



COUNTY OF DARE, NORTH CAROLINA

District 1: Roanoke Island & Mainland; Dist 2: Nags Head, Colington, Kill Devil Hills; Dist. 3: Kitty Hawk, Southern Shores, Duck; Dist. 4: Chicamacomico, Avon, Buxton, Frisco, Hatteras; Dist. 5: At Large

THE DARE COUNTY BOARD OF COMMISSIONERS MEETING

February 16, 2009—5:00 P.M.

Dare County Administrative Building
954 Marshall C. Collins Dr.— PO Box 1000
Manteo, North Carolina 27954

Commissioners Present:

Chairman Warren Judge, Dist. 3; Vice-Chairman Burrus, Dist. 4; Virginia Tillett, Dist. 1; Richard Johnson, Dist. 1; Max Dutton, Dist. 2; Jack Shea, Dist. 5; Mike Johnson, Dist. 2

Commissioners Absent: None

Others Present:

County Manager Terry Wheeler, County Attorney Bobby Outten, Dorothy Toolan —PR Director, David Clawson—Finance Director, Katie Smith—Clerk to the Board

Action:

PROCLAMATION – DARE COUNTY DEPARTMENT OF PUBLIC HEALTH AMERICAN HEART MONTH— **Approved**

THE VILLAGE AT CAPE CREEK – PRELIMINARY PLAT REVIEW— **Approved**

LIGHTHOUSE ASSEMBLY OF GOD CHURCH – CUP AMENDMENT— **Approved**

PUBLIC HEARING VC-2 TEXT AMENDMENT TO ADD TATTOO STUDIOS— **Public Hearing Held and Amendment Approved**

COUNTY ORDINANCES REVIEW – MOTORIZED OFF-ROAD RECREATION EQUIPMENT USE— **Public Hearing Scheduled**

4/20/09 6:30PM (VOTE: 5/2)

UPDATE ON CURRENT BUDGET AND ADDITIONAL RECOMMENDED ACTIONS— **Approved**

CAPITAL RESERVE FUND PROJECTION UPDATE AND CLOSEOUT OF SCHOOL CAPITAL PROJECTS— **Approved**

TRANSFER OF REMAINING ELIGIBLE AMOUNT OF E911 FUND BALANCE— **Approved**

AMENDMENTS TO SOLID WASTE AUTHORITY CONTRACT— **Approved**

DANGEROUS ANIMALS ORDINANCE— **Approved with Modifications**

FARMING LEASE AT C&D LANDFILL— **Approved**

CONSENT AGENDA— **Approved**

- Approval Of Minutes (2.2.09)
- Budget Amendment Health Department – Additional WIC Funds
- Budget Amendment Health Department – Breast and Cervical Cancer Control
- Budget Amendment Health Department – Additional Family Planning State Funds

BOARD APPOINTMENTS

- Fessenden Center Advisory Board— **Appointed (Rev. Cory B. Oliver)**
- Youth Advisory Council— **Appointed (Matt Witter)**

BUILDING NAME FOR ROANOKE ISLAND SENIOR CENTER — **“Dare County Center” Approved**

RESOLUTION SUPPORTING CREATION OF AN INSURANCE COMMISSION — **Approved**

AMERICAN RECOVERY & REINVESTMENT ACT OF 2009 LOAN APPLICATION & RESOLUTION— **Approved**

NC CLEAN WATER MANAGEMENT TRUST FUND GRANT AGREEMENT — **Approved**

RESOLUTION SUPPORTING HOUSE BILL 9 MAKING TEXT MESSAGING WHILE DRIVING UNLAWFUL— **Approved**

DIALYSIS CENTER SUBLEASE— **Approved**

CLOSED SESSION – APPROVAL OF MINUTES— **Approved**

LAND OF BEGINNINGS

COMMISSIONERS OFFICE— PO Box 1000, MANTEO, NC 27954 • 252.475.5700 • DARENC.COM

Chairman Warren Judge, called the meeting to order at 5:00 p.m. and invited Commissioner Tillett to share a comment regarding a newspaper article announcing her selection as a Presidential Elector. She explained she was not aware that she would not be allowed to serve as both County Commissioner and Presidential Elector. She offered her thanks to Senator Basnight, Speaker Joe Hackney, and members of the NC General Assembly for taking care of the matter for her and another Commissioner in Watauga County. She explained her first responsibility is to the citizens of Dare County who will always be her priority. Chairman Judge offered his thanks to those who handled the legislation quickly to allow the Dare County Board of Commissioners to have a full body for their meeting. He shared the Commissioners' support for Commissioner Tillett and congratulations for the great honor to be selected as a Presidential Elector. Junior Girl Scout Troop 2356 and Troop leader Katherine Herzing then led the pledge of allegiance to the flag, and Vice-Chairman Burrus shared a prayer. Chairman Judge thanked everyone for coming and appreciated Heery Construction for all of their work to get the Commissioners into the new meeting room by this date. He recognized Butch Back and Charles McPherson with Heery Construction and thanked them for working so hard on all of the projects involving the new County campus.

ITEM 1 – PUBLIC COMMENTS

- 1) Joe Zoll, Manteo resident, addressed the Board regarding power ORV use in zoned areas of unincorporated Dare County, specifically Holly Ridge road. He has observed a small vehicle track which he described as very loud and an eye sore. He noted possible solutions such as requirements for hours of operation, the use of factory installed mufflers, and a specific engine size. He noted issues with these requirements asking who would monitor the hours of operation and check to ensure the use of factory installed mufflers and correct engine sizes. He felt this use was appropriate in other locations, but not in this area.
- 2) Lindsey Meekins, Manteo resident and Pitt bull owner, spoke regarding Pit bull dog banning. She explained there are no animal control officers in Kitty Hawk. The SPCA or Kill Devil Hills responds if there are issues and only if they have time. She supported the euthanization of the Pit bulls in the recent attacks, but noted not all Pitt bulls are like those involved in the attack. She stated a ban would not make sense as many Pit bulls would need to be grandfathered in and thus, still remain in the County. She has \$500,000 liability insurance on her dog. She felt putting teeth in current laws to strengthen them was the appropriate action. She is willing to register her dog, obtain more insurance, and do whatever is necessary to keep her pet even though it has never been aggressive.
- 3) George Mendelson, Kill Devil Hills resident, spoke regarding the dog ordinance. He is a long time large dog owner of Kill Devil Hills. He has owned Akidas which have been called an aggressive breed. He was mortified by the death of the Retriever, but cautions the Commissioners to let one incident impact all others in the County. He urged well thought out discussion of the issue, reviews, and public comment before an ordinance is approved. He stated small dogs are more likely to bite than larger dogs which Breed Specific Legislation seems to focus on. He requested consideration of an appointment of a study group to determine issues a BSL ordinance would raise. He feels input from animal experts would be beneficial as this ordinance offers a potential death penalty as the only remedy for dangerous animals. He felt BSL needs careful consideration, as well as expert and public input.
- 4) John Stockton, Kitty Hawk Town Manager, spoke regarding the dog ordinance. He received a copy of the proposed ordinance and offered modifications to help strengthen it. In the most

recent incident, the police were called, the SPCA collected the dogs, impounded them, and then released after the owner paid the required fine. He asked the new ordinance provide for the seizing and impoundment of animals until a decision is made by Health Director on whether or not the animals are dangerous. He felt releasing the animals back to the owner was a mistake. He noted he had submitted his comments to County Attorney Outten. He requested more teeth be placed in the ordinance so the Town of Kitty Hawk could mirror the County's action. He appreciated the efforts in this regard and felt appropriate legislation could be accomplished by working together.

- 5) Gail Hutchison, Manteo resident, offered the Commissioners several examples of activities in her neighborhood describing a napping baby, relaxing fisherman, weddings, funerals, picnic, etc. She stated the proposed noise ordinance would allow noises that are louder than the current ordinance and felt this was a reckless recommendation affecting tourism and citizens of unincorporated Dare County. She felt the existing ordinance is appropriate, but needs to be completely enforced by the Sheriff's office.
- 6) James Hilliard, Manteo resident, felt the issue of dirt bikes on Holly Ridge road should have never come before the Commissioners. He likened this issue to beach access stating it is a small group of people affecting the greater community. He felt the kids are not harming anyone or the surrounding area and stated only one house has an issue with the children riding under adult supervision. He stated the kids do not ride for long periods of time, are respectful, and wear full gear. The bikes are not modified and he feels things have been exaggerated. He asked that the kids be allowed to enjoy themselves as this is not affecting tourism and outlying locations.
- 7) Heather Cordeiro, Manteo resident, spoke regarding Breed Specific Legislation. She felt BSL is not the answer as there are many breeds beyond Pitt bulls that are aggressive. She stated it is the responsibility of the pet owners to take care of their animals. She asked the Commissioners to be fair to those who are responsible pet owners.
- 8) Heather Akers, Nags Head resident, spoke regarding the dog ordinance. She is an owner of a German Shepherd and understands the need to protect the community. She is against BSL and feels the ordinance must be effective, reasonable, and fair. She noted the importance to not be motivated by fear and lack of knowledge as this will not solve the issue. She felt if certain breeds are banned, owners will find other aggressive breeds to fit their needs and get around the ordinance. All dogs can be dangerous and these animals have received an undeserved reputation. Any banning will only hasten the popularity of another dog breed. Dogs are bred to guard and protect, and Pit bulls with proven stability are used as search and rescue animals. She stated it is the responsibility of pet owners for their animal's actions.
- 9) Stephen Johnson, Roanoke Island resident, has kids who ride dirt bikes and do not know how to alter these ORV's to make them louder. He stated they have ridden their whole lives and he does not feel they should have to stop now because of two (2) people who disagree. He felt there has been too much money spent on this issue already and feels there are bigger issues where the time and money needs to be spent. He presented a petition with forty-seven (47) signatures of people who have no issue with the dirt bikes. He felt the issue has been exaggerated and noted how upset the kids are when police show up. He gave an example of one neighbor who can hear his clock ticking while the kids are riding. He thanked the Commissioners for their time.
- 10) Rachel Johnson, Manteo resident, expressed her disappointment in not being able to handle the dirt bike track issue between the neighbors instead of before the Commissioners. She felt

the evidence could be compelling, but that it is the exaggerated truth. She stated every time the police have come, they have stopped riding. They do not ride every day and have been respectful. She stated the neighborhood cares about these kids and wants them to have something healthy to focus on. They have not broken any laws and have never been ticketed. They had approached the neighbors who disliked the activity for a time that would be okay to ride. She asked the Commissioners for a fair ruling to allow the children to be children and do what they love. She asked that the law enforcement officials be given a rest from unnecessary calls.

- 11) James Cahoon, Manteo resident, explained the fumes and noise from the bikes are not as bad as they are being portrayed. He stated he can hear the Lost Colony, but the Lost Colony cannot hear them. He stated they only ride one (1) to two (2) hours two (2) or three (3) days a week. He noted on weekends they ride in many different locations. There are two (2) people who do not like the activity and forty-seven (47) who support it. He feels like all recreational places have been taken away and noted how frightened the kids are when law enforcement shows up. He also stated they do not ride after dark or in the early morning.
- 12) Greg Spencer, Manteo resident, lives beside the riding area. He introduced his young son, Cole, and noted he is not able to alter any bikes to increase noise. He noted the AMA dictated a letter regarding noise decibels and stated they are following federal guidelines and are within the perimeters of the law. He noted this activity is good for the kids. His son's grades have increased. The participants have made every effort to be amendable, but noted they have rights as citizens, too. The rides usually only happen for thirty (30) to forty-five (45) minutes because it wears the kids out. He felt like the issue has been exaggerated and the Commissioners misinformed. He thanked everyone for their time.
- 13) Annie Gullett, Manteo resident, spoke to the Commissioners regarding animal control and leash laws. She stated she had sent an email to Commissioner Mike Johnson. Her neighbor owns a Jack Russell who has attacked her pet six (6) times. This animal is never on a leash and has had an incident as recent as a week ago. Animal Control has given her neighbor a warning, but it continues to occur. She stated BSL will not work and what is needed is a leash law and ordinance. She asked the Commissioners to not wait until it is too late for her dog. She feels like nothing is being accomplished by the current law and feels like a prisoner in her own yard. She feels BSL will not work, but the County needs a leash law instead. She noted she also happens to live next door to the dirt bike track and maintains life without a problem. The dirt bikes do not bother her.
- 14) Lisa Pinowski, Manteo resident, stated Dare County is widely known as a dog friendly place for vacationers and feels BSL will affect visitors. She owns Puparazzi and stated BSL has the potential to hurt tourism. She asked the Commissioners to consider animal control issuing citations, fines and court costs for aggressive dogs. She distributed pictures of intact male Pit bulls playing with each other without incident because of owner responsibility. She stated the incident involving Jaz was a tragedy. She brought information on proposed legislation from other areas for the Commissioners to review and consider in dealing with dog issues but not breed specific.
- 15) Robert Fuqua, Manteo Holly Ridge road resident since 1965, stated there were two (2) people who want to change something that affects the entire County. He felt if they did not like the way things were, then they should leave as they moved into the area knowing what they were getting into. He stated this noise does not bother him, nor does the dog barking that also occurs.

- 16) Buddy Newel, Colington resident and owner of a Rottweiler, stated his dog sleeps with his daughters. He explained a situation where he was returning from a men's group meeting and two people were petting his dog who was in the bed of his truck. One lady stated the animal had growled at her. He stated they went to the truck and the lady was able to pet the animal without a problem. He chains the animal in the truck to prevent it from falling out while driving. The animal does not leave the truck and is very protective. He expressed his support of harder legislation that punish irresponsible owners. He noted his dog is a member of his family and protects them. He stated he doubted Jack Russell dogs are on the list of dogs for a potential ban, but stated they do attack. He felt it is unfair to ban certain breeds and asked the laws be harder on the owners. He thanked everyone for their time.
- 17) Angie Pyra, Burnside Road resident, stated she always has her dog on a leash and has been attacked by labs three (3) times. She contacted Animal Control all three (3) times and nothing was done to the owners of the animals who attacked her. She stated this is not an issue of breed, but rather irresponsible owners.
- 18) Ivy Johnson, Manteo resident, noted the forty (40) people from Holly Ridge road in attendance. He stated he and his family own the lots in question. He stated he brings dirt in to fill holes whenever he has opportunity and as a result, there are hills and holes the kids ride on. He stated his house is sixty (60) feet from the area and he can stand at the kitchen window and watch the activity but barely hear the noise. The noise is not a problem unless someone is looking to hear it. There are kids in the neighborhood who play in a band which is louder than the dirt bikes. The kids are not harming anyone or getting into trouble. They offered to do the activity within certain hours. They are trying to be constructive and do good things with the kids. He felt this was an instance where two (2) people were trying to tell the County what to do.
- 19) Danielle Riley, Nags Head resident, explained she is a groomer and was raised with Rottweilers and German Shepherds. She noted a study by the University of Pittsburgh where it was determined most bites came from Daschunds. She supported a leash law and felt BSL would be unfair to pet owners and tourists. She supports higher fines or stricter guidelines.
- 20) Carol Reece, Manteo resident, noted the dirt bikes are motorcycles with training wheels. She loves Dare County and was raised here, but feels it is losing the hometown affect. She asked all those in attendance who were from Holly Ridge Road to stand. She stated these people care about the kids and keep them in line. Recreational activities keep getting taken away and they are only left with the Ark and the YMCA. These kids are spending time with their dads and grandfathers. She stated the lot is at the end of the road and surrounded by trees and is not an eye sore. She stated this hometown image means a lot to her.
- 21) Bobby Tolson, Heritage Point resident, asked the Commissioners to please consider the requests. He has ridden for forty-four (44) years and been involved with motocross racing. He has watched kids ride for seventeen (17) to eighteen (18) years, and his son has ridden since he was four (4) years old. The kids wear protective gear and are supervised. He stated it is not loud and he does not want to see anything else taken away. The activity is not school or County sponsored, but the parents take the activity seriously and so do the kids. He asked the Board to please consider allowing the activity to continue.
- 22) Robert Moody, Manteo resident, lives a couple of houses down with a twenty (20) month old child. He stated the noise is not an issue. He felt it is an embarrassment for cops to show up and tragic if this activity is taken away. He stated it is constructive, safe, and it is something they love to do.

- 23) David Light, Wanchese resident, stated the dirt bikes give kids the opportunity to ride, be outside, and spend time with parents. 100cc engines are not loud and he enjoys this time with his son. He asked the Board to carefully consider this issue.
- 24) David Grimes, Manteo resident, stated he has two daughters, horses and four wheelers. The horses are a lot of work and give the kids something to do. Everything else has been taken away. He does not want to see the kids get in trouble and asked for more activities for the kids of Dare County. He stated it only took one person to get prayer out of schools, and asked to not let this happen with this issue in Dare County. He stated they love their kids and protect them. He pleaded with the Commissioners to make the right decision.
- 25) Edgar Govan, Manteo resident, has two (2) sons. He stated he has coached the kids who participate in the dirt bike activity and knows they are respectful. He said the neighbors could have gone to the parents and asked for them to be quiet. Spending time with kids is important and he feels this is an opportunity to do so. He stated the importance of letting the kids have fun with this activity and shared it is hard to get kids back once they are lost.

The Public Comment period was closed at 6:10 p.m. and Chairman Judge thanked all those who participated.

ITEM 2 – PROCLAMATION – DARE COUNTY DEPARTMENT OF PUBLIC HEALTH AMERICAN HEART MONTH

County Manager Wheeler introduced Laura Wilingham, Health Education Supervisor and Coordinator of Healthy Carolinians of the Outer Banks, who presented the Heart Disease and Stroke Task Force. She read a proclamation requesting February 2009 be declared as American Heart Disease month in Dare County.

MOTION

Commissioner Shea moved the adoption of Proclamation – American Heart Disease month. Commissioner Dutton and Vice-Chairman Burrus seconded the motion.

VOTE: AYES unanimous

ITEM 3 – THE VILLAGE AT CAPE CREEK – PRELIMINARY PLAT REVIEW

Ms. Donna Creef, Planning Director, presented the Village at Cape Creek's preliminary plat for review by the Board. This plat is zoned C-2 and would consist of 3.89 acres segmented into five (5) lots. There will be a new road: Cape Creek Court. Some improvements will be made to accommodate the road. The Planning Board recommended approval subject to any conditions from NCDOT regarding access to lot five (5). NCDOT included comments and conditions in the notes distributed to the Commissioners. Vice-Chairman Burrus asked if the road would be off of NC12 in front of the existing parking lot for the two units which already exist. Ms. Creef stated means of ingress and egress will be reconfigured using Cape Creek Court. She noted the entrance will remain in this configuration until some point when the building is removed or improvements are made to the site. Vice-Chairman Burrus also asked for clarification on the project asking if it was subdivided for homes. Ms. Creef responded it was intended for homes and stated the long term plans are to remove the structure on lot one and develop it as residential.

MOTION

Vice-Chairman Burrus motioned to grant preliminary approval for the proposed subdivision with staff recommendations.

Commissioner Tillett seconded the motion.

VOTE: AYES unanimous

ITEM 4– LIGHTHOUSE ASSEMBLY OF GOD CHURCH – CUP AMENDMENT (Att. 1)

Ms. Creef presented a revised site plan and CUP amendment for the Lighthouse Assembly of God Church in Buxton, North Carolina. In 2007, the Board granted a CUP for the Church to allow for the construction of two principal use structures, a sanctuary and fellowship hall. The project was to be completed in two phases, and since the CUP was granted, one building has been constructed. The Church has acquired additional land adjacent to the site and asked to incorporate this land into the site plan. This improvement will allow for the increase of seating in the second building from 110 seats to 122 seats. This has been approved by the Environmental Health Department and they are seeking approval for modification to the storm water management permit that is pending. The Planning Board reviewed the amendment and recommended its approval. Commissioner Shea asked for clarification on the septic field location. Ms. Creef used the map to show the field that exists beside NC12. The Engineer showed the active drain field beside NC12 and the repair area directly adjacent to this field. He also noted the location of the tanks. Commissioner Shea asked the depth of the water table. The Engineer did not have this data, but stated the Health Department did not require any fill to be used for the drain field. Vice-Chairman Burrus noted the drain field is on NC12 and considerably higher than the tanks and buildings. Commissioner Shea asked if it would be gravity fed. The Engineer replied it would be low pressure disposal and explained this process. Vice-Chairman Burrus shared his concern of where the entrance would be off of NC12. Ms. Creef explained this would be located near the Fire Department and would remain the same according to the original configuration. She also noted the drive isle is twenty-four (24) feet.

MOTION

Vice-Chairman Burrus motioned to approve revised site plan and the amendment to the conditional use permit subject to the conditions set forth by the Planning Board and asked staff to take extra precautions as it is in the Special Environmental District. Commissioners Shea and Dutton seconded the motion.

VOTE: AYES unanimous

RECESS 6:24PM – 6:48PM

Chairman Judge asked the Board to amend the agenda to include a Board Appointment to the Youth Council making this item two (2) under Board Appointments.

6:30 P.M. PUBLIC HEARING

ITEM 5 – VC-2 TEXT AMENDMENT TO ADD TATTOO STUDIOS (Att. 2)

AT 6:48 P.M, THE DARE COUNTY BOARD OF COMMISSIONERS HELD A PUBLIC HEARING TO RECEIVE INPUT CONCERNING A VC-2 TEXT AMENDMENT TO ADD TATTOO STUDIOS TO THE LIST OF PERMITTED USES IN THIS DISTRICT.

The following speakers appeared before the Board:

- 1) Glenn Rainey thanked the Commissioners for allowing him to speak. He asked them to consider allowing the Tattoo studio as it is refreshing to start new business in these economic times. He stated the applicants are good business people who will run an ethical business.
- 2) Bryan Seawell, Colington resident, echoed Mr. Rainey sentiments. He stated businesses are closing all over and this would generate jobs and income.

- 3) Wally Odum, the applicant's Pastor, stated the Bein's are incredible people. He stated they are committed and have good character and great reputations. He described Mr. Bein as an artist with reputable clients. He thanked the Commissioners for the opportunity to speak.
- 4) Max Sonnino has work by Mr. Bein and shared his support of the Tattoo studio. He stated it would be good business for the Colington area and the Outer Banks.
- 5) David Cheesman explained he has known Mr. Bein professionally and as a friend. He described him as ethical and moral. He stated he had checked criminal records and only found two (2) calls for Tattoo parlors. Both of the incidents were in 2002 where Tattoo parlors were the victims of larceny. They were never the cause of any issues. He stated he personally recommends people to Mr. Bein and requested the Commissioners please vote in favor of allowing the Tattoo studio.
- 6) Jessie Etheridge, Manteo resident, stated he is the Marketing Director for LUSO, Inc. and a business person in several ventures. He supports the Tattoo studio as it will bring people into the commercial area of Colington which will help area businesses. He stated as a staff member of Pirates Cove Home Owners Association, he knows this will be beneficial to the families in Colington as it increases business for that area. He stated the Bein's are a loving and caring family who are very talented and conscientious professionals. He stated this would be a clean, safe, and upscale business that would be community minded and active.
- 7) Frank Glassen, Pastor to the Bein's, stated they are a phenomenal family who has a great love for Jesus Christ and the community. David Bein brings in many clients that a lot of people would not associate with. He stated this is a witnessing opportunity for him and knows Mr. Bein will use this as an opportunity to represent and bless his family and the Kingdom.
- 8) Morrison Butler, Vice-President of Atlanta Fight Clubs and Knuckle Up Fitness, explained he has had the pleasure of working with Mr. Bein for the past two years. He has helped his business profit and shows constant professionalism. He supports the Tattoo parlor and requested the Board to do the same.
- 9) David Bein, applicant, requested the Board approve the text amendment to the VC-2 zoning district to allow the Tattoo studio. He has been tattooing for over twenty (20) years, he sits on the Board of Directors for the Alliance of Professional Tattooist, and has just received his Mastery certificate in tattooing which only thirty-five (35) people in the world have. He noted many organizations he is involved with displaying how active he is in the community. He encourages art in all areas from tattooing to poetry. He feels it is good to express himself through his work and kids by teaching morals. He believes his business will be catalyst for other businesses in Colington and will bring business to the surrounding area. He requested the Board grant the text amendment adding Tattoo studios to the list of conditional uses.
- 10) Mary Elizabeth Bein, applicant, presented a petition of over three hundred (300) names in support of the Tattoo studio.

Chairman Judge closed the hearing at 7:03 P.M.

Mr. Ray Sturza, Planning Director, noted the Commissioners had the information for action and noted the Public Hearing had followed the proper procedures. This item received a recommended approval following a Public Hearing before the planning Board. He explained if the Board chose

to act favorably by recommending approval of the draft motion, he asked they include “this would be found to be consistent as it broadens the range of services available to the citizen of Dare County.”

MOTION

Commissioner Shea moved the proposed VC-2 text amendment for tattoo studios and associated definition be approved as recommended by the Planning Board. He found this amendment to be consistent with the policies of the 2003 Dare County Land Use Plan and other officially adopted plans of Dare County that are applicable by providing goods and services to the residents and visitors of Dare County.

Commissioner Mike Johnson seconded the motion.

Commissioner Mike Johnson added there have been no negatives comments from residents of Colington. He stated the Bein’s have impeccable character and felt the business would be a good addition.

VOTE: AYES unanimous

ITEM 6 – COUNTY ORDINANCES REVIEW – MOTORIZED OFF-ROAD RECREATION EQUIPMENT USE (Att. 3)

Mr. Sturza explained based on instructions from the Board at the October 6, 2008, Board meeting, the Planning Board and staff reviewed the existing County ordinances to ensure there were no regulations precluding property owners from using motorized off-road recreation equipment in residential districts. As instructed, the staff reviewed both the Dare County Noise Ordinance and Zoning Ordinance. He explained this particular issue seems to be about expectations. Because this is a zoned residential area, there are different expectations about what kinds of uses one should expect to find. The Noise Ordinance is enforced by the Dare County Sheriff’s Department; however, in this situation, the noises associated with the activities do not rise to a level that would be enforced. Therefore, the Noise Ordinance does not preclude this use and the issue becomes one that would be examined using the Zoning Ordinance.

The Zoning Ordinance establishes permitted and conditional uses for districts throughout unincorporated Dare County. In order to resolve the issue, the ordinance would need to be amended to add this use to the list of uses for unincorporated Dare County districts. The Planning staff proceeded to draft an amendment adding this list to the list of permitted uses, held a Public Hearing on the draft language, and finally, is presenting draft language version two (2) to the Board for approval. He noted the additional expectations (i.e. A, B, C...etc.) increase the levels of regulation by defining restrictions such as time frames and engine sizes one might expect to find in these districts. If the Board finds the recommendation to be satisfactory, procedurally the Board would need to schedule a Public Hearing to officially advertise and consider the change to add this use to the list of exemptions. He noted the Board could choose to schedule the Public Hearing and advertise it with any number of combinations of the recommendation as presented or excluding some levels of regulation. He noted the Board could also ask the staff and Planning Board to create other draft language for consideration.

Chairman Judge asked if he lived in unincorporated Dare County and purchased his child an ATV, could this be ridden on his property. Mr. Sturza replied he could and added his neighbor’s child could also ride his ATV on his property as well. Chairman Judge asked how this issue was not already permissible based on this fact. County Attorney Outten explained this activity is

taking place in a zoned residential area on lots without homes. This activity would need to be added as permissible on vacant lots. Commissioner Shea asked if this activity was approved, could it be restricted to certain areas rather than County wide. Attorney Outten explained this was possible by creating new overlay districts or by using tools to restrict certain uses to specific locations. Commissioner Shea shared his support of this location specific solution.

Commissioner Tillett shared her concerns of why the current ordinance did not seem to be working and asked why it had remained for so long if it was not working properly. She also stated she had received a letter from Martin's Point asking to be excluded from this use if it was permitted County wide. She noted the Public Hearing may need to be advertised in a way that notifies other areas of the possibility of requesting exclusion. She noted issues the Commissioners would face in determining which areas could be excluded. She suggested possible time restrictions to help the parties involved reach an agreement. She felt this activity gives children an opportunity to learn something good, and requested the Commissioners look into properties where a motocross area could be established for Dare County kids.

Commissioner Richard Johnson stated subdivisions were proper places to have restrictions. However, unincorporated Dare County should be a place with fewer restrictions allowing activities such as this. He felt Commissioner Tillett's suggestion of setting up a track for kids would be a good idea, but he clarified he also does not feel like there is anything wrong with the activity as it is being conducted currently. He noted there are lawnmowers which make more noise than these motorcycles. He supports the approval of draft language version two (2) with the exclusions of items B, E, and F. Attorney Outten explained the current conduct is exceeding residential definitions. Chairman Judge asked Attorney Outten if item B would restrict someone from working on their car in their garage. Attorney Outten stated B would only limit the equipment that is permitted in the ordinance. He added if it was ORV equipment then the 100cc restriction would apply. If Commissioners want to add additional equipment to this item, a modifier such as "and other" would need to be added to encompass that greater definition.

Commissioner Mike Johnson agreed with Commissioner Richard Johnson in the exclusion of B, E, and F stating the 100cc restriction to ORV's would include equipment such as four wheelers which regularly exceed 300-800cc engine sizes. He asked terminology be added to only restrict motorcycles. He disagreed with using fences to solve issues, and felt the three (3) foot restriction on height was no different than trampolines and should not be included. He felt the ordinance should be County wide. American Motorcyclist Association is set to Park Service standards and he feels these are restrictive enough. He thanked the Planning staff and Board for their work on this issue. He felt this was a good activity to help kids stay out of trouble and off of the streets.

Vice-Chairman Burrus asked for clarification stating in order to continue with the activity as it is, the ordinance must be amended. He stated Hatteras Island would have issues with item F because dredge material and sand are often used as fill. He also disagreed with using a six (6) foot fence to solve issues, and with item B due to the variety of property types found throughout the County. He expressed his dismay in having to deal with this type of issue and inquired at which point is using ordinances to restrict activities excessive. He offered his support of scheduling a Public Hearing and advertising discussing draft version two (2) without items B, E, and F. Commissioner Shea suggested sending the draft language back to Planning to rework.

Commissioner Dutton shared his support of scheduling a Public Hearing for draft version two (2) excluding items B, E, and F. He shared his appreciation for all those who spoke during Public

Comment. He agreed with Commissioner Tillett stating Dare County should look into a future project to promote this activity for kids. He felt this healthy activity is beneficial for families.

MOTION

Commissioner Richard Johnson moved to schedule a Public Hearing advertising draft version 2 with the following changes: omitting "100cc" from Item B, and excluding Items E, and F for application County wide if adopted.

Commissioner Dutton and Mike Johnson seconded the motion.

Discussion followed on whether to make the ordinance county wide or to include Martin's Point's request to be exempt from county wide allowance of this activity. Attorney Outten noted other parts of the County can send similar requests regarding exemption to the Board as issues arise. Commissioner Tillett asked if there was a way to be proactive with these requests.

Attorney Outten explained the Public Hearing could be advertised with language detailing if portions of the County want to seek exemption like Martin's Point, they should make this request at the Public Hearing. Commissioner Shea shared his support of advertising the Hearing in this way. Commissioner Richard Johnson did not agree as the Commissioners typically do not advertise exclusions.

Chairman Judge commented on the possibility of omitting Item B. He stated, while he was unable to attend the Planning Board's Public Hearing, he did attend the meeting where the language for version two (2) was drafted. The "100cc" portion of Item B was not the issue for petitioners. Rather, the requests focused on juvenile children with small bikes. He felt removing Item B begins to alter the Planning Board's recommendation to the Board of Commissioners to hear the concerns of the people who feel they are inconvenienced by this activity and balance a compromise for all parties involved. He noted Item B's only limiting factor is the size of the vehicle. Commissioner Richard Johnson felt the limiting factor of the ordinance was not allowing more than four (4) of these vehicles on a lot at a time. He did not feel the size of the vehicle made that much of a difference and noted this problem would be taken care of by the noise ordinance. Chairman Judge noted while he understood Commissioner Johnson's concern, he felt omitting Item B is creating something more than what was requested. Vice-Chairman Burrus noted the go-cart track in Frisco which is surrounded by a residential area and feels as if this issue has already moved beyond what was intended. Chairman Judge asked Mr. Sturza if the noise ordinance would aid this issue with restrictions on times the noises would be allowed. Mr. Sturza reiterated the noise ordinance would not aid this issue. Mr. Sturza felt the "CC" limitation was intended to limit the size of the rider. He noted the Commissioners could advertise with the limitation, and choose to delete this item after the Hearing. Attorney Outten suggested advertising the issue two ways: 1) as presented from the Planning Board, and 2) as presented but omitting items B, E, and F. Elmer Midgett, Planning Board Chair, requested the Board not send the language back to the Planning Board because it took two (2) votes to get the language approved with a vote of four (4) ayes and three (3) noes. He felt the best action would be to advertise for the Public Hearing. Chairman Judge asked if Commissioner Richard Johnson would like to amend his motion to advertise for Public Hearing both as presented, and with exclusions. Commissioner Richard Johnson moved to amend his motion and advertise draft version 2 as presented and draft version 2 omitting B, E, and F for April 20, 2009, at 6:30 p.m.

Commissioners Dutton and Mike Johnson seconded the amended motion.

Commissioner Tillett noted this was a difficult decision for everyone because so many of the Commissioners are related to people who have kids who race or participate in activities that

create noise issues. Therefore, she asked to not participate in the vote. Attorney Outten replied according to the State Statute, Commissioners have to vote on all matters unless there is an ethical conflict. If Commissioner Tillett chose not to participate, her vote would be counted as an aye vote.

VOTE: AYES Chairman Judge, Vice-Chairman Burrus, Commissioners Dutton, Richard Johnson, and Mike Johnson.

NOES Commissioners Shea and Tillett

ITEM 7 – UPDATE ON CURRENT BUDGET AND ADDITIONAL RECOMMENDED ACTIONS (Att. 4)

Mr. Dave Clawson, Finance Director, presented an update on the current year's budget. A budget presentation had been given at the December Board meeting, and Mr. Clawson stated he would return with an update. He gave an overview of the budget's status stating: 1) Since December, economic projections for Gross National Product have been lowered to -6.7% and is expected to have negative growth for the 3rd quarter of 2009, 2) October collections are down just over 4%, 3) Construction and real estate have continued to deteriorate, 4) Revenue projections through October 31st have a deficit of \$1.7 million and have further deteriorated to \$2.9 million, and 5) Sales tax through October 31st has continued to deteriorate. He offered budget actions to aid in the deficit by: 1) Close CY vehicle financing later and incur one quarterly payment instead of due saving \$76,575, 2) Cease 401k contribution after 2/21/09 cutting 9 of 26 pay periods and saving \$394,117, 3) Revert unused merit funds saving \$74,374, 4) Correct CIP error for \$135,000, 5) Specific line item reductions including portions of money budgeted for Beach Access and public education, a portion from contingency, and Oregon Inlet and Waterways, 6) Under budget amounts and reductions in capital outlay accounts totaling \$80,190, 7) Reversions from departments affected by the economic slowdown totaling \$89,125, 8) Overtime reductions from Sheriff's Department, the Detention Center and EMS totaling \$90,000, 9) Part-time salary reversions saving \$1,164, 10) Lapsed salaries and vacancies through 6/30/09 totaling \$210,830, 11) Health Department reversions for \$158,700, and Medicaid relief totaling \$87,600. These affect departments, but keep the County from having to eliminate services or programs. The total estimated revenue deficit is \$2,958,000. If the Board approves the changes as presented, there would be a savings of \$1.6 million. This would leave a deficit of \$771,316. Mr. Clawson explained additional ways to address the deficit by: 1) Asking the Board of Education to examine their budget and offer funds and cuts, 2) General Fund contingency, and 3) Reverting our local share of dredging projects. Beyond these options, the County could look into reducing services and programs, using the Health Department's Title XIX Escrow, and using the Fund balance. He shared projections that 2010 will most likely be more difficult than 2009. He stated the FY 2010 Budget was projected to be 4.9% over revenues (\$5.3 million) and stated the Fund balance may need to be used. He elaborated on this point by saying times such as these are part of the reason a fund balance is in place. He requested the Board adopt the Budget Amendment making the reversions and changes as presented. Chairman Judge shared his conversation with Board of Education Chairman, David Oaksmith, who noted they were working to revert money back to the County's budget. Commissioner Tillett asked if County employees were made aware of the 401k changes prior to the meeting. Mr. Clawson stated they had not been made aware. Commissioner Tillett added she felt employees should have known about the change prior to the meeting.

MOTION

Commissioner Shea moved to approve the Budget amendment.

Vice-Chairman Burrus and Commissioner Dutton seconded the motion.

VOTE: AYES unanimous

ITEM 8 – CAPITAL RESERVE FUND PROJECTION UPDATE AND CLOSEOUT OF SCHOOL CAPITAL PROJECTS (Att. 5)

Mr. Clawson explained the land transfer tax decreased 29.11% during the July 2008 and December 2008 time period. He noted November 2008 had the lowest amount of collections since November 1999. As a result, the Finance Department has projected the capital improvements plan (CIP) for fiscal years 2009 through 2013 at no increase for FY'09, and a 5% increase for the years following. After subtracting \$750,000 reserved for the Emergency Communications System upgrade, he displayed the projection data as a deficit of \$616,907 in 2009 growing to \$12,400,020 by 2013 with approved projects. Without projects, the deficit would decrease and provide a surplus of \$180,995 by 2013.

In addition, Mr. Clawson presented school capital projects that are ready to be closed out. The Board originally transferred \$7,773,261 out of the Capital Reserve Fund for the projects. Due to a greater sales tax reimbursement than expected, expenditures coming in under budget, and construction fund interest income over budget, \$1,589,592.55 is available to be transferred back into the Capital Reserve Fund. He noted the school projects that are ready to be closed and unused funds reverted back to the Capital Reserve fund: 1) Manteo Middle at \$18,543, 2) Nags Head Elementary at \$178,905, 3) Hatteras Secondary at \$124,205, 4) Manteo High at \$192,301, 5) Kitty Hawk Elementary at \$630,880, 6) Manteo Elementary at \$362,381, and 7) Alternative School at \$6,562.

MOTION

Commissioner Shea motioned to adopt the amendment to the Capital Project budget ordinance. Vice-Chairman Burrus seconded the motion.

VOTE: AYES unanimous

ITEM 9 – TRANSFER OF REMAINING ELIGIBLE AMOUNT OF E911 FUND BALANCE (Att. 6)

Mr. Clawson explained Session Law 2007-383 authorized the County to use the fund balance of E911 funds as of 1/31/8008 for any lawful purpose. He reminded the Board they approved \$750,000 for the Emergency Communications System upgrade and transferred this amount into the Capital Reserve Fund. They also approved \$247,563 for the Law Enforcement Officers' Special Separation Allowance and transferred this amount to the LEOSSA Pension Trust Fund. After the final reconciliation was performed, an additional \$23,200 is available for transfer out of the fund. He recommended this amount be transferred to the Law Enforcement Special Separation Allowance Fund to help make up for the reduced current year transfer from the General Fund.

MOTION

Vice-Chairman Burrus moved to transfer the remaining \$23,200 from the E911 Fund to the Law Enforcement Special Separation Allowance Fund.

Commissioner Shea seconded the motion.

VOTE: AYES unanimous

ITEM10 – AMENDMENTS TO SOLID WASTE AUTHORITY CONTRACT (Att. 7)

County Attorney Bobby Outten explained since the solid waste agreement was approved, several changes have taken place: the inception date had changed, the date that each entity is required to adopt a franchise agreement had been extended, and all members are now authorized to operate their own C&D landfills. He assured the Board none of these changes had any substantive impact on Dare County or its municipalities.

MOTION

Commissioner Shea motioned to approve the amended solid waste agreement.

Commissioner Dutton and Vice-Chairman Burrus seconded the motion.

VOTE: AYES unanimous

ITEM11 – DANGEROUS ANIMALS ORDINANCE (Att. 8)

Attorney Outten presented a proposed dangerous animal ordinance which extends the ordinance beyond dangerous dogs to additionally applying to any dangerous animal. This new ordinance would allow Animal Control to impound a dangerous animal and ultimately destroy a dangerous animal if it was determined to be dangerous. He noted this is an absolute ordinance requiring if an animal is determined to be dangerous, it must be destroyed. It has safe guards in place to allow animal owners to bring an issue before an Animal Board, and appeal to a superior court Judge for review. Because of time restraints, neither Animal Control nor the towns were able to review the ordinance before it was presented to the Board in their Board agenda notebooks. Since this time, comments from the Town of Kitty Hawk and Animal Control have been submitted requesting a provision that will allow Animal Control to impound an animal in which there is probable cause to believe it is dangerous. They also requested to use the language “serious injury” instead of “severe injury” which changes the definition to “any physical injury that results in lacerations, punctures, broken bones or other injuries in which medical treatment is required.” He noted the ordinance provides if an animal is determined dangerous and must be destroyed, the owner will pay for the euthanization. The ordinance does not provide information regarding who is responsible for boarding costs if the animal is not determined dangerous. He explained this was just the initial ordinance and does not address breed specific issues. He noted breed specific legislation will be presented at a later date. Leash laws and fine provisions may also come at a later date.

Commissioner Shea shared his approval of the suggested changes based on the comments presented. Vice-Chairman Burrus shared his concern of the ability for Animal Control to impound animals based on speculation the animal may be dangerous. He asked to make sure people who are responsible owners do not get penalized out of a neighbor conflict or other situation. Attorney Outten reiterated the animal must inflict serious injury to present probable cause to impound the animal. Commissioner Richard Johnson inquired if item “F-3” regarding hunting dogs would remain in the ordinance in light of changes being made. Attorney Outten replied it would remain in the ordinance in order to create exclusions for particular instances such as a hunting dog biting another dog while hunting. Commissioner Tillett noted all of the emails received from all of the pet owners and stressed to the Board that actions are considered carefully. She asked if there would be a Public Hearing or study for Breed Specific Legislation. Chairman Judge clarified there would be no action taken on BSL until a later date. The ordinance

presented was simply to strengthen the current ordinance to work better in the case a similar situation would occur. Attorney Outten noted he was working on BSL to bring before the Commissioners for review and stated holding a Public Hearing would be up to the Commissioners. Chairman Judge and Commissioner Tillett shared their support of offering a time to the public for comment.

Commissioner Mike Johnson reminded the Board of the Animal Ordinance Committee that met in past years. He suggested taking the comments that have been made and invite any Commissioner and township representative to attend to create an ordinance that would work town wide. Attorney Outten noted the towns realize ordinances passed in the County may not work as well for more densely populated areas within town limits and may need to adopt their own. They may need to adopt stricter ordinances. He stated the situation may arise where the County chooses not to do BSL but the towns do adopt this type of legislation. He noted the need to adopt an ordinance which can realistically be enforced. Commissioner Mike Johnson listed the past committee members as Denise Lambiotte and other SPCA officers, Anne Thomas, and others. Chairman Judge stated the committee may need to be refocused in order to address this particular issue. Commissioner Mike Johnson suggested allowing Attorney Outten to keep communications open between the towns and the SPCA to create information that would be presented to the Board. Chairman Judge suggested allowing Attorney Outten to present what he is currently working on and let the Commissioners decide once it is reviewed, whether they would like to send it to the committee for further review and changes. Attorney Outten noted he would continue working with the towns and SPCA and to circulate and receive feedback and modifications on the draft ordinance.

MOTION

Commissioner Richard Johnson motioned to approve the ordinance with modifications: 1) changing the definition from “severe injury” to “serious injury,” and 2) to allow immediate impoundment upon probable cause by the Animal Control Officer of a dangerous animal. Commissioners Shea and Vice-Chairman Burrus seconded the motion.

Denise Lambiotte, SPCA, shared her concern of stating all dangerous animals being euthanized once declared dangerous. She felt other avenues may be appropriate for some situations like putting mechanisms in place for a dog who has bitten someone or another animal and euthanization would be an extreme punishment (ex. a dog kills a cat). Commissioner Richard Johnson, Vice-Chairman Burrus, and Chairman Judge stated their support of the ordinance presented by Attorney Outten because of the due process that it puts in place to make sure that no innocent animals are euthanized.

VOTE: AYES unanimous

ITEM12 – FARMING LEASE AT C&D LANDFILL (Att. 9)

Attorney Outten presented the proposed five (5) year lease for the area of the C&D landfill that the County is required to farm. He explained the lease is very similar to years past; however, this lease includes: 1) the farmer is required to plant at least forty (40) acres of corn, 2) the farmer must leave at least forty (40) acres of corn unharvested for the waterfowl program, and 3) Dare County is allowed to remove acreage at their discretion with a corresponding rent reduction. He noted the farmer has reviewed and approved the lease.

MOTION

Vice-Chairman Burrus motioned to authorize the Chairman to sign the lease.

Commissioner Shea seconded the motion.

VOTE: AYES unanimous

ITEM13 – CONSENT AGENDA (Att. 10)

MOTION

Commissioner Shea motioned to approve the Consent Agenda:

1. Approval of Minutes
2. Budget Amendment Health Department – Additional WIC Funds
3. Budget Amendment Health Department – Breast and Cervical Cancer Control
4. Budget Amendment Health Department – Additional Family Planning State Funds

Vice-Chairman Burrus seconded the motion.

VOTE: AYES unanimous

ITEM14 – BOARD APPOINTMENTS

- 1) Fessenden Center Advisory Board

MOTION

Vice-Chairman Burrus moved to appoint Rev. Cory B. Oliver to fill the unexpired term of Rev. Charles Moseley.

VOTE: AYES unanimous

- 2) Dare County Youth Council

Commissioner Shea moved to appoint Matt Witter to fill the unexpired term of Katherine Irby.

VOTE: AYES unanimous

ITEM15 – COMMISSIONERS' BUSINESS

Commissioner Richard Johnson

None

Commissioner Tillett attended a meeting in Hertford County with Jenny Gray Jones to accept a check for \$400,000 from the North Carolina House and Finance Agency. She did not receive any information on the criteria for the use of the funds and the Board asked Ms. Jones to investigate this grant further. She announced the State of the Older Adult Conference at the College of the Albemarle on March 27th at 8:00 a.m. She encouraged everyone to sign up seniors they know would benefit from attending. She asked County Manager Wheeler to write to the Social Security Administration office again and request a local office for Dare County. So much of the senior population do not use computers and therefore cannot go online to do what they need to do. She announced the Grand Opening of the Youth Center on March 8th at 3:00p.m. She stated this center would be open for business on February 23rd. She thanked everyone for all of their hard work on the building, and thanked Mr. James Melvin for the beautiful mural on the walls. She noted the Roanoke Island Senior Center Committee had met on February 6th to determine a name for the new building. The suggested names are Dare Center, Outer Banks Center, and Dare County Center. She stated the building could be renamed in the future if someone made a substantial donation. The Committee requested the Board vote to approve “Dare County Center” as the name for the building.

MOTION

Commissioner Tillett motioned to name the senior center “Dare County Center.”

Vice-Chairman Burrus seconded the motion.

VOTE: AYES unanimous

County Attorney Outten asked for clarification on whether the center would be named “Dare County Center” or “The Dare County Center.” Chairman Judge and Commissioner Tillett noted it would be “Dare County Center.”

She announced the 5th annual Freedman’s Colony Blues Jam at the Roanoke Island Festival Park on Friday, March 5th. She noted the tickets cost \$15. She also thanked Chairman Judge and the Board for their support the week prior with the issue on the conflict with being a Presidential Elector and County Commissioner.

Vice-Chairman Burrus

MOTION

Vice-Chairman Burrus motioned to approve Resolution 09-02-7 supporting the Creation of an Insurance Commission.

Commissioner Shea seconded the motion.

Commissioner Richard Johnson asked if the counties would have input on how the Insurance Commission would be created. Vice-Chairman Burrus assumed there would be dialogue involved. Attorney Outten noted the lack of transparency in the most recent actions regarding the rate making process. Therefore, the twenty (20) coastal counties of North Carolina are attempting to have an Insurance Commission created to reform the current processes to make them more public. The model recommended would be one much like the Utilities Commission where documents are made public. Commissioner Richard Johnson noted his support of a balanced Commission where the public is protected, and where the seats for the Commission are elected and contain members of the general public. Attorney Outten states he would expect the opportunity to comment if the State can be convinced to create the Commission

VOTE: AYES unanimous

Vice-Chairman Burrus asked if Commissioner Mike Johnson would speak to “LAPPs” and how it affects commercial fisherman. He explained fishermen’s concern regarding this program and how quotas will determine if they will obtain next year’s fishing permits and noted these could be bought by larger commercial fishing companies. He asked Commissioner Mike Johnson to clarify this issue for the Board so they can answer concerns intelligently. He appreciated Mr. Dave Clawson for all of his hard work with the budget and his ability to make large concessions without the loss of jobs.

He apologized for being behind in responding to emails due his daughter’s recent operation. He asked Chairman Judge for an update on the National Park Service and Coast Guard Base issue and stressed the need to come up with an agreement. Chairman Judge offered an update saying they are still waiting on the appraisal for the housing and for a more in depth Environmental Impact statement as some present issues were not addressed in phase one (1) of this statement. Attorney Outten has spoken with NPS and they offered no time frames for these items. Once this has been taken care of, there will still need to be an agreement between the Coast Guard and NPS. Chairman Judge attended a meeting of the Hatteras Island/Ocracoke Island Council of the

Outer Banks Chamber of Commerce where they developed a plan for Hatteras Island business, civic and community leaders would contact Congressman Jones, and Senators Hagan, and Burr on a weekly basis with a letter of support from the community for the County to obtain use of the base and housing.

Vice-Chairman Burrus also offered an update on Oregon Inlet stating while conditions are better, there are still problems with boats entering and exiting the Inlet. He stressed the need for more Federal funds to address the issues.

Commissioner Shea and Commissioner Dutton met with Senator Basnight to help start a dialogue to see what actions are feasible to address the issue of coastline erosion. He was receptive and had a telephone conference with his staff members who agreed to continue meeting regularly. They also attended a conference in Morehead City on beach erosion. He stated they heard very interesting information from experts about other states dealing with this issue. He noted he would continue to press the issue to see what can be done to save our coastline.

Commissioner Mike Johnson explained “LAPPs” as being a Limited Access Permitting Program which was voted on by the NC Division of Marine Fisheries and sent to the Commission of Seafood and Agriculture for approval. Senator Albertson introduced this issue with House Bill 108 to deal with the Striped bass fishery in the Atlantic Ocean. Basically, this program would gather trip ticket data, decide who the historic Rockfish fishermen are in Dare County, and pass out quotas based on this data. While this program provides fewer restrictions, it gives the director too much power in that he can determine who the fishery is and does not allow for fishermen to lateral into other fisheries to make a living when their fishery dries up. Environmental Defense is supporting this issue in an attempt to divide and conquer large groups of fisherman. The Dare County Commission on Working Watermen have not voted on this issue, but Commissioner Mike Johnson thinks this bill may die in the Senate. Atlantic States Marine Fisheries Commissioner put a motion on the floor to increase the Atlantic Ocean Rockfish quota, and roll over 50% of the unused quota to increase the quota for the next season. This vote tied 7/7. While it did not pass, no motion like this has ever been presented or voted upon. This is a step in the right direction and may be able to vote again in the future with more members supporting the issue and allowing it to pass. He noted the next issue to tackle will be the attempt to extend the EEZ which is currently at three (3) miles to twelve (12) miles. He noted former President Bush made Rockfish a game fish which caused many problems for commercial fishermen. By extending the EEZ out to twelve (12) miles, many commercial fishermen will be able to go back to work. He thanked the Board for their continued support for the Working Watermen committee.

Commissioner Dutton thanked the Department Heads for offering to reduce portions of their budgets to help with the deficit. He also thanked the Board of Education, Mr. Oaksmith, Dr. Burgess, and Ms. McGinnis for being engaged in the budgeting process and the needs of the County at this time.

Chairman Judge and Attorney Outten were invited to meet with the Army Colonel, Mayor Renee Cahoon of Nags Head, NH Town Manager Charlie Cameron, and Assistant Town Manger Cliff Ogburn to discuss three options in Dare County. The first is the federally authorized and approved thirteen (13) mile Northern Dare beaches project. The 2nd option was a local project

called “Nags Heads Go Alone Project” which is a modified version of option one (1). Finally, the 3rd option is a federal project funded by non-federal partners with agreements from Congress to reimburse. The requirement is to have a project that is “shovel ready.” He stated they would be meeting with leaders to attempt to receive funding.

Chairman Judge then made an appeal to the public in Dare County and across state and nation. He explained the Federal Advisory committee REGNEG facilitators decided to have integration committee of nine (9) seats: three (3) conservation, three (3) access, one (1) pedestrian seat, county and county entities, and Mike Murray, Park Superintendent. They had five days of meetings concluding tomorrow. He thanked Lee Wrenn for attending the week prior for him. He asked the County, State, and US to lobby the members of the committee and Congress. He felt there were no current negotiations due to some members who refuse to compromise. He does not understand how every business has to accommodate the public such as the ADA requirements. Beach access is required for some with specific disabilities and he cannot fathom how Congress will allow these people’s civil and constitutional rights to be violated. He states that as soon as March 16th there may be closures.

He also shared his appreciation for the Dare County EMS who aided him in a recent situation. He noted this was a great group of people.

ATTORNEY’S BUSINESS

Attorney Outten introduced Ken Flatt, Water Department Director, who requested permission to apply for State revolving funds from the American Recovery and Reinvestment Act of 2009.

(Att. 11)

MOTION

Commissioner Shea motioned to allow Mr. Flatt to apply for potential Federal funds.

Vice-Chairman Burrus and Commissioner Dutton seconded the motion.

VOTE: AYES unanimous

Attorney Outten then introduced Lee Wrenn, Planning, who explained approximately one year ago, an application was made with Clean Water Management Trust fund to assist in purchasing the Manns Harbor marina. This was successful as were the applications for two (2) additional grants. The State Property office has negotiated an option to purchase the property and has pending execution of grant contracts. The State office has until April 30th to exercise the option to purchase the property. There are a lot of pre-disbursement requirements. He stated it may be possible to assign the grant contract to Wildlife Resources to help shortcut the process. He requested the Board approve the grant agreement as presented assuming Wildlife resources would not be able to accept the grant contract. He asked for approval of the assignment of the grant to Wildlife Resources in part or in whole – whichever the Clean Water Management Trust Fund may require. He noted there would be certain expenses incurred for environmental assessments, surveys and appraisals totaling approximately \$10,000. This amount would be reimbursed by the grant. **(Att. 12)**

MOTION

Vice-Chairman Burrus motioned to approve the agreement.

Commissioner Shea seconded the motion.

Vice-Chairman Burrus noted the Wildlife Resources tend to be slow in their processes.

Commissioner Richard Johnson asked if the County would have any say in how the project is

handled. Mr. Wrenn responded the County is the sponsor and the applicant for grants awarded to purchase the property with the title being held by Wildlife Resources. He felt Wildlife Resources would allow the County to have input because we have worked so closely with them already.

VOTE: AYES unanimous

Attorney Outten presented the Board with the requested text messaging resolution and asked for a motion to approve it.

MOTION

Vice-Chairman Burrus motioned to approve Resolution Supporting House Bill 9 Making Text Messaging While Driving Unlawful.

Commissioner Tillett seconded the motion.

VOTE: AYES unanimous

He announced the County has leased the Dialysis Center to Pitt Memorial Hospital, who had in turn subleased it to Tidewater Kidney Specialist. This sublease is being renewed and needs Board approval.

MOTION

Vice-Chairman Burrus motioned to authorize County staff to execute and approve the sublease with the Dialysis Center and Pitt Memorial Hospital.

Commissioner Shea seconded the motion.

Commissioner Richard Johnson asked if the sublease was negotiated at a higher rate, would the County also receive a higher rent rate. Attorney Outten responded the County would not get a higher rate due to our lease with Pitt Memorial not being expired at this time.

VOTE: AYES unanimous

MANAGER'S BUSINESS

None

ITEM16 – CLOSED SESSION – APPROVAL OF MINUTES

Vice-Chairman Burrus, pursuant to the provisions of NCGS 143-318.11, moved the Dare County Board of Commissioners go into Closed Session to: approve the minutes of the last Closed Session.

Commissioner Shea seconded the motion.

VOTE: AYES unanimous

AT 9:57 P.M. THE DARE COUNTY BOARD OF COMMISSIONERS ENTERED CLOSED SESSION AND EXITED AT 9:59 P.M.

Chairman Judge reconvened the meeting. After returning from closed session, Attorney Outten reported the minutes from the last Closed Session had been approved.

AT 10:00 P.M. THE DARE COUNTY BOARD OF COMMISSIONERS ADJOURNED UNTIL
9:00 A.M. ON MARCH 16, 2009.

(SEAL)

Respectfully submitted,

By: _____
Katie Smith, Clerk

APPROVED:

By: _____
Warren C. Judge, Chairman
Dare County Board of Commissioners

