



**TOWN OF NAGS HEAD
BOC ACTIONS
December 1, 2010**

1. Call to order - Mayor Oakes called the meeting to order at 9:00 a.m.
2. Recognition - Mayor Oakes recognized Dare Co Chair Warren Judge and Comr Max Dutton in the audience.
3. Adoption of Agenda – The Board passed a motion to adopt the agenda with the item re: fuel pump protection removed for discussion.
4. Audience Response – No one spoke during Audience Response.
5. EOY - The nominees for Employee of the Year were recognized by the Board: Becky Huff, Kelly Wyatt, David Fronius, Chase Tadlock, and Chad Motz; Becky Huff was awarded Earl Murray, Jr. Employee of the Year.
6. Recognition - Public Works Office Manager Karen Heagy, Firefighter/EMT Richard Gibbons, Firefighter/EMT Andy Rullman, and Firefighter/EMT Philip Wolfe were recognized for years of service.
7. Consent Agenda – The Board passed a motion approving the Consent Agenda with the removal of the fuel pump protection agenda item.
8. Public Hearing (Sonic site plan amendment) – The Board passed a motion to table the site plan amendment for Sonic Restaurant until the violations have been cleared up/fees paid. Fines amounted to \$650; the motion to table passed 3 – 2 with Mayor Oakes/Comr. Remaley casting NO votes.
9. Public Hearing (Ice vending structure in retail shopping center) – The Board passed a motion to deny the text amendment to allow ice vending structures as an accessory use to retail shopping centers.
10. Public Hearing (Reduced Parking for retail uses) – The Board passed a motion to approve the Planning Board version of the zoning text amendment.
11. Public Hearing (Porous paving) – It was Board consensus to direct staff to bring back a modified ordinance removing the requirement for a maintenance and monitoring agreement for porous paving residential uses – keeping it for commercial uses – and to allow porous concrete but not porous asphalt.
12. Public Hearing (HVAC stand setbacks) – The Board passed a motion to adopt the ordinance amendment modifying the accessory structure setbacks for the replacement of residential HVAC stands as presented.
13. Public Hearing (PARTF grant for Whalebone Park site amenities) – The Board passed a motion to authorize staff to proceed with the PARTF grant application to build amenities at the Whalebone Park site.
14. Land Use Plan – The Board passed a motion to adopt the Land Use Plan with the additions/corrections noted in the recent Board/Planning Board workshop and to adopt the resolution in support of the Plan.

15. Recreation Committee - Board members spoke in favor of a diverse group of Recreation Committee members. Staff is to advertise for volunteers and bring back for discussion at the Board's February 2011 meeting.

16. Recess for lunch - The Board recessed for lunch at 11:50 a.m. and reconvened at 1:30 p.m.

17. Sonic Restaurant (continuation) – The Board passed a motion to revive consideration of the Sonic Restaurant issue – discussed earlier in today's meeting but tabled until the associated NOV fees have been paid – The associated fees were paid during today's meeting. The Board approved the site plan amendment from Sonic with the following three (3) staff recommendations:

- Provide staff with a copy of the NCDOT Encroachment Agreement.
- Replacement plantings shall meet the mature planting height of at least five (5) feet.
- Any sand removed during the proposed re-grading must remain within the Village at Nags Head and those areas where sand is to be placed must be identified.

In addition, vegetation that was removed in the right-of-way is to be replaced; the project is to be completed by May 1, 2011. The motion passed 3 – 2 with Mayor Oakes and Comr. Cahoon casting the NO votes.

18. Beach Nourishment Project

Award of Benthic Monitoring Project Bid – Awarded to CZR of Wilmington, NC

Beach Nourishment Maintenance Plan - Staff was directed to draw up a Beach Nourishment Project Maintenance Plan to include renourishment of the beach at six (6) years - unless 50% or more of the initial nourishment sand remains on the beach in which case renourishment would start when 50% or more is gone. In addition, it was Board consensus to utilize special assessments and occupancy taxes to fund the renourishment. A draft of the Beach Nourishment Project Maintenance/Financing Plan will be forwarded to FEMA for their review/blessing.

Resolution in support of Town participation in Special Assessment Process – Resolution adopted with a 4 – 1 vote with Mayor Pro Tem Gray casting the NO vote.

Beach Nourishment oceanfront easement – The easement clearly indicates the Town's opposition to any restrictions to public/private access to the beach. It was Board consensus that the easement is acceptable - and to mail the easement to special assessment oceanfront property owners after the first of the year – beginning in January 2011.

Coastal Science & Engineering contract - Discussion of CS&E contract to take place at the January meeting.

19. Fuel pump protection (removed from Consent Agenda) - It was Board consensus that Public Works research other firms that may be able to provide same protection at cheaper cost – for return at the January mtg.

20. Committee reports

Comr. Remaley – The Government Access Channel Committee meets on Tuesday, December 14th.

Comr. Sadler – Updated the Board on the Town 50th Anniversary Committee discussions.

Comr. Sadler – DCTB is working on Windmill Point site MOU - expected to be ready for re-review in January 2011.

Comr. Sadler – DCTB to discuss allowing events to take place at the Windmill Point site.

Mayor Pro Tem Gray – Updated the Board on Britthaven discussions – some answers expected by January 2011.

Mayor Oakes – Attended sandbag stakeholder meeting recently - in conjunction with a CRC meeting; the State is prioritizing sandbag enforcement for those in the public trust area and uncovered; Comr. Cahoon also attended and stated that sandbag NOV's are being sent out again and most will be sent to South Nags Head. Sandbags that are ripped, uncovered, and under houses that have been declared nuisances are priorities.

21. Town Attorney John Leidy

Consideration of Code of Ethics Resolution – The Board adopted the Code of Ethics Resolution as presented.

Beach insurance litigation – The Board passed a motion to authorize the Town's participation in funding (in the amount of \$2,000) for future appeals to the NC Dept of Insurance for beach insurance litigation.

Personnel Records Statute – Town Attorney Leidy updated the Board on the Attorney General’s opinion on recent amendments to personnel records statute.

22. Town Manager Cliff Ogburn

New Police Officer at Outer Banks Hospital - Police Chief Brinkley reported that he attended today the swearing in of Police Officer Lt Craig Gariss (retired State Trooper) for the Outer Banks Hospital.

Repaving of Highway NC 12 - February 13, 2011 is the start date for the DOT project to repave NC 12. It is anticipated that the road will be closed approximately three (3) weeks - travel will be detoured to SR 1243.

NC Dominion Power routine vegetation maintenance - NC Dominion Power will soon begin the routine vegetation maintenance cycle of clearing/cutting in the right-of-way.

Thank you to Town Staff - Thanked staff for their hard work during the especially busy month of November.

Request for Closed Session - Requested a Closed Session to discuss possible acquisition of real property.

23. Mayor Pro Tem Gray - Mayor Pro Tem Gray thanked Zoning Administrator Kelly Wyatt who has been with the Town for five (5) years and he appreciates all her efforts.

24. Mayor Pro Tem Gray - Mayor Pro Tem Gray said that he would be bringing forward under his agenda at the next Board meeting a policy that would prevent applications from being considered until all NOV’s have been paid.

25. Comr. Cahoon – At the recent NCBIWA Conference a representative from the NFIP program spoke – staff is to draft comments on the NFIP concerning the lack of federal funds and nuisance structures for submittal.

26. Comr. Cahoon – Staff is to review the upcoming CAMA updates to the Land Use Plan.

27. Comr. Cahoon - Governor Perdue issued Executive Order 70 – Rules Modification and Improvement Program – the Order prohibits rules/regulations that cannot be enforced or are onerous.

28. Comr. Sadler – Staff is to look at a different thought process for and to clearly define differences between buffering and landscaping plantings. Proposal is to be presented at the February 2011 Board meeting.

29. Comr. Sadler – Now is the time to start looking into parking requirements for event centers – she suggested that staff look into Wilmington and other cities that have event centers.

30. Comr. Sadler - Comr. Sadler read from a resolution recently adopted by Dare County entitled Resolution In Opposition Of Catch Share Programs. Staff is to prepare a similar resolution for Board consideration.

31. Comr. Sadler - Comr. Sadler thanked three Town residents: Dick Murphy, John Ratzenberger, and Marvin Demers for trying to bring the facts of the Beach Nourishment Project to those in the Special Assessment area.

32. Comr. Remaley – A market adjustment was approved for each Town employee in the net amount of \$75.

33. Mayor Oakes – The Mayor was authorized to sign a letter to NC Dominion Power indicating that the Town will not be adopting a resolution opposing a rate increase as it actually means decreased bills for res customers.

34. Closed Session – The Board passed a motion to enter Closed Session to discuss the acquisition of real property – Carolinian Colony Lot 36R – in accordance with GS 143-318.11(a)(5). The time was 4:47 p.m.

35. Open Session - The Board re-entered Open Session at 5:00 p.m. Town Attorney Leidy reported that during Closed Session the Board discussed/gave direction to the Manager concerning real property acquisition.

- 36.** Comr. Remaley - Comr. Remaley will be out of Town and unable to attend the January Board meeting.
- 37.** Adjournment – The Board passed a motion to adjourn – The time was 5:02 p.m.