



**DRAFT MINUTES
TOWN OF NAGS HEAD
BOARD OF COMMISSIONERS MEETING MINUTES
NAGS HEAD MUNICIPAL COMPLEX BOARD ROOM**

WEDNESDAY, APRIL 2, 2014

REGULAR SESSION

The Nags Head Board of Commissioners met in the Board Room in the Nags Head Municipal Complex located at 5401 S Croatan Highway in Nags Head, North Carolina on Wednesday, April 2, 2014 at 9:00 a.m.

Board members present: Mayor Bob Edwards; Mayor Pro Tem Susie Walters; Comr. Renée Cahoon; Comr John Ratzenberger; and Comr Marvin Demers

Board members absent: None

Others present: Town Manager Cliff Ogburn; Attorney John Leidy; Kevin Zorc; Kevin Brinkley; Roberta Thuman; Ralph Barile; David Ryan; Elizabeth Teague; James Moseman; Doug White; Hunter Meekins; Scott Buckalew; Heath Taylor; Larry Allen; Perry White; Phil Ruckle; and Town Clerk Carolyn Morris

CALL TO ORDER/MOMENT OF SILENT MEDITATION/PLEDGE OF ALLEGIANCE

Mayor Edwards called the meeting to order at 9:00 a.m. A moment of silent meditation was followed by the Pledge of Allegiance.

ADOPTION OF AGENDA

MOTION: Comr. Cahoon made a motion to adopt the April 2nd agenda as presented. The motion was seconded by Mayor Pro Tem Walters which passed unanimously.

AUDIENCE RESPONSE

Audience Response – Larry Allen

Larry Allen, owner of a house in South Nags Head and a home in Phoenix, Arizona; he said that he appreciates the ability to watch council meetings online; he is concerned about the area in South Nags Head where the condemned houses are located on Seagull Drive; he said he realizes that the property

owners can apply for building permits as a result of the Town's Beach Nourishment Project and he is aware that they are still in litigation; at the time they applied for permits last year, the beach was much larger; the houses are in the area of the Town that pays the most for beach nourishment; the situation with the houses sitting on the beach is now going on six (6) years and nothing has been done to these houses; there is still garbage on the beach and the houses are still a danger; he questioned how long this is going to continue; the beach has eroded and ocean water is now washing up under the houses; he questioned where the septic tanks will go; in his opinion, the Beach Nourishment Project has failed; he questioned if there is a timeline to rebuild the houses and he questioned how serious the owners are to rebuild; he said that something has to be done – one way or the other.

Mayor Edwards stated that someone from staff will get in touch with Mr. Allen.

Audience Response – Perry White

Perry White, Town resident; he addressed several items on the agenda; he praised Captain James Moseman who is being recognized for ten years of service; he thanked the Board for the new fire truck which is a huge improvement and asset to the Fire Dept; Board approval of Deputy Fire Chief Shane Hite has meant a lot to the Dept and to the Town; he expressed concern about the requested 11% funding increase for construction of the offices in the Admin Services Dept; he said that the Recycling Project, under the Mayor's agenda, was supposed to lower the recycle rate for all residents; he praised the new multi-use path which extends to the Northridge Subdivision and said that the new ditch along the path is flowing water and is no longer stagnant; he asked about the status of the Villa Dunes waterline extension from Jockey's Ridge which should increase water pressure to those on Villa Dunes Drive.

There being no one else present who wished to speak, Mayor Edwards announced Audience Response closed at 9:14 a.m.

RECOGNITION

Police Chief Brinkley introduced new Police Officer Hunter Meekins who was welcomed to Town employment by the Board.

Public Works Director Ralph Barile introduced new Water Plant Operator Scott Buckalew and new Water Services Technician William Heath Taylor who were welcomed to Town employment by the Board.

Fire Chief Kevin Zorc introduced Fire Captain James Moseman who was recognized by the Board for ten years of service.

Police Chief Kevin Brinkley introduced recently retired Police Sergeant Doug White who was recognized, congratulated, and presented a plaque by the Board in appreciation.

PROCLAMATION

Paint The Town Purple Month Proclamation

Mayor Edwards read the Proclamation proclaiming April 2014 as "Paint The Town Purple Month" to promote cancer awareness.

MOTION: Mayor Edwards made a motion to adopt the Proclamation declaring April 2014 as "Paint The Town Purple Month" as presented. The motion was seconded by Comr. Ratzenberger which passed unanimously.

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

"American Cancer Society Paint the Town Purple Proclamation for Nags Head North Carolina.

'WHEREAS, Paint the Town Purple is an activity of the American Cancer Society that promotes cancer awareness, gives individuals and communities an opportunity to fight back against the cancer, and

'WHEREAS, money raised during Paint the Town Purple of Nags Head North Carolina supports the American Cancer Society's mission of saving lives and creating a world with less cancer and more birthdays – by helping people stay well, by helping people get well, by finding cures for cancer and by fighting back; and

'WHEREAS, the American Cancer Society funded more than \$150 million in cancer research last year through money raised in communities across the United States.

'NOW THEREFORE BE IT RESOLVED that I, Robert C. Edwards, Mayor of Nags Head North Carolina, do hereby proclaim April 2014 as "Paint the Town Purple Month" in Nags Head North Carolina and encourage citizens to help finish the fight against cancer by participating in the PAINT THE TOWN PURPLE activities."

PRESENTATIONS

Representative from Oceana – International Ocean Conservation organization re: seismic testing

The agenda summary sheet read in part as follows:

"At the April 2, 2014 Board of Commissioners meeting a representative from the international organization – Oceana - will present the issues concerning seismic testing.

'Also attached please find a letter forwarded by the Outer Banks Chamber of Commerce to legislatures in 2011.

'Attached please find a resolution opposing seismic testing/offshore oil drilling for Board discussion and consideration on April 2nd."

Caroline Wood, Virginia Organizer is from Oceana - a nonprofit international ocean conservation organization; she provided a powerpoint presentation detailing offshore seismic testing and its effects on the environment/marine life; she explained that currently there are proposals by various companies to use seismic air guns in the Atlantic Ocean; no drilling is allowed in the current five-year plan; companies from Delaware to mid-Florida have petitioned for seismic blasting; seismic testing would threaten the ocean's ecosystems & communities and would be a danger to fisheries; currently almost 150 community/environmental groups/scientists have asked the government to wait until more information is obtained as a less invasive technique is currently in the works; Ms. Wood questioned why the companies can't wait; she provided her phone number for additional information if desired: 757-375-0199.

The resolution opposing offshore seismic air gun drilling was read by Mayor Edwards.

MOTION: Mayor Edwards made a motion to adopt the resolution opposing offshore seismic testing as presented and to forward the resolution to the Bureau of Ocean Energy Management (BOEM). The motion was seconded by Comr. Ratzenberger.

Mayor Pro Tem Walters stated that the Town has already gone on record opposing offshore oil drilling as have other towns in Dare County and the Dare County Tourism Board. She noted that the BOEM comment period ends May 7, 2014. Mayor Pro Tem Walters pointed out that the Town of Nags Head has opposed offshore oil drilling several times in the past via the adoption of resolutions.

CONTINUATION OF MOTION: The motion passed unanimously.

The resolution opposing offshore seismic testing, as adopted, read in part as follows:

“WHEREAS, seismic testing as proposed in the Bureau of Ocean Energy Management (“BOEM”) Programmatic Environmental Impact Statement alternative A and alternative B has the potential to harm marine life; and

‘WHEREAS, seismic testing as proposed in BOEM Programmatic Environmental Impact Statement alternative A and alternative B has the potential to impact recreational and commercial fishing; and

‘WHEREAS, the Town of Nags Head is a municipality in Dare County where a major economic force is tourism related to the coastal environment; and

‘WHEREAS, the Town of Nags Head endeavors to be a good steward of the coastal environment and its resources; and

‘WHEREAS, the full impacts of seismic testing as proposed in BOEM Programmatic Environmental Impact Statement alternative A and alternative B are not yet fully understood by scientists, the Oil & Gas industry, or BOEM, and

‘WHEREAS, the Town of Nags Head believes that more research should be done to fully understand all impacts of seismic testing and options for mitigation those impacts; and

‘WHEREAS, the Town of Nags Head does not believe seismic testing as currently proposed in alternative A or alternative B of BOEM’s Programmatic Environmental Impact Statement is the safest way to map oil & gas deposits in the mid-Atlantic region.

‘NOW, THEREFORE, BE IT RESOLVED, the Board of Commissioners of the Town of Nags Head, North Carolina, is opposed to seismic testing as proposed in in alternative A or alternative B of BOEM’s Programmatic Environmental Impact Statement until such time as all testing options are evaluated and proper assurances for the protection of marine life are established.”

American Shore & Beach Preservation Association (ASBPA) - 2013 Best Restored Beach Award

Comr. Ratzenberger presented the American Shore & Beach Preservation Association (ASBPA) Best Restored Beach Award to Mayor Edwards who thanked Comr. Ratzenberger, Mayor Pro Tem Walters, and Town Manager Ogburn for attending the recent ASBPA Conference in Washington DC where the award was presented.

Comr. Ratzenberger recommended that the Town formally join the ASBPA which was founded in 1926 as an organization to combat erosion – a problem in many coastal communities.

He asked the Board to join the organization – either this year or in the next budget year.

MOTION: Comr. Ratzenberger made a motion that the Town join the American Shore & Beach Preservation Association (ASBPA) for an annual fee of \$500 – to include the current year. The motion was seconded by Comr. Cahoon.

Mayor Edwards said that it is a very worthwhile organization; Comr. Cahoon noted that the next ASBPA meeting is in Virginia Beach; she also pointed out that the current NC Beach Inlet and Waterway Association (NCBIWA) President, Harry Simmons, is also the ASBPA President.

CONTINUATION OF MOTION: The motion passed unanimously.

First Flight High School (FFHS) - Mr. Herman's Honors Civics Class

Powerpoint presentations were provided by students from First Flight High School - Mr. Herman's Honors Civics Class.

Job Placement Service for former convicts – Students Rebecca Hite, Windy Hoover, Cullen Hodges, and Christian Valle presented information/slides concerning a job placement service for former convicts to help them re-enter society.

Use of the Dowdy Park site – Students Alex Matz and Ian Cowen presented information/slides concerning uses for the Dowdy Park site to include the construction of a multi-generational facility (community center).

Mayor Pro Tem Walters is chair of the Dowdy Park site committee and she summarized the first meeting of the Dowdy Park site – she then invited students Alex Matz and Ian Cowen to attend one of the upcoming Committee meetings to present their slide presentation to the Committee members – the next meeting is scheduled for April 15th at 4:30 pm.

Both presentations were well received by the Board and the audience. Both groups were thanked by the Board for their informative presentations.

Outer Banks Sporting Events (OBSE)

Outer Banks Sporting Events (OBSE) Executive Director Lynda Wood introduced Race Director Dennis DiRaimondo who began working for the organization in September 2013. Ms. Wood explained that the OBSE is a nonprofit organization whose mission is to organize and promote sporting events and competition, healthy living lifestyles, and to provide financial resources for needed relief/support for education on the Outer Banks – specifically during the shoulder season. She stated that the organization does four (4) events each year. Mr. DiRaimondo presented the economic impact to the community via a powerpoint presentation which was well received.

Mayor Edwards thanked Ms. Wood and Mr. DiRaimondo for the work they do for the community.

CONSENT AGENDA

The Consent Agenda consisted of the following items:

- Consideration of Budget Adjustment #11 to FY 13/14 Budget Ordinance
- Consideration of Tax Adjustment Report
- Approval of Minutes

- Request for Public Hearing to consider a zoning ordinance text amendment submitted by South Beach Plaza Associates, LLC to amend Town Code Section 48-407(b)(10) Permitted Uses within the C-2, General Commercial Zoning District, to allow Outdoor Stands as an accessory use to "Office Retail Group Development"

- Request for Public Hearing to consider a zoning ordinance text amendment to Town Code Section 12-222, Permits, as it relates to yard sale signage and parking requirements

- Consideration of amendment to Verizon lease to allow additional equipment to be added to monopole at 5401 S Croatan Highway

MOTION: Comr. Ratzenberger made a motion to approve the Consent Agenda as presented and acknowledged Mr. Perry White's comments during Audience Response re: request for additional funds for the office construction at Town Hall noting that the item would be discussed later in today's meeting. The motion was seconded by Mayor Pro Tem Walters which passed unanimously.

Budget Adjustment #11, as adopted, is attached to and made a part of these minutes as shown in Addendum "A".

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

The agenda summary sheet for the Request for Public Hearing to allow outdoor stands as an accessory use to "Office Retail Group Development" read in part as follows:

"Request to the Board of Commissioners that the following item be scheduled for Public Hearing on May 7, 2014.

'Consideration of a zoning ordinance text amendment submitted by South Beach Plaza Associates, LLC to amend Town Code Section 48-407(b)(10) Permitted Uses within the C-2, General Commercial Zoning District, to allow Outdoor Stands as an accessory use to "Office Retail Group Development".

'Planning Staff recommends adoption of this ordinance as presented; the Planning Board voted unanimously to recommend adoption of the ordinance as presented."

The agenda summary sheet for the Request for Public Hearing as it relates to yard sale signage and parking requirements read in part as follows:

"Request to the Board of Commissioners that the following item be scheduled for Public Hearing on May 7, 2014.

'Consideration of a zoning ordinance text amendment to Town Code Section 12-222, Permits, as it relates to yard sale signage and parking requirements.

'Planning Staff recommends adoption of the ordinance as presented; the Planning Board voted unanimously to recommend adoption of the ordinance as presented.'

The Verizon lease amendment was approved as presented. The agenda summary sheet and memo read in part as follows:

"Verizon is asking to replace several pieces of equipment and to add 3 additional remote radio heads, a distribution box, and a 1.43" "Hyberflex Line" to their existing array on the Town's cell tower. They have submitted a structural analysis showing that the Town can hold the additional equipment, and are proposing to amend their existing lease by \$200 each month, to a total of \$3,276.61 per month from \$3,076.61 per month.

'SUBJECT OR MOTION(S):

1. Motion to adopt attached lease amendment to allow installation of additional equipment on the Town Hall Monopole.

'BACKGROUND:

Chris Stout of Network Building + Consulting (NB+C), on behalf of Verizon is requesting the attached amendment to the Verizon lease in order to upgrade existing equipment and improve service, as follows:

'Existing Configuration

(6) Antel LPA-80063/8CF-2
(3) Antel BXA-185063/12CF-2
(3) Antel BXA-70063/8CF
(18) 1-5/8" Coax Cables
(3) TMAs
161' Centerline

Proposed Configuration

(6) Antel BXA-70063-8CF-2
(3) Antel BXA-185063/12CF-2
(3) Antel BXA-171063/12CF-EDIN-2
(18) 1-5/8" Coax Cables
(3) ALU 9442 Remote Radio Heads
(1) Raycap RHSDC-3315-PF-48
Distribution Box
(1) 1.43" Hybriflex Line
161' Centerline

'The new equipment is being proposed at current rates that Verizon is paying at other locations, for a total of \$200 additional per month:

'(3) ALU 9442 RRHs (Remote Radio Heads) - \$25 each
(1) Raycap RHSDC-3315-PF-48 Distribution Box - \$25
(1) 1.43" Hybriflex Line - \$100

'This will increase the overall Verizon lease to \$3,276.61 per month from \$3,076.61 per month, for a total \$39,319.32 annually.

'STAFF RECOMMENDATION:

Staff recommends the Town allow the installation of this equipment. Once lease is approved, NB+C will be required to provide formal construction drawings as part of a building permit application. In consultations with other jurisdictions, there is agreement that all leases and equipment vary depending on company, location and configuration, therefore it is difficult to compare prices on specific equipment.

‘However, the total monthly lease being proposed is in line with other leases in Dare County as well as other towns in North Carolina.’

REPORTS AND RECOMMENDATIONS FROM THE PLANNING BOARD AND THE PLANNING AND DEVELOPMENT DIRECTOR

Dune Migration Activities

Planning Director Elizabeth Teague summarized the Media Release re: an update on dune migration activities which read in part as follows:

“Additional Sand Relocation Measures to be Available for Nags Head Beach Nourishment Project Area Properties Affected by Encroaching Sand - Applications Accepted Starting Monday, March 24

‘NAGS HEAD, North Carolina – March 20, 2014 – As of Monday, March 24, oceanfront property owners south of Bonnett Street who are experiencing issues with sand encroaching on their properties will have additional sand relocation measures available to them as a result of a modification to the Town of Nags Head’s 2010 beach nourishment permit.

‘The Division of Coastal Management this week approved the amendment to the Town’s beach nourishment Coastal Area Management Act (CAMA) major development permit, providing the Town with the ability to authorize the use of compact mechanical means, such as bobcats and small loaders and backhoes, to relocate sand back to the eastern side of the dunes.

‘Property owners will be asked to complete an application with Nags Head’s Planning and Development Department prior to performing any sand relocation work. Because of the variability of impacts along the affected area, each application will be reviewed on a case by case basis. As part of the application process, owners may be required to provide information such as the type of equipment to be used, the route to be used to relocate the sand back to the beach, and how much, if any, vegetation will be disturbed. A sketch of the work area may also be required.

‘Beach pushing, as it has been accomplished in the past with sand from the wet sand beach being pushed westward, is no longer allowed and will continue to be prohibited.

‘Contractors performing sand relocation work will be required to have their Town-issued authorization letter with them at all times. In addition, they will be prohibited from creating routes through the dune system, but not stopped from crossing over the dunes to transport sand back to the beach.

‘Work will only be permitted to take place between 8:30 a.m. and 5 p.m., Monday through Friday between November 16 and April 30. Affected property owners are asked to call Nags Head’s Planning and Development Department at 252.441.7016 for more information on obtaining a sand relocation permit.

‘Properties outside of the beach nourishment project area, north of Bonnett Street, can take advantage of existing sand relocation methods. More information is available from Nags Head’s Planning and Development Department.”

Comr. Demers commended Town staff and the Planning Dept. for this work; he pointed out that Town staff is available to help with the application process. Mr. Teague explained that the Town allows several ways to remove sand; this is not a free pass to reduce dunes – they are being very site specific.

Comr. Cahoon thanked Project Engineer David Ryan, DENR Braxton Davis, and CAMA for their quick work on this issue. She also pointed out to Public Works Director Ralph Barile the drain field at Hargrove Beach Access is under a mountain of sand that needs to be moved.

Comr. Ratzenberger said that he has received questions/comments on the process and he has told people that they need to contact the Planning Dept. with questions. He feels it is an important project - the Town does not want to have a problem because of its Beach Nourishment Project.

Ms. Teague also pointed out that the quick timeframe is because of the upcoming turtle season.

OLD BUSINESS/ITEMS TABLED FROM PREVIOUS MEETINGS

Special Assessment - Consideration of preliminary resolution authorizing Pond Island waterline extension project – from Mar 5th Board meeting

Project Engineer/Manager David Ryan summarized the agenda summary sheet concerning the Pond Island waterline extension project which read in part as follows:

“At the March 5, 2014 Board of Commissioners meeting, the Board authorized the process to begin, in accordance with GS 160A-217 - 237, for improvements to Pond Island Marina Subdivision to extend the Town's water distribution network to bring the utility up to Town standards. The Special Assessment Process will assess the cost to each property owner for frontage abutting on the project.

‘Attached please find the written requests signed by several of the participating property owners, as well as a Preliminary Assessment Resolution which details the project and sets a Public Hearing for the May 7, 2014 Board of Commissioners meeting.”

Attorney Leidy's comments on the agenda summary sheet read in part as follows:

“The Board has the authority to allow the assessments to be held in abeyance under either option outlined in paragraph 6.c. There are blanks on the document so the Board can select a date certain, if they choose to do so. With these revisions, I think this resolution meets statutory and ordinance requirements and can be presented to the Board.”

Attorney Leidy explained that this situation is a combination of special assessments as the Town can act as a result of a request from property owners or it can act on its own.

Comr. Demers confirmed with staff that all property owners were contacted to gauge level of interest.

Comr. Cahoon confirmed with staff that even if the project is not undertaken, the water consumption unit fee would have to be paid when the lot is developed.

MOTION: Comr. Ratzenberger made a motion to adopt the resolution authorizing the Pond Island waterline extension project as presented – to include paragraph 5 re: cost – and to schedule the Public Hearing on the assessment for the May 7th Board of Commissioners meeting. The motion was seconded by Comr. Cahoon.

Mayor Edwards confirmed with Town Manager Ogburn that this project is the last application for a waterline extension except for Nags Head Woods.

CONTINUATION OF MOTION: The motion passed unanimously.

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

“WHEREAS, written requests have been received from some property owners with frontage abutting on W. Shore Road and within the Pond Island Marina Subdivision for the Town to extend the public water distribution network to serve their properties; and

‘WHEREAS, the Town finds that the project for an extension of the Town of Nags Head water distribution system would be in the public interest due to issues relating to quality of the water supply from the individual wells, and by ensuring the availability of treated water in the Pond Island Marina Subdivision;

‘WHEREAS, on March 5, 2014 the Town of Nags Head Board of Commissioners by motion decided to proceed with a special assessment against benefited property owners for properties along W. Shore Road and within the Pond Island Marina Subdivision for extending the public water distribution network in the following manner:

‘A portion of the Pond Island Marina Subdivision will be brought up to standards set by the current rules and regulations governed by the Town’s municipal codes covering utilities in a development by extending the main waterline to serve the properties abutting W. Shore Road, as generally described on the Pond Island Watermain Extension, Plan/Profile Sheet attached hereto as Exhibit 1, extending the main water line in the general course of W. Shore Road from its current terminus approximately 560’ southward, to a point adjacent to the southwest property corner of Lot 26A (hereinafter “the Project”); and

‘WHEREAS, pursuant to Article 10 of Chapter 160A of the North Carolina General Statutes and Town Code Section 44-102, et. seq. the Town has considered the propriety of proceeding with the project and imposing special assessments on the benefited owners.

‘NOW, THEREFORE, BE IT RESOLVED by the Board of Commissioners of the Town of Nags Head, North Carolina:

‘1. That, in light of the requests from some owners and based on the Town’s own motion, the above mentioned Project is found to be sufficient and desirable in all respects.

‘2. That the Town intends that a portion of the Pond Island Marina Subdivision be improved as described in the Project:

‘3. As provided in North Carolina General Statutes (NCGS) Article 10, Special Assessments, and particularly 160A-218 (1), special assessments will be imposed as follows: by way of:

a. An assessment shall be made on the basis of the frontage abutting on the lateral mains of such extension, at an equal rate per foot of such frontage.

b. The properties with frontage abutting on the project that will be benefited by the Project have been identified as Lots 18, 19,20,21,22,23,24, and 26A located along W. Shore Rd. and within the Pond Island Marina Subdivision.

c. The estimated cost of the Project is \$16,402.50.

'4. That 100% percent of the total cost of said Project will be hereafter assessed upon the properties receiving the improvements as follows:

a. The total cost shall be levied based upon the frontage abutting on the Project, at an equal rate per foot of frontage pursuant to North Carolina General Statutes (NCGS) Article 10, Special Assessments, 160A-218.

b. The Town will assess one-hundred percent (100%) of the cost of the Project. This assessment will be assessed to the property owners in ten (10) annual installments.

c. The "Assessment Roll" will be prepared identifying owners of those properties with frontage abutting the Project in compliance with N.C.G.S. 160A. 227, briefly describing their lot, parcel or tract of land assessed, the basis for the assessment, the amount of each assessment, the terms of payment, and any discounts.

d. Interest shall be set at five percent (5%) per annum.

e. The assessed property owner has the option to pay all of their total assessment in one (1) payment without incurring interest. This payment must be paid within 30 days after the publication of the notice that the Assessment Roll has been confirmed.

'5. That all of the assessments for the properties with frontage abutting on the Project described herein may be held in abeyance, without interest, until improvements on the assessed property are actually connected to the water system for which the assessment is levied, or a date certain not more than 10 years from the date of confirmation of the assessment roll, whichever event occurs first.

'6. That the assessments for the properties with frontage abutting on the Project provided herein shall be payable based upon one of the following methods;

a) In cash; or

b) if any property owner shall so elect and give notice of that fact to the Board of Commissioners in accordance with Chapter 160A, Sections 232 and 233 of the General Statutes of North Carolina, he shall have the option and privilege of paying the assessment in ten (10) equal annual installments, said installments to bear interest at the rate of five (5%) percent per annum, upon confirmation and publication of the assessment roll.

'7. That a Public Hearing on all matters covered by this preliminary resolution shall be held on Wednesday, May 7, 2014 at 9:00 a.m. in the Board Room at the Nags Head Municipal Complex located at 5401 S Croatan Highway, Nags Head, NC 27959."

NEW BUSINESS

Committee Reports

Comr. Demers – He attended the March 2014 meeting of the Albemarle Solid Waste Management Authority in Hertford – the authority is a conglomerate of seven (7) counties that holds the contract for disposal of our solid waste in a landfill. Elected officers for the coming year and accepting new counties in the authority were discussed; the effect of the coal ash spill in the Dan River is still being determined.

Mayor Pro Tem Walters – At the last Dare County Tourism Board (DCTB) meeting, they approved 23 grants; the Event Grant replaces the TAG and Special Projects grants; applications will be due February 1st for spring events and August 1st for after December events; this new application will help simplify the process. She noted that the Event Site is a continuing process.

Mayor Pro Tem Walters – At the first Dowdy Park committee meeting on March 25th seven of the eight members were present; a boy scout also attended; the Committee discussed concerns, ideas, it was a very productive meeting; A lot of experience was represented; the next meeting is April 15th.

Comr. Cahoon – The Nags Head Promotion goal lead Comr. Cahoon to ride around Town with Police Chief Brinkley to take note of the “no parking signs” and they realized that there were more areas for parking than people may realize. She stated that recommendations will be coming forward – with a list ready for the May 7th Board meeting.

Comr. Ratzenberger – The Dare County Shoreline Management Committee is not actively meeting as a committee, however he and Town Manager Ogburn attended the northern beach town Beach Nourishment Project meetings.

Comr. Ratzenberger – YMCA Master Plan Committee – Comr. Ratzenberger and Planning Director Teague met with YMCA Executive Director Katie Burgus and a focus group workshop has been scheduled for April 16th to complete data collection.

Comr. Ratzenberger - He attended the Chamber of Commerce Economic Forecast Breakfast on March 19th – the Secretary of Transportation was present and stated that the #1 project for him is the Bonner Bridge. The Currituck Bridge project is not moving forward as it had scored low for congestion - The Albemarle Rural Planning Organization feels that they did not evaluate congestion properly.

Comr. Ratzenberger – Albemarle Rural Planning Organization (RPO) – this was the first meeting Comr. Ratzenberger attended; he reported on a new funding process that divides the State into regions/districts – DOT money is carved out and scored by State, region, and local importance and is not as available as previously. He explained that if you get to the top for funding, you have the money. For the Bonner Bridge project, the money is there but the project is held up because of a court challenge. He also reported on ferry tolls – if the ferries aren't tolled, then their maintenance may come solely from the transportation money allocated for our region. Dept. of Transportation funds are heavily weighed on big city areas with a lot of congestion; it is tough to compete here in the northeast; he also reported that a traffic signal study for the Outer Banks Event Site has been approved.

Request for additional funds for Town Hall Remodel Offices project

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

“Public Works submitted a CIP request last fiscal year for office renovations at Town Hall to be funded by administrative facility fees. The request was to fully enclose four (4) offices that are currently only separated by dividers replacing them with walls and doors.

‘The estimated cost was \$40,000. The actual costs for the improvements are \$4,380 for engineering and design and \$42,500 for construction costs for a total of \$46,880 with a funding shortfall of \$6,880.

'From Finance Officer Kim Kenny: Additional funding from administrative facilities fees (Capital Reserve Fund) is available for funding the additional costs and this has been included in this month's budget adjustment.'

Town Manager Ogburn explained that a budget adjustment simply places the money in the correct line item – the Board has to approve the spending of those funds.

MOTION: Comr. Cahoon made a motion to approve the request for additional funds for the Town Hall Remodel Office Project as presented. The motion was seconded by Mayor Pro Tem Walters.

In response to Comr. Ratzenberger, Project Engineer/Manager David Ryan explained that the increase in construction projects has contributed to the lack of interest which means higher costs for this project.

CONTINUATION OF MOTION: The motion passed unanimously.

Consideration of amendment to Business License Ordinance

Finance Officer Kim Kenny summarized the Administrative Services memo which read in part as follows:

"As a result of the recent small business forum hosted by the Town, staff is recommending a change to the billing and due dates for annual business licenses. These are currently billed in late May and due by the last day of June to cover licensing for the period from July 1 to June 30 corresponding to the Town's fiscal year.

'Staff is recommending changing this to billing in early July of each year and due by the last day of August for all currently licensed businesses. The licenses would still correspond to the Town's fiscal year of July 1 through June 30. Any new business, without a previously issued license, would be required to obtain a current license before commencing business within the Town.

'Section 12-5 of the ordinance needs to be amended from "the tax is due July 1 of each year" to "the tax is due September 1 of each year".

'Staff is also requesting section 12-32 for Releases be amended to substitute the tax collector for the finance director in submitting to the board at least annually a list of businesses which have been discontinued and taxes released as a result and to include this annually with the request for write off of uncollectible licenses pursuant to section 12-31."

MOTION: Mayor Pro Tem Walters made a motion to adopt the amendment to the Business License Ordinance as presented. The motion was seconded by Comr. Cahoon which passed unanimously.

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

ITEMS REFERRED TO AND PRESENTATIONS FROM TOWN ATTORNEY

Town Attorney Leidy - Status of Sansotta litigation

Attorney Leidy reported that the Sansotta litigation stems back to the November 2009 storm – a lawsuit was filed in 2010.

Initially the Town fought to have structures removed/declared nuisances; in the Cherry companion case Court of Appeals said that the Town has no authority to do this; the Town is still imposing civil penalties; meanwhile the owners have been able to obtain permits from CAMA and Dare County to make repairs and for a septic system; the Cherry cottage has also received a permit to make its repairs.

Town Attorney Leidy – Status of Osborne case

Attorney Leidy reported that two appeals have been filed in the Osborne case – the Board of Adjustment had denied requests – the Court of Appeals decision is expected by the end of May 2014.

Town Attorney Leidy – Dowdy Park site

Town Attorney Leidy reported that both parties made amendments to the contract and the delay is now the number of liens on the property. The Board has approved the contract and the financing – the Town is waiting for the property owner to take care of the liens.

ITEMS REFERRED TO AND PRESENTATIONS FROM TOWN MANAGER

Town Manager Ogburn - Resolution to approve/ratify vehicle loan contracts

Town Manager Ogburn reported that the Board approved a contract with Southern Bank on February 5th for the loan of Town vehicles. The bank subsequently split the items into two (2) contracts – the financing is actually less than originally approved by the Board. This is a housekeeping item to note that two (2) contracts are utilized instead of one (1) contract.

MOTION: Comr. Demers made a motion to adopt the resolution approving and ratifying the vehicle loan contracts with Southern Bank as presented. The motion was seconded by Mayor Pro Tem Walters which passed unanimously.

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

“WHEREAS, In its meeting dated February 5, 2014, the Nags Head Board of Commissioners approved financing terms and the execution of one (1) contract between the Town of Nags Head and Southern Bank for the purchase of certain vehicles. Southern Bank separated that approved contract into two (2) contracts, each with terms no less favorable than those proposed in the approved contract, as follows:

‘1) One contract dated March 27, 2014 for the purchase of a backhoe, which has: an interest rate of 1.18%; five (5) annual payments, each of which will include accrued interest and a principal payment of \$62,248.20 (the first being due when the contract is executed and/or ratified and the last being due four

(4) years following the execution of the contract); total principal payments of \$311,241.00; and total payments, inclusive of interest, of \$318,592.32 (See Exhibit 1 attached hereto).

'2) One contract dated March 27, 2014 for the purchase of a nine (9) vehicles, which has: an interest rate of 1.04%; three (3) annual payments, each of which will include accrued interest and a principal payment of \$93,947.00 (the first being due when the contract is executed and/or ratified and the last being due two (2) years following the execution of the contract); total principal payments of \$281,841.00; and total payments, inclusive of interest, of \$284,774.83 (See Exhibit 2 attached hereto).

'WHEREAS, the Town of Nags Head through its Manager, in lieu of the one (1) approved contract, has entered into the two (2) contracts dated March 27, 2014 with Southern Bank; AND

'WHEREAS, the two (2) contracts dated March 27, 2014, qualify as a tax-exempt obligations of the Town, pursuant to the Internal Revenue Code of 1986.

'NOW, THEREFORE BE IT RESOLVED, that the Nags Head Board of Commissioners ratifies the execution of and performance of the obligations under the said two (2) contracts dated March 27, 2014 attached hereto as Exhibits 1 and 2 and authorizes that the said contracts be and the same are hereby designated as qualified tax-exempt obligations of the Town for purposes of Section 265 (b) (3) of the Internal Revenue Code of 1986."

Town Manager Ogburn – Request for Closed Session

Town Manager Ogburn requested a Closed Session to discuss potential litigation with Colony Ridge and to preserve the attorney/client privilege.

CLOSED SESSION

MOTION: Comr. Demers made a motion to enter Closed Session to discuss Colony Ridge potential litigation and to preserve the attorney/client privilege in accordance with GS 143-318.11(a)(3). The motion was seconded by Comr. Ratzenberger which passed unanimously. The time was 12:05 p.m.

OPEN SESSION

The Board re-entered Open Session at 12:46 p.m.

Mayor Edwards reported that during Closed Session the Board discussed the Colony Ridge facility. He stated that the Board's primary concern is the high quality of patient care and the continuing uninterrupted operation of the facility and the physical improvements which have not been addressed by the operator; the Board has decided to entertain new proposals from qualified operators.

BOARD OF COMMISSIONERS AGENDA

Comr. Cahoon – Consideration of Gov-Ed Channel Committee FY 14/15 Budget and Revised Interlocal Agreement

The agenda summary sheet information read in part as follows:

"The Government Education Channel Committee is requesting its membership to review and approve the proposed FY 14/15 Budget as well as a revised Interlocal Agreement which includes College of the Albemarle and UNC Coastal Studies Institute as participating entities.

'Attached please find:

- Summary of requests
- Proposed 14/15 Budget
- Revised Interlocal Agreement (with changes highlighted)

'The narrative detailing the requests read in part as follows:

Government Education Access Channels Committee
2014-2015 Proposed Budget & Interlocal Agreement Update

'The following items are presented for consideration by the Nags Head Board of Commissioners:

'Item 1 Summary

Item one is the proposed 2014-2015 budget for operation of the Government and Education Channels, prepared and approved by the Government Education Access Channels (GEAC) Committee. The proposed budget, which would take effect July 1, 2014, must be approved by every participating member entity of the Channels, which includes the towns of Duck, Southern Shores, Kitty Hawk, Kill Devil Hills, Nags Head, Manteo, and Dare County, Dare County Schools, College of The Albemarle, and UNC Coastal Studies Institute.

'The budget as proposed requires no additional funding from the participating entities above the current annual \$1000 membership fee. Our budget is funded mainly from the North Carolina Video Distribution proceeds, which are disbursed quarterly by the State to certified members of the GEAC. These funds must be used for the operations of the two channels and no other purpose. Additionally, the legislation that originally established the Video Distribution funding required that the proceeds not supplant current funding. Accordingly, the annual \$1000 membership fee that was in place when the program began must remain, or the Channels would lose all Video Distribution funding from the State.

'The GEAC committee recommends the budget, which includes, in part, the following: funding of an additional staff member and a Local Programming Development Initiative to assist members in the development of programming for the Government and Education Channels. The funding also includes the continued funding of a regular news magazine shows that highlight the each of the participating members of the GEAC on the Education Channel and the Government Channel.

'Item 2 Summary

The second item is the Interlocal Agreement under which the Government Education Access Channels operate. The Government Education Access Channels Committee has reviewed the following changes to the Interlocal Agreement and requests consideration of the following amendments:

- 'Introduction (p.2) – This addition reflects the inclusion of College of The Albemarle and UNC Coastal Studies Institute as participating members in 2011.
- 'Section 7(b) [Indemnification] (p.8) - The verbiage update was made at the request of the Dare County Attorney to better reflect the current state legislation in place regarding indemnification among members.
- 'Section 8 (a) [Programming] (p.8) – This amendment reflects verbiage requested by the Committee to clarify the issue of elected officials and employees who may appear on the broadcast channels.

- 'Standard Operating Procedures Addendum Purpose Statement (p. 15) – This amendment to the Standard Operating Procedures parallels the additional wording in Section 8 (a) to clarify the issue of elected officials and employees who may appear on the broadcast channels.

'Specific Action Requested:

The Government Education Access Channels Committee requests approval by the Nags Head Board of Commissioners of the proposed 2014-2015 Budget for the Government and Education Channels and of the amended Interlocal Agreement."

Comr. Cahoon pointed out that with the change in the Charter cable channels, Government Education Channel is now Channel 191 and no longer Channel 20.

Proposed Gov-Ed FY 14/15 Budget

Comr. Cahoon noted that a lot of the entities were not using their funds each year – plus another technical employee is to be hired and is to be considered a Dare County employee.

MOTION: Comr. Cahoon made a motion to adopt the proposed Gov-Ed FY 14/15 budget as presented – the net effect on the Town's budget is zero – the annual \$1,000 fee has been included in the Town's budget for quite some time. The motion was seconded by Comr. Ratzenberger.

Mayor Pro Tem Walters confirmed with Comr. Cahoon that the budget is up because of the new technical position being added.

CONTINUATION OF MOTION: The motion passed unanimously.

Revised Interlocal Agreement

Comr. Cahoon said that she has some concerns about adding entities as they do not all involve elected officials.

MOTION: Mayor Edwards made a motion that Comr. Cahoon take the revised interlocal agreement back to the Gov-Ed Committee for further clarification of agency representation: do agencies without elected officials – such as the UNC-CSI and COA - have a right to vote and if so, is that detailed in the agreement? The motion was seconded by Comr. Cahoon.

Comr. Ratzenberger clarified that additional information is needed concerning voting rights of the entities in the agreement. Can appointed officials who may not be elected vote?

CONTINUATION OF MOTION: The motion passed unanimously.

Comr. Ratzenberger – Shoreline Management Committee

Comr. Ratzenberger chairs the Town's Shoreline Management Committee and he asked that those interested in volunteering on the committee to please contact him.

Comr. Ratzenberger – Dare County Veterans Advisory Council

Comr. Ratzenberger explained that the Dare County Veterans Advisory Council meets the fourth Thursday of each month in the Dare County Administrative Building. One of the programs they have is issuing Dare County Veterans ID cards – 301 cards have been issued out of the approximately 4,000 veterans in Dare County. There are currently 22 businesses that honor the card with some type of discount. He urged veterans without one to get one – during April they will be issuing the cards every Wednesday from 10:00 a.m. until 1:00 p.m. in Room 142 of the Dare County Administrative Building. He stated further that a DD214 form and proof of local address are needed. Additional information concerning the Dare County Veterans identification cards is attached to and made a part of these minutes as shown in Addendum “D”.

Comr. Ratzenberger – League of Women Voters

The League of Women Voters will hold a reception for all primary election candidates in the Kitty Hawk Town Hall on April 6th and April 10th. Comr. Ratzenberger stated that election day is Tuesday, May 6th – the primary includes the Board of Education election.

Comr. Demers – Parking Ordinance Subcommittee

Comr. Demers reported that the Parking Ordinance Subcommittee has reached agreement on all issues and the consolidated work is now in the hands of the Planning Department to finalize the first draft of the ordinance.

Comr. Demers – Stormwater Management

Comr. Demers said that he continues to meet with Town staff concerning stormwater management and to look at the initial prioritization of projects along with the associated funding requirements. He stated that funding for stormwater projects will be addressed during the upcoming budget process.

MAYOR’S AGENDA

Mayor Edwards – April 16, 2014 Schedule

MOTION: Mayor Edwards made a motion to schedule the South Wing of Fire Station #16 on April 16th for the YMCA Master Plan Workshop at 3:00 p.m. and the Recreational Overlay District Workshop at 5:00 p.m. The motion was seconded by Comr. Ratzenberger which passed unanimously.

Mayor Edwards - Discussion of the Pilot Recycling Project - from Mar 5th Board meeting

Town Manager Ogburn verified with Board members that the pilot recycling project will continue this year in the same area – during the months of July, August, and September – with an additional day each week of recycle pickup (at no extra charge) of Saturday. The recycle pickups will be Tuesday and Saturday of each week.

Town Manager Ogburn said that staff will be recommending that recycling be implemented town-wide in the upcoming FY 14/15 budget process.

In response to Comr. Cahoon, Town Manager Ogburn said that the existing automated cart with the yellow dot will continue to be used this year as the recycle cart. Mayor Edwards noted that the yellow dot will continue to be used since the program is still in a trial status.

Comr. Demers discussed with Board members and staff the possibility of switching recycle pickup from Tuesday to Wednesday so that there would be one less day per week with carts left by the roadway to be picked up. There was no consensus, however, to make any additional changes to the recycle pilot program at this time.

ADJOURNMENT

MOTION: Comr. Ratzenberger made a motion to recess to the YMCA and the Recreational Overlay District Workshops on April 16, 2014 in the South Wing of Fire Station #16 - to start at 3:00 p.m. The motion was seconded by Comr. Cahoon.

Mayor Pro Tem Walters confirmed that there was no mid-month meeting scheduled for April.

CONTINUATION OF MOTION: The motion passed unanimously. The time was 1:33 p.m.

Carolyn F. Morris, Town Clerk

Date Approved: _____

Mayor: _____
Robert C. Edwards