



**MINUTES
TOWN OF NAGS HEAD
BOARD OF COMMISSIONERS
REGULAR MEETING
WEDNESDAY, NOVEMBER 6, 2024**

The Nags Head Board of Commissioners met at the Board Room located at 5401 S Croatan Highway, Nags Head, North Carolina on Wednesday, November 6, 2024 at 9:00 a.m. for a Regular Meeting.

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

Board members Absent: None (One vacancy)

Others present: Town Manager Andy Garman; Attorney John Leidy; Amy Miller; Kelly Wyatt; David Ryan; Chris Montgomery; Randy Wells; Nancy Carawan; Joe Costello; Roberta Thuman; Fay Sims; Chris Trembly; Tyson Wild; James Phillips; Kyle Kuhar; Sue Cummings; Vicky Wright; Donna Creef; Brittany Phillips; and Town Clerk Carolyn F. Morris

CALL TO ORDER

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

ADOPTION OF AGENDA

MOTION: Mayor Pro Tem Siers made a motion to amend the Nov 6th agenda by moving the Nags Head Woods Annual Report item to before the Earl Murray Jr Employee of the Year agenda item. The motion was seconded by Comr. Sanders which passed unanimously.

MOTION: Mayor Pro Tem Siers made a motion to approve the Nov 6th agenda as amended. The motion was seconded by Comr. Sanders which passed unanimously.

PRESENTATION - Nags Head Woods Annual Report - Aaron McCall, Northeast Land Steward

Steward Aaron McCall presented a PowerPoint presentation of the Nags Head Woods Annual Report. His slides are attached to and made a part of these minutes as shown in Addendum "A".

Steward McCall's presentation was well received by the Board who thanked Mr. McCall for his work at the Woods. It was pointed out that the Woods area looks better than ever. Mr. McCall thanked Dep Town Manager/Finance Officer Amy Miller who assisted with procurement of the NC Land & Water Fund Grant for conservation easements on several properties surrounding the Fresh Pond area.

RECOGNITION

Dep Police Chief Chris Montgomery introduced Police Officer Kyle Kuhar who was welcomed by the Board to Town employment.

Public Services Director Nancy Carawan introduced Public Services Office Assistant Sue Cummings who was recognized for five years of service.

Dep Town Manager/Finance Officer Amy Miller introduced Accounts Payable Specialist Vicky Wright who was recognized for twenty years of service.

PRESENTATION – Earl Murray Jr Employee of the Year

Nominees were presented by Dept Heads:

- Administration/Administrative Services Payroll Specialist Fay Sims was introduced by Amy Miller.
- Planning and Development Planner Chris Trembly was introduced by Kelly Wyatt.
- Public Services Town Engineer David Ryan was introduced by Nancy Carawan.
- Police Officer Tyson Wild was introduced by Chris Montgomery.
- Fire Engineer James Phillips was introduced by Randy Wells.

Mayor Cahoon spoke very favorably about Nags Head's employees who he stated made it easy for him to serve as Mayor.

CLOSED SESSION

MOTION: Comr. Lambert made a motion to enter Closed Session to consider an honorarium pursuant to GS 143-318.11(a)(2). The motion was seconded by Mayor Pro Tem Siers which passed unanimously. The time was 9:43 a.m.

OPEN SESSION

The Board re-entered Open Session at 10 a.m. Attorney Leidy reported that the Board took action concerning an honorarium and to unseal a series of Closed Session minutes.

Designation of Earl Murray Jr Employee of the Year for 2024

On behalf of the Board, Mayor Cahoon announced Town Engineer David Ryan as the Earl Murray Jr Employee of the Year for 2024.

PUBLIC COMMENT

Attorney Leidy opened Public Comment at 10:06 a.m. There being no one present who wanted to speak, Attorney Leidy closed Public Comment at 10:06 a.m.

CONSENT AGENDA

The Consent Agenda consisted of the following items:

1. Budget Amendment #5 to FY 24/25 Budget
2. Tax Adjustment Report
3. Approval of Minutes
4. Amendment to Town Code Sec 44-35 re: Water Cut-Offs
5. Consolidated Fee Schedule wee Waiver for Fire Department Training Live Burn
6. Consideration of Policy for Streaming/Recording Board Meetings
7. Reimbursement Resolution in Support of Property Purchase
8. Design Scope of Services for Replacement Fitness Center
9. Request for Public Hearing to consider amendments to the UDO re: Hotel Parking Standards

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

Budget Amendment #5, as approved, is attached to and made a part of these minutes as shown in Addendum "B".

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

The Board of Commissioners October 2nd meeting minutes, as approved, are on file in the Town Clerk's Office.

The summary information re: the amendment to Town Code Sec 44-35, as approved, read in part as follows:

"The proposed ordinance amending Town Code Chapter 44 UTILITIES modifies when water services can be disconnected due to nonpayment is attached. The following addition is being considered:

'Sec. 44-35. Payment of bills – Water services cannot be disconnected on Fridays, weekends, Town holidays, the day before a Town holiday, or the day before Town Hall is closed. In this event, non-payment fees will still be applied on the date that corresponds with the respective billing cycle and water service will be disconnected the following business day."

The ordinance amending Town Code Sec 44-35, as adopted, is attached to and made a part of these minutes as shown in Addendum "D".

The Consolidated Fee Schedule waiver memo, as approved, read in part as follows:

"Staff is requesting Board consideration of waiving the Consolidated Fee Schedule charges related to a Structure Burn Permit (\$1,500) plus water use.

'The homeowner at 4114 S Va Dare Trail is demolishing their property and has offered the property, consisting of 2 structures (main house and smaller garage), to our Fire and Rescue division for live burn training. Training will consist of interior fire attacks and a final burn down and is planned to occur in November. This type of training allows us to fight fires in a controlled and supervised setting, which is invaluable when applied to a real fire scene. The homeowner has paid for and been issued a demolition permit through our Planning & Development department."

The summary information re: a policy for streaming/recording Board meetings, as approved, read in part as follows:

"Staff has drafted the attached policy for streaming and recording both Planning Board and Board of Commissioners meetings. This policy establishes consistency and transparency with respect to how meetings are made available to the public. This was discussed at the Board's 2024 Fall retreat."

The streaming/recording Board meeting policy, as approved, read in part as follows:

'Purpose/Policy Statement

To enhance transparency and public access to governmental proceedings, the Town of Nags Head will livestream meetings of the Board of Commissioners and the Planning Board. This shall include CIP and budget workshops, as well as any other workshops. This shall not require the streaming and recording of emergency or special meetings, as defined in GS 160A-171, the Board's annual retreat, or informal Board gatherings with three or more members which are required to be advertised. An example would be three or more Board members attending a conference or a meeting held by another agency.

'Technical Provisions

The Town will ensure that appropriate technology is in place to facilitate reliable and high-quality livestreaming of the meetings.

'Livestreamed meetings will be made available on the Town's website and YouTube channel.

'Accessibility

All livestreams shall comply with applicable laws and regulations regarding accessibility, ensuring that all community members can engage with their local government.

'Recording

All livestreamed meetings will be recorded for public access."

The reimbursement resolution in support of the property purchase at 4222 S Croatan Highway, 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 purpose of the financing is to purchase vacant land (including but not limited to professional fees, closing costs, appraisal, surveying, etc.) located at 4222 S. Croatan Highway Nags Head, NC, identified in the fiscal year 2024/2025 amended budget.

'Section 2. The property purchase is to be financed. The currently expected type of financing (which is subject to change) is an installment finance contract. The currently expected maximum amount to be financed for the projects is \$3,000,000.

'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 210 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 Design Scope of Services for the Town's replacement Fitness Center memo, as approved, read in part as follows:

"Over the past year the Board and staff have been working on a master plan to determine existing and future needs for town departments occupying the Town Hall property as well as the two properties across from Town Hall. These properties are currently used by the Fire Department (Station 16) and a temporary location for the Town's fitness center. In late 2023, the existing Town fitness center was closed due to mold and persistent moisture within the building envelope. This building is roughly 50 years old and is functionally obsolete. The master plan has identified a location for a replacement fitness center in the vicinity of the parking area on the north side of the existing building. This is envisioned as a simple 3,000+ square foot building that would be designed to be expanded with a half-story 2nd floor space in the future. The replacement fitness center was included in the FY 2024/25 budget. It is anticipated that Dare County will take possession of the temporary fitness center at 105 W Seachase Drive in the Fall of 2025 to begin construction of an EMS station. Although there will likely be a lag time between demolition of the temporary fitness center and completion of the replacement fitness center, staff would like to get started ASAP to minimize the time we are without a facility. Attached is the proposed design scope from Oakley Collier. Civil/site design will either be handled in-house or through a separate agreement with the Town's on-call services engineer."

The Request for Public Hearing to consider amendments to the Unified Development Ordinance re: Hotel Parking Standards, as approved, read in part as follows:

"At their meeting on August 7, 2024, the Board of Commissioners requested staff to review the Town's existing parking standards for hotels and restaurants to assess their adequacy in meeting current needs. On August 20, Planning staff presented an analysis of both current and past parking standards within the town. They noted that while updating hotel parking standards may be straightforward, revising restaurant standards is more complex due to factors like outdoor dining and entertainment, which are not currently addressed. During further discussions at their September 17 meeting, the Planning Board highlighted that some hotel units feature multiple beds, potentially leading to more than one vehicle per unit. They recommended that any revised parking standards account for both the number of units and the number of bedrooms. The Board reached a consensus that the most appropriate standard is the one used in the late 1980s and 1990s: 1.2 parking spaces per rentable unit or one space per bedroom—whichever is greater—plus one space for every two employees on the largest shift. This standard effectively accommodates the additional parking needs for hotels offering multi-bedroom options, such as family and executive suites, as well as extended stay rooms."

PUBLIC HEARINGS

Public Hearing to Consider a Special Use/Site Plan Review for the Construction of a Two Story, Eight Bedroom Dormitory

Attorney John Leidy introduced the quasi-judicial Public Hearing to consider a special use/site plan for the construction of a two-story, eight bedroom dormitory. Attorney Leidy explained that the Board sits as a quasi-judicial body and must make its decision: 1) based on competent material and substantial evidence - and those

presenting must be sworn in 2) based on information presented, and 3) Board members must be recused if there is basis for believing that they would not be able to be an impartial decision maker - to include a commissioner having a fixed opinion not susceptible to change. He verified that Board members had no potential conflict and nothing to disclose at this time. The time was 10:06 a.m.

Town Clerk Carolyn F. Morris swore in the following persons to provide testimony: Planning Director Kelly Wyatt, Town Manager Andy Garman, Town Engineer David Ryan, and Dep Fire Chief Shane Hite.

Planning Director Kelly Wyatt summarized her report which read in part as follows:

"GENERAL INFORMATION

Applicant: Michael Strader, P.E. of Quible & Associates, PC & Chis Nason, AIA of Beacon Architecture and Design on behalf of the Town of Nags Head.

'Application Type: Special Use Permit/Site Plan Review.

'Purpose/Request: Construction of an approximately 3,460 square feet, two-story, eight-bedroom dormitory (duplex) and all associated site improvements. This dormitory is for use by the Town of Nags Head workforce or as approved by the Town Manager.

'Property Location: 425 W. Health Center Drive, Nags Head.

'Existing Land Use: Medical Offices, Community Care Clinic.

'Zoning Classification of Property: SED-80, Special Environmental District.

'Zoning Classification of Surrounding Properties: Properties to the north, west, south, and east are zoned SED-80, Special Environmental District (Peak Resources and vacant/Nature Conservancy).

'Flood Hazard Zone of Property: Property is located in an X Flood Zone, per the Town of Nags Head local ordinance, the property is subject to an RFPE/LES of 9 ft. The proposed first floor of habitable space will be elevated well above the 9-foot RFPE as existing topographic information shows an elevation greater than 20 ft. msl in the area of the proposed structure.

'Land Use Plan Map/Policies: The 2022 Comprehensive Plan, Future Land Use Map classifies this property as Institutional/Community Services. This proposal is consistent with this land use classification and stated Land Use Policies.

'SPECIFIC INFORMATION

'Applicable Zoning Regulations:

- Use Regulations: Pursuant to the text amendment adopted by the Board of Commissioners at their September 4, 2024, meeting, "Dormitory" is a Special Use within the SED-80, Special Environmental District, with supplemental regulations set forth Section 7.10 of the UDO. These supplemental regulations are as follows:

'Dormitory is permitted in accordance with [Section 6.6](#), Table of Uses and Activities, provided that the following additional requirements and conditions are met:

7.10.1. A minimum lot area of 25,000 square feet and a minimum lot width of 100 feet shall be required. *Staff comment: This property is 123,600 in area with a lot width greater*

than 250 feet.

7.10.2. Sleeping rooms shall have a minimum floor area of seventy (70) square feet for the first occupant and a minimum floor area of fifty (50) square feet for each additional occupant. *Staff comment: Each floor contains 4 bedrooms with an expected occupancy of 8, a total of 8 bedrooms with an expected occupancy of 16. The proposed sleeping rooms will accommodate two occupants. Each sleeping room is approximately 170 square feet in area. As proposed, this regulation has been met.*

7.10.3. At least one restroom in the facility shall have a minimum of two (2) water closets, two (2) sinks, and two (2) showers. In all cases, reference the North Carolina Plumbing Code for the required number of dormitory bathroom fixtures. *Staff comment: Each dwelling unit contains two full bathrooms for a total of 2 toilets, 2 sinks, and 2 showers. As proposed, this regulation has been met.*

7.10.4. A minimum floor area of twenty (20) square feet per occupant is required for adequate common living areas (including kitchen and dining) but not less than 220 square feet per unit or floor. Circulation spaces less than six (6) feet wide shall not be counted as common living areas. *Staff comment: An area greater than 500 square feet has been provided in each dwelling unit. As proposed, this regulation has been met.*

7.10.5. No dormitory facility shall house more than twenty-five (25) occupants. *Staff comment: As proposed, this two-story dormitory/duplex would house no more than 16 occupants at any time.*

- Lot Coverage: Pursuant to Section 8.4.3.3.6.1 of the UDO, Special Development Standards within the SED-80 (Special Environmental District) the maximum allowable lot coverage for this property is 20% of the total lot area. While the exact lot area remains uncertain, using the most conservative estimate, the current site conditions result in approximately 28.6% lot coverage.

'Upon researching the history of how this property was developed to such an extent, it was discovered that this area was previously zoned as SPD-40 (Special Planned Development), where the maximum allowable lot coverage was 30%. This zoning designation and the associated dimensional standards date back to the 1982 Official Zoning Map and the Town of Nags Head Zoning Ordinance from 1977, with amendments through February 1983 (attached). It is important to note that the structure on this property was built in 1975.

'The increase in lot coverage beyond the current allowable limit constitutes a site nonconformity. According to Section 5.4 of the UDO, nonconforming site conditions may continue but cannot be increased.

'Therefore, the site is considered legally nonconforming at 28.6% lot coverage. While lot coverage can be removed, replaced, or relocated, it cannot exceed the 28.6% threshold. The proposed redevelopment of the dormitory, including the removal of the non-functional helipad and various other improvements, results in 28.3% lot coverage and is therefore compliant.

- Height: The maximum allowable building height within the town is 35 feet. However, pursuant to Section 8.2.1, Dimensional requirements, total height may be increased to 42 feet with the use of an 8:12 roof pitch or greater. The applicant has proposed a structure with an overall height of approximately 32 feet measured from grade, while also proposing an 8:12 roof pitch. Therefore, height is compliant.
- Architecture Design Standards: Section 10.82 of the UDO, Applicability, states that Commercial Design Standards shall apply to all building construction or remodeling projects requiring a special use permit or site plan review. This project must adhere to the Commercial Design Standards set

forth within Part VI of the UDO. As proposed, this project will comply with standards set forth in Division II – Building Design including a human scale design with a second-floor covered porch, residential style single or double hung windows, board and batten siding, gable brackets, etc. Additionally, we intend to incorporate a few other desirable elements such as workable shutters and column trim.

- Parking: Pursuant to Article 10, Table 10-2, *Required Parking by Use*, dormitory uses are required to provide one parking space for every four occupants. For this structure, which will have a maximum occupancy of 16, a total of four (4) parking spaces are required. However, considering that this structure is intended to house the Town of Nags Head workforce, including seasonal lifeguards, it is understood that actual parking needs will likely exceed the minimum requirement.

Currently, there are 37 existing parking spaces onsite. Based on a liberal application of the medical office parking standard to the Community Care Clinic, which is also located onsite, we estimate that approximately 25 parking spaces are necessary for the clinic. This leaves 12 parking spaces available for dormitory use, providing parking for three-quarters of the dormitory occupants. Ideally, 16 spaces—one per occupant—would be available for this use.

Section 10.15.2.2 provides a mechanism, through the Special Use Permit process, to consider shared parking arrangements when multiple uses on the site have staggered hours or differing peak parking demands (see below). Under this provision, no more than 50% of the required parking spaces for the proposed use can be shared with existing and conforming parking spaces for other uses.

Staff is requesting that the Board of Commissioners consider approving this shared parking provision to address the four (4) additional parking spaces needed to meet the desired total of 16 spaces for the dormitory. The Community Care Clinic operates between 9:00 AM and 4:00 PM, Monday through Friday, and is closed on weekends. In contrast, the Town's ocean rescue staff typically work from 9:00 AM to 6:00 PM, with some early morning training sessions. Given these staggered hours, there should be minimal overlap in parking demand between the clinic and the ocean rescue staff.

10.15.2.2. Shared Parking Associated with a Special Use Plan or Plan Amendment. Proposed commercial uses in all commercial zoning districts may share a portion of existing and conforming parking spaces with other commercial uses in commercial zoning districts provided that the following conditions are met:

10.15.2.2.1. The uses should have staggered or different business hours and parking demands, such as an office building open between 9:00 a.m. and 5:00 p.m. and a restaurant open between 5:30 p.m. and 11:00 p.m., or a business open during the week and a church where parking demand peaks on the weekend;

10.15.2.2.2. No more than fifty (50) percent of required parking spaces for the proposed use may be shared with existing and conforming parking spaces of the other commercial use;

10.15.2.2.3. Commercial uses must be abutting and integrated with unrestricted traffic and parking flow between them or may be across a Town street or private easement or alley within the same block;

10.15.2.2.4. When shared parking is devoted to a use other than parking, or business hours of one or more of the uses change to preclude the shared use of the parking spaces, or one or more uses change, increasing the amount of parking spaces required, or other changes in use or parking configuration occur, the special use permits for both sites must be amended appropriately; and

10.15.2.2.5 For proposed commercial uses that redevelop existing commercial sites abutting the NC 12 Beach Road corridor from East Gulfstream to Eighth Street, an alternative parking plan may be proposed that provides a ten (10) percent reduction in required parking and may be approved with or without a shared parking arrangement at the discretion of the Board of Commissioners as part of a special use plan.

- Buffering/Landscaping: Several sections of the Unified Development Ordinance speak to Buffering and Landscaping, however, due to the design and location of this proposed structure and the use of the existing parking lot, they would not be applicable.
- Special Land Disturbance Considerations in the SED-80: Within the SED-80 (Special Environmental District), the removal of any tree with a diameter at breast height (DBH) greater than four (4) inches is prohibited, except in specific areas. These exceptions include trees within the principal building site and a 20-foot perimeter around it, within required accessways, parking lots, driveways, utility installations and a 5-foot perimeter around those areas, and within septic tank drain fields and the surrounding area as determined by the Dare County Department of Health to ensure proper septic function. Other exemptions apply to trees that are at risk of falling, as evidenced by cracking, splitting, leaning, or physical damage, as well as trees that pose a threat to public facilities or services, or are in irreversible decline due to disease, or are no longer living. If an applicant wishes to remove a tree larger than four (4) inches DBH outside of these exempted areas, approval must be obtained from the Board of Commissioners.

'At this time, no trees are proposed for removal that fall outside of the exempted areas. However, if a tree is later identified for removal that does not meet the exemption criteria, we will bring the request to the Planning Board and Board of Commissioners for approval.

- Lighting: At this time, no additional parking lot lighting is needed or proposed. The dormitory will feature standard residential lighting.
- Signage: No additional signage is proposed.

'Water and Sewage Disposal: The Dare County Health Department is currently reviewing the proposed sewage design. This authorization will be required prior to review by the Board of Commissioners.

'Traffic Circulation: No changes are proposed to the existing parking lot design or traffic circulation patterns.

'Stormwater Management: Section 11.4.1 of the Unified Development Ordinance states, Redevelopment of property within existing commercial uses does not require submission of a stormwater plan under the following circumstances:

- 11.4.1.1. The development is consistent with the zoning regulations of this UDO relating to redevelopment and nonconformities;
- 11.4.1.2. The redevelopment does not result in a net gain of built upon area;
- 11.4.1.3. The redevelopment does not include the importation of any fill material.

'Stormwater management is not required for this project, provided that lot coverage remains at 28.6%, with no net increase in built-upon area and no importation of fill material. However, if there is any increase in lot coverage or the addition of fill material, the Town Engineer will require stormwater management to accommodate a 4.3-inch rainfall event for the net increase in built-upon area.

'Fire: The project will be required to comply with all applicable NC Fire Prevention Code requirements as part

of building permit application review and issuance.

'Public Works: The Public Works Director has reviewed and approved the proposed site plan as presented.'

Mayor Cahoon questioned if the Community Care Clinic Director had any concerns about the project. Director Wyatt stated that there was a concern about parking but that staff has met with their representative and explained that parking with staggered hours should not cause an issue.

There being no one else present who wished to speak, Attorney Leidy concluded the Public Hearing/Evidentiary presentation at 10:24 a.m.

MOTION: Comr. Sanders made a motion to approve the Special Use/Site Plan for the construction of a two-story, eight-bedroom dormitory [at the former Outer Banks Medical Center/current Community Care Clinic site]. The motion was seconded by Mayor Pro Tem Siers which passed unanimously.

Public Hearing to Consider Amendments to the UDO within the SPD-C, Village at Nags Head Commercial-1 Zoning District to Accommodate a New Use, EMS Station

Attorney John Leidy introduced the Public Hearing to consider amendments to the Unified Development Ordinance within the SPD-C, Village at Nags Head Commercial-1 Zoning District to accommodate a new use, EMS Station. The time was 10:26 a.m.

Planning Director Kelly Wyatt summarized her report which read in part as follows:

"BACKGROUND

In late 2023, staff presented a brief update to the Planning Board regarding the potential future construction of a Dare County EMS Station at 105 W. Seachase Drive. During that update, staff indicated that amendments to the Unified Development Ordinance (UDO) may be required to facilitate this project. The Planning Board reached a consensus at that time, agreeing that staff should move forward with preparing the necessary amendments if deemed appropriate.

'Dare County has been working with Oakley Collier Architects on the proposed design for the county's emergency services project. After reviewing the preliminary site development renderings and analyzing the existing SPD-C Village Commercial-1 District standards, the following amendments to the Unified Development Ordinance (UDO) would be necessary:

- Amend Section 9.36, Table of Uses and Activities within the SPD-C, Village at Nags Head Commercial-1 District to include "County EMS Station" as a permitted use in the district.
- Amend Section 9.21.8.2 to reduce the front yard setback requirement from 75 feet to 45 feet. Upon review of this section, it appears that the current regulations were designed to apply primarily to the large community shopping center within the Village Commercial-1 district (OBX Mall), rather than stand-alone commercial structures that are unaffiliated with or separate from the shopping center. Additionally, Section 9.17, Transportation Standards within the SPD-Village District, specifies a 45-foot setback from US 158, further suggesting that the 75-foot setback applies solely to the shopping center. This amendment would provide clarity and, importantly, would only impact the subject property, as the only other Village Commercial-1 designated property adjacent to US 158 in the Village at Nags Head is the shopping center. The property located at 111 W. Seachase Drive (Rusty Crow Quilt Shop) is zoned Village Commercial-1, however it is not adjacent to US 158.

- Amend Section 10.16, Required Parking by Use, to establish a parking standard for the new use category of "County EMS Station."

'POLICY CONSIDERATIONS

LU-9, Encourage land uses that serve the needs of both year-round and seasonal residents in support of the town's overall vision for the community."

There being no one present who wished to speak, Attorney Leidy concluded the Public Hearing at 10:28 a.m.

MOTION: Mayor Pro Tem Siers made a motion to adopt the amendments to the UDO in the SPD-C Village Commercial-1 zoning district to accommodate a new use – EMS Station – as well as the consistency statement, as presented. The motion was seconded by Comr. Sanders which passed unanimously.

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

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

Update from Planning Director

Planning Director Kelly Wyatt summarized her monthly Planning Dept 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 November 6, 2024.

'Monthly Activity Report

Attached for the Board's review is the Planning and Development Monthly Report for September 2024. 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 October:

- Tuesday, October 1st - Technical Review Committee Meeting
- Wednesday, October 2nd - Board of Commissioners Meeting
- Wednesday, October 9th - Committee for Art and Culture Meeting
- Thursday, October 10th - Board of Adjustment Meeting (no hearings scheduled)
- Tuesday, October 15th - Planning Board Meeting
- Tuesday, October 15th - Sand Relocation and Dune Management Contractor Meeting
- Wednesday, October 16th - Board of Commissioners mid-month meeting
- Monday, October 21st - Septic Health Advisory Committee Meeting
- Friday, October 4th at 6:45 pm -Dowdy Park Movie Night, *The Goonies*

'Planning Board - Pending Applications and Discussions

The Planning Board's most recent meeting was held on Tuesday, October 15, 2024. The following items were heard:

- Consideration of Sketch Plan Review for construction of a 6,760 square foot Dare County EMS Station located at 105 W. Seachase Drive. Planning Board member David Elder highlighted the benefits of creating interconnectivity along the rear of the property to link the parking lot with the truck bays.

'Engineer Mike Robinson acknowledged the suggestion and noted they would explore that adjustment. Overall,

the Planning Board expressed appreciation for the design and looks forward to the formal Site Plan Review scheduled for November 19th.

- Consideration of text amendment related to the minimum parking standard for hotel use. The Planning Board voted unanimously to recommend a revised standard requiring 1.2 parking spaces per rentable unit, or one (1) parking space per bedroom—whichever is greater—plus one (1) additional space for every two (2) employees during the largest shift.
- Discussion of Hotel Overlay District. Action Item 2.2 under the Development Goals of the adopted 2024 Strategic Plan directed staff to identify the correct areas of land use incompatibility within the town and correct inconsistencies between the Comprehensive Plan and the Unified Development Ordinance. One area identified for review was the suitability of the current Hotel Overlay District. The Planning Board held a preliminary discussion on this matter and requested that staff provide further information for review at the November 19th meeting.
- Continued discussion related to Accessory Dwelling Units (ADU's). Staff presented the Planning Board with an analysis of comments and survey results from two public input sessions, highlighting several key themes: most respondents supported allowing ADUs in Nags Head, with a preference for long-term rentals; concerns were raised about potential impacts on the town's character; and attached ADUs received greater support than detached units. Staff will continue this discussion with the Planning Board at their November 19th meeting, presenting potential options for consideration.

'The Planning Board's next meeting is scheduled for Tuesday, November 19th, 2024. Currently, the agenda is expected to include consideration of a Special Use Permit/Site Plan Amendment for the Soundside Event Site at 6800 S. Croatan Highway, along with continued discussions on the Hotel Overlay District and Accessory Dwelling Units.

'Board of Adjustment – Recent and Pending Applications

There were no items for the Board of Adjustments consideration in October 2024.

'Additional Updates

- DWMP/Septic Health Advisory Committee - The Septic Health Advisory Committee (SHAC) met on Monday, October 21, 2024. Ella Trainor, a junior at UNC-Chapel Hill and intern with the town through the Outer Banks Field Site at CSI, presented her recent work with Environmental Planner, Conner Twiddy and Deputy Planning Director, Joe Costello on geolocating existing conventional septic systems and drainfields. Her efforts are contributing to an interactive map of the town's septic infrastructure. SHAC members discussed layering data from the Hydromet Cloud, which includes groundwater and water quality logger information, to identify "hotspots" of elevated groundwater and nitrate levels. Additionally, the committee reviewed the status of the Division of Water Infrastructure Grant and expressed interest in increasing the pump-out credit, aiming to cover half of the typical \$500 cost.
- Estuarine Shoreline Management Plan - The town was awarded a \$500,000 grant through the N.C. Resilient Coastal Communities Program to support engineering and design work for estuarine marsh restoration and stabilization projects along Villa Dunes and Soundside Road. The updated scope of work with Moffat & Nichol and Biohabitats includes 60% design documents and necessary permits to prepare for future construction. We are coordinating with consultants to schedule a project kickoff meeting before Thanksgiving. Additionally, the town received a \$500,000 grant from the NC Land and Water Fund to design and construct a living shoreline at the Harvey Sound Access Point, designated as pilot site #3 in the Estuarine Shoreline Management Plan. Staff are also exploring the use of Community Conservation Assistance Program (CCAP) funds and Coastal Federation cost-share funds for a shoreline stabilization project along the causeway.

- Electric Vehicle Action Plan - Installation of the Level II EV Chargers is complete, and we are awaiting our final inspection from the Department of Environmental Quality(DEQ) to receive reimbursement.
- Sand Relocation and Dune Management Cost Share Program - On Tuesday, October 15, Planning staff held a meeting/Q&A session on the sand relocation and dune management cost-share program, attended by equipment operators and property owners. The Sand Relocation season starts on November 15th, with applications opening for review purposes only on November 1st. The Dune Management Cost Share Program will also launch on November 1st.
- Dowdy Park Events/Farmers Market/Holiday Markets/Art & Culture - While Tuesday morning yoga has wrapped up for the season, Event Coordinator Paige Griffin is very busy preparing for the upcoming holiday happenings, including:

'Dowdy Park Holiday Markets: Saturdays, November 9th & 30th, and December 14th from 9am - noon with a Holiday Night Market on Thursday, December 5th, from 4pm–7pm. Each market will feature an average of 65 vendors.

'4th Annual Tree Lighting Ceremony & Santa Visit - Saturday, November 30th from 5pm-7pm.

'Candy Cane Hunt - Wednesday, December 11th beginning at 4:45pm.

'Artist Chris Wheeler has completed the new murals at the skate park. We're planning a community Pizza and Paint Party to showcase the skate park and invite everyone to add their own artwork. Details will be shared as soon as the date is confirmed. Additionally, Manteo High School art students will be painting in the north-south crosswalk at the intersection of Bonnett Street and Wrightsville. They will begin the project on the morning of Saturday, November 16th.

'Upcoming Meetings and Other Dates

- Friday, November 1st - Accept sand relocation applications & Dune Management Cost Share opens
- Tuesday, November 5th - Technical Review Committee Meeting
- Wednesday, November 6th - Board of Commissioners Meeting
- Wednesday, November 13th - Committee for Art and Culture Meeting
- Thursday, November 14th - Board of Adjustment Meeting (no hearings scheduled)
- Tuesday, November 19th - Planning Board Meeting
- Wednesday, November 20th - Board of Commissioners mid-month meeting
- Dowdy Park Holiday Markets - Saturdays, November 9th & 30th from 9am - noon.
- Saturday, November 30th - 4th Annual Tree Lighting Ceremony"

NEW BUSINESS

Committee Reports

Mayor Cahoon – he recently attended his first Jennette’s Pier Advisory Council meeting where a lot of interesting projects were discussed; more information will be provided later.

Mayor Pro Tem Siers – he and Town Manager Garman recently attended the Dare County Housing Task Force meeting where Town Manager Andy Garman was assigned to the Our State Our Homes Initiative program.

Comr. Lambert – Septic Health Committee – She recently attended her first meeting and in addition to Director Wyatt's report, Comr. Lambert added a congratulations to Septic Health Coordinator Conner Twiddy for achieving his Subsurface Wastewater Operator License.

Comr. Lambert – the Government Access Channel Committee met last week and approved the LPDI grant for Duck; in addition, she noted that the Movie Festival discussions were tabled until after the first of the year.

Comr. Lambert – Comr. Lambert reported that the Town's Ash Wednesday Storm documentary was shown at the recent Dare County Environmental Film Festival where it won an award.

Consideration of Amendment To Traffic Control Map Re: S. Linda Lane

Dep Police Chief Chris Montgomery summarized the information provided which read in part as follows:

"To ensure continued vehicular access of emergency vehicles and sanitation trucks, it is recommended to designate the area of the cul-de-sac on S. Linda Lane, "No Parking Between Signs / Tow Away Zone" Request Board consideration of attached ordinance amending the Traffic Control Map as proposed.

'As part of the Old Nags Head Place drainage restoration project, the center section of the S. Linda Lane cul-de-sac was removed and transformed into a rain garden to help alleviate long-standing drainage issues. A 24-foot wide vehicular surface was maintained around the cul-de-sac to ensure continuous circulation for emergency vehicles and sanitation trucks. However, during peak tourist season, vehicles often park around the cul-de-sac, restricting traffic flow. This situation poses a public safety risk by limiting emergency vehicle access to the houses fronting the cul-de- sac. Therefore, we request the installation of three "No Parking Between Signs-Tow Away Zone" signs around the cul-de-sac portion of Linda Lane to ensure continued access and vehicle circulation."

MOTION: Mayor Pro Tem Siers made a motion to adopt the amendment to the Traffic Control Map re: a No Parking – Tow Away Zone on S Linda Lane as presented. The motion was seconded by Comr. Lambert which passed unanimously.

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

Discussion of Scope for Design/Engineering of 2026/2027 Beach Nourishment Project

- Consideration of Amendment to Beach Nourishment Maintenance Capital Project Ordinance

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

"Results from the annual beach condition survey were presented to the Board of Commissioners by the town's engineering consultants, Moffatt & Nichol, at the October 2nd meeting. An analysis of the field survey data indicated accelerated erosion along the last mile of the beach nourishment project limits along with localized erosion in several of the northern reaches.

'With the recent adoption of the Multi-Decadal Beach Nourishment Plan, the Board of Commissioners approved a master plan which considers the next 50 years of nourishment planning along the Town's shoreline. As a part of the planning process, the volumetric threshold to trigger the next re-nourishment project was re-evaluated and reach- specific volumetric triggers developed based on a level of protection analysis, (nourishment triggers will be described in greater depth under Agenda Item J.1).

'Localized segments of Reaches 3 and 4 have profiles below the trigger volumes in conjunction with localized segments of Reaches 1 and 2 closely approaching the specified triggers. Given the results, the Board may want to consider accelerating the planning for the next beach nourishment project.

'The consulting firm of Moffatt & Nichol has prepared a proposal for the planning portion of the next beach nourishment project which includes preliminary design, permitting, and preparation of construction plans and specifications. A capital project ordinance amendment in the amount of \$481,940 is attached and incorporates the Coastal Storm Damage Mitigation grant."

MOTION: Mayor Pro Tem Siers made a motion to authorize the Town Manager to execute the Beach Nourishment Project – Professional Services Task Order with Moffat & Nichol as presented. The motion was seconded by Comr. Sanders which passed unanimously.

MOTION: Comr. Sanders made a motion to approve the amendment to the Capital Project Ordinance in the amount of \$481,940, as presented. The motion was seconded by Comr. Lambert.

Mayor Pro Tem Siers confirmed with Engineer Ryan that the funds come from the Beach Nourishment Maintenance Capital Project Fund – a dedicated fund.

CONTINUATION OF MOTION: The motion passed unanimously.

ITEMS REFERRED TO AND PRESENTATIONS FROM TOWN ATTORNEY

Attorney Leidy reported that the Appeals Court recently found that a public body, a county, had violated the Open Meetings Law when a member attended a meeting remotely which nullified the actions taken. He emphasized that a member cannot be included in the public body's quorum and vote in the matters of the Board unless a State or local emergency has been declared.

ITEMS REFERRED TO AND PRESENTATIONS FROM TOWN MANAGER

Town Manager Garman - Presentation – Moffatt & Nichol - Time Specific 11 am
- Consideration of Update to the Town's Beach Monitoring and Maintenance Plan
- Discussion of Beach Nourishment Triggers

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

"The purpose of the Beach Monitoring and Maintenance Plan (BMMP) is to: (1) Provide a brief overview of the morphological setting of the Town of Nags Head; (2) Detail the construction of the Town of Nags Head's initial and subsequent beach nourishment projects and how those projects were funded; (3) Specify the physical beach monitoring activities; (4) Detail the beach maintenance planning guidelines; and (5) Relate a plan for periodic renourishment funding. The attached document updates the Town of Nags Head's previous Beach Monitoring and Maintenance Plan, dated August 2011.

'A primary point of emphasis with the BMMP update is to maintain eligibility with Federal Emergency Management Agency (FEMA) guidelines and applicability for Public Assistance. This plan documents the eligibility of the Nags Head beaches for post-disaster assistance under the Public Assistance Program administered by FEMA via authority of the Stafford Act (FEMA, 2020). Funding from this program could be available to reimburse costs associated with replacing beach sand removed from a beach by a Federally

declared disaster event.

'The Town of Nags Head's nourished oceanfront qualifies as an improved beach as the initial and subsequent beach nourishment projects were designed by qualified, licensed engineers and permitted by State and Federal regulatory agencies. Additionally, a monitoring plan and maintenance program involving periodic renourishment of sand was established along with the initial project in 2011. This report provides updates to the monitoring protocols as well as the triggers to initiate subsequent nourishment events, in alignment with the Nags Head Multi-Decadal Beach Nourishment Master Plan, adopted by the Town in June 2024. The change in maintenance volumetric triggers will be discussed as part of the presentation.

'This updated BMMP provides the required documentation for the Town to support eligibility of the nourished oceanfront. If adopted, the final step would include plan approval through FEMA.

'Beth Sciaudone, PhD, PE and Ayse Karanci, PhD, PE from the consulting firm of Moffat & Nichol will present an overview of the BMMP and will be available to answer questions from the Board."

Dr. Sciaudone from Moffat & Nichol presented the updates to the Beach Monitoring and Maintenance Plan. Her presentation is attached to and made a part of these minutes as shown in Addendum "G". This is a continuation of the Beach Nourishment Monitoring and Maintenance Plan.

MOTION: Mayor Pro Tem Siers made a motion to adopt the Beach Nourishment Monitoring and Maintenance Plan as updated. The motion was seconded by Comr. Lambert which passed unanimously.

Town Manager Garman - Update on Construction of the Public Services Facility

Town Engineer David Ryan provided an update to the Public Services Facility: Additional buildings have become occupied; the storage site provides much needed space – the vehicle storage building is nearing completion with occupation expected by the end of November.

In response to Mayor Pro Tem Siers, Engineer Ryan said that he anticipates completion of the facility by the end of the calendar year.

Town Manager Garman - Consideration of Acceptance of a North Carolina Land & Water Fund Grant to Place Conservation Easements on Town-Owned Properties (parcels 026404001, 006114000, and 005946000) Surrounding the Fresh Pond and in Nags Head Woods

Town Manager Andy Garman summarized his memo which read in part as follows:

"In the Spring of 2023, Town staff met with The Nature Conservancy (TNC) to discuss the possibility of placing a conservation easement on the property surrounding the Fresh Pond (see attached property map). This is a 285-acre tract of land owned by the Town of Nags Head which primarily serves as watershed protection for the Fresh Pond. It also forms a portion of the Nags Head Woods Nature Preserve. The Town of Nags Head and the Nature Conservancy have a lease agreement for a portion of the property which has been in place since 1985. This assigns management responsibility to the Nature Conservancy. A portion of the TNC trail system runs through this property. The Town also maintains a police shooting range on the property as well as wellfield road, which provides water infrastructure behind several of the Town's westside neighborhoods. These areas are outside of the lease agreement with TNC. The Board is aware that the Town owns several other properties in Nags Head Woods including a 376-acre tract owned jointly with the Nature Conservancy. These properties have been placed in conservation, except for the Town-owned tract surrounding the Fresh Pond and two other

properties, which are also shown on the attached map.

'For many years, the Town and the Nature Conservancy have worked jointly to preserve Nags Head Woods by acquiring properties either separately and/or jointly and placing them under the management control of TNC (see attached map). During our meeting last Spring, TNC staff explained that the Town could apply for funding from the North Carolina Land and Water Fund to purchase the development rights for the Town-owned properties not previously placed in conservation. This was discussed with the Nags Head Board in June of 2023 at which time the Board expressed an interest in exploring this process.

'Over the last year, staff has continued this process, developing mapping, obtaining an appraisal, and working with TNC and Land & Water Fund staff to prepare information for the application. In April of 2024, the Board of Commissioners adopted a resolution supporting conservation easements being placed on three parcels which would protect the Nags Head Woods Natural Area. Based on an appraised value of \$9 million, the original grant request was for \$4,621,984, which included a 50% match with the Town of Nags Head, for the development rights on the properties as well as transaction costs such as appraisal, survey, legal, etc. In October, the NCLWF awarded the Town a grant for \$4,000,000 which covered the transaction costs and the development rights on these three parcels. The NCLWF Board capped all acquisition grants at \$4,000,000. Therefore, we were awarded the highest grant amount possible for the current cycle. It should be noted that the Town will retain the rights to a portion of the property surrounding the Fresh Pond, to include the shooting range, the Fresh Pond and immediate bordering lands, and wellfield road. This area is depicted on the attached map showing the properties that were included as part of the grant application.

'Next Steps:

A second appraisal will need to be done; this is for all grants over \$500,000, to confirm the fair market value of the development rights. The estimated protection acreage is approximately 260.5, broken out as: Conservation easement parcel 026404001-248.5 acres, parcel 006114000 (closer to Jockey's Ridge)-7.7 acres, parcel 005946000 (further from Jockey's Ridge)-4.3 acres. This will be confirmed once a survey is completed. The NCLWF is also requiring a boundary survey for the parcel that is currently under conservation (NCLWF grant 2000B-006). When they conducted monitoring of this parcel during their site visit, they noted the markings were not clear. The NCLWF will reimburse the Town for professional fees after they are incurred, and any necessary budget amendments will be brought forward at that time. The final grant award above transaction costs will be made once the easements are recorded. The remaining funds can be used at the Board's discretion.

'The tracts will be managed and monitored by the Nature Conservancy as part of Nags Head Woods Ecological Preserve. Reserved management rights include prescribed burning, maintenance of hiking trails, and transmission line right of way as well as removal of invasive species with herbicides and pesticides when necessary. The reserved rights fall within the standard terms of the NCLWF Conservation Easements. The site will continue to provide community passive recreation and urban archery through the Nags Head Woods Deer Management Program. The three easements will be held by the State and will be recorded on each of the three properties.

'The request is to authorize the Town Manager to execute the contract with NCLWF for the conservation easements on parcels 026404001, 006114000, and 005946000. This would also allow staff to work with the Town attorney on the easements to be recorded, which will be presented to the Board for final approval. The contract should be available by the beginning of 2025, and the timeline is generally 2-3 years to record the easement."

MOTION: Mayor Pro Tem Siers made a motion to accept the NC Land & Water Fund Grant for conservation easements on the Town-owned properties surrounding the Fresh Pond and in Nags Head Woods (parcels 026404001, 006114000, and 005946000). The motion was seconded by Comr. Lambert which passed unanimously.

Town Manager Garman - US 158 lot with no Town waterline connection

Town Manager Garman summarized the issue as follows: the lot directly west of Nags Head Pizza Company on the bypass was recently purchased by Ethan White and Victoria Passmore for the purpose of building a single-family dwelling. The lot is not served by Town water. By ordinance they are required to connect Town water to the property in order to receive a building permit. Staff is currently working to get them information on how to go through that process.

Town Manager Garman presented a proposed modification to Town Code Sec 44-108 modifying the waterline requirement from 500' to 250', a proposed agreement between the Town and the property owners for construction of the waterline extension, and an associated budget amendment. He noted that the agreement presented today is similar to the Gallery Row waterline agreement the Board approved last year.

MOTION: Mayor Pro Tem Siers made a motion to adopt the ordinance amendment to Town Code Sec 44-108 modifying the waterline requirement from 500' to 250' as presented. The motion was seconded by Comr. Sanders which passed unanimously.

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

MOTION: Mayor Pro Tem Siers made a motion to approve the waterline extension agreement with the property owners (Ethan White and Victoria Passmore) as presented. The motion was seconded by Comr. Sanders which passed unanimously.

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

MOTION: Comr. Sanders made a motion to approve the Budget Amendment in the amount of \$48,309 as presented. The motion was seconded by Mayor Pro Tem Siers which passed unanimously.

The Budget Amendment, as approved, is on file in the Town Clerk's Office.

BOARD OF COMMISSIONERS AGENDA

Board members had nothing new to report.

MAYOR'S AGENDA

Mayor Cahoon - Discussion of Appointment Process to Fill Vacant Board of Commissioners Seat

Mayor Cahoon discussed with Board members the process to fill the position left vacant by former Comr. Kevin Brinkley. The draft application was reviewed by Board members. Anyone interested in serving until the November 2025 election was asked to submit an application – due by Friday, December 20th at 12 noon.

MOTION: Mayor Pro Tem Siers made a motion to approve the Board of Commissioners application as presented and to move forward with the appointment process. The motion was seconded by Comr. Sanders which passed unanimously.

ADJOURNMENT

MOTION: Mayor Cahoon made a motion to adjourn. The motion was seconded by Mayor Pro Tem Siers which passed unanimously. The time was 11:36 a.m.

Carolyn F. Morris, Town Clerk

Date Approved: **December 4, 2024**

Mayor: _____
Benjamin Cahoon