



**MINUTES
TOWN OF NAGS HEAD
BOARD OF COMMISSIONERS
REGULAR SESSION
WEDNESDAY, JULY 1, 2026**

The Nags Head Board of Commissioners met at the Board Room located at 5401 S Croatan Highway, Nags Head, North Carolina on Wednesday, July 1, 2026 at 9:00 a.m. for a Regular Meeting.

Board Members Present: Mayor Ben Cahoon; Mayor Pro Tem Megan Lambert; Comr. Bob Sanders
Comr. Megan Vaughan; and Comr. Molly Harrison

Board Members Absent: None

Others Present: Town Manager Andy Garman; Attorney John Leidy; Amy Miller; Kelly Wyatt; David Ryan; Perry Hale; Randy Wells; Chris Montgomery; Nancy Carawan; Joe Costello; Karen Snyder; Shane Hite; Katie Anzalone; Chad Motz; 2026 Summer Season Lifeguards; Matt Hanusik; Randy Cartwright; Skip Saunders; Bob Muller; Susie Walters; Webb Fuller; Josselyn Brown; and Town Clerk Brittany A. Phillips

Mayor Cahoon called the meeting to order at 09:01 a.m. A moment of silence was followed by the Pledge of Allegiance. He then recognized former elected officials in attendance: Bob Muller, Webb Fuller, and Susie Walters.

ADOPTION OF AGENDA

MOTION: Comr. Sanders moved to adopt the amended July 1st agenda, moving the 25-yr recognition of Public Information Officer Roberta Thuman to the August 5th meeting. The motion was seconded by Comr. Vaughan, which passed unanimously.

RECOGNITION

INTRODUCTION OF LIFEGUARDS – Ocean Rescue Captain Chad Motz mentioned his personal milestone of 26 years with Nags Head Ocean Rescue and then introduced the lifeguard staff for the 2026 season. He invited each lifeguard to introduce themselves, stating their name, hometown, and years of service with Nags Head Ocean Rescue.

Mayor Cahoon thanked the lifeguards and expressed gratitude for their service.

Captain Motz invited the public to attend and support the lifeguards in a local series competition scheduled for that evening at 7:00 p.m. at the Ocean Bay Boulevard Beach Access in Kill Devil Hills.

NEW EMPLOYEE – Public Services Director Nancy Carawan introduced Water Services Technician Matt Hanusik who was welcomed by the board to town employment.

PUBLIC COMMENT

Town Attorney John Leidy opened Public Comment at 09:12 a.m.

Susie Walters, Nags Head Resident - thanked the board, town manager, and staff for working with the community to protect First Amendment rights while developing the proposed ordinance to be considered at today's meeting. She expressed concern that the definition of "spontaneous demonstration" is ambiguous, recommending the definition end after "event" to avoid subjectivity and potential conflicts related to social media communication.

Skip Saunders, Kitty Hawk Resident - encouraged the board to uphold its oath to the Constitution and protect citizens' rights to free speech and peaceful assembly. He expressed support for the board's review of the group demonstration ordinance, commending its efforts to balance constitutional rights with fairness and public safety.

Randy Cartwright, Nags Head Resident - thanked the board, town manager, town attorney, and staff for their collaborative work in revising the group demonstration ordinance, stating that the process resulted in significant improvements that better balance public safety and First Amendment protections. While expressing overall support for the ordinance, he encouraged the board to reconsider recent revisions affecting good-faith attendance estimates and the definition of spontaneous demonstrations.

There being no one else who wished to speak, Attorney Leidy concluded Public Comment at 09:25 a.m.

CONSENT AGENDA

The Consent Agenda consisted of the following items:

- Consideration of Budget Amendment #1 to FY 26/27 Budget
- Consideration of Tax Adjustment Report
- Approval of Minutes
- Consideration of Order to the Tax Collector to Collect Taxes
- Consideration of Business License/Registration Fee Debt Release/Write-Offs
- Consideration of Resolution Authorizing Higher Federal Micro-Purchase Thresholds
- Consideration of Amendment #3 to the Capital Reserve Fund Ordinance
- Consideration of Personnel Policy Update to Include Mental Health Leave and Longevity
- Consideration of Reimbursement Resolution - Carolista Dr./W. Soundside Rd. Multi-use Path Construction and Town Hall Improvements
- Consideration of Career Progression Update for Administrative Services
- Request for Public Hearing to Consider a Vested Right/Special Use Permit/Site Plan Review Submitted by Michael Robinson, P.E. on Behalf of Tar Heel Motel of OBX, to Construct a Two-Story, 26-Guest Room, Hotel. The Property is Zoned C-2, General Commercial and is Included Within the Hotel Overlay District and is Located at 7001 S. Croatan Highway, Nags Head.
- Request for Public Hearing to Consider a Text Amendment Application Submitted by Ms. Suzanne Baer on behalf of BIPA, LLC to Amend Section 7.32 of the Unified Development Ordinance to Allow Water Dependent Recreational Uses as a Permissible Use within Commercial Mixed-Use Developments, including Shopping Centers, Located within the Commercial Outdoor Recreation Overlay District

MOTION: Comr. Sanders moved to approve the Consent Agenda as presented. The motion was seconded by Comr. Vaughan, which passed unanimously.

Budget Amendment #1, as approved, is attached to and made a part of these minutes as shown in Addendum "A".

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

The minutes from the June 3, 2026, Regular Session meeting were approved by the board and are on file in the town clerk's office and on the town's website.

The Order to Collect Taxes, as approved, is attached to and made a part of these minutes as shown in Addendum "C".

The Business License/Registration Fee Debt Release/Write-offs summary sheet, as approved, read in part as follows:

"As per section 12-32(c) and 12-33 of the Town of Nags Head Code of Ordinances, see below, the list of inactive businesses with their outstanding balance that were released for the year 2023 is attached.

'2023 Business Licenses/ Registration Fees \$750.00

'Sec. 12-32. Collection of deficiency or delinquent taxes. (c) Any business/privilege license or registration invoice older than three years, regarding a business that the town no longer regards as active, may be removed from the list of receivable accounts in the town's financial statement. At least annually, the tax collector will present the board of commissioners with a list of uncollectible accounts, requesting the board's approval for a formal write-off of such accounts. The town will use all available means to collect these accounts to include but not be limited to: bank attachment and payroll garnishment where applicable, debt set-off, etc.

'Sec. 12-33 - Releases. If it is determined that upon the issuance date of a renewal license or registration the business has been discontinued, the finance director may release a tax of less than \$100.00. The tax collector shall annually report to the board of commissioners releases made pursuant to this section and the tax collector's annual report shall be recorded in the minutes of the board of commissioners. This report will be included with the annual request to the board to write off uncollectible accounts pursuant to section 12-32.

'Requesting board's approval for a formal write-off of uncollectible accounts."

The list of businesses for license/registration fee release, as approved, is attached to and made a part of these minutes as shown in Addendum "D".

The Resolution authorizing higher federal micro-purchase thresholds, as adopted, read in part as follows:

"WHEREAS, from time to time, the Town of Nags Head purchases goods and services using federal funding subject to the procurement standards in 2 C.F.R. Part 200, Subpart D; and

'WHEREAS, the Town of Nags Head's procurement of such goods and services is subject to the Town of Nags Head's purchasing and bid requirements policy, as most recently amended on January 30, 2025; and

'WHEREAS, the Town of Nags Head is a non-Federal entity under the definition set forth in 2 C.F.R. § 200.1; and

'WHEREAS, pursuant to 2 C.F.R. § 200.320(a)(1)(ii), a non-Federal entity may award micro-purchases without soliciting competitive price or rate quotations if the non-Federal entity considers the price to be reasonable based on research, experience, purchase history or other information and documents that the non-Federal entity files accordingly; and

'WHEREAS, pursuant to 2 C.F.R. § 200.320(a)(1)(iii), a non-Federal entity is responsible for determining and documenting an appropriate micro-purchase threshold based on internal controls, an evaluation of risk, and its documented procurement procedures; and

'WHEREAS, pursuant to 2 C.F.R. § 200.320(a)(1)(iv), a non-Federal entity may self-certify on an annual basis a micro-purchase threshold not to exceed \$50,000 and maintain documentation to be made available to a Federal awarding agency and auditors in accordance with 2 C.F.R. § 200.334; and

'WHEREAS, pursuant to 2 C.F.R. § 200.320(a)(1)(iv), such self-certification must include (1) a justification for the threshold, (2) a clear identification of the threshold, and (3) supporting documentation, which, for public institutions, may be a "higher threshold consistent with State law"; and

'WHEREAS, G.S. 143-129(a) and G.S. 143-131(a) require the Town of Nags Head to conduct a competitive bidding process for the purchase of (1) "apparatus, supplies, materials, or equipment" where the cost of such purchase is equal to or greater than \$30,000, and (2) "construction or repair work" where the cost of such purchase is greater than or equal to \$30,000; and

'WHEREAS, North Carolina law does not require a unit of local government to competitively bid for purchase of services other than services subject to the qualifications-based selection process set forth in Article 3D of Chapter 143 of the North Carolina General Statutes (the "Mini-Brooks Act"); and

'WHEREAS, G.S. 143-64.32 permits units of local government to exercise, in writing, an exemption to the qualifications-based selection process for services subject to the Mini-Brooks Act for particular projects where the aggregate cost of such services do not exceed \$50,000; and

'WHEREAS, pursuant to 2 C.F.R. § 200.320(a)(1)(iv), the Board of Commissioners of the Town of Nags Head now desires to adopt higher micro-purchase thresholds than those identified in 48 C.F.R. § 2.101.

'NOW THEREFORE, BE IT RESOLVED BY THE BOARD OF COMMISSIONERS OF THE TOWN OF NAGS HEAD:

1. In accordance with 2 C.F.R. § 200.320(a)(1)(iv) and the applicable provisions of North Carolina law, the Town of Nags Head hereby self-certifies the following micro-purchase thresholds, each of which is a "higher threshold consistent with State law" under 2 C.F.R. § 200.320(a)(1)(iv)(C) for the reasons set forth in the recitals to this resolution:
 - A. \$30,000, for the purchase of "apparatus, supplies, materials, or equipment"; and
 - B. \$30,000, for the purchase of "construction or repair work"; and
 - C. \$50,000, for the purchase of services not subject to competitive bidding under North Carolina law; and
 - D. \$50,000, for the purchase of services subject to the qualifications-based selection process in the Mini-Brooks Act; provided that such threshold shall apply to a contract only if the Unit has exercised an exemption to the Mini-Brooks Act, in writing, for a particular project pursuant to G.S. 143-64.32. If the exemption is not authorized, the micro-purchase threshold shall be \$0.
2. The self-certification made herein shall be effective as of the date hereof and shall be applicable until June 30, 2027, but shall not be applicable to Federal financial assistance awards issued prior to November 12, 2020, including financial assistance awards issued prior to that date under the Coronavirus Aid, Relief, and Economic Support (CARES) Act of 2020 (Pub. L. 116-136).
3. In the event that the Town of Nags Head receives funding from a federal grantor agency that adopts a threshold more restrictive than those contained herein, the Unit shall comply with the more restrictive threshold when expending such funds.
4. The Unit shall maintain documentation to be made available to a Federal awarding agency, any pass-through entity, and auditors in accordance with 2 C.F.R. § 200.334.
5. The Town Manager, or in absence designee, of the Town of Nags Head is hereby authorized, individually and collectively, to revise the Purchasing Policy of the Unit to reflect the increased micro-purchase thresholds specified herein, and to take all such actions, individually and collectively, to carry into effect the purpose and intent of the foregoing resolution."

Amendment #3 to the Capital Reserve Fund ordinance, as adopted, is attached to and made a part of these minutes as shown in Addendum "E".

The summary sheet for the Consideration of Personnel Policy updates read in part as follows:

"As part of the Fiscal Year 2027 budget, staff recommended updating the Personnel Policy with two benefits highlighted below:

- Mental Health Leave: Through the internal staff engagement survey, mental health was highlighted as a

priority item. Additionally, the Classification and Compensation Study provided benchmark information that indicated Nags Head is below the market average for designated holidays by one day. The town currently provides 12 paid holidays, while the market average is 13 days. Given this information, staff is recommending adding one mental health day leave annually for all staff, equivalent to the holiday hours provided in their respective positions. Staff can use this leave to support mental and emotional well-being.

- Longevity Pay: The Fiscal Year 2027 budget includes funding to increase the longevity pay for those individuals on the fixed dollar amount plan, hired after 7/1/2008. The current amounts have not been updated for 18 years, and staff recommends doubling this benefit to the amounts indicated below. Individuals hired prior to 7/1/2008 will remain on their current percentage-based longevity plan.
 - Five (5) full years of service but less than ten (10) full years: \$1,000.00
 - Ten (10) full years of service but less than fifteen (15) full years: \$2,000.00
 - Fifteen (15) full years of service but less than twenty (20) full years: \$3,000.00
 - Twenty (20) full years of service but less than twenty-five years (25): \$4,000.00
 - Twenty-five (25) plus years of service \$5,000.00

'Review and approve the proposed Longevity and Mental Health Leave Policies as reviewed during the budget process"

The personnel policy, as approved, is on file in the town clerk's office and on the town's website.

The Resolution declaring the intention to reimburse the cost of certain expenditures, as adopted, read in part as follows:

"WHEREAS, The Town Manager and the Finance Officer have described to the Board of Commissioners the desirability of adopting a resolution, as provided under federal tax law, to facilitate the Town's use of financing proceeds to restore Town funds when the Town makes capital expenditures prior to closing on installment financing.

'BE IT HEREBY RESOLVED by the Board of Commissioners of the Town of Nags Head, North Carolina as follows:

'Section 1. The projects are the financing of multi-use path construction, Town Hall improvements including an elevator and transfer switch, and associated professional costs for projects identified in the fiscal year 2026/2027 adopted budget:

- Multi-use path construction located between Carolista Drive and West Soundside Road, Nags Head, as well as associated professional costs
- Town Hall improvements (elevator/transfer switch) located at 5401 S. Croatan Highway, Nags Head

'Section 2. The project is to be financed. The currently expected type of financing (which is subject to change) is an installment finance contract(s). The currently expected maximum amount to be financed for the projects is \$1,500,000.

'Section 3. The Town presently intends, and reasonably expects, to reimburse itself for the original expenditures incurred and paid by the Town from the General Fund within 60 days of adoption of this Resolution from a portion of the financing proceeds.

'Section 4. This Resolution shall become effective immediately upon the date of its adoption."

The summary sheet for the consideration of Career Progression Update for Administrative Services, as approved, read in part as follows:

"For the Fiscal Year 2027 budget, the board approved an HR Assistant position for Admin Services (that did not result in a net headcount increase in the Town). Staff is providing recommended career progression for this position, and has updated career progression for other positions in Admin Services that better align with operational structure and position requirements.

'Review and approve the updated career progression for Administrative Services."

The updated career progression chart is on file in the town clerk's office.

The summary sheet concerning the request for Public Hearing to Consider a Vested Right/Special Use Permit/Site Plan Review Submitted by Michael Robinson, P.E. on Behalf of Tar Heel Motel of OBX, to Construct a Two-Story, 26-Guest Room, Hotel. The Property is Zoned C-2, General Commercial and is Included Within the Hotel Overlay District and is Located at 7001 S. Croatan Highway, Nags Head, as approved, read in part as follows:

"Michael Robinson, P.E., on behalf of Tar Heel Motel of OBX, has submitted a Vested Right/Special Use Permit/Site Plan Review application to construct a new two-story, 26-room hotel building and associated site improvements as an expansion of the existing Tar Heel Motel located at 7001 S. Croatan Highway. The proposal includes 18 two-bedroom suites with kitchenettes and 8 standard guest rooms and will increase the motel's total accommodations while remaining consistent with the property's General Commercial zoning and Hotel Overlay District designation.

'Staff reviewed the proposal for compliance with the Unified Development Ordinance, including hotel overlay standards, building height, lot coverage, parking, landscaping, buffering, stormwater management, floodplain regulations, and commercial design standards, and found the application to be compliant.

'STAFF RECOMMENDATION

Based upon staff's review of the proposal, staff recommends approval of the Special Use Permit/Site Plan Review as presented.

'PLANNING BOARD RECOMMENDATION

At its May 19, 2026, meeting, the Planning Board voted unanimously to recommend approval of the Special Use Permit and Site Plan Review as presented, finding the proposed expansion to be consistent with the applicable requirements of the Unified Development Ordinance.

'Schedule the Public Hearing to consider this Vested Right/SUP/Site Plan at the Board of Commissioners August 5, 2026, meeting."

The summary sheet concerning the request for Public Hearing to Consider a Text Amendment Application Submitted by Ms. Suzanne Baer on behalf of BIPA, LLC to Amend Section 7.32 of the Unified Development Ordinance to Allow Water Dependent Recreational Uses as a Permissible Use within Commercial Mixed-Use Developments, including Shopping Centers, Located within the Commercial Outdoor Recreation Overlay District, as approved, read in part as follows:

"The Planning Board considered a request submitted by Suzanne Baer on behalf of BIPA, LLC to amend Section 7.32 of the Unified Development Ordinance to allow Water-Dependent Recreational Uses to be considered within Commercial Mixed-Use Developments, including Shopping Centers, located within the Commercial Outdoor Recreational Overlay District (CORD). The amendment does not increase the number of permitted commercial water recreation operators within the Town, increase the number of personal watercraft allowed per operator, or expand the boundaries of the Commercial Outdoor Recreational Overlay District. This request allows the existing use to be considered within an additional development type through the existing Special Use Permit process.

'During its review, the Planning Board discussed the Town's longstanding regulations governing commercial water recreation activities, including the findings of the 1999 Recreational Water Use Carrying Capacity Study. While concerns were expressed regarding parking, circulation, storage, fueling, and compatibility with adjacent tenants, the Board agreed these issues are site-specific and can be addressed through future SUP/Site Plan Review.

'STAFF RECOMMENDATION

While staff recognizes concerns related to parking availability, circulation, equipment storage, fueling operations, compatibility with adjacent tenants, and overall site functionality, these concerns are largely site-specific and are more appropriately evaluated through the Special Use Permit and Site Plan Review process. Accordingly, staff recommends adoption of the proposed amendment as presented.

'PLANNING BOARD RECOMMENDATION

At its June 16, 2026 meeting, the Planning Board voted unanimously to recommend approval of the proposed text amendment as presented, finding that any concerns related to parking, circulation, equipment storage, fueling operations, and compatibility with adjacent tenants are site-specific and can be appropriately addressed through future Special Use Permit and Site Plan Review.

'Schedule the Public Hearing for the proposed amendment for the Board of Commissioners' August 5, 2026 meeting."

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 Wednesday, July 1st, 2026.

'Monthly Activity Report

In addition to permitting, inspections, code enforcement, and Todd D. Krafft Septic Health Initiative activities, staff were involved in the following meetings or activities of note during the month of June:

- Tuesday, June 2nd — Technical Review Committee Meeting
- Tuesday, June 2nd — Staff meeting with NEST re: lighting
- Wednesday, June 3rd — Board of Commissioners Meeting
- Wednesday, June 10th — Committee for Arts and Culture Meeting (no meeting)
- Thursday, June 11th — Board of Adjustment Meeting (no hearings)
- Tuesday, June 16th — Planning Board Meeting
- Wednesday, June 17th — Board of Commissioners Mid-Month Meeting (no meeting)

'Planning Board — Pending Applications and Discussions

The Planning Board most recently met on Tuesday, June 16, 2026. At that meeting, the Board took the following actions:

Consideration of a text amendment application submitted by Ms. Suzanne Baer on behalf of BIPA, LLC to amend Section 7.32 of the Unified Development Ordinance to allow Water Dependent Recreational Uses within Commercial Mixed-Use Developments, including Shopping Centers. The Planning Board voted unanimously to recommend approval of the proposed text amendment as presented, finding that any concerns related to parking, circulation, equipment storage, fueling operations, and compatibility with adjacent tenants are site-specific and can be appropriately addressed through future Special Use Permit and Site Plan Review.

'Town Manager Andy Garman provided the Planning Board with a brief update on recent legislative proposals and actions at the state level, including those related to parking requirements, accessory dwelling units, allowable building heights, and down-zoning. Board members expressed their appreciation for the ongoing efforts of the Town Manager, Board of Commissioners, and the Town's legislative representatives to remain informed, engaged, and proactive as these evolving legislative initiatives continue to develop.

'The next Planning Board meeting is scheduled for Tuesday, July 21, 2026. At this time, the agenda is anticipated to include consideration of a text amendment request submitted by Eddie Goodrich that would provide additional flexibility in the development of cottage courts by modifying the current graduated size and design requirements for individual dwelling units.

'Board of Adjustment – Recent and Pending Applications — There were no items for the Board of Adjustment's consideration in June. However, the Board of Adjustment is scheduled to hear an Appeal of an Administrative Decision submitted by Sebastian Ojanguren regarding the Planning Director's interpretation and application of Section 8.6.3.7.1 of the Unified Development Ordinance, which governs front yard setback reductions. The appeal pertains to property located at 10023 E. Pelican Street, Nags Head, North Carolina.

'Additional Updates

- DWMP/Septic Health Advisory Committee — The next meeting of the Septic Health Advisory Committee is scheduled for Monday, July 27, 2026. Staff continue to advance implementation of the Town's septic health initiatives, with an ongoing emphasis on public outreach, education, and program participation. Recent efforts include updating and distributing the program informational flyer, redesigning an educational septic health magnet, and purchasing promotional materials for use at community outreach events. Staff have also prepared targeted outreach letters for property owners within higher-risk and environmentally sensitive areas in anticipation of the upcoming rollout of the Division of Water Infrastructure (DWI) zero-interest loan program and are awaiting the official Funding Offer from DWI prior to mailing. Outreach efforts at the Dowdy Park Farmers Market have been well received, and staff will continue participating in additional market events throughout the summer to promote the program and answer questions from residents.
- Estuarine Shoreline Management Plan — Deputy Planning Director Joe Costello will provide an update on the Town's ongoing implementation of the Estuarine Shoreline Management Plan during Agenda Item F-2.
- Dowdy Park Events/Farmers Market/Holiday Markets/Art & Culture — Summer programming at Dowdy Park is now in full swing, with strong participation and attendance across all events and activities. The Tuesday, Wednesday, and Friday fitness classes have far exceeded expectations, with attendance levels reminiscent of our typical Fourth of July crowds, attracting both local residents and visitors. The Tuesday and Friday Family Fun Time programs have also been well attended throughout the season.

'The Dowdy Park Farmers Market continues to experience strong attendance, providing another successful opportunity for community engagement and educational outreach, including promotion of the Town's Todd D. Krafft Septic Health Initiative. The 2026 Summer Concert Series has also gotten off to an excellent start, with large crowds attending performances through word-of-mouth and the Town's social media outreach. The next concert is scheduled for Wednesday, July 1, and will feature Soul One. Waggin' Wednesdays are also beginning to gain momentum, with participation continuing to increase among both residents and their four-legged companions.

'The Committee for Arts & Culture continues to advance several public art initiatives. Local artist Chris Wheeler is nearing completion of the second side of the Dowdy Park Art Wall, and work continues with artist Julie Moyer on concepts for the proposed Dowdy Park walkway art project, with preliminary design concepts anticipated later this summer.

'Upcoming Meetings and Other Dates

- Wednesday, July 1st — Board of Commissioners Meeting
- Tuesday, July 7th — Technical Review Committee Meeting
- Wednesday, July 8th — Committee for Arts and Culture Meeting

- Thursday, July 9th — Board of Adjustment Meeting (Appeal of Administrative Decision, Pelican Street)
- Wednesday, July 15th — Board of Commissioners Mid-Month Meeting (if needed)
- Tuesday, July 21st — Planning Board Meeting

'Please find attached a monthly update from Planning Director Kelly Wyatt that includes permitting and code enforcement data through May 2026.'



Director Wyatt recognized community members, Kate Jones and Rachel Veal with the NC Aquarium, for their contributions to securing a \$2,000 SAFE Monarch grant to support native pollinator plantings in the town. Native plants are currently being grown and will be planted during a community event this fall at Dowdy Park, with the goal of establishing a thriving pollinator garden by next year.

Mayor Cahoon and the board thanked Director Wyatt for her efforts.

Estuarine Shoreline Management Plan Projects Update

Deputy Planning Director Joe Costello introduced this item. The summary read in part as follows:

"Harvey/Soundside Event Site Living Shoreline Project

The major permit package was submitted to the Division of Coastal Management on January 14th. The town and our consultants received comments that a new wetland survey was needed. The survey was complete and 30 feet of proposed sandy beach was removed from the design plans due to impacts to wetlands, leaving approximately 250 linear ft. of proposed sandy beach remaining.

'CAMA has requested some minor changes to the resubmitted permit application package (submitted on June 3rd, 2026). Moffatt and Nichol are currently in the process of finalizing these changes and resubmitting. The Tourism Board is working directly with NCLWF on the appropriate conservation easement language that captures both parties interests. Given the delays in permit review, permits are expected to be received for the project in

September with bid packages to follow and construction anticipated to take place in January of 2027. The applicable granting agencies have been asked for extensions.

'Villa Dunes Drive Project Area

The town has contracted with Environmental Professionals, Inc. to engage with Villa Dunes Drive property owners to better understand site-specific concerns and identify alternative, implementable solutions. The first stakeholder meeting is taking place on Monday, June 29th. A detailed summary report and subgroup meetings are to follow.

'Soundside Road Project Area

Staff has asked the RCCP grant team for a scope change to exclude the offshore breakwaters and to instead allow the town to focus funds on the resiliency berm section along Soundside Road. As a part of this scope change request, staff has also requested the use of previously awarded RCCP funds for the design of stormwater management components as part of the project. The kickoff meeting for this project took place on 3-26. Draft easement language is being developed and initial stakeholder meeting is to take place on July 7th at 6pm. The purpose of the project is to design a nature-based shoreline stabilization project that:

1. Reduces wave overtopping
2. Enhances habitat
3. Protects infrastructure. Public engagement and due diligence will continue through the summer with permit application scheduled for January of 2027 and design development package and permits expected by April 2027.

'Catfish Farm Living Shoreline Project

Staff has asked the RCCP project team for a scope change to fund a living shoreline design at the Catfish Farm/Causeway project area as an alternative to the offshore breakwaters at the Villa Dunes and Soundside Road sites.

- The area was identified in the ESMP as an alternative pilot site location.
- This location includes the Causeway, which is crucial public infrastructure that will likely be 'riprapped' by NCDOT if the marsh in front continues to erode. Given the huge amount of fetch coming up to this site, this is likely without intervention. People note this area is a hub of speckled trout and a variety of species of birds and fish.
- Potential spat in the area may allow for oyster reefs and/or other innovative natural approaches to erosion control. More groundwork is needed to confirm anecdotal evidence that the area can support oysters, but oyster reefs or other natural shoreline treatments would be preferable to gray infrastructure as they provide water quality and habitat benefits in addition to erosion protection.
- The town owns the 'catfish farm' parcels adjacent to Sugar Creek to the east. These are wetlands that provide crucial habitat and water quality benefits but are eroding and need intervention to protect them in the long term. These parcels are already under a conservation easement. Living shorelines have been confirmed as allowable within the terms of the conservation easement.
- The 4.7425 town-owned tract, pin #080019624199, the .0574 acre tract owned by Virginia Campbell, pin #0800119614808, and the 2.8471 tract owned by Sugar Creek LLC, pins# 080019514133 and 08001196127, are included in this design scope.

'Environmental data collection, including salinity level readings, water quality readings and SAV mapping is currently underway at the site.'

Manager Garman provided an update regarding the conservation easement process associated with the NC Land and Water Fund grant. It was explained that the easement is a requirement of the grant program and is necessary to utilize the awarded funds; it is not an independent action being pursued by the town. Staff noted that the town had previously communicated with Lee Nettles and Diane Bognich of the Tourism Bureau regarding the easement requirement and received a letter of support acknowledging the need for the easement as part of the grant process. He reported that Deputy Planning Director Costello and Deputy Town Manager/Finance Officer Miller have been working with Land and Water Fund staff to advance the easement process and engaged Attorney Robert Hobbs of Hornthal Riley Ellis & Maland, LLP, who has experience drafting easements associated with the program, to prepare a draft easement for review and consideration by the Tourism Board.

Manager Garman explained that any easement recorded on the property would require approval from both property owners, the Tourism Board and the Town of Nags Head. It was noted that there had been some miscommunication regarding the status of the easement process, which led to concerns about the town's actions. He stated that communication has since improved, and the parties are working collaboratively to develop acceptable easement language.

The Tourism Board's attorney, Jay Wheless, is now coordinating with Land and Water Fund staff to help identify language that meets the needs of all parties. Manager Garman noted that the Tourism Board has specific interests and protections they would like addressed in the easement, and there is optimism that an agreement can be reached. He emphasized that the easement, project design, and permit process are moving forward concurrently with the goal of soliciting bids and beginning work during the upcoming offseason. The project was described as a component of Nags Head's Estuarine Shoreline Plan and a pilot site intended to protect a valuable public asset, provide an educational opportunity, and serve as a demonstration project for shoreline protection efforts.

Attorney Leidy provided additional information regarding the conservation easement recording process. He explained that a condition of receiving the grant is placing the affected property under a conservation easement with terms acceptable to the Land and Water Fund. He noted that town staff and Attorney Hobbs have been working on a draft easement document, and that Attorney Hobbs has sought to follow the Land and Water Fund's established template as closely as possible to improve the likelihood of approval.

Attorney Leidy stated that Attorney Hobbs and the Tourism Board's attorney, Jay Wheless, had been working on draft documents concurrently and were not initially aware of each other's efforts. Attorney Hobbs has since compared the drafts and believes the differences are not insurmountable. He emphasized that the final conservation easement must be approved and signed by all property owners before it can become effective. He noted that the process remains ongoing and that he could not provide a specific completion timeline due to the number of parties and moving pieces involved. The goal remains to finalize an easement acceptable to all parties so the grant requirements can be met, and the project can proceed.

Mayor Cahoon asked whether separate easements would be required given that the project involves one project area spanning two parcels of property and that the discussion had primarily focused on the easement to be signed by the Tourism Board. He inquired whether the two properties would require separate easements. Attorney Leidy responded that he would expect the easements to contain the same terms. He noted that it was possible there could be a single easement covering both properties, or alternatively, separate easements with identical provisions for each property.

Comr. Vaughan provided an update from the most recent Tourism Board meeting, noting that progress was being made on easement discussions. Attorney Wheless has been communicating with the Land and Water Fund and is leading discussions regarding the easement. Specific concerns identified include provisions related to perpetuity and additional requested uses not included in the standard easement template. She reported that, although these items remain under discussion, there is optimism that an easement document acceptable to all parties can be developed.

Comr. Harrison asked whether the renourishment of the sand on the south side of the project area was a new component or if it had been previously discussed.

Deputy Planning Director Costello responded that the sand renourishment component has been a consistent part of the project concept, although the project area has been adjusted slightly based on updated wetlands survey information. He noted that the estimated length was revised from approximately 280 linear feet to 250 linear feet. Costello explained that the consultant has some concerns regarding the CAMA permitting process, but the project appears to meet the initial criteria based on historical imagery showing that a sandy beach previously existed in the area.

Manager Garman reported that the town had recently received concerns from several site users regarding the project design and potential impacts on recreational use. He noted that staff had previously engaged with these users and incorporated feedback into design revisions presented earlier in the meeting. A follow-up meeting is scheduled with interested users to review the updated design and gather additional input. He expressed hope that reviewing the final design changes would address concerns, while emphasizing that the goal is to protect the shoreline without limiting recreational use of the site. He will provide a follow-up update after the meeting.

Comr. Sanders expressed appreciation for the efforts of staff and the public engagement process throughout the project. He acknowledged the significant work by all parties to move the project forward and commented that the revised design appears to be more compatible with recreational use. He thanked staff for their continued efforts and expressed optimism that the project would achieve a successful outcome for all involved.

Mayor Pro Tem Lambert echoed Comr. Sanders' comments and expressed appreciation for staff's efforts and the significant work completed to advance the project. She stated that, based on updates from the Manager Garman, Comr. Vaughan, and Attorney Leidy, it appears the project is moving toward completion. She thanked everyone involved for their continued work.

OLD BUSINESS/ITEMS TABLED FROM PREVIOUS MEETINGS

From June 3, 2026 - Discussion of Town Code Chapter 4: Crowd Gathering Activities and Group Demonstrations
Town Manager Garman thanked the public for their valuable input during this process and then reviewed the summary sheet which read in part as follows:

"As the board is aware, the town adopted a revised crowd gathering and group demonstrations ordinance in December of 2025. Subsequent to the adoption of the ordinance, the town continued to receive comments from the public regarding specific requirements, including the permitting threshold which is based on the number of anticipated attendees as well as how the ordinance addresses spontaneous demonstrations.

'Staff has received specific suggestions from members of the community, and has prepared a draft ordinance to address these concerns. The revised ordinance changes the requirement for a permit to 100 or more expected attendees. Demonstrations expected to have fewer than 30 persons are still exempt from any permit or notification requirements. Demonstrations expected to have between 30 and 99 attendees now only require a 48-hour notification (not a permit). This would mean that the person holding the event no longer needs to wait for the town

to issue something. Once the notification is provided, the demonstration can occur.

'The revision also attempts to define and acknowledge spontaneous demonstrations. It includes a definition of a spontaneous demonstration, and states the town shall work to accommodate these events, even without notice. However, a spontaneous demonstration would not include events that are planned, organized, and/or advertised in advance by groups or individuals.

'While our revised ordinance is still based on numbers, for smaller demonstrations, the process is greatly simplified with the basic purpose to give the town some form of notice. Staff believes having triggers based on expected attendance gives organizers better guidance on when they need to consider obtaining a permit. It also acknowledges the impacts we have seen when larger groups hold events, which largely involve parking issues on public and private property. Some other changes included in the draft ordinance:

- The minimum distances demonstrators must stand from the roadway have been modified.
- The minimum distance demonstrators must be from commercial and financial establishments has been modified. The ordinance also clarifies that demonstrators are allowed to be on a public sidewalk, even if the distance is not met.
- Permits for larger events will continue to be issued by the Police Chief as a separate group demonstration permit. Group demonstrations are no longer required to receive a separate crowd gathering permit.
- Language has been updated clarifying when a permit may be revoked.

'In addition to the modifications to the Group Demonstrations ordinance, staff with the Outer Banks Visitors Bureau have requested that the town consider changes to the Crowd Gathering section of the ordinance for events held at Designated Public Events Sites. In order to better market events earlier in the process, they have requested the town consider adding a conditional permit approval, which an applicant could receive without having the detailed information necessary for the full crowd permit application. Staff understands the purpose of this request, and has added language clarifying that the conditional approval is not the final permit, the conditional approval doesn't create a vested right for the applicant, and does not absolve the applicant of any responsibilities or requirements of the full crowd gathering permit process.

'Manager Garman: Staff recommends discussion/consideration of the attached ordinance to address public input regarding the group demonstrations ordinance and comments from the Outer Banks Visitors Bureau related to the Crowd Gathering Permit Process.

'Town Attorney Leidy: The proposed revisions to this ordinance would be permissible and lawful. I will discuss the proposed revision during the Board's consideration of this item. In brief summary, the changes, particularly those requested by members of the public, are designed to relax or eliminate many of the controls and protections that we developed for and included into the version of the ordinance that was previously adopted. For example, the current ordinance allows for spontaneous demonstrations of a small number of people through the "small group exception". The proposed revision does more than just specifically reference spontaneous gatherings: it also greatly restricts the authority of Town staff to deal with such gatherings when they occur. While the Board has provided for various means of expression and assembly with limited controls and restrictions, we recommend that the Board be mindful of the benefit of such provisions for the protection of public safety."

Town Attorney Leidy provided a detailed explanation regarding the legal underpinning of the ordinance related to group demonstrations. He pointed out that it was not obligatory for the town to establish such an ordinance; however, its presence offers the town a mechanism to exert control before demonstrations commence, rather than only reacting once activities have started. The creation of the ordinance was based on a mindset oriented towards the "worst-case scenario," indicating an understanding that some individuals might resist collaboration with the town and law enforcement. Moreover, Attorney Leidy highlighted that the current ordinance imposes fewer restrictions than are allowed under First Amendment legal interpretations. To support this, he mentioned a notable case leveraged by the Fourth Circuit Court of Appeals focused on the City of Charleston, where an exception for small groups of 75 people was maintained. Despite this, he warned that Nags Head differs significantly from Charleston, particularly noting its more modest law enforcement resources, smaller permanent resident population, and unique difficulties in handling demonstrations adjacent to Hwy-158 Bypass, which is characterized by high traffic speeds.

Attorney Leidy explained that the proposed revision to Section 4-55, paragraph C, clarifies that applicants must provide attendance estimates in good faith. He noted that while exact figures may not always be possible, organizers are expected to make a genuine good-faith effort and that the ordinance should not presume every estimate is made in good faith. He stated that the revision is intended to address potential future situations rather than reflect concerns about current organizers or events. He then discussed the ordinance's provisions for spontaneous demonstrations, stating that while such a provision is not legally required if the ordinance otherwise accommodates small groups and unplanned assemblies, including it in the ordinance is appropriate. He explained that the proposed revision clarifies the definition of a spontaneous demonstration to apply only to assemblies that arise without advance planning or coordination, preserving protections for genuinely spontaneous events while preventing planned gatherings from avoiding applicable notice requirements.

Attorney Leidy reviewed proposed revisions to the ordinance's appeal process, stating that applicants denied a permit for group demonstrations should have access to an internal appeal. He recommended clarifying that an

event may not proceed while an appeal is pending, as allowing it to do so would render the appeal moot. He also explained a proposed revision concerning permit revocations during ongoing demonstrations, stating that law enforcement should be authorized to take necessary actions to protect public safety and welfare, which may or may not allow expressive activity to continue.

Manager Garman clarified that the appeal process applies only to permits for assemblies of 100 or more participants and would be handled administratively by staff rather than by the Board of Commissioners. Because permit applications require 15 days' advance notice, he stated that staff would make every effort to hear and decide any appeal before the scheduled date of the event, addressing concerns about the timing of the appeal process.

Comr. Vaughan questioned the proposed definition of a spontaneous demonstration, distinguishing between the ordinance's procedural provisions and the definition itself. She observed that the gray area lay in how much promotion had occurred and over what period of time, noting the practical reality that even spontaneous events are typically communicated via social media or group messages. She asked whether a single Facebook post saying "I'm out here" could render a demonstration no longer spontaneous.

Manager Garman clarified that the proposed revision to the definition of a spontaneous demonstration is separate from the procedural changes discussed earlier. He noted Ms. Walters' suggestion to remove the final sentence addressing prior promotion or public advertisement and stated that the remaining question is how to distinguish a truly spontaneous demonstration from one that has been planned. Comr. Vaughan agreed that the issue warranted further discussion and asked how the ordinance should distinguish between extended advance promotion and more immediate communications, such as group text messages or social media posts.

Comr. Sanders noted that some level of communication is often necessary to inform participants of a demonstration, while Comr. Vaughan observed that the current definition could be interpreted to exclude any event that has been publicly advertised, even on short notice.

Mayor Pro Tem Lambert noted that demonstration participants may not all have direct contact information for one another and may rely on communication methods such as Facebook or other social media to inform others about an event.

Comr. Vaughan acknowledged that an event promoted or organized over a period of days or weeks would likely no longer qualify as a spontaneous demonstration but noted the difficulty in establishing a clear distinction.

Mayor Cahoon stated that, in his view, a spontaneous demonstration is one that arises as an immediate response to a recent or unforeseen event, generally occurring the same day rather than after a period of time that would allow for planning. He explained that immediate communications among participants during or in response to an event would not necessarily constitute public advertising, promotion, or advance planning. He suggested clarifying the definition by linking an immediate response to the requirements that the event was not planned, promoted, advertised, or organized in advance.

Mayor Pro Tem Lambert raised a practical counterpoint, suggesting that it was unlikely any of the recent community demonstrations had occurred the same day as the triggering event, and questioning whether a strict same-day standard might effectively mean no demonstration could ever qualify as spontaneous. She noted, however, that a short delay could allow time for the town to be notified.

Comr. Sanders agreed that some amount of time may be necessary to gather participants for a demonstration, noting that an immediate response with only a few individuals present may not constitute a demonstration.

Attorney Leidy responded to the discussion by explaining that the definition of a spontaneous demonstration contains several criteria: it must arise in immediate response to a recent or unforeseen event, must not have been planned or organized in advance, and must not have been promoted or publicly advertised prior to the demonstration. He clarified that the provision creates an exception to the notice requirement, not the permitting requirement for assemblies of more than 100 people. He provided examples of circumstances that could qualify as spontaneous, including individuals or small groups responding organically to an event or information they recently encountered, including through social media or news reports. He stated that he believed the definition was not overly restrictive but instead provided clarity regarding what circumstances would be exempt from advance notice requirements.

Comr. Harrison questioned whether the term "immediate" in the definition of a spontaneous demonstration should be further defined. The distinction between a notice requirement and a permit requirement was discussed, emphasizing that the provision requires only advance notification when applicable. Comr. Vaughan stated that providing notice is intended as a simple process to help the town be aware of planned gatherings and support public safety. Mayor Pro Tem Lambert noted that notification could be provided through a simple form, email, or similar process identifying basic information such as location and expected attendance. Comr. Harrison noted that the notice requirement would not apply to smaller spontaneous gatherings of 30 or fewer participants, which may occur without notice or a permit, and Attorney Leidy confirmed this interpretation.

Manager Garman stated that while certain circumstances may be uncommon, they are conceivable. He explained

that demonstrations involving more than 30, but fewer than 100 participants would require 48-hour advance notice with basic information such as the time, place, location, and organizer information. He noted that if circumstances do not allow for 48 hours' notice, providing the same information as soon as possible would be best practice. He explained that the purpose of the provision is to prevent organizers of large events requiring significant resources from avoiding permit requirements by claiming a planned event is spontaneous.

Comr. Harrison asked whether the proposed language would prevent individuals from using the spontaneous demonstration provision to avoid required permitting or notification.

Mayor Cahoon responded that he believed the provision addressed the concern to the best extent possible. He noted that many organizers would act responsibly and prioritize safety but stated that ordinances must also account for situations involving individuals who may not exercise similar judgment. He emphasized that individuals retain free speech rights but that the town must have the ability to promote safety and manage public events appropriately.

Comr. Vaughan stated that the reference to a response to a recent or unforeseen event provides an important limitation and helps prevent planned events from being characterized as spontaneous. She expressed that the provision allows for reasonable judgment in determining whether an event qualifies, noting that a demonstration in response to an event that occurred the prior day could reasonably be considered immediate, while a rigid timeframe such as 24 hours may be difficult to apply.

Mayor Cahoon added that it would be difficult to anticipate every circumstance, noting that individuals could potentially attempt to characterize a later demonstration as spontaneous by citing a more recent related comment or development rather than the original event. He stated that the ordinance must account for varying circumstances while maintaining appropriate standards.

Manager Garman reviewed proposed changes to the section addressing procedures for spontaneous demonstrations, noting that the discussion followed the earlier review of the definition of a spontaneous demonstration. He explained that one proposed revision adds language regarding demonstrations occurring "without advance coordination or notice of potential participants" to align the procedures with the definition. He also discussed the removal of the final sentence, stating that the preceding language requiring a good-faith effort to provide notice as soon as practicable already indicates that the town will be accommodating. He explained that retaining additional language could unnecessarily limit the town's authority to address circumstances where further action may be needed.

Attorney Leidy stated that the town has a legal obligation to respect the rights of individuals participating in spontaneous demonstrations under the ordinance. He explained that law enforcement may take action if public safety concerns arise, but otherwise the town has limited authority to restrict such activity. He noted that the removed language could create a duty beyond the town's legal obligations, while the ordinance already requires accommodation consistent with necessary public safety measures.

Manager Garman provided additional context regarding the broader revisions to the ordinance, explaining that the previous ordinance required permits for gatherings of any size with 72 hours' notice, while the proposed ordinance distinguishes between gatherings of 30 or fewer participants, which require no permit; gatherings of more than 30 and up to 100 participants, which require notification; and gatherings of more than 100 participants, which require a permit. He stated that the revisions reflect an effort to balance public safety, administrative needs, and constitutional considerations, and noted that the spontaneous demonstration provision is a new addition intended to address those circumstances.

Mayor Cahoon stated that the overall process reflected reasonableness and expressed concern that adding a specific "reasonable effort" standard could create an additional basis for dispute or challenge by individuals seeking to argue that the town's determination was not reasonable. He noted that removing the additional language would allow the town to continue applying a reasonableness standard without creating a separate measure for review.

Mayor Cahoon asked for the board's direction regarding the proposed revisions and noted that the discussion appeared to support proceeding with the language as marked. Comr. Harrison raised a question regarding the provision stating that organizers would not be considered in violation solely because actual attendance exceeds estimated attendance. She referenced a prior public comment and asked for clarification regarding what conduct would constitute a violation and what consequences would apply if attendance exceeded an organizer's estimate.

Attorney Leidy clarified that a violation would occur only if an attendance estimate was not provided in good faith. He explained that an applicant would not be in violation if the estimate was based on information reasonably available at the time of the notice or application, even if actual attendance later exceeded the estimate. He stated that, if the town pursued enforcement, it would need to demonstrate that the estimate was not provided in good faith. He expressed concern that the existing language could impose an unnecessary restriction by creating a presumption that any estimate provided by an organizer was automatically made in good faith.

Manager Garman provided an example of the type of situation that could raise concern, such as an organizer estimating attendance at 50 people while subsequently promoting the event in a manner that results in 500

attendees, as opposed to an event where attendance modestly exceeds the original estimate due to normal variations.

Comr. Harrison asked whether a violation based on an inaccurate attendance estimate would result in the event being shut down.

Attorney Leidy clarified that exceeding an estimate alone would not necessarily result in enforcement action or termination of an event. He explained that the response would depend on the circumstances, including whether the attendance level created management or public safety concerns, and noted that law enforcement would likely first assess whether intervention was needed. He requested clarification from the police chief regarding the process for addressing demonstrations where actual attendance differs significantly from expectations or where an unanticipated event occurs.

Police Chief Hale stated that public safety is his primary concern and explained that law enforcement evaluates each demonstration based on the specific circumstances rather than taking automatic action when attendance exceeds an estimate. He noted that an event exceeding an estimated attendance number would not necessarily result in immediate shutdown, as attendance may increase naturally; however, significant discrepancies between reported estimates and actual promotion or expected attendance could warrant further review. He explained that officers would consider available resources, public safety concerns, and whether immediate action would create greater disruption before determining an appropriate response.

Chief Hale emphasized the importance of protecting First Amendment rights and stated that individuals have the right to participate in lawful demonstrations, including when expressing differing viewpoints, provided activities do not involve unlawful conduct or create safety concerns. He noted that enforcement actions, including citations, may be addressed after an event if violations occur rather than escalating a situation unnecessarily.

Chief Hale also described the department's approach of working collaboratively with demonstration organizers, including advanced coordination, discussions, and after-action conversations to address safety concerns and improve future events. He stated that the department's goal is to keep demonstrators, the public, and surrounding areas safe while avoiding unnecessary conflict or confrontation.

Attorney Leidy confirmed that Chief Hale's response had addressed Comr. Harrison's question, and Comr. Harrison indicated that it had.

Mayor Cahoon expressed appreciation for Chief Hale's approach, noting that it appropriately balances two fundamental responsibilities of the position: protecting the constitutional rights of the public and ensuring public safety. He emphasized that these obligations are inherent to the role of the Chief of Police, regardless of who serves in the position.

Comr. Vaughan asked whether the Chief would ever be required to make an immediate determination during an event as to whether the organizer had provided a good-faith estimate of attendance. She stated her understanding that such determinations could instead be addressed after the event.

Police Chief Hale responded that his intent would be to avoid making immediate determinations regarding an organizer's good-faith attendance estimate during an event. He explained that individuals with opposing viewpoints have the same rights to use public spaces and that law enforcement intervention would be based on observed violations of law, such as disorderly conduct or other conduct likely to incite violence, rather than the expression of differing viewpoints. He stated that, if necessary, officers would seek to separate opposing groups to maintain public safety while respecting First Amendment rights. Chief Hale also noted that the proposed ordinance authorizes the chief of police to regulate the time and place of simultaneous permitted events in an equitable manner, if needed.

Attorney Leidy stated that the town has experienced situations in which groups have attempted to provoke unlawful conduct. He expressed support for the proposed ordinance, stating that it provides a framework to address such situations through reasonable regulation, sound judgment, and appropriate enforcement.

Mayor Cahoon asked whether the board was agreeable to allowing a member of the audience to provide comments despite the matter not being a public hearing. The board expressed its consent, and Mr. Randy Cartwright was recognized to speak.

Mr. Cartwright thanked the board for allowing him to comment on the proposed demonstration ordinance. He stated that he viewed the spontaneous demonstration provisions as an important safety valve, particularly for smaller demonstrations that arise in response to unforeseen events. He expressed support for the notification process for demonstrations of certain sizes but raised concerns that additional restrictions on good-faith attendance estimates and the definition of spontaneous demonstrations could unintentionally limit protected activities. Mr. Cartwright stated that, in his view, a spontaneous demonstration does not necessarily occur on the same day as the triggering event, noting that time may be needed for individuals to organize and communicate with others. He suggested revising the definition of a spontaneous demonstration by ending the definition after language describing a demonstration arising in immediate response to a recent or unforeseen event that was not planned or

organized in advance and addressing additional requirements separately. He also expressed concern that penalties or restrictions associated with inaccurate attendance estimates could discourage participation. He stated that individuals acting in good faith should not be concerned about exceeding an estimate and emphasized the importance of preserving the ability to communicate and assemble in response to current events.

Comr. Harrison asked Mr. Cartwright whether, if individuals had sufficient time to notify others and organize a spontaneous demonstration, they would also have sufficient time to provide notification to law enforcement regarding the planned activity. She questioned whether such notification would still be consistent with the intent of the spontaneous demonstration provisions.

Mr. Cartwright stated that the ordinance's requirement for a spontaneous demonstration organizer to make a good-faith effort to notify the police chief or their designee as soon as possible. He noted that this provision allows spontaneous demonstrations to proceed without the standard 48-hour notification requirement for smaller groups or the 15-day application process for larger demonstrations.

Comr. Harrison asked whether Mr. Cartwright's concern was limited to the attendance thresholds, specifically whether he was seeking an exception that would allow spontaneous demonstrations of more than 100 participants. Mr. Cartwright explained that, under the proposed ordinance, demonstrations involving 30 to 100 participants would generally require 48-hour notice, while a spontaneous demonstration would require only a good-faith effort to notify the police chief or designee as soon as possible. He stated that a spontaneous event could arise where organizers wish to demonstrate the following day or where an event draws more than 30 or even more than 100 participants.

Mayor Pro Tem Lambert questioned whether a demonstration occurring several days after an event could still be considered spontaneous. Mr. Cartwright reiterated his concern with language restricting promotion of a spontaneous demonstration between the occurrence of the triggering event and the demonstration itself. He stated that such language could limit the ability of individuals to communicate and assemble, which he viewed as inconsistent with the purpose of a spontaneous demonstration provision. He distinguished a pre-planned event from a demonstration organized in response to an unforeseen event and stated that the ordinance should preserve a safety valve for truly spontaneous activities.

Comr. Sanders noted that organizers would need to provide some notice to participants regarding the location and time of a demonstration. Mr. Cartwright responded that the concern was that the language could be interpreted broadly enough that communicating about the demonstration through methods such as social media could cause it to no longer qualify as spontaneous.

Mayor Pro Tem Lambert suggested whether defining a spontaneous demonstration as occurring within a shorter timeframe, such as less than seven days, would address the concern. Comr. Harrison noted that if sufficient time existed to organize an event within that timeframe, there may also be sufficient time to satisfy the 48-hour notification requirement. Mayor Cahoon commented that the discussion raised the question of whether events described as spontaneous would, in practice, involve some level of planning and therefore provide an opportunity for notification.

Mayor Pro Tem Lambert asked Mr. Cartwright to clarify whether his concern was that a demonstration taking several days to organize, potentially exceeding 100 participants, would still be allowed to proceed through notification rather than requiring a permit. Mr. Cartwright stated that he believed the spontaneous demonstration exception addressed two situations: demonstrations involving more than 30 but fewer than 100 participants where 48-hour notice was not possible, and larger demonstrations exceeding 100 participants where the standard 15-day advance permit process could not be met.

Mayor Pro Tem Lambert summarized the concern as twofold: allowing for demonstrations that may be organized with limited notice and may exceed 100 participants, and addressing the limitations created by the 15-day permit requirement for larger events. Mr. Cartwright agreed.

Comr. Vaughan stated that the board's concern must include the ability to prepare an appropriate public safety response. She noted that, particularly for a town of this size, responding to a large demonstration without adequate information would be challenging. She asked for Chief Hale's perspective and stated that she viewed spontaneity as involving an immediate response or impulse.

Chief Hale provided examples of what he considered to be spontaneous demonstrations, explaining that such events arise immediately in response to an occurrence rather than being organized in advance. He stated that an immediate public reaction to an unexpected event, such as a widespread power outage or a community celebration following a major achievement, could qualify as spontaneous even if individuals communicate with others in the moment through methods such as social media. However, he stated that planning a gathering several days in advance would not be considered spontaneous.

Comr. Harrison expressed concern that allowing several days for organization could undermine the purpose of the ordinance by allowing planned events to be characterized as spontaneous. She stated that she wanted to preserve the ability to conduct truly spontaneous demonstrations.

Chief Hale stated that the town has not sought to restrict spontaneous demonstrations or protests but emphasized that he views spontaneity as an immediate impulse to act. He explained that if individuals have time to organize a group and communicate plans in advance, they also have time to notify law enforcement. He stated that public safety is his primary concern and that advance notice allows his department to appropriately allocate resources.

Chief Hale explained that for larger events, advance notification allows time to plan staffing, coordinate with organizers, and provide an appropriate safety presence without significantly impacting routine public safety responsibilities. He provided an example of a permitted demonstration where the expected attendance was higher than the actual turnout, but advanced coordination allowed officers to be assigned to monitor the event and address potential safety concerns.

Chief Hale stated that unplanned large gatherings could create challenges by requiring on-duty officers to be diverted from other calls for service. He noted that smaller gatherings could typically be addressed through routine patrol operations, but larger crowds require additional planning due to potential impacts on public safety, traffic, and community response. He emphasized the importance of balancing First Amendment rights with his responsibility to maintain public safety and be prepared for potential issues.

Comr. Harrison thanked Chief Hale for his comments. Mayor Cahoon then asked whether any board members had additional questions for the chief or others present before continuing the discussion. He then called for a recess.

RECESS/RECONVENE – The board took a brief recess at 10:53 a.m. and reconvened at 11:03 a.m.

Manager Garman reviewed the proposed amendments to the crowd gathering permit ordinance that had been submitted by representatives of the Tourism Board following discussions with town staff.

He explained that the proposed revisions included removing language prohibiting advertising an event before a permit is issued, noting that the provision has not been enforced in practice because large events are often promoted well before permits are issued. He also reviewed a proposed amendment changing the town manager's authority to revoke a permit from mandatory ("shall") to discretionary ("may") and removing language allowing revocation "at any time," stating that staff had no objection to those changes.

Manager Garman then discussed the Tourism Board's proposal to establish a conditional approval process for event site permits. He explained that organizers of large events often begin planning up to a year in advance but may not yet have all the information necessary for a complete permit application. The proposed conditional approval would provide organizers with an early indication that an event is generally acceptable while making clear that it is not a permit, does not guarantee final approval, and does not create any vested rights. He noted that staff added language requiring organizers to acknowledge those limitations but also expressed concern that conditional approval could create unrealistic expectations regarding ultimate permit issuance.

Mayor Cahoon questioned whether creating a separate conditional approval process was necessary, suggesting instead that event organizers submit a permit application with any incomplete information identified and provided by a specified deadline.

Manager Garman agreed that this approach could address the Tourism Board's concerns. He explained that certain application materials, such as detailed site plans, parking arrangements, and transportation plans, may not be available a year in advance and could potentially be submitted later in the review process. He suggested that staff work with the Tourism Board to identify opportunities to streamline the application process by allowing certain supporting information to be provided after the initial application.

Manager Garman also noted that recent discussions highlighted the potential value of providing clearer authority and standards for imposing conditions on permits. He explained that additional ordinance language authorizing reasonable permit conditions could provide staff with greater flexibility to address event-specific concerns and potentially avoid permit denials where appropriate, while ensuring that any conditions imposed are guided by defined standards rather than arbitrary decisions.

Comr. Harrison clarified that any standards for imposing permit conditions should address public safety and other appropriate considerations.

Manager Garman provided an example of how clearer authority to impose permit conditions could be used administratively, such as requiring additional law enforcement presence for events where warranted. He noted that codifying such authority in the ordinance could enable staff to address event-specific public safety concerns through permit conditions without requiring board involvement in each instance.

Attorney Leidy stated that expressly authorizing staff to approve permits with appropriate conditions, rather than denying an application outright, could streamline the administrative process. He noted that this approach could reduce the need for board appeals to impose conditions and help avoid unnecessary delays and frustration for applicants.

Comr. Vaughan, who serves as the Town of Nags Head representative on the Tourism Board, shared her support

for authorizing staff to impose permit conditions administratively. She stated that any such process should include clear timelines and defined standards to ensure consistency and avoid last-minute changes. She observed that the current ordinance provides no mechanism for adding conditions administratively, leaving denial and the current appeal process as the primary means of addressing event-specific concerns. She indicated that establishing such a mechanism would be beneficial.

Mayor Pro Tem Lambert emphasized that public safety should remain the board's primary consideration when reviewing public events. While acknowledging the significant economic benefits that events provide to Nags Head and the surrounding area, she stated that the board's responsibility is to protect the health, safety, and welfare of residents and visitors. She expressed the view that public safety standards should not vary based on an event's economic impact and noted that event-related public safety costs should be considered to avoid placing an undue burden on taxpayers. Mayor Pro Tem Lambert stated that effective public safety planning should be viewed as a means of supporting the continued success of community events while fulfilling the town's responsibility to protect the public.

Comr. Harrison stated that perhaps this portion of the proposed ordinance amendments should be tabled. She expressed agreement with Mayor Pro Tem Lambert's comments and stated that, based on Manager Garman's recommendations, additional work could be done to improve the process for both applicants and the town.

Manager Garman clarified that the discussion regarding additional revisions was limited to the proposed amendments in Section 4-13. Mayor Cahoon noted that the board had options, including tabling the entire ordinance or approving the ordinance without the proposed Section 4-13 amendments and directing staff to continue refining the conditional approval process for future consideration.

Mayor Pro Tem Lambert requested that staff research how other municipalities with large event venues handle the cost of additional police staffing for events, and whether that cost is borne by the event organizer, the town, or shared.

Comr. Vaughan stated that it is her understanding that there is a desire to continue hosting as many events as possible, which she acknowledged as positive. She emphasized the importance of planning for the future and considering the overall impact of those events on the town and its residents.

Mayor Cahoon noted that the board's primary criteria are health, safety, and welfare. He then returned the discussion to the proposed ordinance, specifically the possibility of adopting it without Section 4-13, and asked the board whether it wished to proceed with the current draft or make additional language revisions before moving forward.

Comr. Harrison stated that she supported retaining the current definition of "spontaneous," expressing her view that it allows individuals to communicate privately and gather spontaneously while distinguishing such gatherings from publicly promoted or advertised events. She also supported removing language regarding accountability for good-faith attendance estimates, noting that doing so would not impose new penalties and expressing confidence that organizers would be treated reasonably.

Mayor Pro Tem Lambert agreed with Comr. Harrison's comments, acknowledging the difficulty of balancing free speech considerations while crafting the ordinance. She stated that, although the language may not be perfect, she supported the proposed revisions and favored adopting the ordinance without Section 4-13.

Comr. Sanders stated that he generally supported the proposed ordinance but expressed reservations about the language concerning good-faith attendance estimates and the definition of "spontaneous." He suggested that some form of promotion should be recognized, while distinguishing it from public advertising, and noted that the 48-hour notice requirement and anticipated enforcement approach provide some flexibility. Comr. Harrison responded that, in her view, the proposed definition allows for interpersonal communication without constituting promotion.

Comr. Vaughan stated that, with the removal of Section 4-13, she believed the proposed ordinance struck an appropriate balance between protecting free speech and enabling the town to prepare for public events. She expressed support for retaining the proposed revisions, noting that while some communication is expected for spontaneous demonstrations, events organized over several days provide sufficient opportunity for notification. She also thanked staff for their work in developing the ordinance and stated her support for the proposed markups.

MOTION: Comr. Harrison moved to adopt the ordinance amendments to Town Code Chapter 4 as presented including suggestions made by Attorney Leidy minus Section 4-13. Comr. Mayor Pro Tem Lambert seconded the motion.

Mayor Cahoon acknowledged that additional discussion of the ordinance may occur in the future and commended the members of the public who participated in the process. He expressed appreciation for the collaborative approach taken by the town in developing the ordinance and other initiatives, noting his pride in the town's deliberate and orderly decision-making process.

MOTION CONT.: The motion passed unanimously.

NEW BUSINESS

Committee Reports

Comr. Harrison – noted that GEACC will be meeting later this month and a beach renourishment recap video will be coming out soon.

Mayor Pro Tem Lambert – acknowledged Planning Director Wyatt's update on the Septic Health Advisory Committee and expressed enthusiasm for the zero-interest residential septic repair loan program.

Mayor Cahoon – stated that the Jennette's Pier Advisory Committee met, toured the recent improvements at the pier, and discussed educational and networking opportunities. He also noted that Comr. Harrison and Mayor Pro Tem Lambert were in attendance.

Comr. Sanders – added to Mayor Cahoon's report noting that the amber lighting at the pier is amazing. He then shared that the Dare Housing Foundation is seeking opportunities for year-round workforce housing. They are doing community outreach and fundraising events such as Castles for a Cause, a weekly sand castle building contest. More information can be found at darehousingfoundation.org.

Comr. Vaughan – indicated that the earlier discussion of the Dare County Tourism Board easement progress for the Harvey/Soundside Event Site living shoreline project addressed the matters included in her report.

ITEMS REFERRED TO AND PRESENTATIONS FROM TOWN ATTORNEY

Attorney Leidy noted that he had nothing to present today.

ITEMS REFERRED TO AND PRESENTATIONS FROM TOWN MANAGER

2026 Beach Nourishment Project Update

The summary sheet for this item read in part as follows:

"At the July 1, 2026 Board of Commissioners meeting, Town Engineer Ryan will provide an update on the 2026 Beach Nourishment Project."

Mayor Cahoon noted that several board members toured the cutterhead dredge during the previous week. The tour provided an opportunity to observe the dredging operation firsthand and gain a better understanding of the scale of the equipment, staffing, logistics, and overall operation.

Town Engineer Ryan reported that the beach nourishment project continues to be a collaborative effort among the consulting engineer, contractor, and town staff. He noted that frequent communication has been essential in recent weeks as work progressed through critical areas, including completion of the South Nags Head section and ongoing work in the main part of town. Despite the challenges associated with project impacts and the busy time of year, he stated that the collaborative approach has been effective in addressing issues as they arise.

Beach nourishment activities in the northern section of town have been completed from the Bonnett Street Bath House south to approximately Forbes Street. The hopper dredge was nearing completion of that section, with approximately 1,000 feet of work remaining, after which operations would shift to the next pipeline connection near Hargrove Street.

The cutterhead dredge experienced a power loss while working just south of the Outer Banks Pier, resulting in an operational delay. Power was restored within approximately 18 to 24 hours; however, sand remaining in the pipeline had to be purged. Following the incident, the contractor decided to demobilize the cutterhead dredge and remove that portion of the operation from the project.

Following the demobilization of the cutterhead dredge, the hopper dredge will continue southward and complete the remainder of the beach nourishment project. Despite the equipment change, the project remains on schedule, with anticipated completion on or around July 19th, subject to weather, mechanical issues, and operational needs such as refueling. He noted that the hopper dredge has been making strong progress, nourishing approximately 700 to 1,000 feet of beach per day.

Once operations shift to the Hargrove Street pipeline connection, the contractor will first work south to tie into the area where the cutterhead dredge ended near the E. Islington Street beach access before reversing direction and proceeding northward. He stated that this sequencing was developed in coordination with the contractor to minimize impacts around Jennette's Pier during the Fourth of July holiday and address challenges previously experienced while working near the piers.

Comr. Harrison clarified whether the loss of the cutterhead dredge would delay the project. Engineer Ryan confirmed that the loss of the cutterhead dredge was not expected to delay the project. He explained that the hopper dredge had always been scheduled to complete the section near the Outer Banks Pier and would now complete only a slightly longer stretch to connect the remaining work.

Multi-Use Path Project Update - Carolista Drive to Soundside Road

The summary sheet for this item read in part as follows:

"At the July 1, 2026 Board of Commissioners meeting, Town Manager Garman and Town Engineer David Ryan will provide an update on the Multi-Use Path Project running from Carolista Drive to Soundside Road."

This item was moved to the August 5th meeting.

Acceptance of Funding Offer from NC Department of Environmental Quality — Malfunctioning Residential Septic Repair

Town Manager Garman and Deputy Town Manager Miller introduced this item. No summary sheet was provided because the item was received from the agency after the initial agenda was published.

Deputy Town Manager/Finance Officer Miller presented a resolution to formally accept the \$500,000 loan awarded through NC Department of Environmental Quality for the 0% Septic Health Residential Loan Program. She explained that NC DEQ requires board approval of the resolution to finalize acceptance of the loan and authorize the town manager and finance officer to execute the necessary contractual documents on behalf of the town. Staff requested consideration at this meeting to avoid delaying implementation of the program.

MOTION: Mayor Pro Tem Lambert moved to adopt the resolution accepting the North Carolina Department of Environmental Quality Wastewater State Revolving Fund-Payable Loan. Comr. Vaughan seconded the motion, which passed unanimously.

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

"WHEREAS, The North Carolina Clean Water Revolving Loan and Grant Act of 1987 authorized the making of loans and grants to aid eligible units of government in financing the cost of construction of wastewater treatment works, wastewater collection systems, water supply systems, and water conservation projects; and

'WHEREAS, The North Carolina Department of Environmental Quality has offered a State Revolving Fund-Payable Loan in the amount of \$500,000 for malfunctioning residential septic repairs; and

'WHEREAS, The Town of Nags Head intends to perform said project in accordance with the approved scope of work.

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

Section 1. That the Town of Nags Head does hereby accept the State Revolving Fund-Payable Loan offer of \$500,000.

Section 2. That the Town of Nags Head does hereby give assurance to the North Carolina Department of Environmental Quality that all items specified in the loan offer, Section II – Assurances will be adhered to.

Section 3. That Andy Garman, Town Manager, and Amy Miller, Deputy Town Manager/Finance Officer, and successors so titled, are hereby authorized and directed to furnish such information as the appropriate State agency may request in connection with such application of the project, to make the assurances as contained above, and to execute such other documents as may be required in conjunction with the application.

Section 4. That the Town of Nags Head has substantially complied or will substantially comply with all Federal, State, and local laws, rules, regulations, and ordinances applicable to the project and to Federal and State grants and loans pertaining thereto.

Section 5. This Resolution shall become effective immediately upon the date of its adoption."

BOARD OF COMMISSIONERS AGENDA

Comr. Harrison - Latest Video about Nags Head from CurrentTV

- Nags Head - Mystery Shipwreck

The summary sheet for this item read in part as follows:

"At the June 3, 2026 Nags Head Board of Commissioners meeting, Comr. Harrison suggested showing CurrentTV videos referencing Nags Head at future meetings, to which the board agreed. The latest video is about the shipwreck located at Town Hall."

The video about the shipwreck located at Town Hall was played and Comr. Harrison encouraged board members to share ideas for future Current TV segments featuring topics of community interest.

Mayor Pro Tem Lambert – Wished everyone a happy 4th of July and expressed appreciation to police, fire, and public works personnel for their service during the holiday.

MAYOR'S AGENDA

Mayor Cahoon - Wished everyone a safe and happy 4th of July and then provided an update on recent legislative progress. He reported that the proposed state budget, which is pending final approval, includes a \$400,000

appropriation for a Nags Head Public Safety Command Center. Additional funding opportunities, including for waterline replacement, may be considered through future budget amendments. He also noted some policy wins, including the amendment of HB162 to exempt the CAMA counties, including Dare County, from provisions that would have limited their authority to establish parking standards. He discussed the Regulatory Reform Bill, which includes provisions related to accessory dwelling units and other development standards. A proposed amendment would exempt municipalities with population below a specified threshold, including Nags Head. The mayor shared that the town's legislative consultant commended the board and staff for their active engagement in the legislative process, noting that the town's collaborative and proactive approach contributed to these positive outcomes and serves as a model for effective advocacy.

CLOSED SESSIONS

Request for Closed Session to Consider Jan 2026 – Jun 2026 Closed Session Minutes and Their Disposition Pursuant to GS 143-318.11(a)(1)

MOTION: Mayor Cahoon moved to enter closed session to consider Jan 2026 – Jun 2026 Closed Session minutes and their disposition pursuant to GS 143-318.11(a)(1) and to discuss the potential acquisition of property located at 5612 South Virginia Dare Trail, Nags Head pursuant to GS 143-318.11(a)(5). Mayor Pro Tem Lambert seconded the motion, which passed unanimously. The time was 11:51 a.m.

OPEN SESSION

The board re-entered Open Session at 11:58 a.m. Attorney Leidy reported that the board approved the Jan 2026 – Jun 2026 Closed Session minutes and their disposition as presented and that no other action was taken.

ADJOURNMENT

MOTION: Comr. Sanders moved to adjourn. The motion was seconded by Comr. Harrison, which passed unanimously. The time was 11:59 a.m.

Brittany A. Phillips, Town Clerk

Date Approved: August 5, 2026

Mayor: _____
Benjamin Cahoon