



**MINUTES
TOWN OF NAGS HEAD
BOARD OF COMMISSIONERS
REGULAR MEETING
WEDNESDAY, SEPTEMBER 6, 2023**

The Nags Head Board of Commissioners met in person at the Board Room located at 5401 S Croatan Highway, Nags Head, North Carolina on Wednesday, September 6, 2023 at 9:00 a.m. for a Regular Meeting.

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

Board members Absent: None

Others present: Town Manager Andy Garman; Attorney John Leidy; Kelly Wyatt; Amy Miller; David Ryan; Perry Hale; Shane Hite; Nancy Carawan; David Perry; Michelle Gray; Karen Snyder; Buddy Beacham; Hayden Poulin; Gail Kowalski; Steve Romine; Robert Muller; Mary Kelley; Donna Creef; Tim Morrison; Megan Lambert; and Town Clerk Carolyn F. Morris

CALL TO ORDER

Mayor Cahoon called the meeting to order at 9 am. A moment of silence was followed by the Pledge of Allegiance.

ADOPTION OF AGENDA

MOTION: Comr. Brinkley made a motion to adopt the September 6th agenda as presented. The motion was seconded by Mayor Pro Tem Siers which passed unanimously.

RECOGNITION

FIFTEEN YEARS – Public Services Director Nancy Carawan introduced Water Plant Operator Marvin "Buddy" Beacham who was recognized by the Board for 15 years of service.

FIFTEEN YEARS – Fire Chief Randy Wells introduced Fire Lieutenant Hayden Poulin who was recognized by the Board for 15 years of service.

PROCLAMATION – Diaper Need Awareness Week – September 18 - 24, 2023

Mayor Cahoon read the proclamation as follows:

"WHEREAS, diaper need, the condition of not having a sufficient supply of clean diapers to keep babies and toddlers clean, dry, and healthy, can adversely affect the health and well-being of babies, toddlers, and their families; and

'WHEREAS, the latest study from the National Diaper Bank Network reports that one in two families struggles with diaper need, an increase from previous studies done in 2010 and 2017; and

'WHEREAS, purchasing enough diapers to keep a baby or toddler clean, dry, and healthy can consume 14 percent of a low-wage family's post-tax income, making it difficult to obtain a sufficient supply; and

'WHEREAS, a daily or weekly supply of diapers is generally an eligibility requirement for babies and toddlers to participate in child care programs and quality early-education programs; and

'WHEREAS, without enough diapers, babies and toddlers risk infections and health problems that may require medical attention, and may prevent parents from attending work or school, thereby hurting the family's economic prospects and well-being; and

'WHEREAS, the Nags Head community recognizes that diaper need is a public health issue, and addressing diaper need can lead to economic opportunity for our families and community and improved health for children, thus ensuring all children and families have access to the basic necessities required to thrive and reach their full potential; and

'WHEREAS, the Town of Nags Head is proud to be home to trusted community-based organizations including Children & Youth Partnership for Dare County that recognize the importance of diapers in ensuring health and providing economic stability for families and thus distribute diapers to families through various channels.

'WE, THE TOWN OF NAGS HEAD BOARD OF COMMISSIONERS do hereby proclaim the week of September 18 - September 24, 2023 as DIAPER NEED AWARENESS WEEK. We thank Children & Youth Partnership, their staff and donors for their service through CYP's Diaper Bank, and encourage the citizens of our community to support CYP's Diaper Bank to help ensure that all Dare County children and families have what they need to thrive."

MOTION: Comr. Renée Cahoon made a motion to adopt the Diaper Need Awareness Proclamation as presented. The motion was seconded by Comr. Brinkley which passed unanimously.

PROCLAMATION – National Night Out – October 3, 2023

Police Chief Perry Hale summarized the National Night Out event which is scheduled for October 3rd at the Dowdy Park site from 5 to 7 pm. He noted that this year is the 40th year nationally.

Mayor Cahoon read the proclamation as follows:

"WHEREAS, the National Association of Town Watch (NATW) is sponsoring a unique, nationwide crime, drug and violence prevention program called "National Night Out" which is celebrated by communities in August and in early October; AND

'WHEREAS, the Town of Nags Head, the Nags Head Community Watch Association, and the Nags Head Police Department are celebrating National Night Out on Tuesday, October 3rd, 2023; AND

'WHEREAS, the Annual National Night Out provides a unique opportunity for the Town of Nags Head to join forces with thousands of other communities across the country in promoting cooperative, police-community crime prevention efforts; AND

'WHEREAS, the Nags Head Community Watch Association plays a vital role in assisting the Nags Head Police Department through joint crime, drug and violence prevention efforts in the Town of Nags Head and is supporting "National Night Out 2023" locally; AND

'WHEREAS, it is essential that all citizens of the Town of Nags Head be aware of the importance of crime programs and the impact that their participation can have on reducing crime, drug and violence in the Town of Nags Head; AND

'WHEREAS, police-community partnerships, neighborhood safety, awareness and cooperation are important themes of the "National Night Out" program.

'THEREFORE, I do hereby call upon all citizens of the Town of Nags Head to join the Nags Head Community Watch Association, the Town of Nags Head Police Department, and the National Association of Town Watch in supporting the 40th Annual National Night Out on October 3rd, 2023.

'FURTHER, Let it be resolved that I, Ben Cahoon, do hereby proclaim Tuesday, October 3rd, 2023 as "National Night Out" in the Town of Nags Head, Dare County, North Carolina."

MOTION: Comr. Brinkley made a motion to adopt the 40th Annual National Night Out Proclamation as presented. The motion was seconded by Mayor Pro Tem Siers which passed unanimously.

PUBLIC COMMENT

Attorney Robert Hobbs opened Public Comment to those present who wished to speak.

PUBLIC COMMENT – GAIL KOWALSKI

Gail Kowalski, owner of Jewelry By Gail in Nags Head; spoke concerning agenda item F-3 re: a discussion of a precious metals event; she understands the issue of items like jewelry, etc. being sold illegally to a business; she has two companies that are ethical that she uses and she has never had an issue with someone trying to sell her illegal items; she would like the Board to consider allowing the appraisal and purchase of precious metals as an accessory use to retail jewelry shops.

PUBLIC COMMENT – STEVE ROMINE

Steve Romine, attorney who represents National Rarities Company; he spoke in support of Ms. Kowalski on the jewelry event she is planning; he would like the Board to consider allowing a special occasion business in the Town with safeguards put in place – possibly allowing it by expanding the definition of "retail" as he and Ms. Kowalski feel that it would be jewelry retail; he would not like to see it as a prohibited use but to include buying and selling of precious metals and valuables.

There being no one else present who wished to speak, Attorney Hobbs concluded Public Comment. The time was 9:26 a.m.

CONSENT AGENDA

The Consent Agenda consisted of the following items:

- Consideration of Budget Amendment #3 to FY 23/24 Budget
- Consideration of Tax Adjustment Report
FY 23/24 New Year Tax Adjustment Reports
- Approval of minutes
- Consideration of resolution authorizing application for Stormwater Construction Grant
(Local Assistance for Stormwater Infrastructure Investments or LASII)
- Consideration of text amendments to Town Code Chapter 8 *Beaches and Waterways*, Article II *Motor Vehicle Regulations* re: placement of beach driving stickers

MOTION: Comr. Brinkley made a motion to approve the Consent Agenda as presented. The motion was seconded by Mayor Pro Tem Siers which passed unanimously.

Budget Amendment #3, 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 FY 23/24 New Year Tax Adjustment Reports, as approved, are attached to and made a part of these minutes as shown in Addendum "C".

The Resolution authorizing the Stormwater Construction Grant application, as adopted, read in part as follows:

"WHEREAS, The Town of Nags Head has identified a specific stormwater management issue and intends to design and construct stormwater infrastructure improvements located along Wrightsville Avenue from Bonnett Street to Bainbridge Street, (the "Project") where insufficient drainage along low-lying properties, and elevated groundwater, have caused flooding:

- The proposed solution (the "Solution") to address the Project issue associated with stormwater management is comprised of a collection system along South Wrightsville Avenue that will connect to a pump station that will discharge to an infiltration area partially below the Bonnett Street beach access parking lot; and
- Costs have been updated to capture total project costs to include design services, stormwater pipe collection, pump station, force main, infiltration gallery, and associated parking lot reconstruction and rehabilitation of areas disrupted by construction of the proposed solution; and

"WHEREAS, The Town of Nags Head will adopt, by Project Resolution, a local stormwater management plan (the "Plan") by completion of the Project and that the specific proposed Project and Solution will be identified in the Plan; and

"WHEREAS, The Plan to be adopted will support the need for the proposed stormwater management construction Project by recommending the identified Solution in order to reduce flooding and provide sufficient drainage along low-lying areas located along Wrightsville Avenue from Bonnett Street to Bainbridge Street. Detailed modeling will evaluate the benefits of various pumping and discharge scenarios in order to more accurately predict the flood reduction benefits and to determine the maximum rate and volume of pumped groundwater and/or floodwater that the soils under the Bonnett Street beach access parking lot could accept

without exacerbating existing flooding concerns on South Virginia Dare Trail (NC-12). Detailed information on approach, methods, and results will be reported. There is no available open space where pumped groundwater could be discharged and expected to infiltrate (other than environmentally sensitive areas), therefore the area under Bonnett Street beach access is the most viable location; and

'WHEREAS, The Town of Nags Head intends to request State loan and/or grant assistance for the Project; and

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

1. That the Town of Nags Head, the Applicant, will arrange financing for all remaining costs of the project, if approved for a State loan and/or grant award.
2. That the Town of Nags Head will adopt and place into effect on or before completion of the project a schedule of fees and charges and other available funds which will provide adequate funds for proper operation, maintenance, and administration of the system and the repayment of all principal and interest on the debt.
3. That the governing body of the Town of Nags Head agrees to include in the loan agreement a provision authorizing the State Treasurer, upon failure of the Town of Nags Head to make scheduled repayment of the loan, to withhold from the Town of Nags Head any State funds that would otherwise be distributed to the local government unit in an amount sufficient to pay all sums then due and payable to the State as a repayment of the loan.
4. That the Town of Nags Head will provide for efficient operation and maintenance of the project on completion of construction thereof.
5. The Town Manager, or their designee, of the Town of Nags Head is hereby authorized, individually and collectively, to execute and file an application on behalf of the Town of Nags Head with the State of North Carolina for a loan and/or grant to aid in the design and construction of the project described above.
6. That the Town Manager, and successors so titled, is hereby authorized and directed to furnish such information as the appropriate State agency may request in connection with such application or the project to make the assurances as contained above, and to execute such other documents as may be required in connection with the application.
7. 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."

The ordinance amending Town Code Chapter 8 *Beaches and Waterways*, Article II *Motor Vehicle Regulations* re: placement of beach driving stickers, as adopted, is attached to and made a part of these minutes as shown in Addendum "D".

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

Update from Planning Director

The report from Planning Director Kelly Wyatt was presented and 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 September 6th, 2023.

'Monthly Activity Report

Attached for the Board's review is the Planning and Development Monthly Report for July 2023. In addition to permitting, inspections, code enforcement, and Todd D. Krafft Septic Health Initiative activities, Staff was involved in the following meetings or activities of note during the month:

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

'Planning Board - Pending Applications and Discussions

The Planning Board's most recent meeting was held on Tuesday, August 15th, 2023, and included consideration of a text amendment to Section 6.5.3 of the UDO, Classification and Review of Unlisted Uses, to list Pawnbrokers, Metal Dealers, Scrap Dealers and Precious Metal Dealers, as specified in NC General Statutes, Chapter 66 Article 45 as prohibited uses within the Town. The Planning Board continued their discussion of integrating the "multi-family dwelling" use into the Unified Development Ordinance following the August 2nd Joint Workshop with the Board of Commissioners.

'The Planning Board's next meeting is scheduled for September 19th, 2023. At this time, the agenda is expected to include continued discussion on the multi-family dwelling ordinance and some minor housekeeping amendments to the Unified Development Ordinance.

'Board of Adjustment – Pending Applications

The Board of Adjustment met on Thursday, August 10th to hear multiple variance requests submitted by Attorney Casey Varnell on behalf of the property owner, David Treherne, for the property located at 8723 S. Old Oregon Inlet Road. The variances were being sought to facilitate the construction of a 10' x 8' elevated deck within the minimum required side and rear yard setbacks and over an unpermitted 14' x 18' concrete pad. In addition, unpermitted work beneath the home had resulted in parking stalls that did not meet the required 10' x 18' unobstructed stall width. The Board of Adjustment denied the variance request for the 10' x 8' elevated deck, however they did grant the lot coverage variance needed for the 14' x 18' concrete pad to remain and the 5-inch variance to the 10-foot width for a required residential parking stall.

'No applications have been received for the Board of Adjustments September 2023 meeting.

'Additional Updates

- DWMP/Septic Health Advisory Committee –The Septic Health Advisory Committee will be providing an update to the Board of Commissioners at their September 6, 2023, meeting.
- Estuarine Shoreline Management Plan – No new updates. Staff anticipates hearing back on selection status in November 2023.

- NC Resilient Coastal Communities Program – The town was unfortunately not selected for funding through this grant opportunity. It is anticipated that other grant monies received will fund the implementation associated with the approved stormwater project area #12 in South Nags Head.
 - Electric Vehicle Action Plan – Staff have identified potential parking spaces at the municipal complex for the location of the two Level 2 Public Charging Stations and are in the process of getting estimates to run the electrical needed. Additionally, staff has received a quote from ChargePoint for a comprehensive package including procurement, commercial cloud plan subscription with station management features and 5 pre-paid years of maintenance to include remote technical support and onsite repairs if needed. Staff anticipates moving forward with purchasing the equipment and plan soon.
 - ETIPP Project/Program – No new updates.
 - Whalebone Park: Phase 1 Planning – No new updates. The town intends to move forward with a simple restroom design to be constructed on site with the grant allocation from the Outer Banks Visitors Bureau. Construction will likely take place this fall.
 - Governor Street Public Beach Access Grant – Staff prepared and submitted the final grant application on August 28, 2023, for the NC Division of Coastal Management (DCM) Public Beach and Waterfront Access and Grant Program for the construction of a new ADA accessible elevated dune crossover with associative ADA-compliant parking stalls, and a shower upfit.
 - Dune Management Cost Share Program – Staff are preparing for the upcoming Sand Relocation Season and the Dune Management Cost Share Program by creating various types of educational materials for both initiatives in hopes of a smoother coming season.
 - Dowdy Park Events/Farmers Market/Holiday Markets/Art & Culture – The Dowdy Park Farmers Market has wrapped up for the 2023 Season and focus is now shifting to the 2023 Holiday Market. Holiday Market dates are:
 - o Saturday, November 11th 9am – 12pm (Veterans Day)
 - o Saturday, November 25th 9am – 12pm (Thanksgiving weekend)
 - o Thursday, November 30th 4pm – 7pm (Night Market)
 - o Saturday, December 9th 9am – 12pm
- ‘The application for the Holiday Market will open October 12th at 8am. This market is first come, first serve so, once the application quota of 60 vendors for each market has been met the application link will close. In addition to a handful of Winter Markets and the Tree Lighting Ceremony, the Committee for Art and Culture will also be hosting a townwide Holiday Decorating Contest and Candy Cane Hunt this winter.
- ‘Upcoming Meetings and Other Dates
- Tuesday, September 5th – Technical Review Committee Meeting
 - Wednesday, September 6th - Board of Commissioners Meeting
 - Thursday, September 7th – CRS Users Group Meeting
 - Wednesday, September 13th – Committee for Art and Culture Meeting
 - Thursday, September 14th – Board of Adjustment Meeting (No hearings scheduled)
 - Tuesday, September 19th – Planning Board Meeting
 - Wednesday, September 20th – Board of Commissioners Mid-Month Meeting if needed
 - Dowdy Park Summer Concerts – Wednesday September 6th last concert”

Planning Director Kelly Wyatt summarized the August 15th Planning Board's discussion on the multi-family development joint workshop which was held with the Board of Commissioners on August 2nd:

- Consensus from the Planning Board was that they did not want multi-family development for the purpose of providing short-term rental opportunities.
- Standards need to be discussed re: properties that have dual frontage on both US 158 and NC 12
- Density is a major concern and needs extensive discussion
- They are interested in residential units on top of existing commercial businesses

Comr. Brinkley said that he would like to see the Planning Board discuss incentives further; Mayor Pro Tem Siers appreciated that the Planning Board is working toward getting the issue right the first time; Comr. Renée Cahoon feels that progress is being made; Comr. Sanders said that he is supportive of a lot of what the Planning Board noted/discussed.

In response to Mayor Cahoon, Ms. Wyatt provided an update on Whalebone Park and said that restrooms are to be added this fall.

Comr. Renée Cahoon spoke concerning electric vehicle charging locations at the Town; she said that whatever stations the Town installs need to meet the broad range of electric vehicles.

Update from the Septic Health Initiative Program and Advisory Committee

Septic Health Advisory Committee member Bob Muller updated the Board on the Todd D. Krafft Septic Health Advisory Committee's progress. Committee members in addition to himself are Comr. Brinkley, Bob Edwards, Megan Lambert, David Hermann, Wayne Varilek, with Conner Twiddy and Kelly Wyatt as staff support. The Decentralized Wastewater Management Plan (DWMP) was updated; Adoption of a mission statement, review of the Town's septic issues, and being advocates of the septic health program in the community were some of the committee's accomplishments. Letters went out to owners of high-risk properties; The Board adopted the de-watering ordinance originated by the Septic Health Advisory Committee.

Septic Health Coordinator Conner Twiddy provided some general updates from the Septic Health Initiative Program which included the following: getting the word about the program out to the public; 153 septic inspections were done in the 2022/2023 year; the water quality sampling program was expanded so more weeks of data are included; the recent Nags Head Lines newsletter article has also garnered additional interest in septic inspections. Mayor Cahoon spoke highly of the recent issue of the Nags Head Lines.

In response to Comr. Renée Cahoon, Mr. Twiddy stated that he would be reaching out to septic installation companies. Mayor Pro Tem Siers echoed what the rest of the Board has said and also appreciates the committee's time and efforts.

Mr. Muller noted that Mayor Pro Tem Siers installed signage at a house across from his home indicating to not drive on the septic drainfield – a huge problem town-wide. Mr. Muller also stated that multi-family Decentralized Wastewater Management Plan (DWMP), Appendix 3, has an overview of alternative septic systems that go beyond the conventional septic systems – that can also be considered by homeowners.

Mayor Cahoon said that while he doesn't want to add signage to the Town, signage indicating to not park on the septic drainfield would be helpful.

Discussion of a text amendment to Section 6.5.3 of the UDO, Classification and Review of Unlisted Uses, to list Pawnbrokers, Metal Dealers, Scrap Dealers and Precious Metal Businesses as specified in NC General Statutes, Chapter 66 Article 45, as prohibited uses within the Town

Planning Director Kelly Wyatt summarized the agenda summary sheet which read in part as follows:

"The Planning Department and the Police Department were recently contacted by a precious metals dealer in anticipation of conducting an event within an existing retail jewelry store where they would evaluate items such as jewelry being brought in by the public, assess a value and purchase the items from the public. This company was interested in acquiring any permits necessary to conduct this event within the Town. Upon review, staff discovered that precious metals dealers are regulated by North Carolina General Statute, Section 66 Article 45. In addition to regulating precious metals dealers, the statute also sets forth regulations for Pawnbrokers, Cash Converters, Metal and Scrap Dealers. Any person engaging in the business of purchasing precious metals in North Carolina is required to obtain a precious metals permit through the local law enforcement agency as set forth in NCGS 66-407. Permitting through the local law enforcement agency is done in collaboration with the NC Department of Public Safety.

'The UDO does not currently contemplate any of these uses, including precious metals businesses. As such, Section 6.5.1 of the UDO sets forth the rules that the UDO Administrator must follow in determining whether an unlisted use is substantially similar to an already defined use and how to thus classify the unlisted use. In addition, Section 6.5.2 outlines what must occur if the UDO Administrator rejects a proposal for a use that is not clearly disallowed and the recourse that can be taken by filing an appeal of the administrative decision or seeking a zoning text amendment. Lastly, Section 6.5.3 of the UDO lists the uses that are expressly prohibited by the Town of Nags planning jurisdiction.

'As the UDO Administrator, Planning Director Kelly Wyatt determined that the use of "precious metals dealer" was not similar to any already defined use within the code. Acknowledging that some may consider the retail use to be similar, staff would submit that Appendix A. of the UDO states the following:

"Retail, general means establishments that provide goods directly to the consumer where such goods are available for immediate purchase and removal from the premises by the purchaser".

'As staff understands it, a precious metals dealer would be engaged in the business of purchasing goods from the public for cash. This seems distinctly different from how the Town has defined retail.

'While acknowledging that Pawnbrokers, Pawnshops, Cash Converters, Metal Dealers and Precious Metals Dealers are not all one in the same, they do all operate in the same basic fashion of purchasing goods from the public. Perhaps the most notable difference is that pawn shops deal with a wide array of goods and may use different standards when appraising jewelry since they may not actively deal in gems or precious metals themselves. Precious metals dealers, on the other hand, generally specialize in precious metals and have more knowledge about metals.

'At their August 15th, 2023 meeting, the Planning Board heard a request by staff to initiate and make a recommendation if prepared to do so, to include the uses listed in NCSG Section 66 Article 45 within the list of prohibited uses as set forth in Section 6.5.3 of the UDO. At this meeting the Planning Board voted unanimously to recommend these uses be added to Section 6.5.3 and expressly prohibited.

'Staff's recommendation to expressly prohibit the uses outlined in NCGS Section 66 Article 45, to include "Precious Metals Dealers" was based upon the following:

'NCGS 66-405, Legislative finding states, "The General Assembly finds and declares that precious metals

businesses in North Carolina vitally affect the general economy of the State and the public interest and public welfare, and in the exercise of its police power, it is necessary to regulate such businesses, in order to prevent thefts, disposal of stolen property, and other abuses upon its citizens”.

‘While precious metals dealer businesses may have a narrower scope than a pawn shop, and those employed by a precious metal dealer may be specially trained and more knowledgeable in precious metals, the basic premise of the business is the same - to assess and purchase goods brought in by the public.

‘Pursuant to NCGS Section 66-406, the definition of precious metals states:

‘Precious Metal. - Gold, silver, platinum, or palladium, as defined below, but excluding coins, medals, medallions, tokens, numismatic items, art ingots, or art bars.

a. Gold. Any item or article containing 10 karats of gold or more which may be in combination or alloy with any other metal.

b. Silver. Any item or article containing 925 parts per thousand of silver which may be in combination or alloy with any nonprecious metal, or which is marked "sterling".

c. Platinum. Any item or article containing 900 parts per thousand or more of platinum which may be in combination or alloy with any other metal.

d. Palladium. Any item or article containing 950 parts per thousand or more of palladium which may be in combination or alloy with any other metal. (1981, c. 956, s. 1; c. 1001, s. 3; 1989 (Reg. Sess., 1990), c. 1024, s. 10(b); 2009-482, s. 1; 2012-46, ss. 15, 17.)

‘While jewelry seems to be the most common item taken to precious metals dealers, there are other items that could qualify given the definition above, including appliances, lighting fixtures, some electronics, tableware, silverware, trophies, plaques, etc.

‘Police Chief Perry Hale spoke briefly with officers within other North Carolina municipalities who allow Precious Metals Dealers within their jurisdiction and was told that instances of theft had increased.

‘Section 6.5.1 of the Unified Development Ordinance lists the factors that shall be considered classifying a new use as permitted or prohibited. These factors include consistency with adopted vision statement and policies of the Comprehensive Plan, type of activity associated with the use, potential impacts such as light, noise, odor, etc., public safety, and negative impacts on adjacent land uses. Based upon the public safety concerns that could potentially occur with these uses, including precious metals dealers, staff recommended the uses noted within NCGS Section 66 Article 45 be expressly prohibited within the Town.

‘Following the Planning Board's recommendation on August 15th, 2023, Planning Director, Kelly Wyatt and Police Chief Perry Hale met via a Zoom meeting with representatives of National Rarities, the precious metal dealer that contacted staff originally, and their attorney Mr. Stephen Romine. Following this zoom meeting, Mr. Romine and Town Attorney John Leidy discussed the position of National Rarities further.

‘Lastly, staff did post a question to the NC Planners List Serve inquiring if other municipalities allowed the use of “Precious Metals Dealers” and, if so, where were they permitted, were any conditions imposed and what had their experiences been. We received only a few responses, of those who did allow similar businesses they considered them to be “Retail”.

‘Staff is aware that members of the Board of Commissioners have received comments about this item. Rather than place the request for a public hearing on the consent agenda, staff would like to hold a discussion with the board at the upcoming meeting and receive guidance on how to proceed. Staff will be prepared to address our recommendation as well as other alternatives that the Board could consider to regulate these uses.

'Please find attached the staff report and supporting documents as presented to the Planning Board at their August 15th meeting.'

Mayor Cahoon explained that today is just for discussion – he questioned Chief Hale as to the advantage to knowing an event is taking place rather than just allowing it; Chief Hale said that he would need approximately 30 days to research and issue a permit – similar to how the process is for taxicab/vehicle for hire permits.

Comr. Brinkley pointed out that these are reputable businesses and he would like to see a way that this can work; Chief Hale agreed.

It was Board consensus that it would be appropriate for the uses of selling, buying back, and repair of jewelry, as described today, as accessory uses to an existing business with an associated definition – that these types of operations should be permitted.

Mayor Cahoon noted the need to amend the Town's zoning ordinance to allow this use in the Town; Planning Director Wyatt stated that she appreciated today's conversation and will plan on returning the item for discussion at the September Planning Board meeting.

MOTION: Comr. Renée Cahoon made a motion to schedule the Public Hearing on the text amendment to the UDO re: selling, buying back, and repair of jewelry as accessory uses to an existing business for the October 4th Board of Commissioners meeting. The motion was seconded by Mayor Pro Tem Siers which passed unanimously.

NEW BUSINESS

Committee Reports

There were no committee reports to be presented.

Consideration of recommendation of appointment to Dare County Tourism Board (DCTB)

The agenda summary sheet read in part as follows:

"Attached please find an email from Dare County dated July 27, 2023, with attachment, requesting that the Town provide a recommendation to represent the Town for the next two (2) years on the Dare County Tourism Board. Currently, Mayor Pro Tem Siers serves as the Town's representative and he is eligible to serve another term."

MOTION: Comr. Brinkley made a motion to nominate Mayor Pro Tem Siers as the representative for the Town to serve another term on the Dare County Tourism Board. The motion was seconded by Comr. Renée Cahoon which passed unanimously.

Discussion of proposed revision to the Police Dept License Plate Reader CIP Request

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

"The police department is requesting a change to its CIP request to implement license plate readers within the town. We are requesting to lease LPR's from Flock Safety rather than purchase cameras from Vigilant Solutions. Since the annual cost of the lease would be less than the cost of purchasing the equipment, this would allow the department to install all twelve cameras (six locations) during the first year, rather than completing the project over a three-year period as originally proposed. Flock Safety would be responsible for all maintenance and software updates and provide cellular service for the cameras."

'Attached are the original CIP requests for FY 24 through FY 26 which proposes to complete the LPR project over a three-year period for a total of six locations with twelve cameras. The total cost was \$156,048.00 and adds two sites (four cameras) each year for three years. In this proposal the equipment would be owned by the Town and we would be responsible for maintenance and repairs. Each year after all cameras are installed we would pay approximately \$11,000 per year for the warranty and maintenance. The useful life of these cameras is roughly five years. Therefore, we would need to consider paying for replacement of these cameras after year five."

'The Flock Safety proposal would consist of installing all twelve cameras at six sites in FY 24 for a total of \$43,800.00 in the first year. This price includes the cameras (\$3,000 each), installation, and DOT approved breakaway mounting poles at \$650.00 per location. This program is a lease therefore Flock handles maintenance, software updates and provides cellular service for each camera. Each year after FY 24 we would pay \$36,000.00 for the program which carries a two-year contract when signing. The town could operate LPR's under Flock Safety over a four-year period to include all sites and cameras for a total of \$151,800.00. At any point during the program that the cameras or any of the equipment fails, Flock Safety would replace it with the latest equipment at no additional cost."

Mayor Cahoon confirmed with Chief Hale that once the lease is signed, they install, set up, start operating and the Town receives and owns the data.

Comr. Sanders clarified the proposed camera locations - six (6) locations with 12 cameras.

MOTION: Comr. Brinkley made a motion to approve the revision to the Police Dept License Plate Reader CIP request as presented and to authorize the Town Manager to execute the associated contract. The motion was seconded by Mayor Pro Tem Siers which passed unanimously.

ITEMS REFERRED TO AND PRESENTATIONS FROM TOWN ATTORNEY

Attorney Robert Hobbs – Thanked the Board

Attorney Hobbs said that he appreciated the opportunity to assist the Board with today's meeting, in Attorney John Leidy's absence.

ITEMS REFERRED TO AND PRESENTATIONS FROM TOWN MANAGER

Town Manager Garman - Update on Public Services Facility

Town Engineer David Ryan summarized his slides which provided updates for the following three buildings: the Administration building, the Water Distribution building, and the Fleet/Facilities/Sanitation building. He stated that the project is approximately 20% complete and is on schedule – with the exception of the Administration Building which is several weeks behind but this does not impact progress of the rest of the site.

Board members thanked Engineer Ryan for his update.

Mr. Ryan's slides can be found at this link:

<https://townofnagsheadnc.sharepoint.com/sites/PublicWorksNewFacilities/SitePages/September-6%2C-2023.aspx>

Town Manager Garman - Consideration of Training Reimbursement Policy

Human Resources Director Jan Mielke summarized the agenda summary sheet which read in part as follows:

"At the request of the Board, staff has developed a Training Reimbursement Policy and Reimbursement Agreement. The purpose of this policy is to recoup training dollars invested in employees that resign shortly after receiving Town funded training.

Highlights of the Proposed Policy and Reimbursement Agreement

1. A Reimbursement Agreement will be required if the cost of the training or certification exceeds \$2,000 in a calendar year, or if the training is for a position that the individual is not yet qualified for.
2. Repayment must be provided to the Town if an employee resigns within 1 year of receiving the training/certification. The employee will reimburse the full training cost if they resign within 6 months of the training, and reimburse 50% of the training cost if they resign 7-12 months of receiving the training."

MOTION: Comr. Brinkley made a motion to approve the Training Reimbursement Policy as presented. The motion was seconded by Mayor Pro Tem Siers which passed unanimously.

Town Manager Garman - Discussion of conducting a staffing analysis for the Fire Dept

Town Manager introduced this item explaining that the Town is not adequately staffed with enough firefighters per shift in order to meet the needs of the Fire Station. He is asking that a working group to review staffing be formed – he would like to provide a recommendation to the Board in Spring 2024.

Fire Chief Randy Wells summarized his memo which read in part as follows:

"Nags Head Fire Rescue is composed of 24 firefighting personnel who are assigned to one of three shifts with total staffing before leave of eight per day distributed between two fire stations. Additionally, a fire chief, deputy fire chief, and ocean rescue director work an administrative schedule of eight-hour days to include callback during the nighttime and weekends as needed. The Ocean Rescue Director also supplements fire staffing in the off-season from November through March. Due to leave amounts of approximately 12% annually, the on-duty staffing of fire stations is rarely above the minimum staffing of six personnel. During the fiscal year 2021/2022, fire staff worked 878.42 overtime hours, and during the fiscal year 2022-2023, 1323.75 overtime hours to maintain a minimum staffing of six personnel.

'Response to emergencies has increased through the years and remains at 1100-1200 responses annually. The department also completes numerous other tasks such as fire inspections, fire hydrant flow testing, fire hose

testing, limited vehicle, and station maintenance, and most importantly, education to members of the community.

'When a fire occurs in Nags Head, Colington and Kill Devil Hills Fire Departments are dispatched simultaneously, however, these departments must rely on their volunteers to be able to respond. These departments prove reliable with a response; however, they normally take a minimum of 20 minutes from dispatch to arrival if they are available. This places our fire staff of six in a difficult situation as they attempt to extinguish a fire, prevent it from damaging other structures, and possibly conduct a search with a minimum number of staff. The National Fire Protection Association Standard on Fire Department Staffing recommends that four personnel be assigned to each fire apparatus to complete the required fireground tasks efficiently and safely. They also recommend that a minimum of 17 personnel be on the scene within an eight-minute travel time on residential structure fires of up to 2000 square feet.

'We believe that with the consideration of the additional tasks that staff are completing, the leave amounts that are utilized by staff, and the recommended staffing of the NFPA, additional on-duty staff are needed to provide at least four personnel for each fire apparatus every day of the year.

'We would like to utilize a working group to conduct a staffing analysis of the Nags Head Fire Department based on recognized industry standards and the hazards that the department responds to. This staffing analysis should consider a risk assessment, efficient staffing models, alternatives to response models, phasing and funding alternatives, and opportunities such as grants and other revenue methods to fund additional personnel.

'A stakeholder group is recommended consisting of (a) one Nags Head Commissioner, (b) two Nags Head community members (we can recommend or the board can appoint), (c) staff members to include the Fire Chief and Deputy Chief, (d) the Human Resources Director, (e) and the Town Manager or Deputy Manager as needed. If appointed, this group will establish a recommended staffing model that can be delivered within 120 days of the appointment of members. The goal is to utilize the results of this work to formulate budget recommendations for FY 2024-25. We will be prepared to discuss this with the board at the upcoming meeting."

Chief Wells noted that Bob Muller and Meade Gwinn have already agreed to be members of the working group.

Mayor Cahoon asked Board members to consider the community members to be a part of the Fire Dept Staffing Analysis Working Group - formal appointments to the working group are to be made at the October 4th Board meeting.

MOTION: Mayor Pro Tem Siers made a motion to appoint Comr. Brinkley as the Board of Commissioners representative to serve on the Fire Dept Staffing Analysis/Stakeholder Working Group. The motion was seconded by Comr. Renée Cahoon which passed unanimously.

Town Manager Garman - Consideration of resolution requesting that the state support federal legislation concerning reauthorizing the National Flood Insurance Program - currently authorized until Sep 30th

Town Manager Garman presented the resolution brought forward last month by Donna Creef, Government Affairs representative with the Outer Banks Association of Realtors; the Board took no action at that time.

MOTION: Mayor Pro Tem Siers made a motion to adopt the resolution requesting that the state support federal legislation concerning reauthorizing the National Flood Insurance Program – currently authorized until September 30, 2023. The motion was seconded by Comr. Renée Cahoon which passed unanimously.

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

"WHEREAS, the National Flood Insurance Program has been the subject of twenty-five short term reauthorizations since 2017 with the latest short-term reauthorization set to expire on September 30, 2023, AND

'WHEREAS, Senator Bob Menendez (R-NJ) has introduced the NATIONAL FLOOD INSURANCE REAUTHORIZATION AND REFORM ACT OF 2023 which proposes to reauthorize the National Flood Insurance Program (NFIP) for five years until September 30, 2028, and to significantly reform the NFIP to provide better consumer protection and to address the long-term solvency of the NFIP, AND

'WHEREAS, these proposed reforms include an annual 9% cap on flood insurance premium increases, continued funding of grant programs for mitigation of flood risks, more accurate mapping of flood hazards, updated claims appeal processes, and suspension of interest payments of the NFIP debt to the US Treasury for five years, AND

'WHEREAS, this bill has received bipartisan co-sponsorship from elected officials from the coastal states of New York, Maryland, Florida, and Louisiana, AND

'WHEREAS, flooding is the most frequently occurring natural disaster and affects all areas of the United States therefore flood insurance is an essential tool for property owners to protect their homes and businesses from flood damages, AND

'WHEREAS, the Nags Head Board of Commissioners recognizes the importance of ensuring the sustainability of the NFIP through a long-term reauthorization and appropriate reforms to address the affordability of flood insurance and other problematic aspects of the program.

'NOW THEREFORE BE IT RESOLVED That the Nags Head Board of Commissioners does hereby adopt this resolution in support of the National Flood Insurance Reauthorization and Reform Act of 2023 as recently introduced by Senator Menendez and encourages its enactment by the US Senate and US House of Representatives before September 30, 2023."

BOARD OF COMMISSIONERS AGENDA

Board members had nothing new to report.

MAYOR'S AGENDA

Mayor Cahoon - Discussion of Fall Retreat

Mayor Cahoon provided some info re: the Board's Retreat scheduled for November 16 - 17, 2023:

- Facilitator is the Zelos firm from Alexandria, VA
- Facilitator will be conducting 30-minute virtual interviews with Board members
- Key documents and the community survey will be reviewed by the facilitator
- Consultation with the Town Manager will take place in October to plan for staff presentations
- Facilitator will assist with the community survey presentation
- Agenda to be created to allow for management/staff review prior to the retreat
- Draft Strategic Plan (output) to be provided by facilitator after retreat
- Survey results to be presented to the Board in November - a few weeks prior to the retreat
- Implementation Toolkit to be provided to help management/staff to move forward after the retreat

Mayor Cahoon emphasized the importance of using the Town's social media to garner additional responses to the survey. Comr. Renée Cahoon also mentioned that each Town department has its own Facebook page which should include information about the survey.

Mayor Cahoon – Employee of the Year process

Mayor Cahoon confirmed with Town Manager Garman that a new process to choose the annual Employee of the Year will be presented to the Board at its October meeting. The purpose is a more formalized process in choosing Employee of the Year.

Board members / Police Chief Hale – Happy Birthday to Town Manager Garman!

On behalf of the Board and Town staff, Police Chief Hale presented a birthday cake to Town Manager Garman.

ADJOURNMENT

MOTION: Comr. Renée Cahoon made a motion to adjourn. The motion was seconded by Comr. Brinkley which passed unanimously. The time was 11:11 a.m.

Carolyn F. Morris, Town Clerk

Date Approved: **October 4, 2023**

Mayor: _____
Benjamin Cahoon