

**TOWN OF NAGS HEAD
BOARD OF COMMISSIONERS
ADJOURNED/RECESSED SESSION**

**CLOSED SESSION - #4
November 3, 2010**

COMRS PRESENT: Mayor Bob Oakes; Mayor Pro Tem Wayne Gray; Comr. Doug Remaley;
And Comr. Anna Sadler

COMRS ABSENT: Comr. Renée Cahoon (unexcused)

OTHERS PRESENT: Town Manager Cliff Ogburn; Town Attorney John Leidy; and Town Clerk Carolyn Morris

Personnel – Employee Honorarium

Mayor Pro Tem Gray brought forward the item concerning the 2010 Employee of the Year Award.

MOTION: Comr. Sadler made a motion to nominate Tax Collector Becky Huff as the recipient of the Earl Murray, Jr. Employee of the Year Award for 2010. The motion was seconded by Comr. Remaley which passed unanimously.

EXIT CLOSED SESSION

MOTION: Comr. Sadler made a motion, seconded by Mayor Oakes, to exit Closed Session. The motion passed unanimously.



Carolyn F. Morris, Town Clerk

Date Approved: February 2, 2011

Date Opened: February 2, 2011

Mayor: 

Robert O. Oakes, Jr.

**TOWN OF NAGS HEAD
BOARD OF COMMISSIONERS
ADJOURNED/RECESSED SESSION**

**CLOSED SESSION - #3
November 3, 2010**

COMRS PRESENT: Mayor Bob Oakes; Mayor Pro Tem Wayne Gray; Comr. Doug Remaley;
And Comr. Anna Sadler


COMRS ABSENT: Comr. Renée Cahoon (unexcused)

OTHERS PRESENT: Town Manager Cliff Ogburn; Town Attorney John Leidy; and Town Clerk Carolyn Morris

Litigation – Nuisance Structures – Moore/Neal

Attorney John Leidy reported that the Moore/Neal litigation is close to being resolved with a settlement; the Town will waive all property penalties if Moore/Neal remove all the houses. Each party is to pay its own costs to include attorney fees.


MOTION: Comr. Sadler made a motion to include the Town's out-of-pocket expenses (legal fees) in the amount to be paid by the plaintiffs Moore/Neal.



Carolyn F. Morris, Town Clerk

Date Approved: February 2, 2011

Date Opened: 2/3/11

Mayor: 

Robert O. Oakes, Jr.

**TOWN OF NAGS HEAD
BOARD OF COMMISSIONERS
ADJOURNED/RECESSED SESSION**

**CLOSED SESSION - #2
November 3, 2010**

COMRS PRESENT: Mayor Bob Oakes; Mayor Pro Tem Wayne Gray; Comr. Doug Remaley;
And Comr. Anna Sadler

COMRS ABSENT: Comr. Renée Cahoon (unexcused)

OTHERS PRESENT: Town Manager Cliff Ogburn; Town Attorney John Leidy; and Town Clerk Carolyn Morris

Litigation – Nuisance Structures – Matthews/Ruiz


Attorney John Leidy reported that the Matthews/Ruiz enforcement litigation case is close to being resolved.



Carolyn F. Morris, Town Clerk

Date Approved: February 2, 2011

Date Opened: 2/3/11

Mayor: 

Robert O. Oakes, Jr.

**TOWN OF NAGS HEAD
BOARD OF COMMISSIONERS
ADJOURNED/RECESSED SESSION**

**CLOSED SESSION - #1
November 3, 2010**

COMRS PRESENT: Mayor Bob Oakes; Mayor Pro Tem Wayne Gray; Comr. Doug Remaley;
and Comr. Anna Sadler


COMRS ABSENT: Comr. Renée Cahoon (unexcused)

OTHERS PRESENT: Town Manager Cliff Ogburn; Town Attorney John Leidy; and Town Clerk Carolyn Morris

Litigation – Nuisance Structures – Roc Sansotta

Attorney John Leidy summarized the status of the Roc Sansotta litigation; an all-day deposition was held recently. A proposed settlement has been discussed with Mr. Sansotta's attorney which includes the removal of all of his houses and signing a release. In addition, a payout amount from the Town was also requested by his attorney.

Mr. Leidy stated that the Sansotta attorneys have subsequently amended their complaint re: effect of the Town's nuisance ordinance, which Mr. Leidy said that he was expecting. He will keep the Board informed of the status of this litigation.



Carolyn F. Morris, Town Clerk

Date Approved: February 2, 2011

Date Opened: 2/3/11

Mayor: 

Robert O. Oakes, Jr.

**TOWN OF NAGS HEAD
BOARD OF COMMISSIONERS
ADJOURNED/RECESSED SESSION**

**CLOSED SESSION - #4
October 20, 2010**

COMRS PRESENT: Mayor Bob Oakes; Mayor Pro Tem Wayne Gray; Comr. Doug Remaley;
Comr. Anna Sadler; and Comr. Renée Cahoon

COMRS.ABSENT: None

OTHERS PRESENT: Town Manager Cliff Ogburn; Town Attorney John Leidy; and Town Clerk Carolyn Morris

Seagull – Matthews/Ruiz house

Attorney John Leidy reported that the Mathews/Ruiz house on Seagull Drive was purchased from Roc Sansotta. It has since foreclosed and been bought by Fannie Mae. Attorney Leidy indicated that a settlement agreement is expected from Fannie Mae.


MOTION: Comr. Remaley made a motion to authorize Attorney Leidy to waive penalties and to authorize the necessary cost to remove the Matthews/Fannie Mae cottage. The motion was seconded by Mayor Oakes which passed unanimously.



Carolyn F. Morris, Town Clerk

Date Approved: February 2, 2011

Date Opened: 2/3/16

Mayor: 

Robert O. Oakes, Jr.

**TOWN OF NAGS HEAD
BOARD OF COMMISSIONERS
ADJOURNED/RECESSED SESSION**

**CLOSED SESSION - #3
October 20, 2010**

COMRS PRESENT: Mayor Bob Oakes; Mayor Pro Tem Wayne Gray; Comr. Doug Remaley;
Comr. Anna Sadler; and Comr. Renée Cahoon

COMRS ABSENT: None

OTHERS PRESENT: Town Manager Cliff Ogburn; Town Attorney John Leidy; and Town Clerk Carolyn Morris

Conflict of Interest Waiver – insurance rates

Town Attorney Leidy has received a request for a conflict of interest waiver from the Williams Mullen law firm (**attached**). A member of the law firm represents Dare County in the Commissioner of Insurance rate issue with hurricane coverage; a member of the law firm also represents Britthaven of the Outer Banks. The concern by the Williams Mullen law firm is that there may be a conflict of interest between Britthaven and Dare County/Town of Nags Head. Board members did not consider that there was any conflict of interest present.

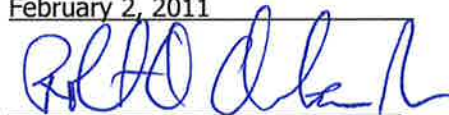
MOTION: Comr. Remaley made a motion to authorize Attorney Leidy to sign the updated Conflict of Interest waiver from Williams Mullen. The motion was seconded by Comr. Cahoon which passed unanimously.


Carolyn F. Morris, Town Clerk

Date Approved: February 2, 2011

Date Opened: February 2, 2011

Mayor:


Robert O. Oakes, Jr.



WILLIAMS MULLEN

Direct Dial: 919.981.4024
kkapp@williamsmullen.com

15 October 2010

Email & Regular Mail

John D. Leidy, Esq.
Hornthal, Riley, Ellis & Maland, LLP
Town Attorney for Nags Head
P.O. Box 220
Elizabeth City, NC 27907-0220

Re: Request for Conflict Waiver – Britthaven-Dare County/Town of Nags Head

Dear John:

As you know, our firm represents Dare County in connection with a determination by the Commissioner of Insurance as to the insurance rates for residential and commercial hurricane coverage. We are writing because another lawyer in our firm has been asked Britthaven, Inc. to advise it as to the status of and Britthaven's rights in the Britthaven of the Outer Banks nursing facility in Nags Head, under the North Carolina licensure and certificate of need statutes. It is our understanding that Dare County and the Town of Nags Head have an interest in the real property where Britthaven of the Outer Banks is located under the terms of the bond financing that was the source of funding for construction. Therefore, there could be a conflict of interest between Britthaven and Dare County/Town of Nags Head.

The insurance matter in which we represent Dare County and the Britthaven matter are unrelated, and we do not believe that representing both clients in the respective matters would have any effect on our ability to competently and diligently represent each. Therefore, Rule 1.7 of the North Carolina Rules of Professional conduct allows us to accept the engagement by Britthaven and also continue to represent Dare County in the insurance matter with the consent of both clients. Britthaven has already consented to our ongoing representation of Dare County in the insurance matter. Would you please confirm the consent of Dare County (and the Town of Nags Head, if applicable) for our firm to advise Britthaven in the matter related to Britthaven of the Outer Banks?

A Professional Corporation

NORTH CAROLINA • VIRGINIA • WASHINGTON, D.C. • LONDON

RBC Plaza 301 Fayetteville St. (27601) P.O. Box 1000 Raleigh, NC 27602-1000 Tel: 919.981.4000 Fax: 919.981.4300

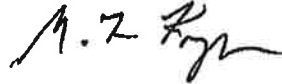
www.williamsmullen.com

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John D. Leidy, Esq.
15 October 2010
Page 2

Please indicate your consent by signing below and returning a copy of this letter. Please do not hesitate to call if you have questions or would like to discuss.

Sincerely yours,

A handwritten signature in black ink, appearing to read "M. Keith Kapp". The signature is written in a cursive style with a large, stylized initial "M".

M. Keith Kapp

CONFLICT DISCLOSED ABOVE AND
HEREBY WAIVED.

BY: _____
John D. Leidy
Attorney for Town of Nags Head

**TOWN OF NAGS HEAD
BOARD OF COMMISSIONERS
ADJOURNED/RECESSED SESSION**

**CLOSED SESSION - #1
October 20, 2010**

COMRS PRESENT: Mayor Bob Oakes; Mayor Pro Tem Wayne Gray; Comr. Doug Remaley;
Comr. Anna Sadler; and Comr. Renée Cahoon

COMRS ABSENT: None

OTHERS PRESENT: Town Manager Cliff Ogburn; Town Attorney John Leidy; NCLM Steven Lee; NCLM David Roberts; and Town Clerk Carolyn Morris

Litigation – Roc Sansotta

Attorney John Leidy briefed the Board on the latest information concerning the Roc Sansotta litigation. He explained that on behalf of the Town he has filed to dismiss half of the claims against the Town – a response is not expected for three – four months. Tomorrow (October 21, 2010) he will be taking the deposition from Roc Sansotta; on November 1, 2010 he will disclose the Town's expert witnesses.

The attorney for Mr. Sansotta has made a settlement proposal (**attached**) with a variety of claims some of which NCLM will handle and some of which they won't. The settlement proposal requests \$1.8 million. In response to Comr. Sadler, Attorney Leidy stated that the earliest he could anticipate a trial date would be Spring 2012.

Town Manager Ogburn expressed the concern of all, to include Coastal Science & Engineering Tim Kana, that Mr. Sansotta's houses on Seagull Drive are in the ocean water and will cause some adverse effects on the proposed beach nourishment project if it succeeds. Attorney Leidy explained that the current case could set a precedent for the Town's authority to enforce the nuisance ordinance, and that such a decision could affect other cases for the Town.

MOTION: Comr. Cahoon made a motion to authorize Town Attorney Leidy to offer no more than to remove Roc Sansotta's Seagull Drive cottages, at the Town's expense, in exchange for litigation release, and the Town would waive all fees/penalties. The motion was seconded by Comr. Sadler which passed unanimously.

NCLM members Steven Lee and David Roberts left the Closed Session.



Carolyn F. Morris, Town Clerk

Date Approved: February 2, 2011 _____

Date Opened: ^{2/3/11} _____

Mayor: 

Robert O. Oakes, Jr.

K&L|GATES

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William J. Brian Jr.
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bill.brian@klgates.com

October 6, 2010

RULE 408 SETTLEMENT COMMUNICATIONS

Via Electronic Mail – lpornthal@hrem.com
And Regular U.S. First Class Mail

L.P. Hornthal, Jr., Esq.
Hornthal, Riley, Ellis & Maland, L.L.P.
P.O. Box 220
Elizabeth City, NC 27907-0220

Re: *Roc F. Sansotta, et al. vs. Town of Nags Head, et al.*,
U.S. District Court, Eastern District of North Carolina, Northern Division
Civil Action No. 2:10-CV-00029 D

Dear Tony:

The purpose of this letter is to follow-up on the conversation we had regarding this case during the Rule 26(f) conference several weeks ago. Since the parties now have had an exchange of ideas through the motion to dismiss briefs, and before they plunge into protracted discovery, we thought it prudent for both sides to take a moment to consider this matter.

As we see it, the Town's position in this case depends at a minimum upon its ability to prove that the properties owned by the Plaintiffs are located in "public trust areas." The Town's entire case proceeds from this premise. Its only source of authority for any of the actions it has taken is its nuisance ordinance, and the only possible factual basis for the Town to have declared these properties a nuisance is that they are in "public trust areas." The properties were not very badly damaged during the nor'easter in November of 2009, and have proven remarkably resilient to weather since then. Our contractors estimate that it would take little effort to repair them completely. Therefore, the public trust issue is central to the Town's position in this case.

The plaintiffs' position, by contrast, is not dependent upon the public trust issue. Success on that issue would be sufficient for the plaintiffs to be successful on all of their claims, but it is not necessary. To be sure, if the plaintiffs prevail on that point, everything

L.P. Hornthal, Jr., Esq.
October 6, 2010
Page 2

the Town has done in this matter is wrong. The deprivation of procedural due process will become a central claim because it will have had a direct, substantive impact upon the plaintiffs' rights. Deprivation of procedural due process will have been outcome determinative, since even a rudimentary factual inquiry and hearing on the matter would have established the lack of basis for the Town's actions and therefore presumably would have forestalled those actions.

If the plaintiffs do not prevail on the public trust point, they still have numerous arguments, all of which are sufficient in and of themselves, to achieve their goals in this litigation. Not so for the Town. It must prevail on the public trust argument, or be lost.

The problem for the Town is that the properties are not in public trust areas, and the Town knows it. As recently as two weeks ago, the Town's Mayor stated in a public meeting that the properties are not in public trust areas. Our expert analysis confirms this point. Faced with this inconvenient geographic truth, the Town has concocted the argument made most recently in the memorandum you filed with the Court on September 27, i.e., that because the houses are on the dry sand beach which is subject to certain public access rights, the Town has the authority to summarily declare them to be nuisances and tear them down (all without notice, hearing or just compensation). Although it is possible that a Federal District Court will take it upon itself to be the first to interpret the vague and as-yet untested state-law concept of public access on the dry sand beach to include the right of a municipality to interrupt and demolish an otherwise legal business operating on private property - all without notice, hearing or even the finding of facts - it is not likely. The fact that the Town's own ordinance is not in accord with this argument just exacerbates the Town's dilemma. This point is reflected in the minutes of the Town's Planning Board meeting on May 20, 2010, as well as by a variety of other Town actions and comments by Town officials. Nevertheless, we appreciate the Town's audacity and its recognition of the logical conclusions of its own arguments. Rather than arguing for half-measures, the Town truly has gone all the way with its position. The breadth of the coercive state power being asserted here by the Town would make Mussolini blush.

That an otherwise responsible North Carolina Municipal Corporation has been driven to such an extreme position, reflects the absurdity of this situation. The Town wants the houses on these properties to be demolished. Moreover, it wants them demolished before any beach renourishment project is undertaken which would render the matter moot. Why the Town is so driven to destroy these properties, and to deny them the benefits of a renourishment project, will no doubt be explained through the discovery process. Presumably, it wants them gone because it believes them to be ugly, because Mr. Sansotta and his clients have been a regulatory thorn in its side, and possibly also because these

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L.P. Hornthal, Jr., Esq.
October 6, 2010
Page 3

properties compete for rental customers with similar houses owned by the Mayor and his company, Village Realty. No doubt the Town is developing other theoretical justifications, but we know of no evidence that any more tenable basis for the Town's hostility toward the plaintiffs existed in November of 2009. The Town could have rid itself of these houses some time ago through the simple and well-recognized expedient of eminent domain, but chose not to do so. We suspect that is because it fears the fair market values of these rental properties, which no doubt will be in the millions of dollars, and also because it fears the precedent that would be set by such an approach. If the Town pays fair market value to Mr. Sansotta and the other plaintiffs for these cottages, it will have to do so for every property it wants to demolish, and that could cost significant sums of money.

Unfortunately for the Town, it is likely that the Court either will order the Town to pay Mr. Sansotta and the other owners the fair market value of the properties, or it will order the Town to allow the plaintiffs to repair their properties and recommence their businesses, in addition to ordering the Town to pay compensation for the lost income and other damages caused by its behavior in the year it prohibited the cottages from being repaired and rented. The first option must be unappealing for the Town, because it ends up in a position worse than the one it would have been in had it just taken the properties by condemnation, and the precedent set would be terrible. The reputations and political aspirations of the members of the Town Council would likely not survive such an outcome, even if they avoid being made defendants themselves. But the second option - that the houses are repaired and everything returns to business as usual - would be worse for everyone concerned, because it would tempt the Town to engage in additional activities of questionable legality that, eventually, will end-up with someone going to jail. It simply is bad policy for a government to focus its attentions on trying to destroy the businesses of its citizens. Surely the Town's employees have something better to do than to continually inspect, evaluate and otherwise harass Mr. Sansotta and the other plaintiffs.

Of course, God may resolve the issue with a major storm, but the Town cannot really be hoping for a storm of the intensity that would be necessary to destroy these houses to hit the area. The damage that would be done to the rest of the community would be horrible. However, unless this happens, our understanding is that no insurance company will come to rescue the parties from their current dilemma.

As it happens, Mr. Sansotta and the other plaintiffs also have better things to do than to be locked in perpetual combat with the Town over these properties. It is exhausting and causes unhealthy paranoia, which makes it difficult and unpleasant for them to live and do business in the Town. It makes them wonder if the recent burglaries at Mr. Sansotta's home and offices - in which little was stolen but his IRS files were rifled through- might have had

L.P. Hornthal, Jr., Esq.
October 6, 2010
Page 4

something to do with this case. The Town's pattern of persecution has caused visions of Watergate to dance in the plaintiffs' heads. In short, this is not the way the plaintiffs want to live.

We believe the most likely outcome of this case will be that the Court will order the Town to pay the plaintiffs' damages for their troubles, lost income, legal fees and other costs, and then will order the Town to cease interference in the plaintiffs' rental, operation and protection of these properties. In other words, we believe the Court is likely to reinstate the status quo. For the reasons stated above, we think this would be an undesirable outcome for both sides. Therefore, it seems to us that this case cries out to be settled and the purpose of this letter is to propose a settlement.

The plaintiffs will settle this case by transferring title to the properties in question to the Town for a payment of \$1.8 million. This amount will cover the most recently assessed tax value of the properties, along with the costs incurred by the plaintiffs in connection with this case. The parties will execute all the necessary releases, dismiss their claims against one another, and otherwise agree to have nothing more to do with one another in relation to these properties. From the plaintiffs' perspective, it does not matter where the money to fund this settlement comes from. The Town may be able to get some assistance from the State in this regard, since it also is drifting in a fight over sandbags with the plaintiffs and hundreds of other littoral property owners, from which it no doubt hopes to be rescued by the General Assembly, and which it might be willing to pay some money to avoid, at least in this case.

The merit of this approach is that the Town avoids paying market value for income producing properties and stops tempting fate by continuing its campaign of trying to "get" the plaintiffs' properties. On the other hand, the plaintiffs receive reasonable compensation and make peace with the Town.

This offer will be open until 5:00 p.m. on October 15th. If we have not heard from you by that date and time, we will assume that the Town has rejected this offer and will proceed with discovery. In this regard, and for the sake of efficiency, the Plaintiffs' First Requests for Admission and First Set of Requests for Production of Documents to the Town are enclosed for service upon you.

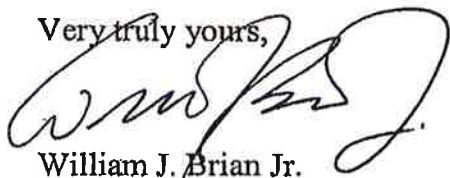
We hope that you and the Town will view this case in a reasonable and realistic way. Simply put, there is no good reason for the parties to continue down a road toward an outcome that will be unsatisfactory to both sides.

&L|GATES

L.P. Hornthal, Jr., Esq.
October 6, 2010
Page 5

If you have any questions, we trust that you will contact us. Otherwise, we hope to hear from you by October 15th. If we do not, we will proceed accordingly.

Very truly yours,

A handwritten signature in black ink, appearing to read "William J. Brian Jr.", written over a horizontal line.

William J. Brian Jr.

WJB:pjn

Enclosures

cc: John Leidy, Esq.

**TOWN OF NAGS HEAD
BOARD OF COMMISSIONERS
REGULAR SESSION**

**CLOSED SESSION - #4
September 1, 2010**

COMRS PRESENT: Mayor Bob Oakes; Mayor Pro Tem Wayne Gray; Comr. Doug Remaley;
and Comr. Renée Cahoon

COMRS ABSENT: Comr. Anna Sadler

OTHERS PRESENT: Town Manager Cliff Ogburn; Town Attorney John Leidy; Attorney Ben Gallop;
and Town Clerk Carolyn Morris

Gatelin nuisance structure

Mr. Gallop explained that a proposed settlement by which the owners would tear down the structure did not have to be approved by the Board, as the Manager has the authority to approve same.

Exit Closed Session

MOTION: Comr. Cahoon made a motion to exit Closed Session. The motion was seconded by Comr. Remaley which passed 4 – 0 (Comr. Sadler was not present.).


Carolyn F. Morris, Town Clerk

Date Approved: February 2, 2011

Date Opened: 2/3/10

Mayor: 
Robert O. Oakes, Jr.

**TOWN OF NAGS HEAD
BOARD OF COMMISSIONERS
REGULAR SESSION**

**CLOSED SESSION - #3
September 1, 2010**


COMRS PRESENT: Mayor Bob Oakes; Mayor Pro Tem Wayne Gray; Comr. Doug Remaley;
and Comr. Renée Cahoon

COMRS ABSENT: Comr. Anna Sadler

OTHERS PRESENT: Town Manager Cliff Ogburn; Town Attorney John Leidy; Attorney Ben Gallop;
and Town Clerk Carolyn Morris

George Moore litigation

Attorney Gallop reported on the deadline for George Moore's attorneys to respond; the Town's Hornthal attorneys have filed a counter claim for inverse condemnation.


Carolyn F. Morris, Town Clerk

Date Approved: February 2, 2011

Date Opened: 2/3/11

Mayor: 
Robert O. Oakes, Jr.

**TOWN OF NAGS HEAD
BOARD OF COMMISSIONERS
REGULAR SESSION**

**CLOSED SESSION - #2
September 1, 2010**


COMRS PRESENT: Mayor Bob Oakes; Mayor Pro Tem Wayne Gray; Comr. Doug Remaley;
and Comr. Renée Cahoon

COMRS ABSENT: Comr. Anna Sadler

OTHERS PRESENT: Town Manager Cliff Ogburn; Town Attorney John Leidy; Attorney Ben Gallop;
and Town Clerk Carolyn Morris

Tison litigation

Attorney Ben Gallop summarized the Tison litigation status; he stated that they have not been responsive to his correspondence, and he has postponed taking any further action at this time.


Carolyn F. Morris, Town Clerk

Date Approved: February 2, 2011

Date Opened: 2/3/10

Mayor: 
Robert O. Oakes, Jr.

**TOWN OF NAGS HEAD
BOARD OF COMMISSIONERS
REGULAR SESSION**

**CLOSED SESSION - #3
August 4, 2010**

COMRS PRESENT: Mayor Bob Oakes; Mayor Pro Tem Wayne Gray; Comr. Doug Remaley;
Comr. Anna Sadler; and Comr. Renée Cahoon

COMRS ABSENT: None

OTHERS PRESENT: Town Manager Cliff Ogburn; Town Attorney John Leidy;
and Town Clerk Carolyn Morris

Closed Session Minutes

MOTION: Comr. Cahoon made a motion, seconded by Comr. Remaley, to approve the January 2010 through June 2010 Closed Session minutes as presented. The motion passed unanimously.

MOTION: Comr. Cahoon made a motion, seconded by Comr. Remaley, to approve the disposition (**attached**) of the January 2010 through June 2010 Closed Session minutes with the modification that the minutes of the March 3, 2010 (#1) Mustian property discussion be opened. The motion passed unanimously.

Exit Closed Session

MOTION: Comr. Remaley made a motion, seconded by Comr. Cahoon, to exit Closed Session. The motion passed unanimously.


Carolyn F. Morris, Town Clerk

Date Approved: February 2, 2011

Date Opened: February 2, 2011

Mayor: 
Robert O. Oakes, Jr.

**TOWN OF NAGS HEAD
BOARD OF COMMISSIONERS
REGULAR SESSION**

**CLOSED SESSION - #3
August 4, 2010**

(Attachment)

January 6, 2010 - #1	Prevent disclosure	Closed Session Minutes	Open
January 6, 2010 - #2	Personnel	Town Manager's Review	Close
January 20, 2010 - #1	Litigation	Kirkpatrick vs TNH	Close
January 20, 2010 - #2	Attorney/Client	Nuisance structures policy	Close
January 20, 2010 - #3	Possible litigation	George Moore nuisance structures	Close
February 3, 2010	Prevent disclosure	Closed Session Minutes	Open
March 3, 2010 - #1	Possible property acquisition	Mustian property	Open
March 3, 2010 - #2	Prevent disclosure	Closed Session Minutes	Open
March 3, 2010 - #3	Possible litigation	George Moore nuisance structures	Close
March 3, 2010 - #4	Litigation	Roc Sansotta vs TNH	Close
April 7, 2010	Prevent disclosure	Closed Session minutes	Open
May 5, 2010 - #1	Personnel	Personnel changes - upcoming budget	Close
May 5, 2010 - #2	Prevent disclosure	Closed Session minutes	Open
May 5, 2010 - #3	Possible property acquisition	NH Acres property - storm drainage	Close
May 10, 2010	Personnel	Personnel changes - upcoming budget	Close
June 2, 2010 - #1	Litigation	Roc Sansotta vs TNH	Close
June 2, 2010 - #2	Litigation	TNH vs Gail Jones	Open
June 2, 2010 - #3	Possible litigation	Nuisance structures - Mrs. Gatelin	Close
June 2, 2010 - #4	Attorney/Client	Nuisance code/septic systems	Open
June 2, 2010 - #5	Possible litigation	Moore/Neal nuisance structures	Close

**TOWN OF NAGS HEAD
BOARD OF COMMISSIONERS
REGULAR SESSION**

**CLOSED SESSION - #2
August 4, 2010**

COMRS PRESENT: Mayor Bob Oakes; Mayor Pro Tem Wayne Gray; Comr. Doug Remaley;
Comr. Anna Sadler; and Comr. Renée Cahoon

COMRS ABSENT: None

OTHERS PRESENT: Town Manager Cliff Ogburn; Town Attorney John Leidy;
and Town Clerk Carolyn Morris

Roc Sansotta Nuisance Structure Litigation

Attorney John Leidy provided an update on the Roc Sansotta nuisance structure litigation. He stated that they have amended their complaint against the Town – one of the most significant amendments they made is challenging the Town's authority to "declare" the Seagull St structures a nuisance just because they are located in a public trust area – which is State owned – Attorney Leidy reminded Board members of the communications the Town has had with the State with the State indicating that the Town has the authority to take appropriate action. In addition, they have challenged that the Town has no right to "condemn" the Seagull St structures just because the structures are located in a public trust area.

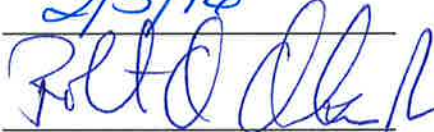
The response from the Town will move forward by August 19, 2010 in federal court; Attorney Leidy explained that the discovery process cannot begin until the pleading stage is complete. Attorney Leidy explained that his firm will try to have some of their claims dismissed – there are currently about 12 claims.

In response to Mayor Oakes who mentioned his concern about the proposed Beach Nourishment Project to possibly begin in April 2011, Attorney Leidy stated that the Sansotta structures on Seagull St will not be able to be included in the project as the structures are in the ocean 24 hours per day.


Carolyn F. Morris, Town Clerk

Date Approved: February 2, 2011

Date Opened: 2/3/16

Mayor: 
Robert O. Oakes, Jr.

**TOWN OF NAGS HEAD
BOARD OF COMMISSIONERS
REGULAR SESSION**

**CLOSED SESSION - #2
July 7, 2010**

COMRS PRESENT: Mayor Bob Oakes; Mayor Pro Tem Wayne Gray; Comr. Doug Remaley;
Comr. Anna Sadler; and Comr. Renée Cahoon

COMRS ABSENT: None

OTHERS PRESENT: Town Manager Cliff Ogburn; Town Attorney John Leidy; Attorney Ben Gallop;
and Town Clerk Carolyn Morris

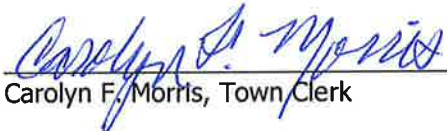
Nuisance Structures - Roc Sansotta Litigation

Town Attorney John Leidy reported that the Roc Sansotta lawsuit is now pending in the US Federal Court - moved from the NC State Court system, as directed previously by the Board. Attorney Leidy also reported that Planning Director Tim Wilson requested and received separate council, via NCLM. Mr. Wilson is now being represented by Attorney Ron Baker, whom Attorney Leidy spoke highly of and with whom they have a unified approach. Response to the case is due by July 22, 2010. There has been no further discussion with Mr. Sansotta's attorneys.

Attorney Leidy explained that a mediator will be obtained which is required in this case. It was noted that Mr. Sansotta has applied for septic permits from the Dare County Health Dept. for all of his oceanfront houses.

Exit Closed Session

MOTION: Comr. Sadler made a motion to exit Closed Session. The motion was seconded by Comr. Cahoon which passed unanimously.


Carolyn F. Morris, Town Clerk

Date Approved: February 2, 2011

Date Opened: 2/3/10

Mayor: 
Robert O. Oakes, Jr.

**TOWN OF NAGS HEAD
BOARD OF COMMISSIONERS
REGULAR SESSION**

**CLOSED SESSION - #1
July 7, 2010**

COMRS PRESENT: Mayor Bob Oakes; Mayor Pro Tem Wayne Gray; Comr. Doug Remaley;
Comr. Anna Sadler; and Comr. Renée Cahoon

COMRS ABSENT: None

OTHERS PRESENT: Town Manager Cliff Ogburn; Town Attorney John Leidy; Attorney Ben Gallop;
and Town Clerk Carolyn Morris

Nuisance Structures - Gail M. Jones litigation

Attorney Ben Gallop spoke of a settlement agreement between the Town of Nags Head and Gail M. Jones concerning her house located at 121 E Seagull Drive. The agreement, already signed by Ms. Jones, indicates that if Ms. Jones removes her house, then the Town will dismiss the lawsuit. If she does not, then the Town automatically wins the lawsuit which will include payment of civil penalties. The agreement indicates that the house is to be removed by August 5, 2010.

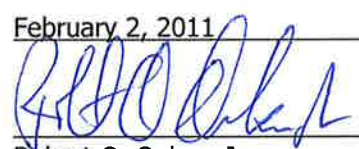
It was Board consensus to concur with the agreement as presented by Attorney Gallop; Town Manager Ogburn is to sign to agreement on behalf of the Town after a motion is made and passed during Open Session.



Carolyn F. Morris, Town Clerk

Date Approved: February 2, 2011

Date Opened: February 2, 2011

Mayor: 

Robert O. Oakes, Jr.

**TOWN OF NAGS HEAD
BOARD OF COMMISSIONERS
REGULAR SESSION**

**CLOSED SESSION - #4
June 2, 2010**

COMRS PRESENT: Mayor Bob Oakes; Mayor Pro Tem Wayne Gray; Comr. Doug Remaley;
Comr. Anna Sadler; and Comr. Renée Cahoon

COMRS ABSENT: None

OTHERS PRESENT: Town Manager Cliff Ogburn; Town Attorney John Leidy; Attorney Ben Gallop;
and Town Clerk Carolyn Morris

Nuisance code in both Nuisance and Zoning sections of Town Code

Attorney Ben Gallop explained that at the May 2010 Board of Commissioners meeting he proposed putting nuisance code in both the nuisance and zoning sections of the Town Code.

Town Attorney John Leidy is to provide information from the meeting to Mr. Gallop and Town Manager Ogburn is to provide the email he received from Health Director Anne Thomas (**attached**) to all Board members.


Carolyn F. Morris, Town Clerk

Date Approved: August 4, 2010

Date Opened: August 4, 2010

Mayor: 
Robert O. Oakes, Jr.

-----Original Message-----

From: Anne Thomas [mailto:annet@darenc.com]

Sent: Wednesday, April 28, 2010 10:05 AM

To: Internet Oakes

Cc: Jack Flythe; ted.lyon@ncdenr.gov; Pierce, Terry; bob.uebler@ncdenr.gov; Cliff Ogburn

Subject: RE: Septic tank permitting on the beach

Bob-

Ted Lyons and Bob Uebler, State EH staff, have been in touch and have discussed the properties in question.

Until State rules change, Health Department Environmental Health Specialists, who work as agents of the state, must follow State regulations for permitting which has been done with the systems you are concerned about.

At this point the only 2 options that I see available to you are:

1. To petition the State to change the rules re: on-site wastewater permitting. This process does take some time so will not provide an immediate solution. Or
2. For the Town of Nags Head to adopt zoning rules to remedy the situation.

Let me know if I can be of further assistance.

Thank you,

Anne

Anne Thomas

Public Health Director

Dare County Department of Public Health

P.O. Box 1000

Manteo, NC 27954-1000

Ph: (252) 475-5076

Fax: (252) 473-5763

Email: annet@co.dare.nc.us

From: Anne Thomas

Sent: Wednesday, April 21, 2010 9:13 AM

To: 'boboakes@villagerealtyobx.com'

Subject: Re: Septic tank permitting on the beach

No one has contacted me or Jack. I will be seeing Terry Pierce and Chris Hoke this week and will follow-up.

Anne

From: Bob Oakes <boboakes@villagerealtyobx.com>

To: Anne Thomas

Sent: Tue Apr 20 16:19:48 2010

Subject: FW: Septic tank permitting on the beach

Anne,

Any word on the septic tank topic?

Thanks,

Bob Oakes

From: Lyon, Ted [mailto:ted.lyon@ncdenr.gov]

Sent: Monday, April 12, 2010 10:14 AM

To: Bob Oakes

Cc: Uebler, Bob; Jack Flythe; Pierce, Terry

Subject: RE: Septic tank permitting on the beach

Mayor Oaks:

Staff will talk with the Dare County Health Department to see what our options are with this situation. After looking at the picture, perhaps the entire structure should be condemned by the building inspectors.

Ted Lyon

From: Bob Oakes [mailto:boboakes@villagerealtyobx.com]
Sent: Saturday, April 10, 2010 9:25 AM
To: Lyon, Ted
Cc: Pierce, Terry; Cliff Ogburn
Subject: Septic tank permitting on the beach

Dear Mr. Lyon and Mr. Pierce,

Thanks for considering a change in permitting septic tanks. I believe that the rule is currently 50 feet from the water. Health department staff, in the goal of making a permit possible, examine the area multiple times, and when the water is low, may issue a permit. I would suggest that a septic tank east of the erosion scarp should not be permitted.

Warm regards,

Bob Oakes
Mayor
Nags Head

**TOWN OF NAGS HEAD
BOARD OF COMMISSIONERS
REGULAR SESSION**

**CLOSED SESSION - #3
June 2, 2010**

COMRS PRESENT: Mayor Bob Oakes; Mayor Pro Tem Wayne Gray; Comr. Doug Remaley;
Comr. Anna Sadler; and Comr. Renée Cahoon


COMRS ABSENT: None

OTHERS PRESENT: Town Manager Cliff Ogburn; Town Attorney John Leidy; Attorney Ben Gallop;
and Town Clerk Carolyn Morris

Nuisance Structures (Mrs. Gatelin)

Attorney Ben Gallop explained the Gatelin litigation - Mrs. Gatelin's husband has passed away and she has offered for the Town to tear her house down on Surfside Drive; no lawsuit has been filed.

It was Board consensus to tear Mr. Gatelin's nuisance house down at the Town's expense and to not file a lawsuit.



Carolyn F. Morris, Town Clerk

Date Approved: **August 4, 2010** _____

Date Opened: 2/3/14


Mayor: Robert O. Oakes, Jr.

**TOWN OF NAGS HEAD
BOARD OF COMMISSIONERS
REGULAR SESSION**

**CLOSED SESSION - #2
June 2, 2010**

COMRS PRESENT: Mayor Bob Oakes; Mayor Pro Tem Wayne Gray; Comr. Doug Remaley;
Comr. Anna Sadler; and Comr. Renée Cahoon


COMRS ABSENT: None

OTHERS PRESENT: Town Manager Cliff Ogburn; Town Attorney John Leidy; Attorney Ben Gallop;
and Town Clerk Carolyn Morris

Nuisance Structure Litigation (Gail Jones)

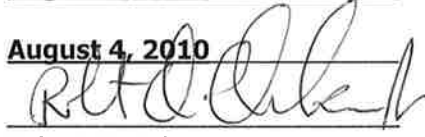
Attorney Ben Gallop explained the Gail Jones litigation - the Town sued her to have her house, that has been declared a nuisance, removed. If the Town dismisses the lawsuit, she'll tear the nuisance structure down.

It was Board consensus to agree to Gail Jones' request to dismiss the lawsuit.


Carolyn F. Morris, Town Clerk

Date Approved: August 4, 2010

Date Opened: August 4, 2010

Mayor: 
Robert O. Oakes, Jr.

**TOWN OF NAGS HEAD
BOARD OF COMMISSIONERS
REGULAR SESSION**

**CLOSED SESSION - #1
June 2, 2010**

COMRS PRESENT: Mayor Bob Oakes; Mayor Pro Tem Wayne Gray; Comr. Doug Remaley;
Comr. Anna Sadler; and Comr. Renée Cahoon

COMRS ABSENT: None

OTHERS PRESENT: Town Manager Cliff Ogburn; Town Attorney John Leidy; Attorney Ben Gallop;
Planning Director Tim Wilson; and Town Clerk Carolyn Morris

Roc Sansotta Litigation

Town Attorney John Leidy discussed the lawsuit filed against the Town and Planning Director Tim Wilson by Roc Sansotta concerning the Veterans Day 2009 storm; attorney Keith Anthony correspondence alleges that the Planning Director directed the Police Chief Kevin Brinkley to issue a Stop Work order to Mr. Sansotta when placing sandbags on his properties.

The NCLM is going to defend the Town and Mr. Wilson - the League has retained Hornthal, Riley as the attorney and authorized Hornthal, Riley to prepare a defense of the case; Mr. Leidy explained that some discovery requests will be made on their part and anticipates at least one (1) year for completion of the discovery process.

It was Board consensus to try to move the case to a federal court.


Carolyn F. Morris, Town Clerk

Date Approved: August 4, 2010

Date Opened: 2/3/10

Mayor: 
Robert O. Oakes, Jr.

**TOWN OF NAGS HEAD
BOARD OF COMMISSIONERS
REGULAR SESSION**

**CLOSED SESSION - #2
May 5, 2010**

COMRS PRESENT: Mayor Bob Oakes; Mayor Pro Tem Wayne Gray; Comr. Doug Remaley;
and Comr. Anna Sadler

COMRS ABSENT: Comr. Renée Cahoon

OTHERS PRESENT: Town Manager Cliff Ogburn; Town Attorney John Leidy; Attorney Ben Gallop
and Town Clerk Carolyn Morris

Closed Session Minutes

Closed Session minutes from 1991 - 1996 were presented to the Board for consideration.

MOTION: Comr. Remaley made a motion, seconded by Mayor Oakes, to approve the 1991 - 1996 Closed Session minutes as presented. The motion passed 4 - 0 (Comr. Cahoon was excused.).

MOTION: Comr. Sadler made a motion, seconded by Comr. Remaley, to open/close the 1991 - 1996 Closed Session minutes in accordance with the summary disposition sheet (**attached**). The motion passed 4 - 0 (Comr. Cahoon was excused.).


Carolyn F. Morris, Town Clerk

Date Approved: **August 4, 2010** _____

Date Opened: **August 4, 2010** _____

Mayor: 
Robert O. Oakes, Jr.

TOWN OF NAGS HEAD
BOARD OF COMMISSIONERS
1991 - 1996 CLOSED SESSIONS
SUMMARY DISPOSITION

1991 - 1996

Jan 7, 1991	Property acquisition	Open
Feb 4, 1991	Litigation	Open
Feb 20, 1991	Property acquisition	Open
April 1, 1991	Litigation	Open
May 6, 1991	Property acquisition	Open
Jul 1, 1991	Personnel/Property acquisition	Open/Redact personnel portion #1
Aug 5, 1991	Property acquisition	Open
Aug 21, 1991	Misc items	Open/Redact personnel portion #4
Oct 7, 1991	Property acquisition	Open
Oct 16, 1991	Misc items	Open
Nov 4, 1991	Property acquisition	Open
Nov 20, 1991	Misc items	Open
Jun 7, 1995	Water/RO budget debt	Open
Aug 2, 1995	Personnel	Closed
Oct 4, 1995	Personnel	Closed
Mar 6, 1996	Land acquisition/Retirement party	Open

**TOWN OF NAGS HEAD
BOARD OF COMMISSIONERS
REGULAR SESSION**

**CLOSED SESSION
April 7, 2010**

COMRS PRESENT: Mayor Bob Oakes; Mayor Pro Tem Wayne Gray; Comr. Doug Remaley;
and Comr. Renée Cahoon

COMRS ABSENT: Comr. Anna Sadler

OTHERS PRESENT: Town Manager Cliff Ogburn; Town Attorney John Leidy;
and Town Clerk Carolyn Morris

Closed Session Minutes


Board members considered Closed Session minutes for 1987 - 1990.

MOTION: Comr. Remaley made a motion, seconded by Comr. Cahoon, to approve the 1987 - 1990 Closed Session minutes as presented which passed 4 - 0 (Comr. Sadler was not present.).

MOTION: Comr. Remaley made a motion, seconded by Comr. Cahoon, to open the 1987 - 1990 Closed Session minutes as listed on the **attached** summary disposition page. The closed personnel portions will be redacted so that all minutes will be opened as listed and the personnel portions will remain closed. The motion passed 4 - 0 (Comr. Sadler was not present.).

Exit Closed Session

MOTION: Comr. Cahoon made a motion, seconded by Comr. Remaley, to exit Closed Session. The motion passed 4 - 0 (Comr. Sadler was not present.).


Carolyn F. Morris, Town Clerk

Date Approved: August 4, 2010

Date Opened: August 4, 2010

Mayor: 
Robert O. Oakes, Jr.

**TOWN OF NAGS HEAD
BOARD OF COMMISSIONERS
REGULAR SESSION**

**CLOSED SESSION
April 7, 2010**

**TOWN OF NAGS HEAD
BOARD OF COMMISSIONERS
1987 - 1990 CLOSED SESSIONS
SUMMARY DISPOSITION**

1987 - 1990

Feb 2, 1987	Misc items	Open/Redact personnel portion #3
Mar 5, 1987	Personnel	Closed
Mar 18, 1987	Personnel	Closed
Apr 15, 1987	Personnel	Closed
Jun 1, 1987	Litigation	Open
Jun 17, 1987	Misc items	Open/Redact personnel portion #5
Jul 9, 1987	Misc items	Open
Aug 3, 1987	Personnel	Open/Redact personnel portion #1
Sep 16, 1987	Misc items	Open
Oct 5, 1987	Misc items	Open/Redact personnel portion #1
Nov 2, 1987	Misc items	Open/Redact personnel portion #2
Jan 4, 1988	Personnel	Closed
May 18, 1988	Litigation	Open
Jul 20, 1988	Misc items	Open
Aug 17, 1988	Misc items	Open/Redact personnel portion #2
Oct 10, 1988	Property acquisition	Open
Dec 5, 1988	Misc items	Open
Dec 21, 1988	Property acquisition	Open
Jan 9, 1989	Misc items	Open/Redact personnel portion #3
Feb 6, 1989	Property acquisition	Open
Mar 6, 1989	Misc items	Open
Apr 3, 1989	Misc items	Open/Redact personnel portion #4
Oct 2, 1989	Property acquisition	Open
Dec 4, 1989	Misc items	Open
Jan 8, 1990	Property acquisition	Open
Jan 17, 1990	Property acquisition/Personnel	Open/Redact personnel portion #1
Apr 2, 1990	Litigation	Open
Aug 6, 1990	Property acquisition	Open
Aug 15, 1990	Litigation/Property acquisition	Open
Nov 28, 1990	Litigation	Open

**TOWN OF NAGS HEAD
BOARD OF COMMISSIONERS
REGULAR SESSION**

**CLOSED SESSION
March 3, 2010 - #4**

COMRS PRESENT: Mayor Bob Oakes; Comr. Doug Remaley; and Comr. Renée Cahoon

COMRS ABSENT: Mayor Pro Tem Wayne Gray and Comr. Anna Sadler

OTHERS PRESENT: Town Manager Cliff Ogburn; Town Attorney John Leidy;
and Town Clerk Carolyn Morris

Nuisance structures - Roc Sansotta

Attorney John Leidy reported that Seagull Drive oceanfront property owner Roc Sansotta's attorney, Keith Anthony, submitted a public records request which staff has gathered and Attorney Leidy is reviewing. He plans on forwarding the requested information to Mr. Anthony tomorrow, March 4, 2010.

Attorney Leidy explained that the Town submitted a factual rebuttal last week to Mr. Anthony's original letter concerning the 2009 Veterans Day storm issues.

Attorney Leidy's update was provided for the Board's information.


MOTION: Comr. Cahoon made a motion, seconded by Comr. Remaley, to exit Closed Session. The motion passed 3 - 0 (Mayor Pro Tem Gray and Comr. Sadler were not present.).



Carolyn F. Morris, Town Clerk

Date Approved: August 4, 2010

Date Opened: 2/3/14

Mayor: 

Robert O. Oakes, Jr.

**TOWN OF NAGS HEAD
BOARD OF COMMISSIONERS
REGULAR SESSION**

**CLOSED SESSION
March 3, 2010 - #3**

COMRS PRESENT: Mayor Bob Oakes; Comr. Doug Remaley; and Comr. Renée Cahoon

COMRS ABSENT: Mayor Pro Tem Wayne Gray and Comr. Anna Sadler

OTHERS PRESENT: Town Manager Cliff Ogburn; Town Attorney John Leidy;
and Town Clerk Carolyn Morris

Pending litigation with George Moore


Attorney John Leidy reported on the pending litigation with South Nags Head oceanfront property owner George Moore. The Board would prefer to negotiate with Mr. Moore over the removal of his houses and not enter litigation. Mr. Moore's attorney Dan Merrell filed a counter-claim to the Town's claim to resolve the issue over the removal of Mr. Moore's oceanfront houses located on the public beach. The Town continues to assess penalties.

It was Board consensus that if Mr. Moore does not accept the Town's original offer to resolve the claims by March 15, 2010, the Town Attorney is to seek a court order.


Carolyn F. Morris, Town Clerk

Date Approved: August 4, 2010

Date Opened: 2/3/10

Mayor: 
Robert O. Oakes, Jr.

**TOWN OF NAGS HEAD
BOARD OF COMMISSIONERS
REGULAR SESSION**

**CLOSED SESSION
March 3, 2010 - #2**

COMRS PRESENT: Mayor Bob Oakes; Comr. Doug Remaley; and Comr. Renée Cahoon

COMRS ABSENT: Mayor Pro Tem Wayne Gray and Comr. Anna Sadler

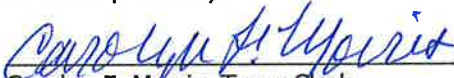
OTHERS PRESENT: Town Manager Cliff Ogburn; Town Attorney John Leidy;
and Town Clerk Carolyn Morris

Closed Session minutes

Board members considered Closed Session minutes for 1983 - 1986.

MOTION: Comr. Cahoon made a motion, seconded by Mayor Oakes, to approve the 1983 - 1986 Closed Session minutes as presented which passed 3 - 0 (Mayor Pro Tem Gray and Comr. Sadler were not present.).

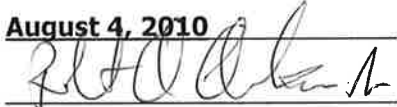
MOTION: Comr. Cahoon made a motion, seconded by Mayor Oakes, to open the 1983 - 1986 Closed Session minutes as listed on the **attached** summary disposition page. The closed personnel portions will be redacted so that all minutes will be opened as listed and the personnel portions will remain closed. The motion passed 3 - 0 (Mayor Pro Tem Gray and Comr. Sadler were not present.).



Carolyn F. Morris, Town Clerk

Date Approved: **August 4, 2010** _____

Date Opened: **August 4, 2010** _____

Mayor: 

Robert O. Oakes, Jr.

**TOWN OF NAGS HEAD
BOARD OF COMMISSIONERS**

1983 - 1986 CLOSED SESSIONS

SUMMARY DISPOSITION

1983 - 1986

Dec 1, 1986	Misc items	Open
Oct 15, 1986	Possible litigation	Open
Sep 8, 1986	Misc/Personnel	Open/Redact personnel portion #2
Aug 20, 1986	Land acquisition/Personnel	Open/Redact personnel portion #1
Jul 16, 1986	Misc/Personnel	Open/Redact personnel portion #3
Jul 7, 1986	Personnel Grievance Board	Open
Jun 16, 1986	Personnel	Close
May 21, 1986	Misc/Personnel	Open/Redact personnel portion #2 and #3
May 5, 1986	Litigation	Open
April 16, 1986	Litigation/Land acquisition	Open
April 7, 1986	Misc/Personnel	Open/Redact personnel portion #3
Mar 19, 1986	Personnel	Close
Mar 3, 1986	Misc/Personnel	Open/Redact personnel portion #5
Feb 3, 1986	Misc items	Open
Dec 2, 1985	Litigation	Open
Nov 20, 1985	Misc items	Open
Sep 9, 1985	Litigation/Misc	Open
Aug 21, 1985	Litigation/Misc	Open
Aug 5, 1985	Misc items	Open
Apr 17, 1985	Misc/Personnel	Open/Redact personnel portion #3
Apr 1, 1985	Misc items	Open
Mar 4, 1985	Misc/Personnel	Open/Redact personnel portion #3 and #4
Feb 11, 1985	Personnel/Misc	Open
Feb 4, 1985	Personnel	Close
Jan 7, 1985	Misc/Personnel	Open/Redact personnel portion #6
Oct 1, 1984	Misc/Personnel	Open/Redact personnel portion #3 and #4
Sep 10, 1984	Misc items	Open
Aug 6, 1984	Misc items	Open
Jul 16, 1984	Misc/Personnel	Open/Redact personnel portion #2
Jun 4, 1984	Misc/Personnel	Open/Redact personnel portion #3
Apr 2, 1984	Misc/Personnel	Open/Redact personnel portion #2
Mar 5, 1984	Misc items	Open
Feb 6, 1984	Misc items	Open
Dec 5, 1983	Misc items	Open
Oct 3, 1983	Personnel	Close
Aug 3, 1983	Misc items	Open
Aug 1, 1983	Misc/Personnel	Open/Redact personnel portion #1
Jul 11, 1983	Misc/Personnel	Open/Redact personnel portion #4 and #8
Jun 29, 1983	Taxes/Litigation	Open
May 18, 1983	Misc/Personnel	Open/Redact personnel portion #2
Apr 20, 1983	Litigation/Personnel	Open/Redact personnel portion #2
Feb 16, 1983	Misc items	Open
Feb 7, 1983	Misc/Litigation	Open

**TOWN OF NAGS HEAD
BOARD OF COMMISSIONERS
REGULAR SESSION**

**CLOSED SESSION
March 3, 2010 - #1**

COMRS PRESENT: Mayor Bob Oakes; Comr. Doug Remaley; and Comr. Renée Cahoon

COMRS ABSENT: Mayor Pro Tem Wayne Gray and Comr. Anna Sadler

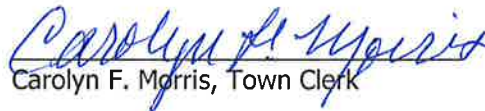
OTHERS PRESENT: Town Manager Cliff Ogburn; Town Attorney John Leidy;
and Town Clerk Carolyn Morris

Property Acquisition

Mayor Oakes brought forward the possible acquisition of the Mustian property located at 7411 S Virginia Dare Trail on the Nags Head/Manteo Causeway - the property is located next to Whalebone Tackle and next to the Town's Estuarine Access.

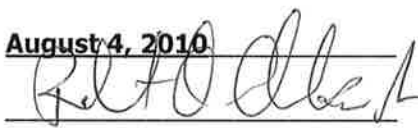
Town Manager Ogburn reported that the asking price is \$499,000; it was appraised in 2005 at \$345,000.

It was Board consensus that the Town Manager informally speak with the property owner informing him that the Board may be interested in considering a "bargain basement" price - the Board considered the asking price of 499,000 too high.


Carolyn F. Morris, Town Clerk

Date Approved: **August 4, 2010**

Date Opened: **August 4, 2010**

Mayor: 
Robert O. Oakes, Jr.

**TOWN OF NAGS HEAD
BOARD OF COMMISSIONERS
REGULAR SESSION**

**CLOSED SESSION
February 3, 2010**

COMRS PRESENT: Mayor Bob Oakes; Mayor Pro Tem Wayne Gray;
Comr. Doug Remaley; Comr. Anna D. Sadler; and Comr. Renée Cahoon

COMRS ABSENT: None

OTHERS PRESENT: Town Manager Cliff Ogburn; Town Attorney John Leidy;
and Town Clerk Carolyn Morris

Closed Session Minutes

Board members considered the Closed Session Minutes for 1972 - 1982.

MOTION: Comr. Remaley made a motion to approve the 1972 - 1982 Closed Session minutes as presented; in addition, to open the minutes as listed on the summary page (**attached**). The personnel portion of the following minutes will be placed in the individual personnel files and redacted so that all minutes will be opened as listed and the personnel portions will remain closed: Dec 6, 1982, Mar 17, 1982, Feb 1, 1982, Sep 1, 1981, Jul 7, 1980, and Sep 19, 1979. The motion was seconded by Comr. Sadler which passed unanimously.

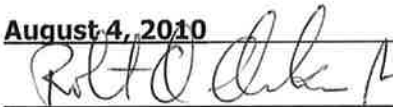
Exit Closed Session

MOTION: Comr. Sadler made a motion, seconded by Comr. Cahoon and passed unanimously, to exit Closed Session.


Carolyn F. Morris, Town Clerk

Date Approved: August 4, 2010

Date Opened: August 4, 2010

Mayor: 
Robert O. Oakes, Jr.

**TOWN OF NAGS HEAD
BOARD OF COMMISSIONERS**

1982 - 1972 CLOSED SESSIONS

SUMMARY DISPOSITION

(Attachment to February 3, 2010 Closed Session Minutes)

1972 - 1982

Dec 6, 1982	Town engineering firm/Personnel	Close
Oct 4, 1982	Sign litigation/Litigation	Open
Sep 7, 1982	Misc items	Open
Aug 2, 1982	Misc items	Open
Jun 28, 1982	Acquisition of property	Open
Jun 7, 1982	Site Plan (OB Worship Center)	Open
Apr 5, 1982	Misc items	Open
Mar 17, 1982	Personnel/Litigation	Close
Feb 1, 1982	Misc item/Personnel	Close
Dec 7, 1981	Misc items	Open
Oct 21, 1981	Britthaven property	Open
Sep 1, 1981	Daniels Restaurant/Personnel	Close
Jul 6, 1981	Misc items	Open
Jun 17, 1981	Sign Litigation	Open
Jun 1, 1981	Shaffer and Roland contract	Open
Apr 22, 1981	Privacy act/Acquisition of property	Open
Jan 5, 1981	Acquisition of property	Open
Dec 23, 1980	Acquisition of property	Open
Dec 17, 1980	Acquisition of property	Open
Nov 3, 1980	Misc items	Open
Oct 6, 1980	Misc items	Open
Sep 4, 1980	Misc items	Open
Aug 20, 1980	Sign Litigation	Open
Jul 16, 1980	Litigation/Personnel	Open
Jul 7, 1980	Misc items/Personnel	Close
Sep 19, 1979	Acquisition of property/Personnel	Close
Aug 15, 1979	Litigation	Open
Feb 5, 1979	Misc items	Open
Aug 2, 1976	Misc items	Open
June 7, 1976	Misc items	Open
Feb 5, 1973	Litigation	Open
Dec 4, 1972	Misc items	Open

**TOWN OF NAGS HEAD
BOARD OF COMMISSIONERS
MID-MONTH SESSION**

**CLOSED SESSION - #3
January 20, 2010**

COMRS PRESENT: Mayor Bob Oakes; Mayor Pro Tem Wayne Gray;
Comr. Doug Remaley; Comr. Anna D. Sadler; and Comr. Renée Cahoon

COMRS ABSENT: None

OTHERS PRESENT: Town Manager Cliff Ogburn; Town Attorney John Leidy;
and Deputy Town Clerk Michelle Gray

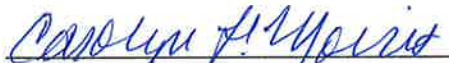
George Moore nuisance structure litigation

In the George Moore litigation case - the Town Attorney was unable to discuss this with Mr. Moore; the Town Manager was directed by the Board to speak with Mr. Moore.

It was Board consensus that South Nags Head resident George Moore be permitted to abate his three (3) houses within 90 days and to remove his other two (2) houses within 60 days. **Attached** please find Mr. Moore's letter.

Exit Closed Session


MOTION: Comr. Sadler made a motion, seconded by Comr. Cahoon and passed unanimously, to exit Closed Session.



Carolyn F. Morris, Town Clerk

Date Approved: August 4, 2010

Date Opened: 2/3/10

Mayor: 

Robert O. Oakes, Jr.

Mayor Bob Oakes
Town of Nags Head

CS
1-20-10
January 11, 2010

I am sending this letter to you to be brought before the Nags Head Board of Commissioners for approval.

My case is as follows:

1. I am prepared to remove the following two houses as ordered by your attorney. 9209a Old Oregon Inlet Rd and
9701j Nansemond Rd
2. I have now received a letter from the Town Manager ordering me to remove my three remaining homes.
118 Altoona St
119 Altoona St (my personal home)
119 Proteus St.
3. The loss of these home, in addition to the two I have approved for removal, will cause my personal situation to be devistating for the following reasons:
 - A. I will incur liens by mortgage companies for over \$600,000.
 - B. I do not have the funds nor the ability to secure them to pay for the removal of these three homes., and consequently an additional lien by the Town of Nags Head will be placed against me.
4. My wife and I have only one investment and source of income, that being these rental homes. At age 77, I see no possibility of entering a new occupation that could support our needs

I sincerely hope you and the Commissioners will permit me to continue to keep these homes in view of the facts I have listed above, and in view of the fact that Beach Renourishment could be accomplished by 2011.

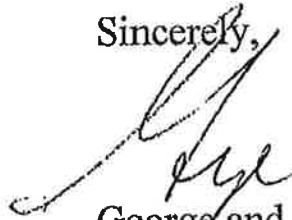
CS
1-20-10

You mentioned the fact that Beach Renourishment would order me to remove my homes. Since we would, at our expense, raise the level of sand under the homes to equal that of the beach level achieved by beach renourishment.

These three homes are repairable and we would have them in operating order by the end of April, or sooner if high tides recede.

After fifteen years of living at 119 Altoona and contributing many hours to the benefit of our community, I would hope that these facts would be considered in your decision. Please help us in these hard times.

Sincerely,



George and Patricia Moore

**TOWN OF NAGS HEAD
BOARD OF COMMISSIONERS
MID-MONTH SESSION**

**CLOSED SESSION - #1
January 20, 2010**

COMRS PRESENT: Mayor Bob Oakes; Mayor Pro Tem Wayne Gray;
Comr. Doug Remaley; Comr. Anna D. Sadler; and Comr. Renée Cahoon

COMRS ABSENT: None

OTHERS PRESENT: Town Manager Cliff Ogburn; Town Attorney John Leidy;
and Deputy Town Clerk Michelle Gray

Kirkpatrick vs Town of Nags Head litigation

Town Attorney Leidy distributed to Board members a letter from the Kirkpatrick's attorney, The Brough Law Firm, re: "Kirkpatrick v. Town of Nags Head, Dare County 07 CVS 907; Confidential – For Settlement Purposes Only" – requesting that the Town agree to the following settlement: 1) the Town is to pay the Kirkpatricks \$120,000 which reflects estimated lost rental income from the Surfside Drive house for years 2005 through 2008; and 2) the Town is to pay the Kirkpatricks approximately \$30,000 for legal fees incurred thus far.

It was Board consensus to not agree to the settlement proposed by the Kirkpatricks through their attorney and to continue with the ongoing litigation.



Carolyn F. Morris, Town Clerk

Date Approved: **August 4, 2010**

Date Opened: 2/3/16

Mayor: 

Robert O. Oakes, Jr.

**TOWN OF NAGS HEAD
BOARD OF COMMISSIONERS
REGULAR SESSION**

**CLOSED SESSION - #1
January 6, 2010**

COMRS PRESENT: Mayor Bob Oakes; Mayor Pro Tem Wayne Gray;
Comr. Doug Remaley; and Comr. Anna D. Sadler

COMRS ABSENT: None

OTHERS PRESENT: Town Manager Cliff Ogburn; Town Attorney John Leidy;
and Town Clerk Carolyn Morris

Closed Session Minutes

Attorney John Leidy conducted the discussion on Closed Session Minutes. Board members reviewed Closed Session minutes from July 2009 through December 2009; summary **attached**. The following actions were taken:

- It was Board consensus to continue to review/approve Closed Session minutes on a six-month basis
- Board members agreed that the minutes contained both a general accounting/formal minute information as required by law
- MOTION: Comr. Remaley made a motion, seconded by Mayor Pro Tem Gray and passed unanimously to approve the July 2009 through December 2009 Closed Session minutes as presented.
- MOTION: Comr. Remaley made a motion, seconded by Comr. Sadler and passed unanimously to approve the Open/Closed designation for the July 2009 through December 2009 Closed Session minutes as presented and as recommended by the Town Attorney.
- Attorney Leidy reported that the Clerk would be preparing Closed Session minutes, from 1972 to approximately 1995, that have never been reviewed/approved/opened - for Attorney/Board review at upcoming meetings.



Carolyn F. Morris, Town Clerk

Date Approved: **August 4, 2010** _____

Date Opened: **August 4, 2010** _____

Mayor: 

Robert O. Oakes, Jr.

**TOWN OF NAGS HEAD
BOARD OF COMMISSIONERS
JULY - DECEMBER 2009 CLOSED SESSIONS**

SUMMARY DISPOSITION

O - Open; C - Close

JULY 2009 THROUGH DECEMBER 2009

July 1, 2009 - #1	Reports of alleged criminal conduct	Taxi-cab driver permit denied	C
July 1, 2009 - #2	Personnel	Interim Town Manager Review	C
August 5, 2009 - #1	Prevent disclosure	Closed Session minutes Jan - Jun 2009	C
August 5, 2009 - #2	Attorney/Client Priv - Litigation	Kirkpatrick vs TNH	C
August 5, 2009 - #3	Attorney/Client Priv - Litigation	Carolina Water Service - Village WWTP	C
August 5, 2009 - #4	Attorney/Client Priv - Litigation	Nuisance structures on the beach	C
August 5, 2009 - #5	Personnel	Interim Town Manager Review	C
September 2, 2009 - #1	Attorney/Client Priv - Litigation	Kirkpatrick vs TNH	C
September 2, 2009 - #2	Personnel	Interim Town Manager Review	C
September 16, 2009 - #1	Real property acquisition	Consider purchase of Dowdy raceway	O
September 16, 2009 - #2	Attorney/Client Priv - Litigation	Nuisance structures on the beach	C
November 4, 2009 - #1	Honorarium	Employee of the Year	O
November 4, 2009 - #2	Attorney/Client Priv - Litigation	Nuisance structures on the beach	C
December 2, 2009 - #1	Attorney/Client Priv - Litigation	Kirkpatrick vs TNH	C