



**MINUTES  
TOWN OF NAGS HEAD  
BOARD OF COMMISSIONERS  
REGULAR MEETING  
WEDNESDAY, MARCH 2, 2022**

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, March 2, 2022 at 9:00 a.m. for a Regular Meeting. The Town continues to adhere to COVID state and local guidelines.

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

Board members Absent: Mayor Pro Tem Michael Siers

Others present: Town Manager Andy Garman; Attorney John Leidy; Kelly Wyatt; Eric Claussen; Amy Miller; David Ryan; Phil Webster; Randy Wells; Shane Hite; Roberta Thuman; Christian Aguirre; Paige Griffin; Peggy Saporito; George Bonner; Rosemary Rawlins; Don Williams; Bob Muller; Viktoria Falaleeva; John Ratzenberger; Annette Ratzenberger; and Town Clerk Carolyn F. Morris

**CALL TO ORDER**

Mayor Cahoon called the meeting to order at 9 am; He asked for a moment of silence to include thoughts about the tragedy taking place in Ukraine. The pledge of allegiance followed.

**ADOPTION OF AGENDA**

MOTION: Comr. Brinkley made a motion to approve the March 2<sup>nd</sup> agenda as presented. The motion was seconded by Comr. Renée Cahoon which passed 4 – 0 (Mayor Pro Tem Siers was not present.).

**RECOGNITION**

PRESENTATION - Appreciation

Mayor Cahoon invited both John and Annette Ratzenberger to the podium; his words follow:

"At this time I would like to invite former Town Commissioner John Ratzenberger to the podium, and if she will please, I also ask Annette Ratzenberger to come to the podium.

'Good morning John and Annette. Welcome to you and your family members who are here with you today.

'For those who do not know John Ratzenberger he is a retired US Army Colonel who also served as a civilian computer engineer for the Army. He traveled the world, with significant time in Germany and Korea, supporting the Army' mission. John and Annette moved to Nags Head in 2003 after which John began a well-known newsletter focused on weather and local government issues. John served on the Beach Nourishment Finance Committee, eight years on the town's Personnel Grievance Panel, six years on the Citizen's Advisory Committee, one year on the town's 50<sup>th</sup> Birthday Committee, two years on the Planning Board, and four years as Commissioner.

'In public service it is helpful to have a partner, which Annette is in all things. However Annette Ratzenberger has also served Nags Head in noteworthy ways. Before retirement Annette was Chief of Engineering at the US Joint Forces Command where she briefed, among others, Secretary of Defense Donald Rumsfeld on warfare simulation. Annette serves on the Village at Nags Head HOA Board, served on the same Beach Nourishment Committee as John, presenting the Committee's report in 2006. She served on the Solid Waste and Recycling Committee and, as we recognized her for recently, served a decade on the Firemen's Relief Fund Board of Trustees. In all of these things John likewise supports her.

'Your determined and passionate service to our community have made impacts like few others. We recognize your tireless service over the years and want you to know that we appreciate all that you have each done for our town. For these reasons John (display key) and Annette (display key), the Town of Nags Head is honored and proud to name each of you Nags Head Lightkeeper. (lift lantern) (ovation)

'The Nags Head Lightkeeper Award is for those who have helped shape the image and direction of the Town. We're glad your family could be with you today so they can see the important impacts you each have made in Nags Head. You are each now part of an esteemed group of individuals who helped to shape our town through their selfless contributions. Your names will be inscribed on a perpetual plaque at Nags Head's town hall so that everyone is reminded of you, and inspired to service."

On behalf of the Board, Mayor Cahoon announced and then presented the Lightkeeper Award and the Lightkeeper Lantern to John and Annette Ratzenberger.

#### FIVE YEARS OF SERVICE

Police Chief Phil Webster introduced Police Detective Christian Aguirre who was recognized by the Board for five years of service.

#### PRESENTATION - Update from Committee for Arts & Culture

Special Events Coordinator Paige Griffin summarized the past year's success with the Dowdy Park Farmers Markets; 85 vendors participated from all over the state; the market was a destination for some visitors; she requested sponsorships for movies, music opportunities as well as funds for holiday lighting in order to continue to grow the holiday season.

The report from the Committee read in part as follows:

"Planning Staff and members of the Nags Head Art and Culture Committee will be providing a brief presentation to the Board of Commissioners at their March 2, 2022 meeting. The intent of the presentation is to highlight efforts by the Committee during the 2020/2021 Season, and to provide information on what the Committee would like to achieve during the upcoming 2022/2023 Season.

## '2021 Season

The 2021 Farmers Market season was a successful one both in light of, and in spite of, the ongoing Covid-19 Pandemic. The Town received over 85 vendor applications for consideration in the 2021 summer market. Approximately 35 of those vendors were producers/consumables (fresh fruit, vegetables, cheeses, baked goods, fermented foods, sauces, etc.) which were automatically accepted into the market. Of those 35 vendors 15 of them were new to the market that year. In an effort to accept the artisans/crafters from previous market seasons, we accepted a total of 62 vendors, however, many of the farmers were only attending/dropping in during the growing season. In addition to producers/consumables, artisans and crafters, the market also hosted a Young Entrepreneur Program, where Event Coordinator, Paige Griffin helped young artists gain visibility of their products and insight into the operation of attending markets.

'While many of our vendors were local it is important to note that many came from as far as Currituck, Swan Quarter, Columbia, Hertford, and Edenton. Their participation in the market is vital to its success and we feel fortunate to have them there.

'The Market's visitation peaked in the month of July with upwards of 700 visitors at each market. Generally, the average number of attendees at each market was approximately 400. As always, the Town's Event Coordinator, Paige Griffin made notable efforts to interact and connect with as many visitors as possible while in attendance. She noted that in addition to locals and day trippers from Elizabeth City, Edenton, Hertford, and Virginia, many of the out of state visitors were from Delaware, Pennsylvania, New York, New Jersey, Michigan, Indiana, Tennessee, and Florida.

'The safety of vendors, visitors, and Staff continued to be priority for the 2021 Farmers Market Season. Vendors were spaced apart to allow for social distancing, and most of them continued to display a laminated "3 W's" sign at their space and provide hand sanitizer gel for patrons. Staff had three (3) hand washing stations available throughout the Market area and placed signage at each entrance and throughout the park reminding attendees that all visitors were welcome, and masks were encouraged.

'We also held four (4) Holiday Markets. Three of these markets were held on Saturday mornings and one was held on a Thursday evening. These markets had approximately 45 vendors participating, and all safety protocols enacted during the regular season remained in place for the Holiday Markets. As in previous years, the Town received many compliments from both visitors, locals, and vendors on the festive atmosphere, holiday music, and holiday lights.

'We were grateful to be able offer a new event at Dowdy Park during the 2021 Holiday Season. On Saturday, November 27<sup>th</sup>, the Town hosted a Tree and Park Lighting Ceremony and was fortunate enough to have Santa drop by for the evening and visit with those in attendance. The Fire Department was integral in making sure he arrived safe and sound and in anticipation of his arrival, the Public Works Department not only did an incredible job with the park lighting, but they installed three stand alone pole trees in the open field adjacent to US Hwy 158. In addition, a small pit fire and hot chocolate and cider was served to keep everyone warm throughout the evening. This is an event that we would love to continue and expand upon if possible.

'Advertisement was kept to a minimum for the 2021 Markets with the use of Facebook and Instagram only. Social media response continues to be positive and encouraging.

'Also missing this season in light of the Pandemic were community partnerships, such as fitness programs, SPCA pet adoptions, Outer Banks Hospital and Dare County Health and Human Services educational opportunities and free health screenings, etc. It is the hope of the committee that we can re-introduce these community partnerships in the 2022 Season.

#### '2022 Season

The Committee for Art and Culture has already been discussing the upcoming 2022 Dowdy Park Farmers Market Season. With the last day of school at Nags Head Elementary School being on June 10<sup>th</sup> and beginning on August 29<sup>th</sup>, the committee would like to hold the market each Thursday during this timeframe, beginning on Thursday, June 16<sup>th</sup> and running through August 18<sup>th</sup> for a total of eleven (11) markets. Previous seasons have accommodated approximately 16 markets. However, once NHES resumes, in late August, we will be unable to hold markets during the week. We would like to consider offering a handful of Saturday markets in late August and early September to make up for this reduction. It was the consensus of the committee to keep the total number of vendors to 50 this season, including the vendors participating in the young entrepreneur program.

'In addition to the regular Market, the Committee is also interested in organizing a Fall Festival, as well as continuing with the Holiday Markets and Tree Lighting Ceremony in 2022. Vendor fees are proposed to remain the same as last year at \$240, assuming we can accommodate at least 16 market days, so there no changes necessary to the Consolidated Fee Schedule.

'The committee would like to continue offering fitness opportunities as well as a summer concert series and movies on the lawn. Interest in these community events continue to grow and gain momentum. As such, the committee would like to explore creating a sponsorship program, whereby music and movie opportunities could be offset by local businesses.

'Lastly, the committee hopes to offer "Winter/Off-Season" Markets January thru April of 2023. While we had hoped to offer this through the winter of 2022, we felt as though it needed additional discussion with regard to time and resources in order to ensure that it was a successful venture.

'The Art and Culture Committee is very pleased to announce that the first phase of the Art Mast Project has been completed. All four (4) art panels created by local artists have now been digitized, printed onto durable banners, and displayed at various beach access in the northern part of Town. The committee would like to explore initiating another phase of the Art Mast Project in 2022 and seeking additional artists to create additional banners.

'Former Nags Head Mayor, Bob Oakes, graciously offered the Town a self-portrait painting by Don Bryan. The Art and Culture Committee discussed this and very gratefully accepted this painting. The painting has been prominently hung in the lobby beside Don Bryan's painting "Gale Warning Nags Head Station", located across from the permitting desk and part of the existing Town Hall gallery.

'The Committee also anticipates being involved in planning art initiatives at Whalebone Park and possibly the Skatepark.

'Planning Staff, Event Coordinator Paige Griffin, and members of the Committee will be available for questions and input from the Board of Commissioners following the presentation."

Board members thanked Ms. Griffin, Ms. Wyatt, and all the volunteers involved in the markets; they feel that the requests made by Ms. Griffin are not unreasonable. Ms. Griffin's slides are attached to and made a part of these minutes as shown in Addendum "A".

PRESENTATION - *Waves to Water* - George Bonner, Director, NC Renewable Ocean Energy Program

George Bonner, Director of the NC Renewable Ocean Energy Program, thanked the Town for its support of the program and the Waves to Water contest which is a contest to “accelerate the development of small, modular, wave-powered desalination systems capable of providing potable drinking water in disaster relief scenarios and remove coastal locations”. The testing phase of the contest is scheduled for April 2022 at Jennette’s Pier.

Mr. Bonner stated that the kickoff of events for the contest will take place in April 2022 at Jennette’s Pier. Board members spoke in favor of the program and the Town’s participation – and thanked him for his work at Coastal Studies Institute.

Mr. Bonner’s slides are attached to and made a part of these minutes as shown in Addendum “B”.

**PUBLIC COMMENT**

Attorney John Leidy introduced Public Comment and invited those present to speak.

PUBLIC COMMENT – ROSEMARY RAWLINS

League of Women Voters representative, Rosemary Rawlins, presented the 2022 Citizens Guide to the Board.

PUBLIC COMMENT - DON WILLIAMS

Don Williams, lives in Plymouth, MA, has owned property in Nags Head for 25 years; he is interested in the Decentralized Wastewater Program on today’s agenda; he is involved with the water treatment system in his hometown; he thanked the Town Board for their efforts as he feels Nags Head is very well run.

PUBLIC COMMENT - BOB MULLER

Bob Muller, Nags Head resident and former Nags Head Mayor; he thanked Board members for their service; he spoke in favor of the Town’s work on the waterline replacement in the Old Nags Head Cove Subdivision; his house is in the section being done first and he is very pleased with the continual communication with homeowners and feels workers are doing an outstanding job and doing the best they can to mitigate the impacts to residents.

PUBLIC COMMENT - VIKTORIA FALALEEVA

Viktoria Falaleeva spoke on behalf of the Ukraine community; the citizens of the Outer Banks are very kind and she feels blessed to live here; she was born and raised in Ukraine; today is the seventh day of war in Ukraine; her family lives in the city of Kiev and is unable to escape right now; a large number of residents have asked how they can help; supplies can be shipped to Chicago for forwarding to Ukraine; she asked for help for our global neighbors, many of whom have families in this area. Mayor Cahoon asked that Ms. Falaleeva provide contact information to the Town Clerk for dissemination.

There being no one else present who wished to speak, Attorney Leidy concluded Public Comment at 9:48 a.m.

**CONSENT AGENDA**

The Consent Agenda consisted of the following items:

- Consideration of Budget Amendment #9 to FY 21/22 Budget
- Consideration of Tax Adjustment Report
- Consideration of Tax Delinquent List to be advertised
- Approval of minutes
- Update to Consolidated Fee Schedule
- Consideration of financing resolution for FY 21/22 vehicles and equipment
- Dark Fiber Lease Renewal for Town of Nags Head (MCNC)

Request for Public Hearing to consider rezoning the property located at 2110 S Pond Avenue (Nags Head Water Plant) from SED-80, Special Environmental District, to C-3, Commercial Services in advance of the design process for the Public Services Master Plan

MOTION: Comr. Renée Cahoon made a motion to approve the Consent Agenda as presented. The motion was seconded by Comr. Brinkley which passed 4 – 0 (Mayor Pro Tem Siers was not present.).

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

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

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

"At the February 2<sup>nd</sup> Board of Commissioners meeting, Board approval was received to advertise tax liens in the newspaper on Wednesday, March 16, 2022 in accordance with NCGS 105-369.

'Attached please find the preliminary tax delinquent listing as of Thursday, February 24, 2022.

'(Property owners have up to Friday, March 11, 2022 to pay and be removed from the tax delinquent listing before the advertisement is posted.)"

The Consolidated Fee Schedule modifications, as approved, read in part as follows:

<u>Page 5</u> - Administrative Services	Pit Fire and Beach Driving Permits	Use of credit card to pay online (charged by third party vendor)	\$1.15 (flat fee)
<u>Page 6</u> - Fire Dept	Pit Fire Permits	- Credit card fee to pay online	\$10 \$1.15 (flat fee)
<u>Page 17</u> - Public Works	<u>Dumpsters</u> 4 yd side load		\$1,535 + tax
(Remove, we do not sell)	4-yd front load		\$1,000 + tax

6 yd front load		\$1,650 + tax
8 yd front load		\$2,005 + tax
<u>Automated carts</u> Lid (Toter lids only)		\$30 + tax
Thru hole Town wheel system	(2 wheels, 1 rod)	\$45 + tax
Rod	Separate	\$15 + tax

The financing resolution for Town vehicles and equipment for a period of two (2) years, as adopted, read in part as follows:

"WHEREAS, The Town of Nags Head (the "Town") has previously determined to undertake a project for the financing of vehicles and equipment, (the "Project"), and the Town Manager has now presented a proposal for the financing of such Project.

'BE IT THEREFORE RESOLVED, as follows:

The Town hereby determines to finance the Project through PNC Bank, in accordance with the proposal dated February 17, 2022. The amount financed shall not exceed \$275,439 the annual interest rate (in the absence of default or change in tax status) shall not exceed 2.22%, and the financing term shall not exceed two (2) years from closing.

'All financing contracts and all related documents for the closing of the financing (the "Financing Documents") shall be consistent with the foregoing terms. All officers and employees of the Town are hereby authorized and directed to execute and deliver any Financing Documents, and to take all such further action as they may consider necessary or desirable, to carry out the financing of the Project as contemplated by the proposal and this resolution.

'The Finance Director is hereby authorized and directed to hold executed copies of the Financing Documents until the conditions for the delivery of the Financing Documents have been completed to such officer's satisfaction. The Finance Director is authorized to approve changes to any Financing Documents previously signed by Town officers or employees, provided that such changes shall not substantially alter the intent of such documents or certificates from the intent expressed in the forms executed by such officers. The Financing Documents shall be in such final forms as the Finance Director shall approve, with the Finance Director's release of any Financing Document for delivery constituting conclusive evidence of such officer's final approval of the Document's final form.

'The Town intends that the adoption of this resolution will be a declaration of the Town's official intent to reimburse expenditures for the project that is to be financed from the proceeds of the PNC Bank financing described above. The Town intends that funds that have been advanced, or that may be advanced, from the Town's general fund, or any other Town fund related to the project, for project costs may be reimbursed from the financing proceeds.

'All prior actions of Town officers in furtherance of the purposes of this resolution are hereby ratified, approved and confirmed. All other resolutions (or parts thereof) in conflict with this resolution are hereby repealed, to the extent of the conflict. This resolution shall take effect immediately."

The financing resolution for Town vehicles and equipment for a period of four (4) years, as adopted, read in part as follows:

"WHEREAS, The Town of Nags Head (the "Town") has previously determined to undertake a project for the financing of vehicles and equipment, (the "Project"), and the Town Manager has now presented a proposal for the financing of such Project.

'BE IT THEREFORE RESOLVED, as follows:

The Town hereby determines to finance the Project through PNC Bank, in accordance with the proposal dated February 17, 2022. The amount financed shall not exceed \$194,795.00 the annual interest rate (in the absence of default or change in tax status) shall not exceed 2.47%, and the financing term shall not exceed four (4) years from closing.

'All financing contracts and all related documents for the closing of the financing (the "Financing Documents") shall be consistent with the foregoing terms. All officers and employees of the Town are hereby authorized and directed to execute and deliver any Financing Documents, and to take all such further action as they may consider necessary or desirable, to carry out the financing of the Project as contemplated by the proposal and this resolution.

'The Finance Director is hereby authorized and directed to hold executed copies of the Financing Documents until the conditions for the delivery of the Financing Documents have been completed to such officer's satisfaction. The Finance Director is authorized to approve changes to any Financing Documents previously signed by Town officers or employees, provided that such changes shall not substantially alter the intent of such documents or certificates from the intent expressed in the forms executed by such officers. The Financing Documents shall be in such final forms as the Finance Director shall approve, with the Finance Director's release of any Financing Document for delivery constituting conclusive evidence of such officer's final approval of the Document's final form.

'The Town intends that the adoption of this resolution will be a declaration of the Town's official intent to reimburse expenditures for the project that is to be financed from the proceeds of the PNC Bank financing described above. The Town intends that funds that have been advanced, or that may be advanced, from the Town's general fund, or any other Town fund related to the project, for project costs may be reimbursed from the financing proceeds.

'All prior actions of Town officers in furtherance of the purposes of this resolution are hereby ratified, approved and confirmed. All other resolutions (or parts thereof) in conflict with this resolution are hereby repealed, to the extent of the conflict. This resolution shall take effect immediately."

The financing resolution for a Town fire truck for a period of ten (10) years, as adopted, read in part as follows:

"WHEREAS, The Town of Nags Head (the "Town") has previously determined to undertake a project for the financing of a fire truck, (the "Project"), and the Town Manager has now presented a proposal for the financing of such Project.

'BE IT THEREFORE RESOLVED, as follows:

The Town hereby determines to finance the Project through PNC Bank, in accordance with the proposal dated February 17, 2022. The amount financed shall not exceed \$1,358,079 the annual interest rate (in the absence of default or change in tax status) shall not exceed 2.78%, and the financing term shall not exceed ten (10) years from closing.

'All financing contracts and all related documents for the closing of the financing (the "Financing Documents") shall be consistent with the foregoing terms. All officers and employees of the Town are hereby authorized and directed to execute and deliver any Financing Documents, and to take all such further action as they may consider necessary or desirable, to carry out the financing of the Project as contemplated by the proposal and this resolution.

'The Finance Director is hereby authorized and directed to hold executed copies of the Financing Documents until the conditions for the delivery of the Financing Documents have been completed to such officer's satisfaction. The Finance Director is authorized to approve changes to any Financing Documents previously signed by Town officers or employees, provided that such changes shall not substantially alter the intent of such documents or certificates from the intent expressed in the forms executed by such officers. The Financing Documents shall be in such final forms as the Finance Director shall approve, with the Finance Director's release of any Financing Document for delivery constituting conclusive evidence of such officer's final approval of the Document's final form.

'The Town intends that the adoption of this resolution will be a declaration of the Town's official intent to reimburse expenditures for the project that is to be financed from the proceeds of the PNC Bank financing described above. The Town intends that funds that have been advanced, or that may be advanced, from the Town's general fund, or any other Town fund related to the project, for project costs may be reimbursed from the financing proceeds.

'All prior actions of Town officers in furtherance of the purposes of this resolution are hereby ratified, approved and confirmed. All other resolutions (or parts thereof) in conflict with this resolution are hereby repealed, to the extent of the conflict. This resolution shall take effect immediately."

Dark Fiber Lease Renewal - the agenda summary sheet, as approved, read in part as follows:

"At the March 2<sup>nd</sup> Board of Commissioners meeting staff is requesting Board consideration of the attached amendment to the Dark Fiber Lease which expires March 30, 2022. The amendment would extend the lease three years until March 30, 2025. No other modifications are being requested.

'The lease agreement, first effective April 2014, extends dark fiber optic connection from MCNC to the Town Hall building and the Public Services building on Lark Avenue."

The Dark Fiber Lease renewal agreement, as approved, is on file in the Town Clerk's Office.

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

"Following initiation of the proposed map amendment by the Planning Board at their January 18, 2022 meeting, planning staff drafted a report to facilitate the rezoning of the property located 2110 S. Pond Avenue from SED-80, Special Environmental District to C-3, Commercial Services District. The Town is in the process of developing a facilities master plan for the Public Works Department which would consider physical improvements to the contiguous municipal service sites located along S. Lark Avenue and S. Pond Avenue that would better serve existing and future staff needs, allow for improved services to the public, and provide acceptable facilities for the storage and maintenance of equipment assets. With the consultant, Oakley Collier, beginning to work on schematic design plans for the redevelopment of these facilities staff believed it was both appropriate and beneficial, given the current and continued use of the property for municipal services, to be rezoned to the C-3, Commercial Services designation. If approved, this map amendment would result in consistency in the zoning designation among the town's municipal

facilities located on S. Lark and S. Pond Avenue as well as consistency with the application of dimensional requirements such as setbacks and lot coverage for the municipal service facilities and sites.

**Staff Recommendation/Planning Board Recommendation**

Based upon the evaluation of the intent of SED-80 District and the C-3 District, and the policies noted in the 2017 Comprehensive Plan, staff recommends approval of the proposed zoning map amendment as presented.

“At their February 15, 2022 meeting, the Planning Board voted unanimously to recommend approval of the proposed map amendment as requested.”

**PUBLIC HEARINGS**

Public Hearing to consider text amendment to the Flood Damage Prevention Ordinance to address an inconsistency in the application of the Regulatory Flood Protection Elevation (RFPE) based upon a property's location east or west of NC 12 in the vicinity south of the Nags Head Village Beach Club where NC 12 shifts westward

Town Attorney John Leidy introduced the Public Hearing to consider a text amendment to the Flood Damage Prevention Ordinance to address an inconsistency in the application of the Regulatory Flood Protection Elevation (RFPE) based upon a property's location east or west of NC 12 in the vicinity south of the Nags Head Village Beach Club where NC 12 shifts westward. The time was 9:50 a.m.

The Public Hearing was published in the *Coastland Times* on Wednesday, February 16, 2022 and on Wednesday, February 23, 2022 as required by law.

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

“At the Board of Commissioners January 5, 2022 meeting, Planning Staff provided an update on a recent Board of Adjustment variance hearing and the resulting determination to grant a variance from the Flood Damage Prevention Ordinance.

“At their December 9, 2021, meeting, the Board of Adjustment heard and granted a variance for the Jones property located at 100 E. Sandcastle Court, Nags Head. The Board of Adjustment found that the property, as well as the current property owner who is living with a disability, does suffer unnecessary hardships based upon application of the current Flood Damage Prevention Ordinance, specifically the requirements of *Section 11.44.2. Residential Construction* and *Section 11.44.3, Coastal High Hazard Areas (Zones VE) and Properties East of NC 12 and SR 1243*. These sections of the Flood Damage Prevention Ordinance require that new construction or substantial improvement of any residential structure have the reference level elevated no lower than the regulatory flood protection elevation. In establishing the local elevation standard (LES), also referred to as the regulatory flood protection elevation (RFPE), we delineated the Coastal High Hazard Areas/VE Zones as being those properties east of NC 12 (S. Virginia Dare Trail) and SR 1243 (S. Old Oregon Inlet Road). The RFPE for properties located east of NC 12 and SR 1243 is 12' msl. While the Board of Adjustment identified numerous hardships as part of their findings of fact, one notable finding pertained specifically to the location of this, and similarly situated properties, where NC 12 does not parallel the beach. As part of the road relocation many years ago, NC 12 is now substantially further west than the alignment of the remainder of the roadway in the vicinity of Sandcastle Court, Sea Spray Court, Sand Fiddler Court, Sea Holly Court, and Sun Dancer Court. If the roadway was in its original location, many of these properties would be located west of NC 12, having an RFPE of 9' msl. The images below depict this area of Town as regulated by the 2006 flood maps and the same area as

regulated by the current flood maps. Under the previous flood maps, this area was located within an AE 9 flood zone. Under the current flood maps, this area is not located within a flood zone however with the application of the Town's LES/RFPE, this property is regulated to VE 12' standards.

'2006 Flood Maps



Current Flood Maps



'It was the consensus of the Board of Commissioners that staff move forward with a text amendment to the Unified Development Ordinance to rectify this situation.

'Staff has provided a draft text amendment to the Unified Development Ordinance, Appendix A – Definitions, and General Provisions of the Flood Damage Prevention Ordinance, for the Board of Commissioners consideration. If adopted, this amendment would result in only those properties within the Village at Nags Head, SPD-C District, that have direct frontage on the Atlantic Ocean/ocean beach to be considered a Coastal High Hazard Area with an RFPE of 12 feet. Properties that do not have direct frontage on the ocean beach, such as those located west of the cul-de-sac in the images above, would be regulated to the RFPE of 9 feet. Note that the revised language applies only to those properties located within the Village at Nags Head SPD-C District and is not proposed to be town wide.

#### 'STAFF RECOMMENDATION

Staff is of the opinion that the proposed amendment is consistent with the Town's adopted Comprehensive Plan and is reasonable and in the public interest and recommends adoption of the amendment as requested.

#### 'PLANNING BOARD RECOMMENDATION

At their January 18, 2022 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 Plan requirements (attached)."

There being no one present who wished to speak, Attorney Leidy closed the Public Hearing at 9:55 a.m.

Board members felt that the proposal made sense and should be approved.

MOTION: Comr. Renée Cahoon made a motion to adopt the text amendment to the Flood Damage Prevention Ordinance to address an inconsistency in the application of the Regulatory Flood Protection Elevation (RFPE) based upon a property's location east or west of NC 12 in the vicinity south of the Nags Head Village Beach Club where NC 12 shifts westward and which is in accordance with the statement of consistency with the Town's adopted Comprehensive Plan requirements, as presented. The motion was seconded by Comr. Sanders which passed 4 – 0 (Mayor Pro Tem Siers was not present.).

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 March 2, 2022.

##### 'Monthly Activity Report

Attached for the Board's review is the *Planning and Development Monthly Report for December 2021*. 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:

- Thursday, February 3<sup>rd</sup> – OBX CRS Users Group, Risk Rating 2.0
- Thursday, February 3<sup>rd</sup> – ETIPP Meeting
- Wednesday, February 9<sup>th</sup> – AIA Meeting
- Wednesday, February 9<sup>th</sup> – Committee for Art and Culture Meeting
- Friday, February 11<sup>th</sup> – EV Action Plan Meeting
- Tuesday, February 15<sup>th</sup> – CSI Comprehensive Review as Community Partner
- Tuesday, February 15<sup>th</sup> – Planning Board Meeting
- Friday, February 25<sup>th</sup> – EV Action Plan Meeting

#### 'Review of Residential Stormwater Regulations

At their meeting on Tuesday, January 18, 2022, the Planning Board voted unanimously to recommend approval of the residential stormwater regulation text amendment as presented. The Board of Commissioners will conduct the Public Hearing for consideration of this item at their February 2, 2022, meeting.

#### 'Planning Board - Pending Applications and Discussions

The Planning Board's most recent meeting was held on February 15, 2022 and included a presentation of the draft Decentralized Wastewater Management Plan by Holly Miller of Tetra Tech and recommended approval of a zoning map amendment for the redesignation of the property located at 2110 S. Pond Avenue (Water Plant) from SED- 80, Special Environmental District to C-3, Commercial Services. The Planning Board also received updates on the Resilient Coastal Communities Program and the EV Action Plan.

The Planning Board's next meeting is scheduled for March 15, 2022. At this time, the agenda is expected to include a discussion item on how existing town ordinances regulate tree removal and tree protection as well as updates on the Resilient Coastal Communities Program and the EV Action Plan.

#### 'Board of Adjustment – Pending Applications

There were no items for Board of Adjustment consideration in February 2022.

#### 'Additional Updates

- Decentralized Wastewater Management Plan – Prior to receiving a presentation of the of the Draft Decentralized Wastewater Management Plan at their February 15, 2022 meeting, the Planning Board was given the Plan to review and provide feedback to staff and the consultant for incorporation into the document. The Board of Commissioners will be provided with a presentation of the Draft DWMP at their March 2<sup>nd</sup>, 2022 meeting, along with a hard copy and digital version for their review. No action is being requested at this time, only that the Board of Commissioners begin to review the document. In order to give the Board of Commissioners adequate time to review the document and have any necessary adjustments incorporated, we do not anticipate the consideration of adoption of the Plan until the Board's May 4<sup>th</sup>, 2022 meeting. No Advisory Committee meetings are scheduled at this time. The project website can be accessed [HERE](#).
- Estuarine Shoreline Management Plan – The consultant and staff are beginning to develop a survey that will be available to the community following the next Advisory Committee meeting. At the March 7<sup>th</sup> Advisory Committee meeting, the consultant will share an engineering update as well as discuss values important to the committee. The project website can be accessed [HERE](#).
- CAMA Land Use Plan Update – The CAMA Land Use Plan has been received by the Division of Coastal Management, is currently under review and we are within our 45-day period awaiting certification.
- NC Resilient Coastal Communities Program – The VHB consulting team met with Town staff to gain input on the vision and goals for the project and a better understanding of other current Town efforts/initiatives that may relate to resiliency. Additionally, staff and the consultant, Candice Andre, met with the MEM students conducting the EV Action Plan as well as the Energy Transitions Initiative Partnership Project (ETIPP) Project staff to discuss how to better integrate energy resilience into the Town's efforts for overall resiliency. On February 15<sup>th</sup>, Candice attended the Planning Board meeting to update and discuss the project as well as conduct a goal setting exercise. Staff will continue to work with VHB to complete the scope of work. More information on the project is available at

<https://www.nagsheadnc.gov/1068/Resilient-Coastal-Communities-Program>.

- SolSmart - The Town is working with the SolSmart Initiative to determine if the Town is eligible for recognition for solar energy technology. The U.S. Department of Energy's Solar Energy Technologies Office (SETO) funds SolSmart, a national designation and technical assistance program. SolSmart recognizes local governments that have taken key steps to address barriers to solar energy and provides no cost technical assistance to accelerate the development of local solar energy markets. More information on SolSmart is available at <https://solsmart.org/>.
- Electric Vehicle Action Plan – Duke MEM (Masters of Environmental Management) students are currently conducting stakeholder interviews have developed a survey for Planning Board members to participate in. Upcoming stakeholder meetings include Dominion Energy, the Dare County Tourism Bureau, an electrician, key staff, and business owners. A first draft of the action plan will be available to staff and the Planning Board the first week in March. A final draft of the EV Action Plan is anticipated to be received in May 2022.
- ETIPP Project/Program – Staff has worked with the ETIPP team to develop a list prioritized resilience goals and associated metrics. Staff has provided a list of critical facilities to the ETIPP team and are working to identify the functions these facilities provide during an emergency. The ETIPP team is moving into a second phase of the work which will integrate load data and other facility parameters to assess optimization alternatives for the energy system.
- NC AIA Activate Technical Assistance – Staff and a team from NC AIA and NC State, utilized stakeholder feedback to identify energy and water conservation measures appropriate for incorporation into the Residential Energy and Water Conservation Guide. Staff will be meeting with NC State Design staff to build out a draft of the guide over the next month.
- Whalebone Park: Phase 1 Planning – Following the February 2<sup>nd</sup> presentation of conceptual designs, Senior Environmental Planner, Kate Jones scheduled various community engagement opportunities such as a newsflash on social media outlets to solicit ideas, scheduled a public meeting on March 3<sup>rd</sup> from 4:30pm to 7pm which has also been advertised on the Dare County Schools online information portal. Presentations have also been scheduled to be given to the Nags Head Art and Culture Committee, the Nags Head Planning Board and at the upcoming OBX Mommy and Me Board meeting. These efforts will be beneficial in the scoring component for the Parks and Recreation Trust Fund Grant we will be seeking.
- LID Stormwater Demonstration Project – Planning staff has met with Public Works staff to review the scope of work to prep the rain garden area and install the pipe connection from the downspout. Most of the rain garden plants and materials have been ordered and staff is working with the gutter contractor to confirm dates for installation.
- Dominion LED Amber Streetlight Pilot Project – Following the installation of eight (8) amber “turtle friendly” light fixtures at various beach accesses within the Town, Dominion Energy has requested feedback on which fixtures and light displays that are the most desirable for the Town. The Board of Commissioners will be provided with the beach accesses and cut sheets for the light fixture installed at each access if they are interested in assessing these locations and providing feedback. Once we provide Dominion with our preferred fixture, they will utilize that fixture as they transition to LED fixtures.

- Dowdy Park Events/Farmers Market/Holiday Markets –The Committee for Art and Culture will be providing an update on the 2021 Season to the Board of Commissioners at their Mar 2<sup>nd</sup> meeting.

#### Upcoming Meetings and Other Dates

- Monday, February 28<sup>th</sup> – Grant training
- Week of March 1<sup>st</sup> – Discuss Town’s energy related projects with Dominion.
- Wednesday, March 2<sup>nd</sup> – Board of Commissioners Meeting
- Thursday, March 3<sup>rd</sup> - OBX CRS Users Group
- Thursday, March 3<sup>rd</sup> – Whalebone Park Public Meeting
- Monday, March 7<sup>th</sup> – Estuarine Shoreline Mgmt. Meeting – AC Meeting # 2
- Tuesday, March 8<sup>th</sup> – Meeting with Brittany Shipp re: Whalebone Park PARTF
- Wednesday, March 9<sup>th</sup> – Committee for Art and Culture Meeting
- Thursday, March 10<sup>th</sup> – Energy and Resiliency Project Meetings
- Friday, March 11<sup>th</sup> – EV Action Plan Meeting
- Tuesday, March 15<sup>th</sup> – Planning Board Meeting
- Wednesday, March 23<sup>rd</sup> – Present DWMP at WRRRI
- Friday, March 25<sup>th</sup> – EV Action Plan Meeting
- Friday, February 25<sup>th</sup> – EV Action Plan Meeting

It was Board consensus that Ms. Wyatt email the Board the locations of the beach accesses that have the turtle-friendly lighting installed - this info is also to be broadcast so citizens can view the lighting.

#### Consideration of Resolution authorizing the Town Manager to enter into a Contract with NC Dept of Environmental Quality (DEQ) Division of Coastal Management for a Public Access Grant; Consideration of Epstein Street Public Access Bath House Site Plan

The agenda summary sheet was presented and read in part as follows:

“Attached please find a proposed resolution that authorizes the Town Manager to enter a contract on behalf of the Town with the Division Environmental Quality (DEQ) Division of Coastal Management for the Epstein Street Beach Access grant award. Also attached is the associated contract. The total grant award amount is \$200,000.00 and the Town’s matching amount is \$437,598.00 (including \$250,000 awarded from the Dare County Tourism Board). The next steps for this project include design and permitting of the proposed improvements.

‘Request Board adoption of attached resolution authorizing the execution of the Public Beach & Coastal Waterfront Access Grant Contract for the Epstein Street Beach Access Project and the associated contract.

‘In addition, the attached site plan and memo for the Epstein Street Public Access Bath House is provided for review.”

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

#### “GENERAL INFORMATION

Applicant: Town of Nags Head. Application Request: Site Plan Review.

Purpose: Construction of a two-story, 1,795 sq. ft. wood frame bathhouse on pilings with turfstone parking stalls, stormwater management measures, above grade decking with shower stations, and wooden walkway to the beach. These improvements are partially funded through a grant from the North Carolina Division of Coastal Management.

`Property Location: 5701 S. Virginia Dare Trail.

`Existing Land Use: Epstein Street Beach Access and Bathhouse.

`Zoning Classification of Property: SPD-C, Village at Nags Head – Recreation District.

`Zoning Classification of Surrounding Properties: Property to the north is outside of the SPD-C District and is zoned CR, Commercial Residential. Property to the south is zoned SPD-C, Village at Nags Head, SF-3 (Single Family-3). Property to the west, directly across S. Virginia Dare Trail is zoned SPD-C, Village at Nags Head SF-2 (Single Family-2). The ocean borders to the east.

`Flood Hazard Zone of Property: NFIP FIRM Maps indicate that three flood zones span this property: AO (1), AO (2), and VE (12). The lowest horizontal structural member of the lowest floor shall be no lower than 12 ft. msl. With a proposed first floor elevation of 13.8' this structure also meets the Town's free of obstruction requirements for V Zone development.

`Land Use Plan Map/Policies: The 2017 Comprehensive Plan Future Land Use Map classifies this property as Recreation and is also located within the Village Municipal Service Character Area. Section 3.9.2, Future Land Use, Designations states, "The Recreation designation is intended for public for and private recreational opportunities including public beach and sound access points, public parks, golf courses, and other private recreational opportunities".

`Staff finds this proposal to be consistent with the Recreation Land Use Classification.

#### `SPECIFIC INFORMATION

##### Applicable Zoning Regulations:

- Use Regulations: Pursuant to Section 9.36 of the Unified Development Ordinance, Table of Uses and Activities for the SPD-C District, "Beach Access and Bathhouse" is a permitted use within the SPD-C, Village at Nags Head – Recreation District.
- Lot Coverage: Redevelopment of the public beach access and bathhouse is compliant with lot coverage and open space requirements within the SPD-C, Village at Nags Head District.
- Height: The maximum allowable building height within the Town is 35 feet and may be increased to 42 feet with the use of an 8:12 roof pitch or greater. The proposed bathhouse is 24'-10" in height and is therefore compliant.
- Architecture Design Standards: Article 10, Part VI of the UDO sets forth Commercial Design Standards within the Town. Commercial structures with a building area of 10,000 square feet or less may elect to obtain architectural design compliance through obtaining 150 design points based upon the criteria outlined in the Town of Nags Head Residential Design Guidelines or, meet the requirements set forth in Division II, Building Design, of the Unified Development Ordinance. The proposed bathhouse is compliant with the building design standards set forth in Division II including building size and dimensions, building height, architectural design/elements, building materials and building detailing.

- **Parking:** The Unified Development Ordinance does not set forth a minimum required number of parking spaces for municipally owned public access facilities; however, 44 parking spaces have been proposed, including 2 handicap accessible parking spaces.

Additionally, Section 10.92.14.4 requires a minimum of 20% of the surface area of the parking area and drive aisles to be constructed using permeable surface materials. An excess of 20% has been provided and is therefore compliant.

- **Buffering/Landscaping:** A compliant five-foot-wide Buffer Yard C will be required along the perimeter of the northern and southern property lines adjacent to residential and multifamily uses.

- **Lighting:** There is no change in parking lot lighting proposed with this request. Structure lighting will be provided in accordance with Article 10, Part IV. Outdoor Lighting. A light audit will be conducted to ensure compliance with illumination standards prior to issuance of final zoning and the certificate of occupancy.

- **Signage:** This access will be signed in compliance with Town and CAMA standards as with all other public beach access.

**Water and Sewage Disposal:** The Dare County Health Department has reviewed and approved the proposal as requested (see attached authorization).

**Stormwater Management:** Adequate stormwater management measures have been designed by the Town Engineer.

**Traffic Circulation:** Compliant traffic circulation has been designed by the Town Engineer.

**Fire:** The Project will be required to comply with all applicable NC Fire Prevention Code requirements as part of building permit application review and issuance.

**Public Works:** Public Works has reviewed and approved the proposed site plan as presented.

**CAMA:** A CAMA Minor Permit is required for this proposed use and must be issued prior to zoning or building permit issuance. This is currently under review by DCM.

#### **ANALYSIS & STAFF RECOMMENDATION**

Staff finds that the proposed Site Plan is consistent with the applicable use and development standards, as well as relevant land use policies. Staff recommends approval of the Site Plan for the redevelopment of the Epstein Street Bathhouse as presented.

#### **PLANNING BOARD RECOMMENDATION**

At their November 16, 2021 meeting the Planning Board voted unanimously to recommend approval of the proposed Site Plan for the redevelopment of the Epstein Street Bathhouse as presented."

**MOTION:** Comr. Sanders made a motion to approve the Epstein Street Public Access Bath House site plan as presented. The motion was seconded by Comr. Brinkley which passed 4 – 0 (Mayor Pro Tem Siers was not present.).

Town Engineer David Ryan spoke concerning the NC DEQ Public Access Grant Contract for the Epstein Beach Access and presented the resolution for Board consideration. The resolution authorizes the Town Manager to enter into the contract on behalf of the Town.

MOTION: Comr. Brinkley made a motion to adopt the resolution authorizing the Town Manager to enter into a contract with the NC Dept of Environmental Quality Division of Coastal Management for a public access grant for Epstein Beach Access as presented. The motion was seconded by Comr. Renée Cahoon which passed 4 – 0 (Mayor Pro Tem Siers was not present.).

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

“WHEREAS: The Town of Nags Head (the “Town”) has been awarded a public access grant for Epstein Street Beach access improvements; AND

‘WHEREAS: The Town is advised that a proposed contract between the Town and the North Carolina Division of Coastal Management (DCM) for Public Beach and Coastal Waterfront Access grant funds is being presented for the project known as Epstein Street Public Access and discussed; AND

‘WHEREAS: That, under the terms of the said contract, the total project cost is \$637,598.00; AND

‘WHEREAS: The Town will pay a total local cash contribution of \$437,598.00 as its local share of the total project costs; AND

‘WHEREAS: The total grant assistance requested is \$200,000.

‘BE IT THEREFORE RESOLVED, as follows:

1. That a contract between the Town of Nags Head and the North Carolina Department of Environmental Quality be and the same is hereby approved.
2. That the Manager is hereby authorized to sign and execute the said contract for and on behalf of the Town of Nags Head and forward the same to the North Carolina Department of Environmental Quality.
3. That upon final execution, a copy of said contract be filed with the minutes.”

#### Presentation of Decentralized Wastewater Management Plan

The agenda summary sheet read in part as follows:

“Tetra Tech and Staff have developed a presentation and draft of the Decentralized Management Plan Update for Board review. The Plan works to implement a recommended action of the Town’s Comprehensive Plan to “Update the Decentralized Wastewater Management Plan to evaluate the overall effectiveness of the program and recommend additional measures as necessary,” (NR-26g) and advance actions recommended in the Town’s *Vulnerability, Consequences, Adaptation, Planning Scenarios (VCAPS) Report*.

#### ‘Staff Recommendation

Staff recommends that the Board review and discuss the draft Plan and provide comments to staff throughout the month of March. The consultant and planning staff will work together to address any necessary revisions with the anticipation of adoption at the Board’s May 4, 2022 meeting.”

Staff's report was presented and read in part as follows:

"In March 2021 Planning and Development staff began working with consultants, Tetra Tech Engineering, PC on the development of an updated Decentralized Wastewater Management Plan. Prior to selection of the consultant, the Board of Commissioners appointed an Advisory Committee consisting of four Town residents to provide guidance and feedback to both staff and the consultant during the development of the updated Plan. This committee consists of Basil Belsches, Bill Simmons, Bob Muller and Dave Hermann. Staff would like to take the opportunity to recognize and thank these committee members as they have, and will continue, to play an integral role in the update of the Plan. Advisory committee members have helped identify and engage stakeholders, attend community meetings, and provide feedback on specific plan elements such as goals, policies, program incentives, and the overall future directive of the Todd D. Krafft Septic Health Initiative.

'In anticipation of finalizing the plan and asking for adoption at the May 4<sup>th</sup> Board of Commissioners meeting, Holly Miller with Tetra Tech and planning staff will be providing a presentation and facilitating a discussion on the draft document at the Board of Commissioners meeting on March 2<sup>nd</sup>, 2022. The Board of Commissioners will also receive a paper copy of the Decentralized Wastewater Management Plan and have access to a digital copy.

'We are excited to have the opportunity to present this update to the Board of Commissioners and will be available to participate in the discussion and address any questions that arise at that time.'

Environmental Planner Kylie Shephard introduced Holly Miller of Tetra Tech whom she noted would be participating via the Zoom Platform.

Bob Muller serves on the Advisory Committee and stated that Tetra Tech has reviewed every aspect of the Septic Health Initiative Program with the following results:

- More Septic tank inspections are anticipated
- Loans are not enough as often fill is also necessary
- Grow the inspection program to 500
- Inspect septic pump from 100 to 150 pump outs
- Increase septic loan from \$7,500 to \$12,000 closer to the actual program for fill and mapping
- Increase amount of education to residents/property owners
- Ask Board to appoint a sub-committee to look into a septic system subscription service program

Tetra Tech Holly Miller continued the presentation and said that Board approval will be requested for consideration at the May 4<sup>th</sup> Board meeting. Her slides are attached to and made a part of these minutes as shown in Addendum "F".

Mayor Cahoon said that he feels this should be a County program; Mr. Muller agreed noting that there is interest in the program by other local governments in the area. It was Board consensus that the Town present its program to Dare County; Mayor Cahoon said that he would like to take the program to the other mayors at an upcoming monthly lunch meeting also.

Comr. Renée Cahoon feels the program is good; Comr. Brinkley expressed his appreciation and said he would like to get other entities involved also; Comr. Sanders said that he is excited that others are interested and he'd like to see the Town's program become a model for other towns.

Don Williams, Plymouth, Massachusetts - he also spoke during Public Comment; he commented that many people are not aware that septic systems need maintenance and periodic pumping; education is very important.

Board members thanked staff, Ms. Miller of Tetra Tech, and Advisory Committee member Bob Muller for their presentations today and spoke in favor of the septic program presentation and of the recommendations/suggestions brought forward.

Comr. Renée Cahoon suggested that staff utilize some of the GOV-ED video opportunities with the septic health initiatives to help get the information out to the public.

#### Discussion of possible expansion of Vegetative Sprigging Grant Program to address wind-blown sand

Senior Environmental Planner Kate Jones summarized her memo which read in part as follows:

"Staff has identified potential program changes that would expand the existing dune vegetation cost share program to include the installation of sand fence and sand relocation as reimbursable activities on oceanfront private property. These changes would be phased in over the next year, with the goals being to improve dune management at the parcel level through increased financial assistance to oceanfront property owners resulting in better outcomes.

#### Staff Recommendation

Staff recommends that the Board review and discuss the potential expansion of the cost share program, the recommended timeline, details and provide direction on how to proceed."

Board members spoke in favor of the Vegetative Sprigging grant program described by Ms. Jones. It was Board consensus to see bales of hay incorporated as well; Mayor Cahoon would like to see the hay bales stacked so that there is better accretion of sand around/behind them – to increase their effect. Comr. Renée Cahoon suggested contacting the Town of Emerald Isle as they utilize bay hales also.

## **NEW BUSINESS**

### Committee Reports

Comr. Sanders – the Estuarine Shoreline Management Plan Committee meets Monday, March 7<sup>th</sup>.

Comr. Brinkley – the Jennette's Pier Advisory Committee has met; October 2021 was the best October visitation they have had; the wind turbines will be installed again in March 2022; the graphic panels on the pier have begun fading so staff has been updating them; Comr. Brinkley is to look into Comr. Renée Cahoon's question re the wind turbines and if they are to be installed as originally approved by the Board of Commissioners in their site plan.

Mayor Cahoon – the NC Towers Task Force for Wind Energy and Resource Strategy; this State-appointed Committee is to encourage more engagement in offshore wind operations/energy. They met once and are scheduled to meet again on May 5<sup>th</sup>. Mayor Cahoon stated that he looks forward to continuing work on this offshore wind energy initiative.

Consideration of Resolution of Intent to permanently close a portion of Eighth Street

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

"At the March 2, 2022 Board of Commissioners meeting the Board is being asked to begin the process of closing the portion of Eighth Street located in the Fresh Pond Beaches Subdivision adjacent to Lots 1-6 of the Town's Public Services site. Please see attached map.

'This property is expected to be utilized for the Public Services Department Master Plan Project.

'After adoption of the attached Resolution of Intent, four (4) consecutive weeks of advertisement in a local paper, and a Public Hearing will be required before this action can be finalized. Requested actions are in accordance with NCGS 160A-299. *Procedure for permanently closing streets and alleys* (attached) which identifies the following process:

- Adoption of resolution declaring the Board's intent and scheduling a Public Hearing
- Advertisement for Public Hearing to be published for four (4) successive weeks
- Notice of the Public Hearing to be posted on the identified street portion in two (2) places
- Notice of the Public Hearing to be mailed certified or registered to surrounding property owners
- Board may take action at the Public Hearing to adopt a resolution permanently closing the area"

Manager Garman also noted that the Town of Kill Devil Hills is considering a similar resolution at their March 7<sup>th</sup> meeting.

MOTION: Comr. Brinkley made a motion to adopt the resolution of intent to permanently close a portion of Eighth Street as presented. The motion was seconded by Comr. Renée Cahoon which passed 4 – 0 (Mayor Pro Tem Siers was not present.).

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

"The Board of Commissioners of the Town of Nags Head, North Carolina, does hereby adopt the following resolution:

'BE IT RESOLVED, that the Board of Commissioners of the Town of Nags Head hereby declares its intention to consider the permanent closing of a portion of Eighth Street as described below:

The approximate 300' portion of Eighth Street located between Pond Avenue and Fresh Pond in the Fresh Pond Beaches Subdivision - adjacent to Lots 1 - 6 in the Town of Nags Head

'WHEREAS, Eighth Street as described hereinabove was accepted as a portion of the Town of Nags Head roadway system; AND

'WHEREAS, the proposal to permanently close Eighth Street would not deprive any property owner of a reasonable means of ingress and egress to his or her property by virtue of the closing of the street as described above.

'NOW THEREFORE BE IT RESOLVED, that the Board of Commissioners of the Town of Nags Head hereby declares its intention to consider the permanent closing of Eighth Street as described above and that appropriate notice of Public Hearing of this matter be given pursuant to Section 160A-299 of the North

Carolina General Statutes, and that the Public Hearing be held at the Board's regular meeting at 9:00 a.m. on the 6<sup>th</sup> day of April 2022."

## **ITEMS REFERRED TO AND PRESENTATIONS FROM TOWN ATTORNEY**

Attorney Leidy reported that on January 1, 2022 Senate Bill 473, became effective. It imposes new conflict of interest regulations and prohibits elected officials from being in a contract with an entity involving a non-profit that they serve as a board member for. It does not apply to legislatively created boards.

## **ITEMS REFERRED TO AND PRESENTATIONS FROM TOWN MANAGER**

### Town Manager Garman - Project Updates

Beach Nourishment Project - Town Engineer David Ryan reported on the status of the Town's 2022 Beach Nourishment Project - there is one remaining permit needed, which is the Army Corps of Engineers (ACOE) permit. Engineer Ryan said that the permit is expected soon and after received, staff can move forward with issuing the Notice of Award and execution of the actual beach nourishment construction contract.

Engineer Ryan stated that plans are for project mobilization to take place starting mid-July 2022 with demobilization to take place in early September 2022.

Comr. Renée Cahoon verified that staff would make sure rental companies are notified of the project timeline.

### Town Manager Garman - Discussion of traffic enforcement

Police Chief Phil Webster summarized his presentation entitled "Traffic Enforcement and Education". His slides are attached to and made a part of these minutes as shown in Addendum "G".

In response to Comr. Renée Cahoon, Chief Webster is to find out which intersections have the most accidents.

Comr. Brinkley questioned the listed drug offenses - he questioned 32 drug arrests in 2016; he also appreciates the efforts of the officers in traffic enforcement. Moving toward a community policing agency more than a traffic-centered agency was concurred with by Chief Webster.

Mayor Cahoon asked about software to track offenses – if current software is not adequate re: locations or type, consider other software systems to use – it would be helpful for the Police Dept and the public.

### Town Manager Garman - Discussion of Jockey's Ridge State Park Soundside Access

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

"The Jockey's Ridge State Park Soundside Access Working Group presented their recommendations to the Board of Commissioners on April 7, 2021. At that time, the Board adopted the recommendations and sent a letter to the NC Division of Parks and Recreation. The Town received a response to our letter from the NC Division of Parks and Recreation on January 31, 2022. This correspondence is attached for discussion on March 2<sup>nd</sup>. Attached please find the following:

'Town's letter (dated April 16, 2021) to Jockey's Ridge State Park re: Soundside Road Working Group recommendations

'Town's letter (dated June 18, 2021) to the State Division of Parks and Recreation re: Soundside Road Working Group recommendations

'State's response letter (dated January 31, 2022) to the Town"

Town Manager Garman questioned the Board's wish for an arrangement between State Parks and the Town in maintaining access in the future.

Comr. Renée Cahoon said she would like to continue communication with State Parks and Superintendent Joy Greenwood and questioned what the MOU would look like.

Comr. Brinkley also spoke in favor of maintaining a good line of communication; he would like to continue to try and help the Soundside Road residents; he also felt that the drive aisle is not safe for emergency vehicles if parking is allowed.

Comr. Sanders questioned the safety of the drive aisle when people are parked there; he also questioned the safety of the south side structure that is in a state of disrepair; as mentioned, he would like to keep the lines of communication open with the State.

It was Board consensus that staff remove the south side structure/boardwalk that is now thought to be unsafe, to prepare a document/MOU with a new framework that reflects current responsibilities of both Jockey's Ridge State Park and the Town; Fire Dept is to determine what the drive aisle should look like, in order to be safe, and staff is to work with State Parks on the turnaround inside the access.

## **BOARD OF COMMISSIONERS AGENDA**

Comr. Renée Cahoon - Consideration of GEACC Annual Budget

The Government Education Access Channel Committee (GEACC) annual budget was presented to the Board.

**MOTION:** Comr. Renée Cahoon made a motion to approve the Government Education Access Channel Committee Annual Budget as presented. The motion was seconded by Comr. Brinkley which passed 4 - 0 (Mayor Pro Tem Siers was not present.).

The GEACC Annual Budget, as approved, is attached to and made a part of these minutes as shown in Addendum "H".

Comr. Renée Cahoon - Highway pavement markings

Comr. Renée Cahoon noticed today a meeting with NCDOT has been scheduled for March 16<sup>th</sup> - she asked that lack of clear pavement markings be brought up for discussion at that meeting. There are no lines on some of the pavement which is especially hard to see at night and in rainy situations. She would like to ask NCDOT to address the paving of lines on the highway this year.

