



**MINUTES  
TOWN OF NAGS HEAD  
BOARD OF COMMISSIONERS  
REGULAR MEETING  
WEDNESDAY, AUGUST 2, 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, August 2, 2023 at 9:00 a.m. for a Regular Meeting.

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

Board members Absent: Comr. Kevin Brinkley

Others present: Town Manager Andy Garman; Attorney John Leidy; Kelly Wyatt; Amy Miller; David Ryan; Perry Hale; Randy Wells; Michelle Gray; Roberta Thuman; Bruce Erickson; Stephanie Powers; Donna Creef; Bryan Joyner; Beth Sciaudone; Ayse Karanci; Doug Huggett; Marshall Gill and others; and Town Clerk Carolyn F. Morris

**CALL TO ORDER**

Mayor Cahoon called the meeting to order at 9 a.m. A moment of silent meditation was followed by the Pledge of Allegiance.

Mayor Cahoon noted that Comr. Brinkley was excused from today's meeting.

**ADOPTION OF AGENDA**

MOTION: Mayor Pro Tem Siers made a motion to approve the August 2<sup>nd</sup> agenda as presented. The motion was seconded by Comr. Renée Cahoon which passed 4 – 0 (Comr. Brinkley was excused.).

**RECOGNITION**

Public Services Director Nancy Carawan introduced Facilities Maintenance Technician Bruce Erickson who was congratulated by the Board for five years of service.

**PUBLIC COMMENT**

Attorney Leidy opened Public Comment for those present interested in speaking.

PUBLIC COMMENT – STEPHANIE POWERS

Stephanie Powers, Nags Head resident; she spoke concerning e-bikes and the safety of those that use them; her e-bike, according to the General Statutes, is authorized and is not to be treated as a vehicle; she is concerned if she's not able to use the multi-use path and has to use the roadway with vehicles as her e-bike has no brake lights or turn signals and goes a maximum of 20 MPH; she offered suggestions to make it safer for all to share the multi-use path with e-bikes; she also said if the Board would table this decision for additional research that she would be glad to participate on a committee to help come up with some solutions; she thanked the Board for its consideration.

PUBLIC COMMENT – DONNA CREEF

Donna Creef, Outer Banks Association of Realtors (OBAR) Government Affairs Director; the OBAR Board of Directors recently adopted a resolution requesting that the State support the recently-introduced bill concerning the National Flood Insurance Reauthorization and Reform Act of 2023; OBAR is requesting that the Town adopt a similar resolution.

**CONSENT AGENDA**

The Consent Agenda consisted of the following items :

- Consideration of Budget Amendment #2 to FY 22/23 Budget
- Consideration of Tax Documents  
FY 22/23 Year End Tax Adjustment Reports  
FY 22/23 Year End Tax Settlement Report
- Approval of minutes
- Sand Relocation and Dune Management Cost Share Program  
Continuation of year two of a three-year program  
Consideration of Beach Nourishment Maint Capital Project Ordinance amendment
- Request for Public Hearing to consider text amendments to the Unified Development Ordinance as it pertains to including the use of "Restaurant, Drive Through" as a permissible use within Commercial Mixed-Use Developments, as well as amending the supplemental regulations associated with this use
- Request for Public Hearing to consider a Special Use Permit/Site Plan Amendment submitted by SRE Mustang, LLC (Outlets Nags Head), for the construction of a Starbucks Restaurant/Café at 7100 S. Croatan Highway, Nags Head

MOTION: Comr. Renée Cahoon made a motion to approve the Consent Agenda as presented. The motion was seconded by Mayor Pro Tem Siers which passed 4 – 0 (Comr. Brinkley was excused.).

Mayor Cahoon pointed out that the End of Year Tax Collection Report indicated a tax collection rate of 99.992% and applauded the Tax Collector for her work.

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

The Tax Adjustment Reports, as approved, are attached to and made a part of these minutes as shown in Addendum "B".

The Sand Relocation and Dune Management Cost Share Program memo with funding requests, as approved, read in part as follows:

"In order to better assist oceanfront property owners with overall dune management, staff recommends funding the cost share program to include dune vegetation, sand fence installation, and ocean sand relocation activities in the upcoming season.

'As a point of reference, the Town processed the below number of sand relocation permits the past three years:

- FY 20-21, 155 sand relocation permits.
- FY 21-22, 190 sand relocation permits.
- FY 22-23, 266 sand relocation permits

'Dune vegetation stabilization is required for sand relocation reimbursement, with a cap of \$3,500. If sand is not being moved, \$1,000 is the cap for plants and fencing, which does include labor and materials. Currently the application interval for planting and sand fence installation is every year, and the application interval for the sand relocation is once every three years. FY 23-24 is the second year of the three-year cycle for the sand relocation reimbursement program. Below is a table which summarizes the evolution of this program since its inception.

<b>Activity</b>	<b>FY 20-21</b>	<b>FY 21-22</b>	<b>FY 22-23</b>	<b>FY 23-24</b>	<b>Application Interval</b>	<b>Application Dates</b>
Planting	Yes	Yes	Yes	Yes	Every Year	Oct. 1 - June 30
Sand Fence Installation	No	Yes (Mid-Way)	Yes	Yes	Every Year	Oct. 1 - June 30
Sand Relocation	No	No	Yes	Yes	Once Every Three Years	Nov. 15 – April 15
Max. Funding Amount per Parcel	\$500	\$1,000	\$3,500	\$3,500		
<b>Total Program Funding</b>	\$20,000	\$20,000	\$320,000	\$320,000		
<b>Total Amount Disbursed</b>	\$4,000	\$9,931	\$185,916.69 (requests still being processed)	N/A		
<b>Total Amount Allocated</b>	N/A	N/A	\$134,083.31	\$320,000		

'OBX Better Beaches

Staff is also recommending \$15,000 be provided to OBX Better Beaches for the purpose of installing dune vegetation. This amount would allow the organization to plant three-fourths to one linear mile of oceanfront dunes for the upcoming 2023-2024 season.

'A budget ordinance is included for your approval of these requests. Funds (\$335,000) will be transferred between line items. Excess funds from capital construction oversight (Hurricane Dorian project) will be transferred to capital outlay other to cover the cost of the program for FY 23-24.'

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

The Request for Public Hearing – "Restaurant, Drive Through", 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 July 18, 2023 meeting the Planning Board heard a revised text amendment request (original request on May 16<sup>th</sup>) and voted unanimously to recommend denial of the text amendment as proposed.'

The Request for Public Hearing – Special Use Permit/Site Plan Amendment, as approved, read in part as follows:

"Special Use Permit/Site Plan Amendment submitted by SRE Mustang, LLC (Outlets Nags Head) on behalf of Starbucks Restaurant for the construction of a 2,460 square foot Starbucks Restaurant/Café with a drive through and outdoor patio located within the existing parking lot for Outlets Nags Head. The property is zoned C-2, General Commercial and is located at 7100 S. Croatan Highway, Nags Head.

'Staff Recommendation/Planning Board Recommendation

Planning Staff recommends denial of the Special Use Permit/Site Plan Amendment as presented. Noting first and foremost that the text amendment to permit the use of drive-through restaurants within Commercial Mixed-Use designations must first be adopted before any consideration of the SUP can occur, staff finds that the proposal is inconsistent with many of the applicable use and development standards, as well as the land use policies. Staff from various town departments believe that the reduction in overall onsite parking is of significant concern and that layering in a drive-through restaurant into the existing shopping center has the potential to create vehicular conflicts internal to the site including the stacking of vehicles into drive aisles as well as within primary entrance. Staff also has concerns with potential traffic backups preventing and obstructing emergency vehicles from moving freely through the parking lot drive aisles.

'At their July 18, 2023, meeting, the Planning Board voted unanimously to recommend denial of the Special Use Permit/Site Plan Amendment based upon the noted staff concerns and inconsistencies with the 2017 Comprehensive Land Use Plan.'

## **PUBLIC HEARINGS**

### Public Hearing to consider application for NC Division of Coastal Management (DCM) Public Beach and Waterfront Access and Grant Program

Town Attorney John Leidy introduced the Public Hearing to consider an application for a North Carolina Division of Coastal Management Public Beach and Water Access grant. The time was 9:12 a.m.

Dep Town Manager/Finance Officer Amy Miller summarized the agenda summary sheet which read in part as follows:

"Attached is a pre-application for a grant from the 2023/2024 North Carolina Public Beach and Waterfront Access Grant Program.

'Staff is requesting to apply for this grant which, if approved, would allow for a new ADA-accessible elevated dune crossover with associated ADA-compliant parking stalls along with a shower station upfit to the existing beach access area, Governor Street, which is located near Jennette's Pier and receives high visitation."

Notice of the Public Hearing was published in the *Coastland Times* on Sunday, July 23, 2023 and on Sunday, July 30, 2023 as required by law.

There being no one present who wished to speak, Attorney Leidy concluded the Public Hearing at 9:13 a.m.

**MOTION:** Comr. Renée Cahoon made a motion to approve the application for the NC Division of Coastal Management Public Beach and Waterfront Access grant as presented. The motion was seconded by Mayor Pro Tem Siers which passed 4 – 0 (Comr. Brinkley was excused.).

### Public Hearing to consider the permanent closing of a portion of Old Nags Head Woods Road identified as "All that portion of Old Nags Head Woods Road that crosses Lot 3 'Division for Ralph Buxton, et al' owned by Stanford M. White, south of the 15' access easement, which is approximately 130 feet north of the southern lot line, and that portion of Old Nags Head Woods Road that crosses Lot 4 'Division for Ralph Buxton, et al' owned by Louisa Farr"

Town Attorney John Leidy introduced the Public Hearing to consider the permanent closing of a portion of Old Nags Head Woods Road as listed. The time was 9:15 a.m.

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

"At the July 5<sup>th</sup> Board of Commissioners meeting, the Board voted to begin the process to permanently close a portion of Old Nags Head Woods Road. A Resolution of Intent was subsequently adopted.

'At the August 2<sup>nd</sup> Board of Commissioners meeting, a Public Hearing will be conducted and the Board will consider the permanent closing of a portion of Old Nags Head Woods Road.

'Attached please find the following:

- Resolution of Intent adopted at the July 5<sup>th</sup> Board meeting
- Proposed Resolution to close portion of Old Nags Head Woods Road
- Associated Public Hearing Notice
- NCGS 160A-299 Procedure for permanently closing streets and alleys

- Map of Old Nags Head Woods Road”

Notice of the Public Hearing was published in the *Coastland Times* on Sunday, July 23, 2023 and on Sunday, July 30, 2023 as required by law.

Town Manager Garman noted that the Town has initiated a survey and that action to adopt the resolution can be taken today or it can be delayed until after the survey is completed if the Board would prefer.

Mayor Cahoon confirmed with Town Manager Garman that he was not aware of any time sensitivities; Manager Garman stated that in his conversations with property owner Stan White a delay of another month in order to make sure everyone is satisfied would not be a problem.

Comr. Renée Cahoon confirmed with Attorney Leidy that the Board can table action until after the survey is completed or take action today.

There being no one present who wished to speak, Attorney Leidy concluded the Public Hearing at 9:20 a.m.

**MOTION:** Comr. Renée Cahoon made a motion to table consideration of the resolution to permanently close a portion of Old Nags Head Woods Road until after the survey has been completed. The motion was seconded by Mayor Pro Tem Siers which passed 4 – 0 (Comr. Brinkley was excused.).

## **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 August 2, 2023.

### ‘Monthly Activity Report

Attached for the Board’s review is the *Planning and Development Monthly Report for June 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:

- Wednesday, July 5<sup>th</sup> - Board of Commissioners Meeting
- Thursday, July 6<sup>th</sup> – Technical Review Committee Meeting
- Wednesday, July 12<sup>th</sup> – Committee for Art and Culture Meeting
- Thursday, July 13<sup>th</sup> – Board of Adjustment Meeting (8723 SOOIR Variance)
- Tuesday, July 18<sup>th</sup> – Planning Board Meeting
- Wednesday, July 19<sup>th</sup> – Board of Commissioners Mid-Month Meeting
- Friday, July 28<sup>th</sup> – Septic Health Advisory Committee Meeting
- Dowdy Park Farmers Market – Thursdays, July 6<sup>th</sup>, 13<sup>th</sup>, 20<sup>th</sup>, & 27<sup>th</sup>
- Dowdy Park Summer Concerts – Wednesdays, July 5<sup>th</sup>, 12<sup>th</sup>, 19<sup>th</sup>, & 26<sup>th</sup>

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

The Planning Board's most recent meeting was held on Tuesday, July 18, 2023, and included consideration of text amendments to the UDO to include the use "Restaurant, Drive-Through" as a permissible use within commercial mixed-use designations (Planning Board recommended denial) and consideration of a Special Use Permit/Site Plan Amendment for the construction of a Starbucks Restaurant/Café at 7100 S. Croatan Highway (Planning Board recommended denial). The Planning Board continued their discussion of integrating the "multi-family dwelling" use into the Unified Development Ordinance and are looking forward to the August 2<sup>nd</sup> Joint Workshop to continue moving forward on this project. The Planning Board's next meeting is scheduled for August 15<sup>th</sup>, 2023. At this time, the agenda is expected to include continued discussion on the multi-family dwelling ordinance.

#### 'Board of Adjustment – Pending Applications

The Board of Adjustment was scheduled to meet on Thursday, July 13<sup>th</sup> to hear a variance request by property owner, David Treharne, regarding the setback requirements of the Unified Development Ordinance as it relates to a newly constructed deck. The property is zoned R-2, Medium Density Residential and is located at 8723 S. Old Oregon Inlet Road. The applicant secured attorney Casey Varnell for representation just prior to the meeting date, Mr. Varnell requested that the Board of Adjustment continue the July 13<sup>th</sup> meeting to July 20<sup>th</sup>. A quorum was not present at the July 13<sup>th</sup> meeting therefore, the meeting was continued to the Board of Adjustments next regularly scheduled meeting on Thursday, August 10, 2023.

#### 'Additional Updates

- DWMP/Septic Health Advisory Committee – The next quarterly meeting of the Septic Health Advisory Committee will be held on Friday, July 28<sup>th</sup> beginning at 10am. At this meeting, staff will provide an update on the impact of the mailers to South Nags Head and Old Nags Head Cove as well as final numbers for inspections, pump outs, and loans for fiscal year 22-23. The Septic Health Advisory Committee will plan to provide an update to the Board of Commissioners at their September 6, 2023, meeting.
- Estuarine Shoreline Management Plan – No new updates. Staff has submitted the full grant application for the National Fish and Wildlife Foundation grant in the amount of \$750,000 to cover surveying, engineering, and design of the three prioritized sites. This application was submitted on June 28<sup>th</sup>, 2023. It is likely to be November 2023 when we hear back on the status.
- NC Resilient Coastal Communities Program – No new updates. The town has 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 – Staff are researching equipment needs for the installation of the Level 2 Public Charging Station at the municipal complex in anticipation of purchasing soon.
- ETIPP Project/Program – No new updates. Staff anticipate being able to provide the Board of Commissioners with a comprehensive update at their August or September meeting if desired.
- 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 Public Hearing to consider the application for the NC Division of Coastal Management (DCM) Public Beach and Waterfront Access and Grant Program for the construction of a new ADA-accessible elevated dune crossover with associative ADA-compliant parking stalls,

and a shower upfit will be held at the Board of Commissioners August 2, 2023, meeting. The final application is due by August 28<sup>th</sup>, 2023.

- Dune Management Cost Share Program – Staff are continuing to process the required paperwork for reimbursements on approximately 17 of the 98 dune grant applications. Applicants have been made aware that all paperwork must be received by July 31<sup>st</sup> to receive reimbursement.

- Nags Head Dog Park – No new updates at this time, patrons of the dog park are complimentary of the crushed granite surface at the entry and the shade structure recently constructed.

- Permitting Update 4<sup>th</sup> Quarter – See below the total number of permits accepted and the average turnaround time. These numbers do not include trade permits.

2023 – Total Permits – Avg Turnaround/days

April	64	2.7
May	67	2.2
March	52	2.7

- Dowdy Park Events/Farmers Market/Holiday Markets/Art & Culture – The Dowdy Park Farmers Market continues to be successful, the final market for the season will be on Thursday, August 17<sup>th</sup>. The Summer Concerts are doing great and becoming a Wednesday evening routine for many, averaging 275 attendees per concert. The Town is excited to be hosting the US Army 82<sup>nd</sup> Airborne Band & Chorus on Wednesday, August 2<sup>nd</sup>. Locals and visitors have expressed their appreciation for the additional fitness day, "Fitness Fridays" and Tuesday Yoga continues to do well and gain attendance. The family fun night with the Dare County Master Gardeners was successful, the next family fun night will be Tuesday, August 22<sup>nd</sup> and the Kids Back to School Night.

Upcoming Meetings and Other Dates

- Tuesday, August 1<sup>st</sup> – Technical Review Committee Meeting
- Tuesday, August 1<sup>st</sup> – Deadline for submittal of annual CRS Audit materials.
- Wednesday, August 2<sup>nd</sup> - Board of Commissioners Meeting
- Thursday, August 3<sup>rd</sup> – CRS Users Group Meeting
- Wednesday, August 9<sup>th</sup> – Committee for Art and Culture Meeting
- Thursday, August 10<sup>th</sup> – Board of Adjustment Meeting (8723 SOOIR Variance)
- Tuesday, August 15<sup>th</sup> – Planning Board Meeting
- Wednesday, August 16<sup>th</sup> – Board of Commissioners Mid-Month Meeting if needed.
- Dowdy Park Farmers Market – Thursdays, August 3<sup>rd</sup>, 10<sup>th</sup>, and 17<sup>th</sup>
- Dowdy Park Summer Concerts – Wednesdays, August 2<sup>nd</sup>, 9<sup>th</sup>, and 16<sup>th</sup>

A presentation from the Septic Health Advisory Committee will take place at the Board's September 6<sup>th</sup> meeting.

Comr. Renée Cahoon thanked Ms. Wyatt and her staff for the successful Dowdy Park Markets and stated that she is looking forward to upcoming farmers markets and holiday markets.



## **OLD BUSINESS/ITEMS TABLED FROM PREVIOUS MEETINGS**

### From July 5<sup>th</sup> Board meeting – Discussion of e-bikes on the multi-use paths

Police Chief Perry Hale summarized the agenda summary sheet which read in part as follows:

“At the July 5<sup>th</sup> Board of Commissioners, Comr. Renée Cahoon expressed concern about the use of electronic bikes (e-bikes) on the Town’s multi-use paths, which are especially seen to be a hazard on the Beach Road multi-use path. Police Chief Perry Hale stated that the current ordinance allows e-bikes on the path unless they are operated in a reckless manner. Board members noted that the operation of e-bikes is more hazardous on the beach road given the narrower width of the path and the frequency of driveways and site obstructions.

‘It was Board consensus that staff prepare an ordinance for discussion for the August 2<sup>nd</sup> Board meeting which would prohibit e-bikes on the beach road multi-use path or any sidewalk.”

Mayor Cahoon confirmed with Chief Hale that the S Old Oregon Inlet road multi-use path is 8' wide and the multi-use path on the bypass is 10' wide.

Comr. Renée Cahoon said she does not want to see an effective date of January 1<sup>st</sup> – she would prefer it be effective now.

Mayor Cahoon said that he is conflicted with this issue – he knows that as a bicyclist that he is safer on the shoulder in the summer than on the multi-use path. It is easy to go too fast on e-bikes - He questioned what the citation would be. Chief Hale said if under 16 years of age, parents would be contacted.

Mayor Pro Tem Siers said that he feels it is more of a people problem and not necessarily an e-bike problem.

MOTION: Comr. Renée Cahoon made a motion to adopt the ordinance prohibiting e-bikes on the Town’s multi-use paths (unless the path is 10' wide or larger) as presented with an effective date of October 1<sup>st</sup>. The motion failed for lack of a second.

No Board action was taken concerning e-bikes.

## **NEW BUSINESS**

### Committee Reports

Board members had nothing new to report.

### Consideration of amendment to Traffic Control Map re: northern entrance to South Creek Acres (8810 SOOIR)

The agenda summary sheet read in part as follows:

“Please see attached memo from Police Chief Perry Hale concerning a request to designate “No Parking Between Signs – Tow Away Zone” in the area of 8810 S Old Oregon Inlet Road in the South Creek Acres Subdivision. This area is near the Outer Banks Fishing Pier which often has vehicles lined up on both sides of the roadway creating site distance issues.”

Police Chief Perry Hale summarized his memo which read in part as follows:

"To allow for better visibility for those pulling out of the "No Name Rd" in the area of 8810 S. Old Oregon Inlet Road, I am requesting that "No Parking Between Signs – Tow Away Zone" signs be placed in this location. This would maintain site distance for cars exiting No Name Road which is complicated by vehicles parking on the shoulder to visit Outer Banks Fishing Pier. This is 100' north and south of the intersection of "No Name" Road with SR 1243 in the vicinity of 8810 SOOIR. This intersection is the first access south of Station 21 for South Creek Acres subdivision and is located between Ida St. and Isabella St. This request would be consistent with the action taken in September of last year near Islington St. for sight distance coming out at this location as well.

'I will be available at the Board meeting to respond to questions or concerns."

**MOTION:** Mayor Pro Tem Siers made a motion to adopt the ordinance amending the Traffic Control Map designating *No Parking Between Signs – Tow Away Zone* 100' north and south of the intersection with SR 1243 in the vicinity of 8810 S Old Oregon Inlet Road as presented. The motion was seconded by Comr. Renée Cahoon which passed 4 – 0 (Comr. Brinkley was excused.).

The ordinance amending the Traffic Control Map, as adopted, is attached to and made a part of these minutes as shown in Addendum "D".

#### Consideration of debris monitoring contract for FY 23/24

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

"Annually, the Town enters into pre-positioned agreements for Disaster Debris Removal Services in addition to Debris Monitoring Services. The agreement for each of the services is for an initial one-year term with the option to extend the agreement annually for up to a three-year period. The post-disaster debris monitoring services agreement recently expired requiring these services to be advertised.

'The initial bid period resulted in a single proposal being received. Additional vendor outreach was performed resulting in two bids received after the re-bid period. An evaluation of the of the bids submitted was conducted to determine the proposal deemed to be the most advantageous to the Town.

'Attached, please find a memorandum discussing the Request for Proposal submissions, evaluation and recommendation for debris monitoring services.

'Staff recommends DebrisTech, LLC as the lowest responsive, responsible bidder. Board approval on this request will authorize the Town Manager to execute an agreement with DebrisTech, LLC through June 30, 2024. This agreement is a pre-positioned agreement for debris monitoring services that may activate in the case of a storm generating event. It should be noted that this agreement will not become "active" until a Notice to Proceed is issued.

'Attachments: Exhibit A FY 23/24 Debris Monitoring Price Evaluation Matrix (Automated Ticketing) and Memorandum for Consideration of Proposals for Post-Disaster Debris Monitoring Services for FY 23/24"

Engineer Ryan pointed out that the agreement with the contractor would not be active until a Notice to Proceed in the instance of a disaster event is issued. He also noted that in the future, staff will ensure advertisement in the spring well in advance of hurricane season.

MOTION: Mayor Pro Tem Siers made a motion to authorize the Town Manager to execute an agreement with DebrisTech, LLC for debris monitoring services through June 30, 2024 as presented. The motion was seconded by Comr. Sanders which passed 4 – 0 (Comr. Brinkley was excused.).

Presentation - Discussion with NC DOT

Town Engineer David Ryan introduced the discussion with NCDOT; in attendance from NCDOT were Resident Engineer Brandon Tatum, Maintenance Engineer Marshall Gill, and Traffic Engineer Jason Davidson.

Engineer Marshall Gill discussed the following issues with the Board:

- Malfunctioning pedestrian push button at light at Bonnett Street – Comr. Sanders – the push button does not work occasionally – there was a malfunctioning push button that was replaced. Comr. Sanders said that it takes unusually long at that intersection; Mr. Gill said that it depends on how busy/heavy the traffic is at that time, more traffic will increase the wait time on Bonnett Street – he will re-evaluate timing.

- Traffic signals are slower than before the paving project - Comr. Renée Cahoon – at all locations traffic signals are slower than previously; Mr. Gill said he will re-evaluate as they are supposed to be as it was previously. A newer system provides a lot more functionality and programmability for technicians – Nags Head is one complete block but there are sections that need to be separated. This new technology system is to be implemented by May of 2024.

- Flashing “signal ahead” system at Bonnett Street - Mayor Pro Tem Siers – with the extended use of Bonnett Street, he questioned if a flashing “signal ahead” system could be provided; Mr. Gill indicated that he would look into signage re: “signal ahead” or “be prepared to stop” in this location.

- Malfunctioning pedestrian push button at light at Hollowell Street - Mayor Cahoon – pressing button at Hollowell Street will not change to allow pedestrian crossing US 158 – wants it to react to pedestrian pushing the button instead of when a vehicle turns. Mr. Gill agreed and the newer system will upgrade.

- Time period of 18 seconds to cross US 158 - Comr. Renée Cahoon pointed out that 18 seconds is not long enough for people/children/groups to cross US 158 – especially since vehicles don't always stop immediately at a red light; Engineer Gill indicated that he would look into this as 18 seconds is the minimum period of time.

- Replacement of damaged traffic signals - Mayor Pro Tem Siers – replacement of damaged traffic signal “arms” at Tanger Outlets, Village Food Lion, and Adams Lane will take place after the summer season.

- The 7-11 Triangle - Comr. Renée Cahoon – no left turn leaving S Nags Head onto NC12 – Mr. Gill said they are looking this and will meet with staff to address the “7-11 Triangle” – a workable plan needs to be developed.

- Reduce speed limit on US 158 - Mayor Cahoon – reduce speed limit on US 158 – Mr. Gill said this depends on accident data, etc. and the Town can make a formal request to review the speed limit. Mr. Gill indicated that there is no longer an off season and it is better to make it 35 year round rather than a different speed limit in summer.

- Completion of US 158 paving work - Town Manager Garman – paving work – what is the schedule for the paving work for the Fall – Mr. Gill stated that Oct 4<sup>th</sup> the contract begins again and will finish Nags Head first; have signals been timed to include all new signals – yes per Mr. Gill. A private engineering firm is now on board to switch over to the new traffic signals. Manager Garman said that red light compliance is an issue – can anything be done? Mr. Gill stated that NCDOT is proposing to reduce signage to make it easier for drivers.

Board members thanked NCDOT representatives for their attendance and for discussing these items with them.

Presentation – Moffatt & Nichol Beach Nourishment Plan Consultant

Town Engineer David Ryan introduced Senior Engineer Bryan Joyner of Moffat & Nichol; Mr. Ryan distributed a hard copy of the document entitled "Multi-Decadal Beach Nourishment Master Plan". Also present were Environmental Permit Specialist Doug Huggett, Coastal Engineer Dr. Beth Sciaudone; and Coastal Engineer Dr. Ayse Karanci.

Presentation slides are attached to and made a part of these minutes as shown in Addendum "E".

Dr. Sciaudone discussed the need for the Beach Nourishment Master Plan and reviewed her presentation slides with Board members. Her slides are attached to and made a part of these minutes as shown in Addendum "F".

Final recommendations included the following:

Annual monitoring  
Six-year nourishment cycle  
5/10 year phased approach  
Structures have more disadvantages than advantages and are not recommended

Board members are to review the Multi-Decadal Beach Nourishment Master Plan and provide comments by the end of September; Mayor Cahoon noted his appreciation of the relationship with the consultant on the project. The Monitoring Plan is anticipated to be ready for Board presentation at the November 1<sup>st</sup> Board meeting.

**PLANNING BOARD WORKSHOP**

The Board recessed for a quick break and afterwards to enter into a workshop with the Planning Board to discuss multi-family development to be followed by lunch. The time was 11:15 a.m.

**LUNCH**

After lunch the Board re-entered the Regular Board meeting at 1:20 p.m.

**COMR. SANDERS LEFT THE BOARD MEETING**

At 1:20 p.m. Comr. Sanders left for a previously scheduled engagement and was not present for the remainder of the Regular Board meeting.

Consideration of amendments to Chapter 40 Telecommunications and Chapter 44 Utilities for utility work conducted in Town Rights-of-Way

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

"Several telecommunication companies have recently contacted the Town to investigate the permitting pathway for the installation of underground fiber optic lines within the Town corporate limits.

"Various sections within the Town Code list requirements and responsibilities associated with telecommunication and utility installations, however, the Town Code does not provide a formalized permit process to manage this type of work.

'As these requests become more frequent, Public Services staff sees a need to develop a permitting process to collect basic project information from the utility service provider and create a mechanism to track project requests internally.

'Due to the nature of the request, staff examined Chapter 40- Telecommunications as being the most likely chapter for insertion of amended text to encompass a right-of-way encroachment process that could include the installation of fiber optic systems. In review of Town Code Chapter 40- Telecommunications, the focal point is on the town's franchising authority for cable services. This authority was transferred to the State of North Carolina in January 2007, removing the towns authority to grant one or more nonexclusive franchises to construct, operate, maintain, and reconstruct cable systems within the incorporated areas of the town. The text within Chapter 40- Telecommunications is now obsolete. Staff is recommending the text within Chapter 40- Telecommunications to be deleted in its entirety.

'The overall intent is to create a permit process that will cover various types of utility work within the town's rights-of-way. Considering the various types of above ground and below ground utility installations which occur in the town, a more appropriate location for text amendment language to cover fiber optic line and other types of utility installations is Chapter 44- Utilities.

'A new article, Article V, was crafted at the end of Chapter 44 to capture the various types of utility construction. Items within this article describe the encroachment process for construction in the right-of-way, compliance, interference, restoration, responsibilities, installation, maintenance, and enforcement. Applicable sections of Division 6- Construction Standards were extracted from Chapter 40 and adapted to the develop all-inclusive utility installation and maintenance requirements.

'The application process is envisioned to be similar to how the North Carolina Department of Transportation and many other North Carolina municipalities manage construction requests within the public right-of-way via an encroachment agreement. This process is only applicable to work conducted within the Town rights-of-way. The North Carolina Department of Transportation will continue to process all right-of-way project requests along the S. Croatan Hwy., S. Virginia Dare Trail, and S. Old Oregon Inlet Rd. corridors.

'The right-of-way encroachment application will include basic information such as contractor contact information, the limits of construction, type of construction, and duration of construction. The applicant would be required to provide this information on a 1-to-2-page form to provide a detailed description of the overall project. Once the completed application form is submitted and reviewed, an approval form will be issued to the applicant describing the sections of the Town Code which apply to the proposed work along with any other general or special provisions that may be pertinent to construction. All applications shall be processed before the commencement of construction.

'In addition to the text amendment, several housekeeping items are being recommended in Chapter 44 Utilities. Most are the revisions are minor in nature to reflect current management responsibilities and the correct department title. Division 6.- Water Line Standards is recommended to be deleted since it has been superseded by the Town of Nags Head Water Distribution System- Standard Technical Specifications and Construction Details-, NCDEQ Serial # 21-00672, dated September 17, 2021. This was adopted previously by the Board of Commissioners at their November 3, 2021 meeting.

'In summary, this ordinance amendment request is to delete Chapter 40- Telecommunications, amend existing language and references in Chapter 44 Utilities, and insert language in the newly created Article V- Utility Construction Requirements at the end of Chapter 44 to include a new right-of-way encroachment permitting process.

'Public Services Staff will be available at the Board of Commissioners August 2, 2023, meeting for further discussion."

MOTION: Mayor Pro Tem Siers made a motion to adopt the ordinance removing Chapter 40 Telecommunications as presented. The motion was seconded by Comr. Renée Cahoon which passed 4 – 0 (Comr. Brinkley was excused.).

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

MOTION: Mayor Cahoon made a motion to adopt the ordinance amending Chapter 44 Utilities, with the removal of the Town Manager's name and email address from Sec. 44-222. The motion was seconded by Comr. Renée Cahoon which passed 4 – 0 (Comr. Brinkley was excused.).

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

Consideration of resolutions authorizing Fall 2023 fishing tournaments

(Nags Head Surf Fishing Club, Fraternal Order of Eagles, and Association of Realtors)

MOTION: Comr. Renée Cahoon made a motion to adopt the three resolutions authorizing Fall 2023 surf fishing tournaments for the following organizations: Nags Head Surf Fishing Club, Fraternal Order of Eagles, and the Outer Banks Associations of Realtors, as presented. The motion was seconded by Mayor Pro Tem Siers which passed 4 – 0 (Comr. Brinkley was excused.).

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

Nags Head Surf Fishing Club

'WHEREAS, the Nags Head Surf Fishing Club is sponsoring its annual Nags Head Surf Fishing Club Tournament October 4 - 6, 2023; AND

'WHEREAS, in accordance with Section 8-83 (b)(3) of the Nags Head Code of Ordinances, the Nags Head Surf Fishing Club submitted a request on July 23, 2023, for the Town of Nags Head to issue short-term beach driving permits to the Nags Head Surf Fishing Club to be distributed to participants in its annual Fishing Tournament.

'NOW, THEREFORE BE IT RESOLVED by the Town of Nags Head Board of Commissioners that the Town of Nags Head is pleased to offer its assistance for the Nags Head Surf Fishing Club Tournament again this year.

'BE IT FURTHER RESOLVED as follows: The Town Clerk is authorized to issue up to three (3) short-term beach driving permits to each six (6) member team in the Nags Head Surf Fishing Club to be distributed to the 80 teams participating in its annual Nags Head Surf Fishing Club Tournament. The tournament is to be held Wednesday, Thursday, and Friday, October 4, 5, and 6, 2023. An additional 25 permits are authorized to be issued to tournament judges/officials – for a total of 265 permits. These special permits will only be valid for this three-day period. Only three (3) vehicles per team are allowed on the beach at any time during the tournament.

'The Nags Head Surf Fishing Club is responsible for the distribution of all short-term beach driving permits for the 2023 Nags Head Surf Fishing Club Tournament. No individual short-term permits for the tournament will be issued by Staff.

'The name of the team to whom a permit is issued shall appear on each permit.

'A pamphlet (to be provided by the Town) on Regulations Governing Beach Vehicular Traffic in the Town of Nags Head shall be supplied with each permit distributed by Nags Head Surf Fishing Club.

'Each permit shall be displayed on the inside front windshield on the passenger side of the vehicle, even if a normal Nags Head Beach Driving Permit is already displayed.

'All beach driving permits MUST always be in the possession of the team. The permits are not transferable.

'The Town of Nags Head Beach Driving Ordinance is to be strictly enforced by the Nags Head Police Dept.

'Should the weather or high tide call for the closure of the beach or a section of the beach, the Town Manager will close the beach."

### Fraternal Order of Eagles

"WHEREAS, the Fraternal Order of Eagles (FOE), Aerie #4506, is sponsoring its annual Charity Surf Fishing Tournament October 14, 2023; AND

'WHEREAS, in accordance with Section 8-83 (b)(3) of the Nags Head Code of Ordinances, the Fraternal Order of Eagles, Aerie #4506, submitted a request on July 10, 2023, for the Town of Nags Head to issue short-term beach driving permits to the Fraternal Order of Eagles, Aerie #4506, to be distributed to participants in its annual Fishing Tournament.

'NOW, THEREFORE BE IT RESOLVED by the Town of Nags Head Board of Commissioners that the Town of Nags Head is pleased to offer its assistance for the Fraternal Order of Eagles, Aerie #4506, Charity Surf Fishing Tournament this year.

'BE IT FURTHER RESOLVED as follows: The Town Clerk is authorized to issue up to three (3) short-term beach driving permits to each six (6) member team in the FOE Tournament to be distributed to the teams participating in its annual Surf Fishing Tournament. The tournament is to be held on Saturday, October 14, 2023. Tournament officials are requesting a total of 32 short-term permits which includes 2 permits for judges. These special permits will only be valid for Saturday, October 14, 2023. Only three (3) vehicles per team are allowed on the beach at any time during the tournament.

'The Fraternal Order of Eagles, Aerie #4506, is responsible for the distribution of all short-term beach driving permits for the 2023 FOE Charity Surf Fishing Tournament. No individual short-term permits for the tournament will be issued by Staff.

'The name of the team to whom a permit is issued shall appear on each permit.

'A pamphlet (to be provided by the Town) on Regulations Governing Beach Vehicular Traffic in the Town of Nags Head shall be supplied with each permit distributed by the Fraternal Order of Eagles, Aerie #4506.

'Each permit shall be displayed on the inside front windshield on the passenger side of the vehicle, even if a normal Nags Head Beach Driving Permit is already displayed.

'All beach driving permits MUST always be in the possession of the team. The permits are not transferable.

'The Town of Nags Head Beach Driving Ordinance is to be strictly enforced by the Nags Head Police Dept.

'Should the weather or high tide call for the closure of the beach or a section of the beach, the Town Manager will close the beach.'

Outer Banks Association of Realtors

'WHEREAS, the Outer Banks Association of Realtors (OBAR) is sponsoring its annual Charity Surf Fishing Tournament October 13, 2023; AND

'WHEREAS, in accordance with Section 8-83 (b)(3) of the Nags Head Code of Ordinances, the Outer Banks Association of Realtors submitted a request on July 19, 2023, for the Town of Nags Head to issue short-term beach driving permits to the Outer Banks Association of Realtors to be distributed to participants in its annual Fishing Tournament.

'NOW, THEREFORE BE IT RESOLVED by the Town of Nags Head Board of Commissioners that the Town of Nags Head is pleased to offer its assistance for the OBAR Charity Surf Fishing Tournament this year.

'BE IT FURTHER RESOLVED as follows: The Town Clerk is authorized to issue up to three (3) short-term beach driving permits to each six (6) member team in the OBAR Tournament to be distributed to the 35 teams participating in its annual OBAR Charity Surf Fishing Tournament. The tournament is to be held on Friday, October 13, 2023. An additional five (5) permits are authorized to be issued to tournament judges/officials – Tournament officials are requesting a total of 85 short-term permits. These special permits will only be valid for Friday, October 13, 2023. Only three (3) vehicles per team are allowed on the beach at any time during the tournament.

'The Outer Banks Association of Realtors is responsible for the distribution of all short-term beach driving permits for the 2023 OBAR Charity Surf Fishing Tournament. No individual short-term permits for the tournament will be issued by Staff.

'The name of the team to whom a permit is issued shall appear on each permit.

'A pamphlet (to be provided by the Town) on Regulations Governing Beach Vehicular Traffic in the Town of Nags Head shall be supplied with each permit distributed by the Outer Banks Association of Realtors.

'Each permit shall be displayed on the inside front windshield on the passenger side of the vehicle, even if a normal Nags Head Beach Driving Permit is already displayed.

'All beach driving permits MUST always be in the possession of the team. The permits are not transferable.

'The Town of Nags Head Beach Driving Ordinance is to be strictly enforced by the Nags Head Police Dept.

'Should the weather or high tide call for the closure of the beach or a section of the beach, the Town Manager will close the beach.'

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

Town Attorney Leidy had nothing new to present.

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

Town Manager Garman - Update on new Public Services Facility



Town Engineer David Ryan provided an update with a powerpoint presentation on the progress of the new Public Services Facility construction.

His presentation is attached to and made a part of these minutes as shown in Addendum "I".

Board members spoke highly of the ongoing construction and thanked Engineer Ryan for his presentation/update.

#### Town Manager Garman - Discussion of Dare County's plans for Nags Head EMS Station

Town Manager Garman displayed a conceptual site plan of the proposed Nags Head EMS Station on screen – he explained the need to go further west to obtain some of the quilt business property. Manager Garman stated that he is working with an appraiser to come up with a value. Also the Village would like to get out of the lease for the former BB&T building, another issue is either getting out of the lease or allowing them to sub-lease. He would like authorization from the Board to work with the county on this project:

- Develop a proposed design with financing and leasing arrangements
- Work with the property owner to the rear
- Begin negotiating with Village Realty on the lease of the former BB&T bank building – so we are in a position to allow Dare County to begin construction next year

Mayor Cahoon pointed out that no turning radius for trucks precludes the Town from liquidating the current fire station site – and a master plan for this site would be needed. In response to Mayor Cahoon, Manager Garman said that the design can take place now with building construction to take place later – essentially, there are two separate facilities that are to be tied together.

Comr. Renée Cahoon said that while she understands the conceptual plan, she does not feel the Town's citizens would be ready right now for another tax rate increase for the Fire/EMS Station.

It was Board consensus to agree with Manager Garman's requests to move forward by working with Dare County on the plans for a Nags Head EMS Station to include the following:

- Developing a proposal for design, financing, and leasing arrangements
- Working with the quilt business property owner behind the Fire Station
- Begin negotiating with Village Realty on the lease of the former BB&T building so the Town is in a position to allow Dare County to begin construction next year

#### Town Manager Garman - Consideration of Parental Leave and Light Duty Policies

The agenda summary sheet read in part as follows:

"Town Manager Andy Garman, along with staff, will present the following (attached) proposed policies for Board consideration at the August 2<sup>nd</sup> Board of Commissioners meeting:

- Parental Leave policy – An enhancement to our total employee rewards program, this policy would provide team members with additional leave with the birth or adoption/foster care of a child. Staff is proposing six weeks parental leave. This type of benefit is becoming more commonplace in public and private sector workplaces.

- Light Duty policy – Staff is proposing a modification to the current Light Duty policy to accommodate both work-related and non-work-related temporary disabilities.

'A memo explaining each policy and the draft policies are attached. If adopted, both of these policies would be incorporated into the Town's Personnel Policy.'

Human Resources Coordinator Jan Mielke summarized the memos pertaining to the two policies which read in part as follows:

#### Light Duty Policy memo

##### 'Overview

The Town currently has a Light Duty Policy incorporated in the Personnel Policy. However, this policy is specific to a job-related injury or occupational illness. There are occasions when light duty is recommended outside of a work-related event. Staff is proposing a modification to the current Light Duty Policy to include both work-related and non-work-related temporary disabilities.

##### 'Highlights of the Proposed Policy

'Eligibility is based on the inability for an employee to perform the essential duties of their position due to a temporary injury, illness, or condition (work-related or other).

'Work that is beneficial to the Town must exist and be performed within the restrictions indicated by the employee's physician. The Town is under no obligation to create a position to offer light duty to an employee.

'Light duty assignments will not exceed 6 months.

##### 'Impacts of New Policy

We are currently accommodating light duty on a case-by-cases basis. This policy will provide staff with clear and consistent guidance as the need for light duty arises. Additionally, it ensures that both the employee and Town benefit from light duty assignments. Staff can minimize lost income or the need to use leave balances and the Town benefits by reducing the negative impact from a full absence as the employee is able to continue to provide work that is beneficial to the Town.'

#### "Parental Leave policy memo

##### 'Overview

One of our internal core values is that *Our People Matter*. To recognize and reward the Town's workforce, we are continuously reviewing and enhancing our total rewards program. Based on this focus, staff recommends introducing a Paid Parental Leave policy. This would encourage employees to take leave to bond with new family members without having to deplete sick and vacation balances.

##### 'Background Data

'NC Municipalities Poll: In a recent poll of NC Municipalities that included 28 respondents, 13 (46%) provided paid parental leave from 6 – 12 weeks, with 11 municipalities offering 6 weeks.

'Local Municipality Poll: Dare County, Duck, Kill Devil Hills, Kitty Hawk, and Southern Shores do not offer paid parental leave.

'Nationwide Poll: The Society for Human Resources released their 2023 benefits poll and found that out of approximately 4,200 employer respondents, 40% offer paid parental leave. This is 6% higher than last year.

'Nags Head Parental Leave Usage: From 2020 – 2023 (anticipated), the Town of Nags Head incurred between 3 - 4 instances of parental leave per year, and averages 6.29 weeks in duration.

'Nags Head Parental Leave Policy History: The policy was initially introduced in 2017 with a proposal of 12 weeks of paid parental leave. The Board was supportive of the policy; however, there were concerns about the length of time proposed at 12 weeks. It does not appear that a revised policy was presented after this discussion.

#### 'Highlights of the Proposed Policy

'Provide 6 weeks of paid leave for the birth, adoption of foster care to be used within 12 months of qualified event.

'Eligibility will be based on regular full-time status and FMLA approval (must be employed for minimum of 12 months).

'Leave will run concurrent with FMLA and not extend the FMLA period.

'Employees must remain in active status for 12 months after returning from their leave of absence or will be obligated to repay the Town for their parental leave benefit.

#### 'Impacts of New Policy

Providing paid parental leave aligns with our town values and sends a clear message to staff that we recognize the significance of this unique life event. This benefit will drive a higher level of engagement and commitment from staff to the Town. The cost of parental leave would be the salary equivalent of \$29,000/year. However, the Town would not need to budget additional funds to support this program. The program would result in higher sick and vacation leave balances."

**MOTION:** Mayor Pro Tem Siers made a motion to approve the Light Duty policy as presented. The motion was seconded by Comr. Renée Cahoon which passed 4 – 0 (Comr. Brinkley was excused.).

**MOTION:** Mayor Pro Tem Siers made a motion to approve the Parental Leave policy as presented. The motion was seconded by Comr. Renée Cahoon which passed 4 – 0 (Comr. Brinkley was excused.).

## **BOARD OF COMMISSIONERS AGENDA**

### Comr. Renée Cahoon – Trash pickup on a windy day

Comr. Renée Cahoon thanked Manager Garman and staff who walked around recently picking up trash that had blown out of trash carts. She stated it was very much appreciated.

## **MAYOR'S AGENDA**

### Mayor Cahoon - Discussion of Fall Retreat

Mayor Cahoon stated he has been working on goals for discussion at a Fall Retreat; he also noted that this is an election year and that at least one new Comr. is known. He will be preparing an agenda for discussion but the main thing to resolve at this time is a date. The Retreat Consultant has offered some dates for consideration.

It was Board consensus for a full day Retreat on November 16<sup>th</sup> and a half day on November 17<sup>th</sup>. Town Manager Garman is to clear these dates with Comrs. Brinkley and Sanders who are not present.

**ADJOURNMENT**

MOTION: Comr. Renée Cahoon made a motion to adjourn. The motion was seconded by Mayor Pro Tem Siers which passed 4 – 0 (Comr. Brinkley was excused.). The time was 2:10 p.m.

\_\_\_\_\_  
Carolyn F. Morris, Town Clerk

Date Approved: September 6, 2023

Mayor: \_\_\_\_\_  
Benjamin Cahoon