



**MINUTES
TOWN OF NAGS HEAD
BOARD OF COMMISSIONERS MEETING
WEDNESDAY, MAY 15, 2019**

The Nags Head Board of Commissioners met in the Board Room of the Nags Head Municipal Complex located at 5401 S Croatan Highway in Nags Head, North Carolina on Wednesday, May 15, 2019 at 9:00 a.m.

Board members Present: Mayor Ben Cahoon; Mayor Pro Tem Susie Walters; Comr. Renée Cahoon; Comr. Webb Fuller; and Comr. Michael Siers

Board members Absent: None

Others present: Town Manager Cliff Ogburn; Andy Garman; Amy Miller; David Ryan; Kelly Wyatt; Michael Zehner; Roberta Thuman; and Town Clerk Carolyn Morris

Call To Order

Mayor Cahoon called the meeting to order at 9:00 a.m. He reported that Comr. Siers would be late.

Adoption of Agenda

MOTION: Mayor Pro Tem Walters made a motion to approve the May 15th agenda as presented. The motion was seconded by Comr. Renée Cahoon which passed unanimously.

Public Comment

Public Comment – Fred Schaan

Fred Schaan, 111 Oriental Street in S Nags Head; a problem was created in 1991 when Altoona Street washed away in a storm and houses were constructed to withstand higher winds; when the Beach Nourishment Project got to Oriental Street, the street was leveled and a lake formed; after being told there were no funds for a berm/dune, a dune was created in that area; he feels there is a problem with communication between the project players; Loon Court South now has a large berm again; he agrees, although many do not, that the Town should not set what would be a dangerous precedent by buying up the houses sitting on the beach; right now the only ones that win are the insurance companies as now the houses won't wash away.

There being no one else present who wished to speak, Attorney Leidy closed Public Comment at 9:06 a.m.

Consideration of Storm Debris Removal Contract

Town Manager Cliff Ogburn reported that this request is for an extension of the existing contract with Crowder Gulf for storm debris removal and there is an option for four more years. The next time the project is being reconsidered he will again bid for a local vendor.

Town Engineer David Ryan summarized his memo which read in part as follows:

"CrowderGulf is currently providing Debris Removal and Monitoring and Recovery Services respectively to the Town of Nags Head per the annual agreement which became effective on July 19, 2016. The terms of the agreement indicated an initial one (1) year period which is scheduled to expire on June 30, 2019. This agreement may be extended annually under its existing terms, conditions, and rates, in the Town's sole discretion, for up to four (4) additional one (1) year periods. Staff recommends extending the firm's existing agreement. This request is to permit the Town Manager to execute an extension of Debris Removal services with CrowderGulf under the existing terms, conditions and rates from July 1, 2019 to June 30, 2020."

In response to Comr. Renée Cahoon, Mr. Ryan explained that this contract is separate and apart from the contract with the County for storm debris pick-up. He also responded that the timeframe for the company to be on call is 24 to 48 hours after the Town issues the Notice To Proceed.

MOTION: Comr. Renée Cahoon made a motion to authorize the Town Manager to execute the attached agreement which is an extension of the existing agreement with CrowderGulf for debris removal and monitoring and recovery services. The motion was seconded by Mayor Pro Tem Walters which passed unanimously.

The agreement with CrowderGulf, as approved, is on file in the Town Clerk's Office.

COMR. SIERS ARRIVED AT BOARD MEETING

Comr. Siers arrived at 9:09 a.m.

Discussion of Stormwater Projects

Consideration of associated contract and budget amendment

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

"The pre-construction design and survey work for the upcoming Stormwater Project areas are for Projects #4, #9, #10, #12 and #13 as follows:

- `#4 – Wrightsville Avenue area
- #9 – Nags Head Pond Subdivision/Ballfield area
- #10 – Nags Head Cove Subdivision (Pompano Court)
- #12 – S Old Oregon Inlet Road – milepost 19.5 area
- #13 – S Old Oregon Inlet Road – milepost 18 area

'Attached please find budget adjustment #12.1 to encompass the pre-construction design and survey work for these projects as well as the proposed contract with Withers/Ravenel for consideration at the May 15th Board of Commissioners meeting."

Comr. Siers said that when reviewing the agreement, he saw inconsistencies in some of the project work such as with the surveying and engineering costs. Engineer David Ryan explained that when the proposal was prepared, some projects have to go to NCDOT for approval and therefore have to be in NCDOT's format. Comr. Siers questioned why the projects being bid as a package would have surveying costs so different.

Comr. Renée Cahoon confirmed that the Board had not yet reached a resolution at a previous workshop on the Wrightsville Avenue project. Engineer Ryan said that what is critical at this time is to get the surveying costs approved. Mayor Cahoon confirmed with Engineer Ryan that staff does not have an answer yet re: grant funding for the Wrightsville project.

It was suggested to delay taking action until the June 5th Board meeting since the Board should, by that time, have the answers re: grant funding as staff will be meeting with the State soon.

Mayor Pro Tem Walters confirmed with Engineer Ryan that, if a viable option, Withers Ravenel will help with the Clean Water Management Trust Fund Grant filing.

Comr. Fuller made several comments: 1) The Board has not yet committed to Wrightsville Avenue and Carolinian Circle Projects, 2) He has a hard time with the Town paying for work that is the responsibility of NCDOT, 3) He agreed with Comr. Renée Cahoon re: municipal service district determination could impact what projects are done, and 4) He does not like to see projects being estimated when the Board has not approved them yet.

It was Board consensus that the following be provided for the June 5th Board meeting: 1) Defined schedule for starting work if a commitment is made at the June 5th Board meeting, 2) Feedback from the State re: grant participation in Project #4 (Wrightsville Avenue project), and 3) Some degree of cost/benefit analysis for Project #9 (Nags Head Pond Subdivision/Ballfield area project).

Board members agreed that there is no need for a municipal service district discussion until cost/benefit information is obtained.

Discussion of Beach Nourishment Project to include S Nags Head ponding/dunes

Town Manager Cliff Ogburn introduced Haiqing Kaczowski, Project Engineer, from Coastal Science & Engineering (CSE) who will be presenting an update on the Town's ongoing Beach Nourishment Project via a powerpoint presentation.

Ms. Kaczowski stated that as of Monday, May 13, 2019, 14% of the project has been completed but only 7% of the project area has been nourished; she anticipates end of July 2019 for completion of the project.

Her comparison slide from the 2011 project and this year's project read in part as follows:

| | |
|-------------------------|-----------------------------|
| "2011 Nourishment | 2019 Nourishment |
| 4.6 million cy | 4.0 million cy (15% less) |
| Dune design was removed | Dune along Reaches 3 & 4 |
| Dune volume = 0 | Dune volume = 10 – 15 cy/ft |
| Berm at +6 ft NAVD | Berm at +6 ft NAVD |
| --Wider berm | --Wide berm" |

Her presentation is attached to and made a part of these minutes as shown in Addendum "A". Board members thanked Ms. Kaczowski for her thorough and informative presentation.

Comr. Fuller asked for some of the drone video she presented to be posted to the Town's web site; he felt this would be very helpful.

Items Referred to and Presentations from Town Attorney

From May 1st Board meeting – Response to Accessory Dwelling Unit (ADU) concerns, i.e., subdivision covenants

Attorney Leidy reported that after his research re: whether the Town can rely upon external standards or requirements such as Home Owners Association (HOA) covenants as part of what is considered an ordinance for permits, there is no case law - although there is some authority. He stated that the short answer is that it is unclear whether the Town can rely on or use restricted covenants for this purpose but there are a number of practical reasons to not utilize this type of concept.

Although covenants are usually recorded by the County Register of Deeds Office so they are official – the Town has always taken the position - as is normally done by municipalities, that neighborhood covenants are not considered during the zoning process; the HOA can regulate/restrict via their covenants that which would otherwise not be enforced by the Town as long as not against law - the HOA has this authority that local government does not.

There are practical reasons to not utilize the HOA covenants to enforce the Town's ordinances and he would not recommend doing so.

It was Board consensus that it would not be a good idea to utilize neighborhood HOA covenants to enforce Town ordinances concerning accessory dwelling units. Board members thanked Attorney Leidy for his report.

Items Referred to and Presentations from Town Manager

Town Manager Ogburn – Events/Activities in Nags Head

Town Manager Ogburn provided a list of recent and upcoming events/activities in Nags Head:

- May 3rd Honor Roll Law Enforcement Bike Ride - riders pay tribute to those lost in the line of duty
- March 4th March of Dimes – first event to use the new restrooms at Dowdy Park
- May 6th – Bicycle Rodeo day at Nags Head Elementary School
- May 8th – Bike to School at Nags Head Elementary School
- May 8th - Mayoral Round-table at Dare County Building to protect North Carolina's coast by affirming our position that there is no need for offshore oil drilling
- May 11th - Artrageous Festival at Dowdy Park
- May 11th – 36th Annual Nags Head Woods 5K Run
- May 11th and 12th – 1st Annual OBX Rod and Custom Festival at the Event site

- This week - Chi Alpha of The Student Institute of Campus Ministry are in town made up of 210 people that are frequenting our businesses and this is their 11th year in Nags Head
- Seasonal Lifeguards are back starting the Saturday of Memorial Day weekend and will have new brochures with them to hand out
- Jennette's Pier is doing a great job in Nags Head as a State facility
- The Town's Beach Nourishment Project is taking place now utilizing the Ellis Island Dredge
- The S Nags Head Water Tower has been repainted
- Chief Building Inspector Cory Tate was recently recognized by the NC Code Officials Qualifications Board for obtaining level 3 standard certifications in all five inspections trades
- May 23rd at 10 am – tentative date/time for ribbon cutting at Dowdy Park for Phase II – to coincide with the first Farmers Market on the same day
- May 27th Memorial Day ceremony is scheduled for 11 am and Septic Health Coordinator Todd Krafft will be the guest speaker

Board of Commissioners Agenda

Comr. Fuller – Dune Deck on oceanfront house

Comr. Fuller spoke of a recently completed dune deck on an oceanfront house – it was built to 35' height, it was permitted by CAMA and the Town and the adjoining property owners signed off on it. Comr. Fuller would like the Board to look at the dune decks.

Staff pointed out that the discussion of dune decks is on the next Planning Board agenda.

Mayor Pro Tem Walters – Artrageous event at Dowdy Park

Mayor Pro Tem Walters reported on the successful Artrageous event on Saturday, May 11, 2019 at Dowdy Park and thanked staff for their work on the event; she also thanked those who worked during the event.

Comr. Renée Cahoon – Dune Deck on oceanfront house

Comr. Renée Cahoon agreed with Comr. Fuller's comments re: ocean dune decks as she has received a lot of phone calls about them also.

Comr. Renée Cahoon – Bike to School and Bicycle Rodeo

Comr. Renée Cahoon thanked Dep Planning Director Kelly Wyatt, the Police Dept and all who participated in the Bike to School and the Bicycle Rodeo events at Nags Head Elementary School during the week of May 6th.

Comr. Renée Cahoon – Little Bridge pedestrian crossing

The Town worked jointly with NCDOT on the Little Bridge Pedestrian Crossing site and Comr. Renée Cahoon said that she feels there really is not true safety in that area because of the vehicle speed. She does not feel that the crossing is effective.

Comr. Siers – Dune Deck on oceanfront house

Comr. Siers agreed with Comr. Fuller's comments re: ocean dune decks and their height, etc. He asked if the Board is going to look at that issue, there are some other issues he would like to be discussed also.

Comr. Siers – Book - *Atomic Habits* - by James Clear

Comr. Siers thanked Mayor Cahoon for the *Atomic Habits* book by James Clear distributed to Board members by Mayor Cahoon several months ago. It talks about breaking bad habits and starting good habits.

Mayor's Agenda

Mayor Cahoon – Little Bridge pedestrian crossing

Mayor Cahoon expressed his profound disappointment in the Little Bridge pedestrian crossing project.

Mayor Cahoon – Bike to School and Bicycle Rodeo

Mayor Cahoon participated in the May 6th Bicycle Rodeo and the May 8th Bike to School events at Nags Head Elementary School.

Mayor Cahoon – Rod and Custom Festival at the Soundside Event Site

The recent Rod and Custom Festival at the Soundside Event site had a larger than expected turnout and it was a great weather day. Mayor Cahoon noted that groups from all over the country attended to view a variety of antique and vintage vehicles on display. He mentioned that there may be a need for a crosswalk in that area.

Mayor Cahoon – Mayors Roundtable

The Mayors Roundtable met in Manteo on May 8, 2019 with Division of Environmental Quality (DEQ) Secretary Michael Regan to discuss opposition to offshore oil drilling; all those involved are committed and they are getting more involved that are not directly on the coastline. Mayor Cahoon said that the group is close to getting 25 signatures from State Mayors to sign the resolution opposing offshore oil drilling.

