



**MINUTES
TOWN OF NAGS HEAD
BOARD OF COMMISSIONERS
REGULAR MEETING
WEDNESDAY, JUNE 7, 2023**

The Nags Head Board of Commissioners met in person at the Board Room located at 5401 S Croatan Highway, Nags Head, North Carolina on Wednesday, June 7, 2023 at 9:00 a.m. for a Regular Meeting.

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

Board members Absent: None

Others present: Town Manager Andy Garman; Attorney John Leidy; Kelly Wyatt; Kate Jones; Amy Miller; David Ryan; Perry Hale; Shane Hite; Michelle Gray; Roberta Thuman; Lyle Coutts; Joseph Tatterson; Kevin Nelson; JC Mitchell; Anna Sadler; Bob Muller; John Ratzenberger; Buster Nunemaker; Kathy Clarkin; Mike Clarkin; Sandra Austin; Debbie Austin; Billy Moseley; Lauren Nelson; Ann Cabell-Baum; and Town Clerk Carolyn F. Morris

CALL TO ORDER

Mayor Cahoon called the meeting to order at 9 am. Mayor Cahoon recognized former Nags Head Commissioners Anna Sadler, John Ratzenberger, and Buster Nunemaker, as well as former Nags Head Mayor Bob Muller. A moment of silent meditation was followed by the Pledge of Allegiance.

ADOPTION OF AGENDA

MOTION: Comr. Brinkley made a motion to approve the June 7th agenda as presented. The motion was seconded by Mayor Pro Tem Siers which passed unanimously.

RECOGNITION

INTRODUCTION OF LIFEGUARDS

Ocean Rescue Director Chad Motz introduced the lifeguards for the 2023 summer season via a video where each lifeguard introduced themselves. The introductions were well received and the Board wished them well during the upcoming summer season.

INTRODUCTION OF NEW EMPLOYEES

Police Chief Perry Hale introduced new Police Officers, Lyle Coutts and Joseph M Tatterson, who were welcomed by the Board to Town employment.

Public Services Director Nancy Carawan introduced new employee Water Distribution Technician Kevin Nelson who was welcomed by the Board to Town employment.

PRESENTATION – Lifesaving Award for Police Officer JC Mitchell

Police Chief Perry Hale introduced Police Officer JC Mitchell who recently responded to the Outlets Mall involving an unconscious male in the parking lot. Officer Mitchell used the Automated External Defibrillator (AED) and continued lifesaving efforts until Dare County EMS arrived. Officer Mitchell signifies the best in his field; on behalf of the Board, Mayor Cahoon presented the Lifesaving Award to Officer Mitchell.

PRESENTATION – 2023 Town Lightkeeper and Nags Header Awards

Mayor Cahoon introduced the Town Lightkeeper award and its background – the award is given to someone who made significant contributions to the Town through their time and actions which ultimately elevated the profile of Nags Head. On behalf of the Board, Mayor Cahoon presented the Lightkeeper Lantern to Austin Seafood business owner, Sandra Austin.

Mayor Cahoon introduced the Nags Header Award and its background – This award honors Dick and Jo Fessler because of both the personal and public lives they led. On behalf of the Board, Mayor Cahoon presented the Nags Header Award to Dick and Jo Fessler’s daughter Kathy Clarkin.

PUBLIC COMMENT

Attorney Leidy opened Public Comment.

PUBLIC COMMENT – BUSTER NUNEMAKER

Buster Nunemaker, Nags Head resident, he thanked the commissioners and Town Manager Andy Garman for repaving the streets in Nags Head Acres; it looks great and was desperately needed.

PUBLIC COMMENT – BILLY MOSELEY

Billy Moseley, with Lauren Nelson and Ann Cabell-Baum - members of the Friends of Jockey’s Ridge, a nonprofit group that supports and protects Jockey’s Ridge; there is a new initiative taking place – they are in the process of campaigning for a North Carolina specialty license plate for Jockey’s Ridge State Park – this new initiative features the park with a stunning sunset image created by photographer Ray Matthews and promotes the Park and the Town of Nags Head; you can apply on the Jockey’s Ridge website for the plate; 500 applications are needed before NCDOT will release these specialty tags; the program will generate fund raising and some of the proceeds will go back into the park. Board members spoke highly of the plate and wished them well in their campaign.

There being no one else present who wanted to speak, Attorney Leidy concluded Public Comment at 9:30 a.m.

CONSENT AGENDA

The Consent Agenda consisted of the following items:

- Consideration of Budget Amendment #15 to FY 22/23 Budget
- Consideration of Tax Adjustment Report

Approval of minutes
Annual write-off of uncollectible water accounts
Consideration of amendment to Town Code Sec 44-35 to rename "Cut-off Tag fee" for consistency

Request for Public Hearing to consider text amendments to Section 11.10 of the Unified Development Ordinance as it pertains to dewatering activities such as the installation of inground pools

Request for Public Hearing to consider text amendments to the Unified Development Ordinance as it pertains to the "Restaurant, Drive Through" use as a permissible use within Commercial Mixed-Use Developments, as well as amending the supplemental regulations associated with this use

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

Budget Adjustment #15, 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".

Information pertaining to uncollectible water accounts, as approved, read in part as follows:

"At this time, there are no uncollectible accounts with balances greater than \$50.00 that require Board approval. Only one account, as listed below, is \$50.00 or less, totaling \$.27, that will be written off.

'In the past 12 months (5/26/22 - 5/25/23) the total water utility sales was \$3,717,846.67. The Town currently has just over 5,000 active water meters.

'TOWN OF NAGS HEAD FISCAL YEAR 2022-2023 - BAD DEBT/WRITE-OFFS OF LESS THAN \$50.00

<u>NAME</u>	<u>ACCOUNT NUMBER</u>	<u>AMOUNT</u>	<u>DESCRIPTION</u>
AMANDA J. BELL	6902009010	\$0.27	FINAL BILL <\$1.00

*In accordance with Town Policy,
every effort is made to collect
on account balances >\$1.00"*

The memo re: Town Code Sec 44-35 pertaining to "cut-off tag fee", as adopted, read in part as follows:

"The proposed ordinance amending Town Code Chapter 44 UTILITIES to delete Town Code Sec 44-34 "Cut-on fee" and to rename *tag fee* as *non-payment fee* in Sec 44-35 "Payment of bills" is attached.

'These housekeeping items are provided for Board consideration at the June 7th Board of Commissioners meeting. Additional details follow:

'Sec. 44-34. Cut-on fee – The Cut-on fee noted in this section is not being implemented. Customers pay deposits at the beginning of their water service which they get back when leaving the Town's water service if their account is in good standing. Request Sec. 44-34 be deleted.

'Sec. 44-35. Payment of bills – Currently, when a bill is not paid and water service is cut off, a "tag fee" is added to the account – "tag fee" is associated with a "tag" being placed on the meter. For consistency and better

practices, and pursuant to discussions with the School of Government, staff is requesting that instead of "tag fee", it be renamed a "non-payment fee".

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

The Request for Public Hearing pertaining to in-ground pools, as approved, read in part as follows:

"A recent development project within the town, involving the need to de-water/pump ground water out and away from the area being excavated for the installation of an in-ground pool within an area of elevated ground water has highlighted the need for staff to revisit the ordinance language of Section 11.10 of the UDO to ensure that the intent of the ordinance is being met. In addition to drafting a set of internal protocols for future permitting of in-ground pools and other development activity associated with excavation in areas of elevated ground water levels, staff has proposed some minor revisions to the existing language which would eliminate the ability to discharge or de-water of any kind onto an adjoining property, including any approved residential or commercial stormwater management measure. The updated Decentralized Wastewater Management Plan and the associated data sets are a valuable resource for guiding staff and assisting in evaluating permitting conditions with regards to ground water levels.

'Planning Board Recommendation

At their May 16, 2023 meeting, the Planning Board voted unanimously to recommend adoption of the proposed text amendment as presented."

The Request for Public Hearing pertaining to restaurant drive-throughs, as approved, read in part as follows:

"Attorney Robert Hornik, Jr. of the Brough Law Firm has submitted a text amendment request on behalf of SRE Mustang, LLC (Outlets Nags Head), which if adopted, would amend the Unified Development Ordinance to include the use of "Restaurant, Drive-Through" as a permissible use within Commercial Mixed-Use Developments and would amend the supplemental regulations associated with drive-through restaurants within the Town.

'Staff and Planning Board Recommendation

As referenced throughout the 2017 Comprehensive Land Use Plan, the Town of Nags Head generally has concerns with the development of drive-through restaurants to include their appropriateness within various character areas within the town, including the US 158 corridor. While a drive-through restaurant designed in conjunction with the development of a new mixed-use development would have significant staff input from the onset, staff submits that numerous concerns may arise as a result of proposing a new drive-through restaurant as part of an existing mixed-use development. These concerns include, but are not limited to, conflicts with internal traffic circulation, potential reduction of necessary parking spaces, potential vehicular backups and drive aisle conflicts and public safety concerns such as obstruction of emergency vehicle and fire lane access. For those reasons, staff recommends denial of the proposed text amendment to the UDO as presented.

'At their May 16, 2023 meeting the Planning Board voted unanimously to recommend denial of the text amendment as proposed."

PUBLIC HEARINGS

Public Hearing to consider citizen comment on the Town Manager's proposed operating budget for July 1, 2023 – June 30, 2024, proposed CIP requests for FY 23/24 through FY 27/28, and updated Consolidated Fee Schedule

Consideration of adoption of:

- a. Pay Plan / Career Progression Plans
- b. Organizational Chart
- c. Capital Improvement Program (CIP) requests
- d. Consolidated Fee Schedule
- e. FY 23/24 Budget Ordinance

Attorney John Leidy introduced the Public Hearing to consider citizen comment on the proposed FY 23/24 Budget; the time was 9:40 a.m.

The agenda summary sheet read in part as follows:

"At the May 3rd Board of Commissioners meeting, Town Manager Andy Garman presented highlights of his recommended FY 23/24 Budget. At that time the proposed budget was distributed to Board members. A Public Hearing was subsequently scheduled for the June 7th Board meeting; A Budget Workshop was held on May 17th. A memo is attached which explains the changes to the recommended budget as a result of the workshop held on May 17, 2023. For reference, a link to the recommended budget presented on May 3, 2023 can be found [here](#).

"If and when the Board decides to approve the budget, the following documents should be adopted:

- a. Pay Plan / Career Progression Plans
- b. Organizational Chart
- c. Capital Improvement Program (CIP) requests
- d. Consolidated Fee Schedule
- e. Changes from Manager's Recommended Budget
- f. FY 23/24 Budget Ordinance"

Town Manager Andy Garman identified the budget workshops that have been held. His manager's message proposes a tax increase to include paying for the smart water meter system as well as the new Public Facility construction. There are also significant increases due to inflation. During the budget workshops the Board's comments were incorporated into the manager's proposed budget. He thanked the Board and staff and expressed appreciation for everyone's efforts.

Bob Muller, Nags Head resident, former mayor of Nags Head; he presented a brief powerpoint presentation which requests a bus shelter-type of structure at the cost of approximately \$10,000; the structure would allow dog owners to stay dry in inclement weather while watching their dogs in the park. He thanked the Board for the new benches; the dog park is receiving increased use; he thanked the Board for their consideration of his request.

There being no one else present who wished to speak, Attorney Leidy closed Public Comment at 9:45 a.m.

Comr. Renée Cahoon thanked those that emailed their comments (attached to and made a part of these minutes as shown in Addendum "D") concerning the proposed budget; she suggested waiting until the June mid-month meeting for consideration of budget adoption.

MOTION: Comr. Renée Cahoon made a motion to table consideration of the FY 23/24 Operating Budget and related documents to the June 21st mid-month meeting. The motion was seconded by Comr. Brinkley which passed unanimously.

Public Hearing to consider text amendments to Unified Development Ordinance as it pertains to the supplemental regulations associated with "Fueling Stations" within the Town

Attorney John Leidy introduced the Public Hearing to consider text amendments to the Unified Development Ordinance pertaining to supplemental regulations associated with "Fueling Stations". The time was 9:48 a.m.

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

"As part of the amendments to the Unified Development Ordinance as it relates to the Historic Character Area, the Board of Commissioners adopted revisions to Section 7.20, Supplemental Regulations for Fueling Stations. This adopted amendment applied only to fueling stations located within the C-5, Historic Character Commercial Zoning District. At that time, during their March 15, 2023, mid-month meeting, members of the Board of Commissioners expressed an interest in considering these same regulations be applied to fueling stations throughout the Town. Note that the use of "Fueling Station" is permitted via the Special Use Permit process with supplemental regulations within the C-2, General Commercial Zoning District and the C-5, Historic Character Commercial Zoning District.

'Staff conducted an analysis of the existing fueling stations within the town as part of the Historic Character Area amendments, that information is provided below.

- 7-Eleven at 3643 S. Croatan Highway – 3,142 square feet w/ 4 dispensers.
- Duck Thru at 4201 S. Croatan Highway – 1,200 square feet w/ 4 dispensers.
- Duck Thru at 6322 S. Croatan Highway – 1,056 square feet w/ 4 dispensers.
- Wally's at 7309 SVDT – 1,376 square feet w/ 2 dispensers.
- QP at 7506 SVDT – 1,208 square feet w/ 3 dispensers.
- Sunoco/Valero at 7603 SVDT – 4,292 square feet w/ 3 pumps
(Convenience Store approx. 2,850 square feet, residential above)

'Additionally, as part of the Historic Character Area amendments adopted on March 15th, 2023, definitions for "Convenience Store" and "Fueling Station" were adopted and included below for the Planning Board's consideration.

***Convenience Store** means a retail store that provides the public with a convenient location to purchase a variety of primarily packaged consumable products, generally food, beverages, and other household supplies. A convenience store is often found in conjunction with a fueling station.*

***Fueling Station** means retail place of business operated for the purpose of storing and dispensing motor vehicle fuel to the general public.*

'If adopted, the proposed amendment would extend the application of the supplemental regulations as they are currently applied in the C-5, Historic Character Commercial District, to the C-2, General Commercial Zoning District. This includes limiting the fueling station use to having no more than four (4) fueling dispensers, precluding any new development of a fueling station on a lot that has frontage on NC 12, and, if a convenience store is associated with the fueling station, it cannot exceed 3,500 square feet of habitable building area.

'Staff acknowledges that this language would create a site nonconformity for the existing fueling stations located at 7309 S. Virginia Dare Trail (Wally's) and 3643 S. Croatan Highway (7-Eleven) given their frontage on NC 12, however, should this ordinance be adopted, nothing in this language would preclude these businesses from continuing to operate in their current configuration and design. Furthermore, both site and structure additions or expansions may be permitted so long as the degree of any nonconformity is not increased.

'STAFF & PLANNING BOARD RECOMMENDATION:

Staff submits that the proposed text amendment would ensure that only fueling stations of a specific size, scale, and character could be constructed within the town, noting that fueling stations with larger convenience store area and numerous fueling dispensers do not meet the values and the desired aesthetic of the Town of Nags Head as noted in the Comprehensive Land Use Plan:

- 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:
 - Buildings with a residential scale and appearance with low heights and small footprints that are designed to reflect the heritage of Nags Head.
 - Commercial development that serves the needs of residents and visitors but respects the goals of the community related to design and appearance.

'Based upon the above review staff recommend adoption of the proposed text amendment to the Unified Development Ordinance as presented.

'At their April 18, 2023 meeting the Planning Board voted unanimously to recommend adoption of the text amendment as proposed.

'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 Ms. Wyatt that fueling stations are not allowed as part of mixed use.

There being no one present who wished to speak, Attorney Leidy concluded the Public Hearing at 9:58 a.m.

MOTION: Comr. Brinkley made a motion to adopt the ordinance related to regulations associated with Fueling Stations as presented. The motion was seconded by Comr. Sanders.

Comr. Renée Cahoon confirmed that existing fueling stations are grandfathered in and would not be affected; Comr. Brinkley confirmed that in case of storm damage, existing fueling businesses can be repaired. It was noted that the Board is trying to keep the character of the Town in tact.

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 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 7th, 2023.

'Monthly Activity Report

Attached for the Board's review is the *Planning and Development Monthly Report for April 2023*. 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, May 2nd – Technical Review Committee Meeting
- Wednesday, May 3rd - Board of Commissioners Meeting
- Thursday, May 4th – CRS Users Group Meeting
- Tuesday, May 9th – Planning Department Staff Meeting
- Wednesday, May 10th – Committee for Art and Culture Meeting
- Thursday, May 11th – Board of Adjustment Meeting (no hearings scheduled)
- Saturday, May 13th – A&C Committee participate in Artrageous
- Tuesday, May 16th – Planning Board Meeting
- Wednesday, May 17th – Board of Commissioners Mid-Month Meeting
- Tuesday, May 23rd – Planning Department Staff Meeting

'Planning Board - Pending Applications and Discussions

'The Planning Board's most recent meeting was held on Tuesday, May 16th, 2023, and included the following:

1. Consideration of text amendments to the UDO to include the use "Restaurant, Drive-Through" as a permissible use within commercial mixed-use developments. The Planning Board recommended denial of the proposed text amendment.
2. Consideration of a Sketch Plan Review submitted by Timmons Group on behalf of Outlets Nags Head for the construction of a Starbucks drive-through restaurant/café at 7100 S. Croatan Highway. The Planning Board provided feedback on concerns with loss of parking and internal traffic circulation impacts.
3. Consideration of initiation and recommendation of text amendments to Section 11.10 of the UDO as it pertains to dewatering activities associated with the installation of in- ground pools. The Planning Board recommended adoption of the proposed amendment and recommended that it apply to any work involving excavation.
4. Continued discussion of text amendments to the UDO as it pertains to the definition of "Habitable Building Area". Having discussed this item several times, the consensus of the Planning Board is to consider regulating the maximum habitable building area (3,500 square feet or 5,000 square feet) based upon the gross floor area of the home, with exclusions provided to areas such as garages and attic space. Staff will be drafting ordinance language for discussion purposes while giving more consideration to possible areas of exclusion.
5. Continued discussion of potential text amendments related to the definition of "dwelling unit" and clarifying language related to accessory structures and uses. Noting that staff would prefer to wait for citizen

input via the community-wide survey as it relates specifically to Accessory Dwelling Units (ADU's) staff has pointed out several definitions within the UDO that may benefit from being amended as they currently appear to allow for unintended loopholes regarding ground floor enclosures and their use as short-term rentals.

6. Initial discussions on re-introducing the multi-family use into the Unified Development Ordinance. Staff anticipate this item will take several meetings for discussion and analysis by the Planning Board. Several questions have been posed to Planning Board members to get the initial conversation underway. Once some basic information has been decided upon, the Planning Board would like to schedule a joint workshop with the Board of Commissioners to share their ideas and receive feedback.

7. Discussion of potential amendments to Section 10.16, Required Parking by Use, as it pertains to restaurant parking. In preparation for this item staff noted that the parking standard for sit-down restaurants does not currently include a requirement for employee parking nor has it for quite some time. Staff provided information on how other nearby municipalities regulate restaurant parking and posed questions for the Planning Board to discuss and consider.

- The current parking standard has been applied for well over 10 years, any changes could result in site nonconformities for existing restaurants.

- Regulating restaurant parking by customer service area can be problematic if that area changes/increases unbeknownst to staff.

- The existing definition of "customer service area" states that it is the area designated for the purchase and/or consumption of food, drink, or other similar items. The definition further goes on to exclude outdoor seating areas not designated for the purchase of food, drink, or similar items and instead are used primarily as waiting areas for customers who are waiting to be seated in customer service areas. Staff submits that these outdoor areas, while initially were primarily used for waiting, gradually transition into areas which may very well need to be included in a parking standard (drinks served while waiting, in some instances appetizers being provided while "waiting", etc.).

- Should outdoor entertainment areas associated with restaurants be addressed?

- Should a parking requirement be created for employees/staff? Town of Duck and Town of Southern Shores regulate employee parking.

'The Planning Board requested that staff investigate drafting a parking standard for restaurants based upon the maximum seating capacity approved by the Dare County Environmental Health Department.

'The Planning Board's next meeting is scheduled for June 20th, 2023. At this time, the agenda is expected to include a Special Use Permit/Site Plan Review for development of a 2,460 sf Starbucks Drive-Thru Restaurant at 7100 S. Croatan Highway. Note that any staff recommendation would be for denial of the proposal pending the outcome of the requested text amendment to allow drive-through restaurants within commercial mixed-use developments. Staff will continue to facilitate discussion on potential amendments related to definitions of "Habitable Building Area", "Dwelling Unit", the re- introduction of multi-family regulations into the UDO and restaurant parking requirements.

'Board of Adjustment – Pending Applications

There were no items for Board of Adjustment consideration in May 2023 and no items have been received for the June 2023 meeting.

'Additional Updates

- DWMP/Septic Health Advisory Committee – While the Septic Health Advisory Committee has not held their next quarterly meeting, the Planning Board did both initiate and recommend adoption of the proposed text amendment put forward by the members of the SHAC as it pertained to dewatering activities in areas of elevated ground water levels. Additionally, the design created by interns for educational material has been produced on clings that will be available at Town Hall and will be distributed throughout the Town. The Septic Health Advisory Committee will plan to provide the Board of Commissioners with an update at their August 2nd, 2023 meeting.
- Estuarine Shoreline Management Plan – The town has been invited to submit a full application for the National Fish and Wildlife Foundation grant in the amount of \$485,000 to cover surveying, engineering, and design of the three prioritized sites. There is a quick turnaround on this one as it is due on June 26th, 2023.
- NC Resilient Coastal Communities Program – Phase 3 of the NC RCCP is complete, and the town has now applied for Phase 4 of the RCCP to fund the implementation associated with the approved stormwater project area #12 in South Nags Head.
- Electric Vehicle Action Plan – The town has been awarded a \$10,000 rebate for the installation of a Level 2 Public Charging Station at the municipal complex. Equipment will be ordered after July 1st, 2023.
- ETIPP Project/Program – Staff will be participating in a team meeting on June 15th, 2023, for review of the final modeling results. Staff anticipates being able to provide the Board of Commissioners with a comprehensive update at their July 5th meeting.
- Whalebone Park: Phase 1 Planning – No new updates. The town intends to move forward with a simple restroom design to be constructed on site with the grant allocation from the Outer Banks Visitors Bureau. Construction will likely take place this fall.
- Governor Street Public Beach Access Grant – The town recently submitted a pre- application for a NC DCM Public Beach and Coastal Waterfront Access Grant to construct a new ADA-accessible elevated dune crossover with associative ADA-compliant parking stalls in conjunction with a shower station upfit. The town has been invited to submit a full application, due by August 28th, 2023.
- Dune Management Cost Share Program – This program has allocated all the available funds. Staff continue to process the required paperwork for reimbursements on many applications.
- Sand Relocation Authorization Program – This program is complete for this season having written over 279 authorization letters.
- Nags Head Dog Park – The crushed granite surfacing at the entry areas of the park is tentatively scheduled to be installed June 15th and 16th. Staff will inform the public and dog park users of any closures associated with the installation.
- Dowdy Park Events/Farmers Market/Holiday Markets/Art & Culture – The Dowdy Park Summer Concert Series and Farmers Market will be kicking off in the month of June. In addition, we will have a new event, our first Family Fun Night, which will be held on Tuesday, June 20th from 5pm to 8pm at Dowdy Park.

`The Dare County SPCA will be the highlighted nonprofit that evening. There will be approximately 10 vendors

offering pet related products, a dog obstacle course, dog costume contest, pup cups, photo booth, activity making dog toys, lawn games and a scavenger hunt. Tuesday morning yoga at 7:30am continues to do well and gain attendance.

'Upcoming Meetings and Other Dates

- Thursday, June 1st – CRS Users Group Meeting
- Tuesday, June 6th – Technical Review Committee Meeting
- Wednesday, June 7th - Board of Commissioners Meeting
- Thursday, June 8th – Board of Adjustment Meeting (no hearings scheduled)
- Tuesday, June 13th – Planning Department Staff Meeting
- Wednesday, June 14th – Committee for Art and Culture Meeting
- Tuesday, June 20th – Planning Board Meeting
- Wednesday, June 21st – Board of Commissioners Mid-Month Meeting
- Tuesday, June 27th – Planning Department Staff Meeting
- Dowdy Park Farmers Market – Thursdays, June 15th, 22nd, & 29th
- Dowdy Park Summer Concerts – Wednesdays, June 14th, June 21st, & June 28th."

Comr. Renée Cahoon questioned if the Town requires a de-watering plan from pool owners. Ms. Wyatt explained that currently that is not the case but that Town policy as well as code is to be modified requiring that a plan be presented and approved prior to a pool permit being issued in the future. Comr. Renée Cahoon also suggested including where the water is being sent when emptying a pool.

OLD BUSINESS/ITEMS TABLED FROM PREVIOUS MEETINGS

From Apr 5th Board meeting – Discussion of Nature Conservancy easement

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

"Recently Town staff met with the Nature Conservancy to discuss the possibility of placing a conservation easement on the property surrounding the Fresh Pond (see attached property map). This is a 285-acre tract of land owned by the Town of Nags Head which primarily serves as watershed protection for the Fresh Pond. It also forms a portion of the Nags Head Woods Nature Preserve. The Town of Nags Head and the Nature Conservancy have a lease agreement for a portion of the property which has been in place since 1985 (see attached lease). This assigns management responsibility to the Nature Conservancy. A portion of the TNC trail system runs through this property. The Town also maintains a police shooting range on the property as well as wellfield road, which provides water infrastructure behind several of the Town's westside neighborhoods. These areas are outside of the lease agreement with TNC.

'The Board is aware that the Town owns several other properties in Nags Head Woods including a 376-acre tract owned jointly with the Nature Conservancy. These properties have been placed in conservation, except for the Town-owned tract surrounding the Fresh Pond. For many years, the Town and the Nature Conservancy have worked jointly to preserve Nags Head Woods by acquiring properties either separately and/or jointly and placing them under the management control of TNC. In recent years, the Town has received requests to develop a portion of the property surrounding the Fresh Pond as a park. TNC is interested in exploring the Town's interest in placing a conservation easement on all or a portion of this property. Staff recently met with Aaron McCall and Fred Annand of TNC to discuss this process. TNC staff noted that they could assist the Town in

applying for grant funding for the value of the conservation easement. The Town has been through this process in the past. In 2001/2002, the Town acquired 50-acres of property in the southern portion of Nags Head Woods using funds from the Clean Water Management Trust Fund and placed it into conservation.

'At the upcoming meeting, staff will provide the Board with an overview of the conservation easement and grant funding process. To assist the Board with the policy portion of this discussion, attached is an excerpt from the Town's Comprehensive Land Use Plan which discusses the Town's goals for this property as well as the broader Nags Head Woods area.'

Comr. Renée Cahoon said that she would need further clarification re: what exactly the easement would cover: the shooting range would have to stay and would the easement be proposed over the Fresh Pond area. Town Manager Garman stated that staff can return with a mapping exercise to identify what would be included/excluded in the easement. Comr. Renée Cahoon said that she feels that the Town should have the ability to utilize Fresh Pond in an emergency in the future.

Steward Aaron McCall stated that this information would be included in the MOU with the Town. He said that the shooting range and Fresh Pond would be excluded from the easement.

It was Board consensus that staff continue discussions with the Nature Conservancy concerning an easement and what would be included/excluded in it and to report back to the Board for further discussion/consideration.

NEW BUSINESS

Committee Reports

Comr. Sanders – he thanked the Town for pursuing a National Fish & Wildlife Foundation grant which should pay fully for the Estuarine Shoreline Management Plan survey, engineering, and design of the three prioritized sites.

Comr. Brinkley – he attended the recently held Jennette's Pier Advisory Group meeting; summer camps are decreasing significantly due to staffing; however, visitation is trending upward.

Comr. Renée Cahoon – the Gov-Ed Committee met in May – its director vacancy is being advertised.

Comr. Renée Cahoon - the Coastal Resources Commission (CRC) subcommittee will meet in June for a LPDI land requirement discussion.

Mayor Pro Tem Siers – the Dare County Tourism Board (DCTB) was told by Dare County that there are no funds for the event site at this time and they will not be moving forward; Mayor Pro Tem Siers also stated that Dare County would like to donate the Pamlico Jack restaurant structure to the Town for fire training. Town Manager Garman stated that he received an email concerning the Pamlico Jack donation yesterday from Dare County and will be looking into that possibility.

Consideration of Town Board/Committee appointments/reappointments

Planning Board

MOTION: Comr. Renée Cahoon made a motion to reappoint David Elders to another three-year term on the Planning Board. The motion was seconded by Comr. Brinkley which passed unanimously.

Board of Adjustment

MOTION: Comr. Renée Cahoon made a motion to table appointments for the Board of Adjustment to the July Board meeting to allow for more advertising for candidates. The motion was seconded by Comr. Brinkley which passed unanimously.

Personnel Grievance Panel

MOTION: Comr. Renée Cahoon made a motion to reappoint Jean Flanigan, as a regular member rather than an alternate member, to the Personnel Grievance Panel (PGP). The motion was seconded by Comr. Brinkley which passed unanimously.

It was Board consensus that staff advertise for both Board of Adjustment and Personnel Grievance Panel vacancies.

ITEMS REFERRED TO AND PRESENTATIONS FROM TOWN ATTORNEY

Attorney Leidy - Request to discuss Town Attorney retainer fee

Attorney Leidy requested an update to his contract.

MOTION: Comr. Brinkley made a motion to approve the revised attorney contract as presented. The motion was seconded by Comr. Renée Cahoon.

Attorney Leidy concurred with the Board's request that this type of request be submitted earlier in the budget year in the future.

CONTINUATION OF MOTION: The motion passed unanimously.

The Town Attorney's contract, as approved, is on file in the Town Clerk's office.

ITEMS REFERRED TO AND PRESENTATIONS FROM TOWN MANAGER

Update on 2023 Town Fireworks display

Dep Fire Chief Shane Hite presented an update on the upcoming July 4th fireworks show scheduled for the Nags Head Fishing Pier at 9:25 a.m. The rain date is scheduled for July 5th.

Report on FY 2023 beach driving season

Dep Town Manager Amy Miller summarized the results of the past beach driving year and compared it with previous years – a. In addition, Police Chief Hale noted the few warnings/tickets issued – he also noted the

better conditions of the beach compared to previous years. Mayor Cahoon noted that it appeared only serious beach drivers paid for permits.

Update on Jockey's Ridge State Park Soundside Access

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

"As the Board will recall, we provided an update on the JRSP soundside access at the December meeting. At the time it was noted that the lease regarding the access had expired. Staff is awaiting official notification from NC State Parks regarding the lease. The Board requested that staff meet with Superintendent Greenwood to discuss any future arrangements, either formal or informal, to cooperate in maintenance/oversight of the access. Staff met with JRSP Superintendent Joy Greenwood on May 19, 2023. Although the previous lease and Memorandum of Understanding assigned the responsibility for maintaining the access to the town, the responsibilities over the years have changed significantly. Many of the day-to-day duties had been handled by JRSP staff for many years, including regular patrols, emptying trash cans, opening and closing the gate, maintaining signage, and general maintenance. In recent years, the Town has only handled larger items, such as replacing the dune walkover several years ago and removing the damaged 2nd walkover which was closer to the entrance. Moving forward these improvements and types of activities would be handled by JRSP. For example, JRSP will be placing a Mobi-mat this Summer rather than the Town. The Town would continue to manage any of its responsibilities outside the gate and will also provide emergency response to the park.

'During our recent discussion with JRSP staff, it was suggested that it may not be necessary to establish a formal arrangement between JRSP and the Town in the future. JRSP has significantly increased its capacity to provide maintenance at the access, and any Town assistance would likely only be required in an emergency situation. It was also acknowledged that even with the lease and MOU, JRSP maintains decision-making authority over the access. JRSP agreed to notify the Town when events are scheduled at the access. We will also determine how to bill the state for the water usage at the site, which has been previously covered by the Town. Some modifications to signage will be necessary and staff has checked with DCM to ensure there would be no issues with any previous grants due to the shift in management."

Town Manager Garman explained that he is working on an agreement with the State that would address some of these items and wants to hear from Board members as to what should be included in that agreement.

Board members spoke of the tour buses that use the access which is not designed for that type of use. Staff is considering a traffic control map amendment to address this type of issue. Comr. Renée Cahoon also suggested a letter to be forwarded to the tour companies that Dare County utilizes.

Town Manager Garman confirmed that the Town is awaiting documentation from the State concerning expiration of its joint lease. It was Board consensus that some type of agreement with the State would be needed to address issues such as tour buses and other concerns with the Soundside Road park access. Mayor Cahoon raised the question of maintaining a fire lane for emergency access into the soundside access area/parking lot if necessary. He confirmed with Dep Fire Chief Shane Hite that the Town would respond in an emergency but has no jurisdiction over their buildings. Board members agreed that staff sending a letter to the Office of the State Fire Marshal concerning maintenance by Jockey's Ridge State Park of a fire lane for emergency access into the soundside access area/parking lot would be worthwhile.

Request from Village at Nags Head POA to remove Town's Open Space Easement for use for a mailbox facility

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

"Staff met with Village at Nags Head POA President Howard Swain last month regarding a project the Village at Nags Head POA wants to complete to install a new mailbox facility to serve their community. The proposed location would be adjacent to W. Seachase Drive (see attached map) on property currently owned by Clubcorp which is part of the golf course. The POA plans to acquire a 2,250 square foot property from Clubcorp; however, there is an open space easement attached to the property which was granted to the Town of Nags Head when the Village was developed. The open space easement was required as part of the Special Planned Development – Community District zoning and subdivision requirements. The Village was approved with smaller lots than were allowed in the rest of Town, in exchange for the dedication of a perpetual easement granted to the Town setting aside land within the Village as open space. The current ordinance requires a minimum of 20% of the land area in the Village to remain as open space. The property in question is approximately 2,250 square feet (0.05 acres). Staff has determined that releasing this property from the Town's open space easement would not jeopardize compliance with the Village open space requirements. Attached is correspondence between the Village POA and town staff. Also attached is a draft release for the Board's consideration which would release the open space easement from the proposed mailbox property.

'Staff would recommend approval of this request."

MOTION: Mayor Cahoon made a motion to approve the Village at Nags Head POA request and to authorize the mayor to sign the request with the condition that the property not be used for any other use than a mailbox. The motion was seconded by Mayor Pro Tem Siers which passed unanimously.

FY 2023 Project Review

Town Engineer David Ryan summarized the projects and initiatives the Town has undertaken over the past 12 months. His presentation will be included on the Town's web site also.

His presentation was well received by the Board and is attached to and made a part of these minutes as shown in Addendum "F".

Public Services Facility Project Update

Town Engineer David Ryan gave the Board an update on the construction of the new Public Services Facility Project. His presentation was well received by the Board and is attached to and made a part of these minutes as shown in Addendum "G".

Town Manager Garman noted that he would like to present a monthly update to the Board and to the public on the progress of the facility.

Discussion of request for traffic signal at Villa Dunes Drive

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

"On May 16, 2023, the Board received a letter from Ralph Buxton, a resident at 448 W. Villa Dunes Drive (see attached), asking the Town to submit a request to NCDOT for an evaluation of a traffic signal at the intersection of Villa Dunes Drive and US 158.

'Staff reached out to NCDOT to determine the process for submitting this request. NCDOT staff indicated that, while the request can be sent directly to them, they would like approval from the local governing body before a study is conducted to ensure that there are no objections from the community. NCDOT follows a prescribed process as outlined in the MUTCD and their own policy manual to determine whether a traffic signal is warranted at a given location. The evaluation considers a variety of factors, including crashes, traffic volumes, trip generation rates, and other factors.

'Staff has discussed this issue internally and would not object to NCDOT evaluating the feasibility of a traffic signal at this location."

Mayor Pro Tem Siers suggested coming up with all areas that may or may not be problem areas so the Town can request studies of all such areas at one time.

Town Manager Garman said that staff has been talking to NCDOT concerning issues with traffic signals.

Board members had no objection to staff moving forward on contacting NCDOT concerning traffic studies.

Update on Town Website Upgrade

Public Information Officer Roberta Thuman presented a brief update on the Town's website redesign, displaying several new website pages for the Board's review. Ms. Thuman noted that in the past year there have been 350,000 hits to the Town's website and it has been due for a redesign. The new design is scheduled to be launched on June 13, 2023. Ms. Thuman thanked IT Coordinator Karen Snyder and Water Billing Specialist Brittany Phillips for their assistance. The redesign presented was well received by the Board.

BOARD OF COMMISSIONERS AGENDA

Comr. Brinkley – Recent emails from soccer fans concerning Satterfield Landing Park

Comr. Brinkley spoke about the recent emails the Board received from many people concerning the soccer fields at Satterfield Landing Park. He also expressed his appreciation to Town Manager Andy Garman for his proactiveness in responding to the emails and for meeting onsite with many of those expressing concern.

Mayor Cahoon explained that the property is Town-owned property that Dare County maintains and operates the site through an agreement with the Town. He said that anything going on inside the fence is the responsibility of Dare County and outside the fence is the Town of Nags Head; he feels that everyone is going to do the best possible to accommodate everyone.

Town Manager Garman mentioned the long-standing frustration that parts of the field are not available during certain parts of the year.

Mayor Cahoon questioned if a group from all the Towns would consider getting together to work on a resolution.

MAYOR'S AGENDA

Mayor Cahoon - Consideration of resolution in support of The Lost Colony production

Mayor Cahoon presented a proposed resolution in support of the Roanoke Island Historical Association's long-standing production of *The Lost Colony*.

MOTION: Comr. Brinkley made a motion to adopt the resolution in support of the Roanoke Island Historical Association's long-standing production of *The Lost Colony* as presented. The motion was seconded by Mayor Pro Tem Siers which passed unanimously.

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

'WHEREAS, *The Lost Colony* has been the Outer Banks' most prominent Heritage Tourism attraction for 86 years; AND

'WHEREAS, summer productions of *The Lost Colony* at the Waterside Theatre on Roanoke Island have entertained millions of visitors; AND

'WHEREAS, the mission of the Roanoke Island Historical Association is to celebrate and depict the first English settlement in America on Roanoke Island and the birth of the first English child on these shores; AND

'WHEREAS, *The Lost Colony*, based on a screenplay by North Carolina's Paul Green, first was performed in 1937, in the depths of the Depression, and President Franklin D. Roosevelt was among those who viewed the production that summer; AND

'WHEREAS, the show has been performed continuously for 85 years, interrupted only by World War II and the Covid epidemic; AND

'WHEREAS, *The Lost Colony* should be an important part of our nation's 250th anniversary celebration in 2026; AND

'WHEREAS, we eagerly anticipate the 100th anniversary of *The Lost Colony* in 2037, just fourteen years from now; AND

'WHEREAS, *The Lost Colony* remains a vital and valuable part of the life and history of our community, Dare County and the entire Outer Banks.

'NOW, THEREFORE, BE IT RESOLVED that the Town of Nags Head Board of Commissioners does hereby express its sincere thanks and appreciation to the Board of Directors of the Roanoke Island Historical Association for its hard work, and we pledge our continuing support for *The Lost Colony*."

CLOSED SESSIONS

MOTION: Mayor Cahoon made a motion to enter Closed Session to consider a personnel matter pursuant to GS 143-318.11(a)(6) and to consult with the Town Attorney re: matters protected by attorney/client privilege and to preserve that privilege re: the case of Town v 205 W Baltic, LLC pursuant to GS 143-318.11(a)(3). The motion was seconded by Comr. Brinkley which passed unanimously. The time was 12:02 p.m.

OPEN SESSION

The Board re-entered Open Session at 12:32 p.m. Attorney Leidy reported that the Board did discuss attorney/client privilege items in Closed Session and provided direction; in addition, a personnel item was discussed, but no action was taken.

ADJOURNMENT

MOTION: Comr. Brinkley made a motion to recess to a June 21st mid-month meeting in the Board Room at 9 am. The motion was seconded by Mayor Pro Tem Siers which passed unanimously. The time was 12:34 p.m.

Carolyn F. Morris, Town Clerk

Date Approved: **July 5, 2023**

Mayor: _____
Benjamin Cahoon