award repeatedly cites her profound knowledge of all things Nags Head, her willingness to share her knowledge (about seafood, postal operations, Nags Head history, and many other topics) and her ever-present smile and pleasant disposition.

'As a Nags Head Commissioner, I understand that Doll Gray was from time to time a stabilizing voice of reason. When Board actions might have taken a precipitous turn, it was Ms. Doll who favored patience and a wait and see attitude. As a Mayor, I would have appreciated that!

'As I suspect her sons, her boys, might also attest, she was an old-school fiscal conservative. Her first two years on the Board, she voted against the budget. Not for a specified reason, just "nay". My suspicion is that whatever good she thought government might do, it was hard to vote to spend that much money.

'But it is thanks to Commissioner Doll Gray that Nags Head has fireworks on the Fourth of July. One year during her first term, the July meeting fell after July 4th. Ms. Doll said that she had really enjoyed the Manteo fireworks, and that Nags Head should have a show. The Board fell in behind her, and \$20,000 was allocated. The following July Police Chief Charlie Cameron hired Boom-Boom Zambelli, and the rest is history.

'This year the Nags Header award, which recognizes deceased individuals who have shaped the culture of Nags Head since its incorporation in 1961, honors Lillie Daniels "Doll" Gray. Her "boys", Wally, Terry, and Gary, are here to accept the award on behalf of their mother.'

Board members participated in a photo with Doll Gray's sons, Wally, Terry, and Gary who accepted the award on their mother's behalf.

PUBLIC COMMENT

Town Attorney John Leidy opened Public Comment at 9:33 a.m.

PUBLIC COMMENT – ANN CABELL-BAUM

Ann Cabell-Baum stated that she was one of Carolista Baum's children who ran home to tell her mother that a bulldozer operator was behind the sand dunes – that began the movement to save Jockey's Ridge from development for everyone to enjoy; next summer Jockey's Ridge State Park celebrates its 50th birthday with a four-day celebration; she asked the Board to save the dates of June 5 – 8, 2025 and to please participate and continue to support efforts to keep the park and save the sand dunes.

PUBLIC COMMENT – BOB MULLER

Bob Muller displayed an image on the screen of a silk screen done in the 1973-1974 timeframe which now hangs in the Mayor's office – this was the first piece of art added to the Town's art collection; it was given to the Town to show its support of Jockey's Ridge State Park; they were told at that time that Jockey's Ridge would never be a state park; a celebration of the park's anniversary, which opened in 1975, is scheduled for June of 2025; he asked the Board to support the 50th celebration with a financial allocation and participation in the events.

PUBLIC COMMENT – ANNA SADLER

Anna Sadler stated that in 1968 it was an awesome sight to see the sand dunes from her oceanfront house; Carolista Baum should be thanked and celebrated for what she did to save the dunes which became Jockey's Ridge State Park. She also wanted to thank Town staff, specifically the Public Works Dept as they go above and beyond in their jobs; she noted that from October to the end of April if you put out your debris in the right-of-way, the Town will pick it up. Other areas do not do this and she is thankful that Nags Head does; this year the Town went an additional month picking up debris.

There being no one else present who wished to speak, Attorney Leidy concluded Public Comment at 9:43 a.m.

Mayor Cahoon thanked Ms. Sadler for her kind words re: the Public Works Dept.

CONSENT AGENDA

The Consent Agenda consisted of the following items:

- Consideration of Budget Amendment #12 to FY 23/24 Budget
- Consideration of Tax Adjustment Report
- Approval of minutes
- (May 1, 2024 Regular Session; May 21, 2024 Recessed Session; May 21, 2024 Budget Workshop)
- Annual write-off of uncollectible water accounts
- Request approval of Moffat & Nichol and McKim & Creed proposals to conduct annual beach monitoring survey and analysis
- Consideration of Personnel Policy update
- Consideration of change order for dune grass planting as part of Coastal Storm Damage Mitigation Grant
- Request for Public Hearing to consider NC Public Beach and Coastal Waterfront Access grant application

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

Budget Amendment #12, 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".

Annual write-off of uncollectible water accounts - The agenda summary sheet re: the annual write-off, as approved, read in part as follows:

"There are no water account write-offs for FY23/24. In the past 12 months (5/26/23 - 5/25/24) the total water utility sales were \$4,099,874.31"

The Moffat & Nichol and McKim & Creed proposals to conduct annual beach monitoring survey and analysis, as approved, read in part as follows:

"Annually, the Town subcontracts surveying and engineering services to perform an annual beach condition survey and engineering data analysis in accordance with the Town's Beach Monitoring & Maintenance Plan. The survey scope of work includes the base project data acquisition of 126 profiles in conjunction with additional transect information data acquisition north of the project area, south of the project area and within reaches 3 and 4. The additional data acquisition was authorized to be added to the work plan in June 2020.

'A fee proposal in the amount of \$69,000 has been submitted by McKim & Creed to complete the base bid work in addition to options 1, 2, and 3. The fees have increased by \$2,750.00 from FY 23/24. Field data acquired by McKim & Creed will be provided to the coastal engineer, Moffat & Nichol, and will be analyzed to review annual shoreline changes, annual volume changes, project performance, background erosion rates, dune behavior and evaluation of long-term trends. This information will be synthesized into a report format and submitted to the Town by mid-September.

'A fee proposal, Task 17.1, in the amount of \$63,485 for the monitoring and analysis has been submitted by Moffat & Nichol to analyze the annual survey data and report preparation. The fee for task 17.1 has increased by \$6,366 from FY 23/24. Optional Tasks 17.2 and 17.3 have been included in the fee proposal and will only be authorized by the Town in the case of a federally declared storm event.

'Staff recommends acceptance of the total scope of work presented in the McKim & Creed fee proposal and acceptance of Task Order 17.1 of the Moffat & Nichol Proposal. If the Board of Commissioners is in agreement with the staff recommendation, a motion will be in order to authorize the Town Manager to execute contracts for McKim & Creed, Town of Nags Head Beach Monitoring Surveys, Summer 2024 and the Moffat & Nichol Town of Nags Head 2024 Beach Monitoring and Analysis, Task 17.1."

The Personnel Policy update from the agenda summary sheet, as approved, read in part as follows:

"Staff recommends updating the Limitation to the Employment of Relatives policy that allows the town manager to make an exception to this policy in unique circumstances. For example, this revision would allow the town manager to approve members of the same family to work in the same department under limited circumstances. For example, this would include family members working in an intermittent/part-time position (approximately

1-2 days month) in the fire department, or to be hired seasonally as Ocean Guards. Under no circumstances would this create a situation where a family member would be supervising another family member.

'The revised narrative, as approved, read in part as follows:

'Section 9. Limitation of Employment of Relatives

A. The members of an immediate family shall not be employed in the same department at the same time. Neither shall two (2) members of an immediate family be employed at the same time if such employment would result in an employee directly or indirectly supervising a member of the immediate family.

B. Immediate family is defined for the purpose of this section as spouse, mother, father, guardian/ward, children, sister, brother, grandparents, grandchildren plus the various combinations of half, step, in-law and adopted relationships that can be derived from those named, or a significant other living as a part of the same household.

C. In unique cases, the town manager may provide an exception to this policy. Circumstances for this special approval may include seasonal or temporary employment, or a work schedule that is part-time and intermittent. Approval from the town manager must be obtained prior to an offer of employment in these cases."

The summary sheet re: the change order for dune grass plantings, as approved, read in part as follows:

"Consideration of change order for dune grass plantings as part of the Coastal Storm Damage Mitigation Grant

'In October 2022, the Town was awarded a \$300,000 grant from the Coastal Storm Damage Mitigation Fund for the installation of dune plantings along the oceanfront. Awards from the Coastal Storm Damage Mitigation Fund support beach nourishment, dune restoration, and other remediation and stabilization projects. Matching funds are required for a project total of \$600,000.

'Earlier this year, \$348,140 of the \$600,000 project budget was expended for the installation of 1,300,000 of American Beachgrass sprigs. This work was performed by Carolina Landscaping.

'This request is to complete the remaining balance of plantings with the installation of approximately 150,000 Sea Oat sprigs. The cost of this scope of work is \$245,000. The different variety of plant species provides a more stable dune profile and more closely resembles a natural dune habitat.

'The remaining balance of funds will go towards project-related engineering costs.

'This request is to modify the existing agreement amount with Carolina Landscaping for the installation of 150,000 Sea Oat sprigs.

'Staff requests Board of Commissioners consideration to authorize the Town Manager to amend the existing agreement with Carolina Landscaping in the amount of \$245,000 for the installation of 150,000 Sea Oat sprigs."

The Request for Public Hearing, as approved, read in part as follows:

"Staff is requesting to apply for a NC Public Beach and Coastal Waterfront Access grant for improvements to the June Street Public Beach Access in South Nags Head. Attached please find a grant pre-application prepared by Planning staff which was submitted earlier this year. The Town has now been invited to submit a final grant application for this project. A brief description of the proposed improvements are as follows:

- The Town proposes to construct a new ADA-accessible elevated dune crossover. The six-foot-wide

wooden structure will be approximately 1,650 square feet long and require about three switchbacks. The new walkover will contain handrails. In conjunction with the new walkover, a sixteen-foot octagonal gazebo, new shower station and platform and new solar powered lamp post will be constructed. The existing porta-john wooden enclosure and trash wooden enclosure will be removed, and new enclosures will be constructed.

'Request a Public Hearing be scheduled for the July 3rd Board of Commissioners meeting in accordance with CAMA rules.'

PUBLIC HEARINGS

Public Hearing to consider citizen comment on the Town Manager's proposed operating budget for July 1, 2024 – June 30, 2025, proposed CIP requests for FY 24/25 through FY 28/29, and updated Consolidated Fee Schedule

Consideration of adoption of:

- a. Pay Plan
- b. Organizational Chart
- c. Capital Improvement Program (CIP) requests
- d. Consolidated Fee Schedule
- e. FY 24/25 Budget Ordinance
- f. Amended Capital Investment Fund Policy

Notice of the Public Hearing was published in the *Coastland Times* on Wednesday, May 22, 2024 and on Wednesday, May 29, 2024 as required by law.

Attorney John Leidy opened the Public Hearing at 9:44 a.m.

Town Manager Garman described the budget workshops and pre-budget workshops that took place to align Board members with the manager's budget which was presented to the Board at the May 1st Regular Meeting. There have been no changes. Manager Garman thanked staff for all they did, especially Finance Officer Amy Miller.

Board members thanked Town staff for their work on preparation of the budget.

There being no one present who wished to speak, Attorney Leidy concluded the Public Hearing at 9:47 a.m.

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

MOTON: Comr. Brinkley made a motion to approve the Organizational Chart as presented. The motion was seconded by Mayor Pro Tem Siers which passed unanimously.

MOTION: Mayor Pro Tem Siers made a motion to approve the Capital Improvement Plan requests as presented. The motion was seconded by Comr. Brinkley which passed unanimously.

MOTION: Comr. Brinkley made a motion to approve the Consolidated Fee Schedule as presented. The motion was seconded by Mayor Pro Tem Siers which passed unanimously.

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

MOTION: Comr. Brinkley made a motion to approve the Capital Investment Fund Policy as presented. The motion was seconded by Comr. Sanders which passed unanimously.

The Pay Plan, Organizational Chart, Capital Improvement Plan (CIP) requests, Consolidated Fee Schedule (CFS), and Capital Investment Fund Policy, as approved, are on file in the Town Clerk's Office.

The FY 24/25 Budget Ordinance, as adopted, is attached to and made a part of these minutes as shown in Addendum "C".

Public Hearing to consider text amendment to prohibit driving or parking on residential septic systems

Attorney John Leidy opened the Public Hearing at 9:49 a.m. to consider a text amendment to prohibit driving or parking on residential septic systems.

Notice of the Public Hearing was published in the *Coastland Times* on Wednesday, May 22, 2024 and on Wednesday, May 29, 2024 as required by law.

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

"Included for the Board of Commissioners consideration is a text amendment to the Unified Development Ordinance which, if adopted, would expressly prohibit parking on designated septic area for residential properties within the Town. This ordinance amendment was generated following discussions with the Septic Health Advisory Committee (SHAC) and has been revised to minimize unnecessary impacts on property owners who would not/do not have issues with parking on their septic systems. Instead, it provides a mechanism of enforcement for those properties who are identified to be in violation of this ordinance. Should staff become aware of any violations either through complaints received or proactive monitoring by town staff, a Notice of Violation will be issued to the property as required in Section 1.10, Violation of UDO Regulations. If applicable, this notice will also be provided to the rental agency managing the property. This Notice of Violation will outline the required remedy, including the installation of a physical barrier to prevent any future violations of the ordinance.

'During the evaluation and issuance of permits for residential development with potential for excessive or overflow parking, staff will recommend installation of a physical barrier from the outset.

'The Planning Department will prioritize outreach and education on the importance of protecting and maintaining septic systems. If the ordinance is adopted, we will make notable efforts to inform property owners, contractors, rental management companies, and other relevant parties and organizations about this new ordinance prior to issuing any Notice of Violation.

'The staff reports from the Planning Boards February 20th and April 16th meetings are included below for the Board of Commissioners review.

'POLICY CONSIDERATIONS

The 2017 Comprehensive Land Use Plan provides the following policies and actions which should guide the Town's zoning and development actions:

'LU-1 – Ensure that the character of Nags Head is preserved as a single-family residential beach community with ties to its natural environment. This character is defined by: Development of low density and intensity served primarily with on-site wastewater systems.

'LU-12 – Utilize on-site wastewater systems as the preferred method of wastewater treatment as long as they remain viable to effectively treat effluent and protect water quality.

'NR-16 – Minimize impacts of future sea level rise. NR-16e – Maintain and expand the Septic Health Initiative by providing government assistance for septic retrofits, assisting homeowners in maintaining their septic systems, conducting more groundwater sampling, securing wells for sampling, developing partnerships to assist with the peer review of existing data, transition to a mandatory septic inspection program with incentives and mapping of groundwater.

'NR-24 – Preserve, protect, and improve water quality and natural estuarine functions to ensure public health, protection of natural resources and habitats, and recreational use.

'NR-25 – Increase public understanding of the relationship between water quality, ecosystem health, and human health advisories relating to water quality.

'PLANNING BOARD RECOMMENDATION

At their April 16, 2024, meeting the Planning Board voted unanimously to recommend adoption of the proposed text amendment as presented.

'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 (attached)."

Mayor Cahoon confirmed with Mr. Costello that the proposed ordinance does not preclude parking in designated repair areas as necessary.

Board members spoke in support of the proposal; Comr. Brinkley noted that the proposal originated from the Septic Health Committee.

Bob Muller, Nags Head resident, spoke stating that the proposed ordinance is another piece of the Septic Health Initiative that goes back 25 years; this is another way to take care of the Town's infrastructure and he encouraged its adoption; he thanked the Board for their consideration on behalf of the entire Septic Health Committee.

MOTION: Comr. Lambert made a motion to adopt the ordinance prohibiting driving or parking on residential septic areas 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 "D".

Public Hearing to consider text amendment submitted by Jordan Harrell of Jernigan Oil Company, Inc. to allow LED, digital displays for Fueling Stations

Attorney John Leidy opened the Public Hearing at 9:53 a.m. to consider a text amendment submitted by Jordan Harrell of Jernigan Oil Company, Inc. to allow LED, digital displays for fueling stations.

Notice of the Public Hearing was published in the *Coastland Times* on Wednesday, May 22, 2024 and on Wednesday, May 29, 2024 as required by law.

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

"Jordan Harrell of Jernigan Oil Company, Inc. has submitted a request to amend the Unified Development

Ordinance to allow digital, LED signage for displaying fuel prices at gas stations within the Town. Mr. Harrell has noted that the primary reason for this request is to enhance the safety of staff and customers. With advancements in technology and LED price signs, you can remotely change price signs, eliminating the need for employees to manually change fuel prices using a pole suction cup in the parking lot, which can be hazardous during busy times. In addition, the high winds in this area frequently damage signs and dislodge the plastic digit replacements.

'Currently Section 10.22.6.17 of the Unified Development Ordinance states, "LED and digital signs are prohibited".

'Pursuant to Appendix A, of the Unified Development Ordinance, the definition of "digital sign" is as follows:

'Sign, digital means any sign featuring electronic display or moving images created by incandescent, LCD, plasma, LED or projected images for any purposes other than traffic control devices. This definition is intended to include any sign containing incandescent lights or exposed light bulbs used as a message or reader board, or to project images. This definition does not include LED technology used only for the purpose of illuminating a structural sign face.

'The language of Section 10.22.6.17 and the definition of digital sign were adopted on January 4, 2012. At their November 15, 2011 meeting, the Planning Board reviewed various documents and put forward a recommended ordinance for a complete prohibition of all digital and LED signage. The staff report and minutes associated with this meeting are included for the Planning Board's consideration. It is noted that fuel price displays were specifically mentioned, and not all members were opposed to digital signage for this purpose, provided it was regulated appropriately. The Board of Commissioners first discussed this proposed amendment at their December 7, 2011, meeting before voting to adopt the proposed prohibition on digital and LED signage at their January 4, 2012, meeting. Minutes from both the December 2011 and January 2012 Board of Commissioners meetings are attached. The primary concern appears to be potential proliferation of signage, especially those that flash, rotate, move, or are animated. There were aesthetic concerns regarding whether this type of signage maintains the town's visual appeal and character, contributes to light pollution, affects night sky visibility, and potentially distracts drivers. At their meeting on March 19, 2024, the Planning Board reviewed and recommended the adoption of proposed text amendments to the UDO that would permit the use of LED digital signage exclusively for displaying fuel prices, provided certain supplemental regulations are met.

'Following the Planning Board's March 19th meeting, the Town's attorney expressed concerns after reviewing the amendments, particularly in light of the Supreme Court decision in *Reed v. Town of Gilbert*, 576 U.S. 155 (2015). This ruling has significantly influenced how local governments regulate signage, emphasizing the need for content-neutral sign codes that do not favor one type of speech over another. In response to this decision, the Town previously undertook a comprehensive revision of its sign regulations. An article from the North Carolina School of Government has been included in your packet for further information on this case.

'Attorney Leidy noted that the Town's current prohibition on LED and digital signs is a valid content-neutral regulation of speech, as it does not differentiate based on the content of the speech. However, creating an exemption specifically for fuel price displays would likely introduce content-based discrimination, as it would allow certain messages while continuing to restrict others conveyed through LED and digital signs. Such an amendment could lead to First Amendment challenges from those still restricted by the ordinance, with the exemption for fuel price signs potentially serving as evidence of content-based regulation.

'In light of these concerns, staff, in consultation with the attorney and the applicant, has proposed an alternative approach. The revised ordinance language would incorporate the LED digital display standards into the use regulations for fueling stations within Section 7.20 of the UDO. These standards would govern the maximum dimensions of the display, the number of character panels, and the frequency of rotation. Based upon

information provided by the applicant, the minimum display area needed for the use of 16-inch digits is approximately 42-inches x 19-inches. This allows for three characters/digits and a panel for the fraction which is commonly used. In applying this restriction, staff believes that it meets the needs of the applicant while maintaining content neutrality. It is important to note that this provision would technically allow a gas station to display a word within the four panels blocks, or an image. Although staff believe this is unlikely, it is worth mentioning. Additionally, the proposed amendment would restrict the display within this designated area from changing more than once in a 24-hour period.

'As previously mentioned by staff, the town has valid concerns about signs with rotating, flashing, moving, or alternating lights. However, it may be worth revisiting the possibility of allowing digital signs exclusively for fuel price displays. Although we cannot specify that the display area is solely for gas price digits, we have proposed a set of narrow restrictions, expecting that they will primarily be used for fuel pricing. With the recommended supplemental standards, staff believes the proposal is generally consistent with the Town's adopted Comprehensive Plan, however Policy LU-19 does state that the Town will not permit signs that are digital.

'POLICY CONSIDERATIONS

LU-1 – Ensure that the character of Nags Head is preserved as a single-family residential beach community with ties to its natural environment. This character is defined by:

- A visible dark sky night maintained by lighting that is minimal and carefully designed.
- Commercial development that serves the needs of residents and visitors but respects the goals of the community related to design and appearance.

'LU-16 – Preserve the dark sky night through implementation and enforcement of quality lighting fixtures and codes, dark sky education, and citizen support.

'LU-18 – Encourage signage designed to serve the needs of residents and visitors but respects the goals of the community related to design and appearance.

'LU-18a – Develop appropriate freestanding sign standards based on the desired character of each area, particularly along roadway corridors.

'LU-18b – Ensure that future revisions to signage regulation remain content neutral.

'LU-19 – Support signage that provides adequate communication but does not dominate the landscape. The town will not permit signs or attention getting devices that flash, spin, rotate, blink, or are digital. Signs shall not be directed to or face the ocean beach or sound waters.

'PLANNING BOARD RECOMMENDATION

At their April 16, 2024, meeting the Planning Board voted 5-1 to recommend adoption of the text amendment as proposed and requested that staff provide additional restriction on lighting levels for the digital characters. Gary Ferguson cast the Nay vote stating a concern that if gas stations are allowed to have digital signs other businesses will likely follow.

'Following their request for additional information concerning lighting levels for the digital characters, staff prepared and presented a presentation to the Planning Board at their May 21, 2024 meeting. Staff outlined how most jurisdictions regulate LED digital sign brightness/illuminance using units of measurements called "footcandles" or "nits".

'A footcandle is a measure of illuminance onto a surface, whereas a nit measures illuminance from a luminous source, perpendicular to the rays of the source. While a nit is the scientific manner of measuring light energy being emitted from an internally illuminated sign, it does not factor into ambient light and how the human eye

sees illuminance from a point at a certain distance. For this reason, measuring illuminance by footcandles is typically the more restrictive and preferred by regulatory agencies. Staff relied heavily on a document produced by the Outdoor Advertising Association of America (OAAA) and has included this for the Board's consideration.

'The Outdoor Advertising Association of America recommends that digital signs not exceed 0.3 footcandles above ambient lighting as a standard. At their May 21, 2024 meeting the Planning Board voted 5 – 1 to include this language as a regulatory measure regarding increased illuminance from the digital characters themselves. To apply this, any fueling station wishing to install LED Digital characters will be required to coordinate with staff to conduct illuminance measurements at specific times of the day, under various daytime and nighttime conditions with the digital display off to record the ambient light as a baseline measurement of the surrounding light without the digital signs influence. When the digital display is then turned on, staff will need to conduct the same illuminance measurements at the same or similar times of the day, under the same or similar conditions to ensure that illuminance levels are no greater than 0.3 footcandles higher at the same fixed locations.

'Additionally, staff would note that any fueling station must adhere to the minimum and maximum photometric requirements as already set forth in Section 10.37 of the UDO, Parking Lot Lighting Standards with a maximum maintained footcandle of 10.0 fc and a minimum footcandle of 0.7 fc.

'STAFF ANALYSIS & RECOMMENDATION

The Town of Nags Head has long expressed legitimate concerns regarding any type of digital, led signage that employs rotating, flashing, moving, or alternating lighting. Should the Board of Commissioners desire to revisit or reconsider the allowance of digital signs for fuel price displays only, staff would submit that with proposed content-neutral regulations regarding the size, number of characters, frequency of rotation, and brightness, the proposed amendment is likely consistent with the Town's adopted Comprehensive Plan.

'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."

Applicant Michael Harrell of Jernigan Oil Company spoke; he thanked the Board for consideration of the ordinance; he expressed his appreciation of Ms. Wyatt and staff's research on this issue; he wants the change because of numerous issues with manually changing the signage displaying gasoline prices.

There being no one else present who wished to speak, Attorney Leidy concluded the Public Hearing at 10:07 a.m.

MOTION: Comr. Brinkley made a motion to adopt the ordinance to allow LED, digital displays for fueling stations 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 "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 June 5th, 2024.

'Monthly Activity Report

Attached for the Board's review is the Planning and Development Monthly Report for March 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:

- Wednesday, May 1st - Board of Commissioners Meeting
- Tuesday, May 7th – Technical Review Committee Meeting
- Wednesday, May 8th – Committee for Art and Culture Meeting
- Thursday, May 9th – Board of Adjustment Meeting (no hearings)
- Saturday, May 11th – Artrageous Kids Art Festival 10am – 2pm @ Dowdy Park
- Wednesday, May 15th – Board of Commissioners mid-month meeting
- Tuesday, May 21st – Planning Board Meeting
- Friday, May 24th – Multi-Family Housing Working Group Meeting

'Planning Board - Pending Applications and Discussions

The Planning Board's most recent meeting was held on Tuesday, May 21, 2024. There were no action items for consideration. As previously requested by the Planning Board, staff provided a brief presentation on the lighting associated with LED, digital displays, and mechanisms to measure the illuminance of digital characters while taking into consideration ambient light (lighting from other nearby sources). Additionally, staff provided information on the Community Rating System (CRS) Program and discussion of the upcoming verification visit.

'The Planning Board's next meeting is scheduled for Tuesday, June 18th, 2024. Currently, the agenda is expected to include consideration of a Site Plan Amendment (3rd Submittal) for Inn at Whalebone, 87-unit Hotel on Lakeside Street for major deviations to the site plan as well as a request to consider amending or eliminating a condition imposed on the previous Site Plan Approval as it pertains to the expansion of W. Lakeside Street.

'Board of Adjustment – Recent and Pending Applications

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

'Additional Updates

- DWMP/Septic Health Advisory Committee – The proposed amendments to the Unified Development Ordinance prohibiting parking on septic areas, which was generated by discussions held by the SHAC, will be on the Board of Commissioners agenda for Public Hearing at their June 5, 2024 meeting. Continuing the implementation of the recommendations of the Decentralized Wastewater Management Plan, staff are in the process of purchasing four (4) additional water quality monitoring loggers and a GPS unit to begin recording and mapping locations of existing septic systems within the town. The next meeting of the Septic Health Advisory Committee will be held in July 2024.

- Estuarine Shoreline Management Plan – Staff has prepared a pre-proposal for a grant from the National Fish and Wildlife Foundations National Coastal Resilience Fund. This grant is for the design of the Villa Dunes and Soundside Road pilot sites. We are waiting to find out if we will be invited to submit a full proposal. Additionally, staff recently submitted a grant request for NC Resilient Coastal Communities Program (RCCP) 2024-25 application, Phase 3 for a living shoreline project.

- Electric Vehicle Action Plan – Public Services staff were able to locate and mark the outer periphery of the geothermal lines and wells along the southern portion of the parking area at Town Hall. Staff met with Daniel

Parsons of LoWire Technologies and will move forward with verifying the depth of the geothermal lines before continuing with the installation of the two-Level II EV Chargers.

- Sand Relocation and Dune Management Cost Share Program – Following the close of the Sand Relocation program on April 30, 2024, we issued a total of 131 relocation authorization letters. As of May 29, 2024, \$385,000 of the \$400,000 allocated to the Dune Management Cost Share Program has been used. Environmental Planner Conner Twiddy and Code Enforcement Officer Ed Snyder have conducted final inspections of all sand relocation projects this season, identifying only a few sites that require further attention. We are currently awaiting the necessary paperwork from 55 citizens, who were approved for the Dune Management Cost Share funds, to process their reimbursements before the end of June.

- Public Beach and Coastal Waterfront Access Grant Program – Staff has been informed that the pre-application to the NC Public Beach and Coastal Waterfront Access Program has been selected to submit a Final Application for improvements to the June Street Beach Access. The deadline for final application submission is August 2nd, 2024. Item E-8 on Board of Commissioners June 5th meeting Consent Agenda is a Request for Public Hearing to consider the Final Grant Application.

- Outer Banks Regional Hazard Mitigation Plan Update – The Hazard Mitigation Planning Committee, comprised of representatives from Dare County EM, Dare County staff, staff from each town and members of the public from each community are in the process of updating the Outer Banks Regional Hazard Mitigation Plan.

As part of the Town's continued participation in the Community Rating System ("CRS") Program, the Town is required to provide updates on the actions contained in the Hazard Mitigation Plan. Staff has provided a memo and spreadsheet outlining updates to the action plan for the Board of Commissioners review. Staff is providing this to the Board of Commissioners and the community for informational purposes.

- Dowdy Park Events/Farmers Market/Holiday Markets/Art & Culture – Summertime events are starting up. For the month of June, the Town will be hosting the following:

- Yoga on the Lawn, Tuesday mornings 7:30 – 8:30am all month long.
- Fitness Fridays, Friday mornings 7:30 – 8:15am, beginning June 21st.

- Summer Concert Series, Wednesday evenings 6:30 – 8:00pm.

- Black Pearl on June 19th – local band
- Uphill on June 26th – local band

- Dowdy Park Farmers Markets, Thursdays 9am – 1pm: June 13th, 20th & 27th.

- Movie at the Park, Friday June 7th at 8:00pm at Dowdy Park.

Event Coordinator Paige Griffin will be releasing the vendor map for the upcoming Dowdy Park Farmers Markets soon, and notes that there has been a great response to Tuesday morning Yoga. Art & Culture Committee Member Molly Vaughan is coordinating with the Manteo High School Honors Art students for a crosswalk art project after the summer season. Below are two sketches of potential designs:

Upcoming Meetings and Other Dates

- Tuesday, June 4th – Technical Review Committee Meeting (Inn at Whalebone)
- Wednesday, June 5th - Board of Commissioners Meeting
- Thursday, June 6th – CRS Users Group Meeting, Elevation Certificate Training
- Wednesday, June 12th – Committee for Art and Culture Meeting
- Wednesday, June 12th – Eastern Carolina Council Resource Roundtable
- Thursday, June 13th – Board of Adjustment Meeting (no hearings)
- Tuesday, June 18th – Planning Board Meeting
- Wednesday, June 19th – Board of Commissioners mid-month meeting

- Dowdy Park Farmers Market – Thursday, June 13th, 20th, and 27th.
- Dowdy Park Summer Concert Series – Wednesday, June 19th and June 26th”

Board members thanked Ms. Wyatt for her and her staff’s hard work.

OLD BUSINESS/ITEMS TABLED FROM PREVIOUS MEETINGS

From March 6th Board meeting – Report from Multi-Family Ordinance Working Group

Town Manager Andy Garman summarized his memo which read in part as follows:

“At the Board’s March regular meeting, the Board requested that the Town establish a working group to review and make recommendations on a draft Multi-Family Housing Ordinance. This ordinance was originally drafted by the Planning Board and a public hearing was held in February.

‘The charge for the working group is 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.

‘Over the course of four meetings, the working group has now developed a recommendation for review by the Board of Commissioners. This includes changes to the ordinance drafted by the Planning Board as well as several other suggestions. Information about the working group including agendas and minutes from its meetings can be found here: <https://www.nagsheadnc.gov/1108/Multi-Family-Working-Group>.

‘At the upcoming meeting, staff will present the recommendations from the working group. Attached is a copy of a draft multi-family housing ordinance which includes the original Planning Board recommendation as well as modifications proposed by the working group. Where the Multi-Family Housing Working Group recommended different ordinance language than the Planning Board, staff has color coded the language as follows:

- Multi-Family Housing Working Group Recommended language is shown in RED.
- Planning Board Recommended language is shown in BLUE.
- Proposed language that is unchanged is shown in regular black type.

‘It should be noted that the ordinance will need to be reviewed by the Planning Board before it comes back to the Board of Commissioners for a public hearing and adoption.”

Manager Garman’s slides are attached to and made a part of these minutes as shown in Addendum “F”.

Board members provided their comments:

Comr. Brinkley reported that the working group had enlightening conversations and every member brought something to the table - he appreciated participation by the diverse group of members. The proposed ordinance

has not sold the Town out on its values; what is presented allows some room for the developer to do some workforce housing.

Comr. Lambert thanked staff as well as the Planning Board; she is looking forward to the Planning Board's review of the ordinance.

Comr. Sanders questioned the recommendation of allowing a 500 square foot unit; Manager Garman stated that the working group looked at what has been developed in various communities/cities such as Raleigh for workforce housing; it was agreed that allowing smaller units is commonplace and will help reduce development costs which should improve the likelihood of a project.

Mayor Cahoon agreed that 500 square foot is feasible; 400 square foot is very tight/cramped. This process with the working group has worked – he thanked everyone for their work on this project; he feels that this is Nags Head's best offer; it's a good offer and is consistent with the Town's vision and interest in doing something for workforce housing.

Mayor Pro Tem Siers felt that the proposed ordinance is a good combination.

It was Board consensus to move forward to the Planning Board with the proposed Multi-Family Work Force Housing ordinance as presented.

NEW BUSINESS

Committee Reports

Comr. Brinkley – Jennette's Pier Advisory Committee met last week; 7,500 students from 88 field trips have visited the park so far this spring; a full time Wildlife Stranding Director is now on staff; Wildlife friendly lighting is to be installed within the next month; The Research Building at the end of the pier is getting a new roof to allow for additional research equipment; a new deck is in the design phase; Wind turbines possibly in six months.

Mayor Pro Tem Siers – The second meeting of the Dare County Workforce Housing Task Force is this Friday; in response to Mayor Cahoon, Mayor Pro Tem Siers said that the Event Site Soundside boardwalk is in a new design phase.

Comr. Lambert – nothing new from the Government Access Channel Committee; Mayor Cahoon mentioned that this committee continues to produce high quality work.

Consideration of Disaster Debris Removal and Monitoring Contract Renewals

Town Engineer David Ryan summarized his agenda summary sheet which read in part as follows:

"Annually, the Town enters into pre-positioned agreements for Disaster Debris Removal Services in addition to Debris Monitoring Services. Existing agreements are active for DRC Emergency Services for debris removal services and with DebrisTech, LLC for debris monitoring services. Each of the agreements is for an initial one-year term with the option to extend the agreement annually for up to a three-year period. The DRC Emergency Services agreement has been providing services for the past 2 years with the DebrisTech, LLC completing its first year of services.

'Services by each of the providers have been found to be satisfactory.

'Staff recommends renewal of the DRC Emergency Services and DebrisTech, LLC agreements for FY 24/25. No changes in the terms of the agreement are proposed. If the Board of Commissioners is in agreement with the staff recommendation, a motion will be in order to authorize the Town Manager to execute the renewal agreement with DRC Emergency Services for debris removal services and with DebrisTech, LLC for debris monitoring services."

MOTION: Comr. Brinkley made a motion to approve the renewal agreements for Disaster Debris Removal and Monitoring as presented. The motion was seconded by Mayor Pro Tem Siers. Mayor Cahoon accepted an amendment to the motion to authorize the Town Manager to execute the renewal agreements with DRC Emergency Services and with DebrisTech, LLC.

CONTINUATION OF MOTION: The motion, as amended, passed unanimously.

ITEMS REFERRED TO AND PRESENTATIONS FROM TOWN MANAGER

Town Manager Garman - Update on construction of the Public Services Facility

Town Engineer David Ryan summarized the latest on the new Public Services Facility: he thanked Police Officer Greg South for providing drone photos displaying the overall progress on the administration site this past month. This site will be where the ribbon cutting takes place later today.

The Water Distribution building is next up to be occupied and is expected the week of June 17th.

Town Manager Garman - Discussion of process for neighborhoods to request traffic calming devices

Town Engineer David Ryan summarized his agenda summary sheet which read in part as follows:

"Over the recent months, Town staff has received numerous requests for the implementation of traffic calming devices in several of the west side neighborhoods. The traffic calming measures placed on Soundside Rd. are often cited as the preferred measure to be adapted for the requested locations.

'Prior to the implementation of the Soundside Rd., several different actions were taken to include meetings with neighborhood stakeholders in conjunction with an engineering traffic study to determine the speed and volume of vehicular traffic along the area of concern and the appropriateness of traffic calming measures. Considering the steps taken in the process, it may be beneficial to adapt a similar strategy for current and future requests.

'For discussion purposes, staff has prepared a conceptual level flowchart of a traffic calming process that combines past practices with strategies employed by other North Carolina communities.

'Staff will provide supplemental information related to managing traffic calming requests and welcomes Board of Commissioners feedback for the development of a more formalized process."

Engineer Ryan presented an overview of a framework for traffic calming measures based on what other municipalities have done. He requested Board direction. He presented the slides which are attached to and made a part of these minutes as shown in Addendum "G".

Comr. Lambert agreed to the process and would like to see it move forward.

Mayor Pro Tem Siers said that he would tend to listen to staff on this issue.

Comr. Brinkley said that he doesn't feel you can strictly use data - community input is needed; there could be a different path to follow if just relying on data; if the community supports it, all Town streets should be included but he questioned how would community support be gauged in that respect; he thanked staff for all the information provided.

Comr. Sanders agreed with comments made by Board members and liked the direction provided by staff.

Mayor Cahoon provided his comments stating that he feels the measures should apply to all Town streets; speed signs do help slow people down and he likes the feedback provided from them; he would like to see more electronics being used than speed cushions. He stated that there is a small median pavement lane in an old neighborhood in Durham which is very effective and more decorative than speed cushions. It has to be verified that trash trucks, emergency vehicles, etc. can get around them; he would like to see this type of lane tried out in one of our neighborhoods to see the response.

Engineer Ryan agreed with Mayor Cahoon stating that while there are some limitations in the Town, he would like to explore the functionality of a small median pavement lane which would be more esthetically pleasing.

Town Manager Garman - Update on 2024 Town Fireworks display

Deputy Fire Chief Shane Hite summarized the upcoming 2024 Town Fireworks display; Zambelli is again conducting the fireworks scheduled for July 4th at 9:25 p.m. at the Nags Head Fishing Pier. They are expected to last around 20 minutes. The rain date is July 5th at the same time.

BOARD OF COMMISSIONERS AGENDA

Comr. Bob Sanders – Consideration of donation to Jockey's Ridge State Park 50th Anniversary Celebration - Consideration of proposed Budget Amendment

Comr. Sanders is a member of the Jockey's Ridge State Park's 50th Anniversary Committee; he asked the Board for consideration of a donation to the 50th Anniversary events which are scheduled to take place June 5 – 8, 2025. He noted that a budget amendment (while less than \$15,000) would authorize a donation of \$15,000 for the events.

Mayor Cahoon said that it is relevant to note that the Town has a long history of supporting Jockey's Ridge State Park going back to the beginning of the park and the Town has made contributions to the Park in the past.

MOTION: Comr. Brinkley made a motion to authorize a \$15,000 contribution to the Jockey's Ridge State Park 50th Anniversary celebration and to approve the Budget Amendment as presented. The motion was seconded by Comr. Lambert which passed unanimously.

Comr. Sanders said that the committee is meeting this afternoon and he will be happy to report on today's Board actions.

