



COUNTY OF DARE, NORTH CAROLINA

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

Regularly scheduled Board meetings are videotaped and can be viewed at www.darenc.com

MINUTES

DARE COUNTY BOARD OF COMMISSIONERS MEETING

Dare County Administration Building, Manteo, NC

9:00 a.m., February 1, 2016

Commissioners present: Chairman Robert Woodard
Vice-Chairman Wally Overman
Warren Judge, Jack Shea, Allen Burrus,
Beverly Boswell, Margarett Umphlett

Commissioners absent: None

Others present: County Manager/Attorney, Robert Outten
Finance Director, David Clawson
Public Information Officer, Dorothy Hester
Clerk to the Board, Gary Gross

A full and complete account of the entire Board of Commissioners meeting is archived on a video that is available for viewing on the Dare County website www.darenc.com.

Chairman Woodard called the meeting to order at 9:03 a.m. He invited Rev. Cherri Wheeler to share a prayer, and then he led the Pledge of Allegiance to the flag.

Note – In order to accommodate the Public Hearings scheduled for 10:00 a.m., some agenda items were handled out of sequential order.

ITEM 1 – PRESENTATION OF COUNTY SERVICE PINS

- 1) Sara Finch, E911 Communications, received a 10-year pin.
- 2) Ralph Owens, Detention Center, received a 15-year pin.
- 3) Shanna Fullmer, Public Works Department, received a 20-year pin.

ITEM 2 – EMPLOYEE OF THE MONTH – FEBRUARY 2016

Jami Brown, Human Resources Department, received the Employee of the Month Award for February 2016 from Elizabeth Reilly who described the many ways that Ms. Brown is an asset to Dare County by being a reliable employee with a great attitude who is courteous to everyone she serves.

ITEM 3 – OPENING REMARKS – CHAIRMAN'S UPDATE

Chairman Woodard gave a follow-up report on what has transpired since the last meeting. He reminded everyone of the upcoming Town Hall meeting that will be held in Buxton. He called on Vice-Chairman Overman to give details about the interactive

exhibit, known as Keeping Current, which is designed to empower and equip adults with the tools necessary to prevent teen substance abuse. Chairman Woodard said he participated in a tour of new Park Service facilities with Superintendent David Hallac and commended the Outer Banks Group for completing projects in record time and for being a true partner with Dare County. A complete video account of the Chairman's update can be seen on the Dare County website www.darenc.com.

ITEM 4 – PUBLIC COMMENTS

Mr. Outten outlined the public comments procedure. Nobody made public comments.

ITEM 5 – UPDATE FROM THE NC DEPARTMENT OF TRANSPORTATION

NCDOT Board Member Malcolm Fearing and Division Engineer Jerry Jennings appeared before the Board of Commissioners to give a report on three transportation projects in Dare County. A comprehensive report was given on the status of the Bonner Bridge replacement and plans for the Pea Island Bridge and Rodanthe Bridge. Along with Resident Engineer Pablo Hernandez, the group answered Commissioner questions about the projects. Mr. Jennings also reported that work will be completed soon to enhance visibility of the traffic signal at the intersection of Veterans Drive and Colington Road in Kill Devil Hills.

ITEM 6 – UPDATE FROM NCDOT FERRY DIVISION ON HATTERAS INLET

Deputy Ferry Director Jed Dixon was introduced by NCDOT Board Member Malcolm Fearing. Mr. Dixon explained that 55,000 cubic yards of sand has been removed from Hatteras Inlet and described the positive impact that the NCDOT dredging project has had on improving navigational access for Hatteras Island mariners. He also reported on the recent incident where a ferry vessel ran aground and explained how it occurred. He noted that no one was hurt and thanked Commissioner Burrus for the assistance he provided the passengers that were involved. Chairman Woodard thanked the Ferry Division for making the Hatteras Inlet project happen in record time.

ITEM 7 – EASEMENTS FOR MANTEO STORMWATER IMPROVEMENT PROJECT

County Manager Outten described the work being done by the Town of Manteo on their stormwater improvement project in downtown Manteo. He outlined two easements that are needed to facilitate Phase III of the project.

MOTION

Commissioner Judge motioned to approve granting the requested easements. Commissioners Boswell, Umphlett, and Shea seconded the motion.

VOTE: AYES unanimous

ITEM 8 – TOURISM BOARD REQUEST CONSENT FOR SPENDING FROM RESTRICTED FUND

Lee Nettles, Executive Director of the Outer Banks Visitors Bureau, presented a Restricted Fund spending request in the amount of \$20,700 for changes to the scope of work for Phase II of the Soundside Event Site.

MOTION

Commissioner Judge motioned to approve the Restricted Fund spending request. Vice-Chairman Overman and Commissioner Shea seconded the motion.

VOTE: AYES unanimous

ITEM 9 – HEALTH AND WELLNESS CENTER

Mr. Outten explained that for more than a year work has been done to determine the feasibility of establishing an employee clinic in an effort to promote wellness and improve health care costs. He said a recommendation is now ready to be presented to the Board and introduced Mark Browder from Mark III Employee Benefits and Amy Montgomery from The Outer Banks Hospital. They outlined the research that has been done and described the range of services that would be available at the clinic through mid-level providers for minor injuries and illnesses at a site across the street from The Outer Banks Hospital and on Hatteras Island. It was noted that approximately four to six months will be needed to implement the clinic.

MOTION

Vice-Chairman Overman motioned to approve the Health and Wellness Center as proposed.

Commissioner Judge and Commissioner Shea seconded the motion.

VOTE: AYES unanimous

ITEM 10 – REPORT ON THE MONITOR NATIONAL MARINE SANCTUARY (MNMS)

David Alberg, Superintendent of the MNMS gave an update on the possibility of expanding the sanctuary boundaries. He read the recommendation of the MNMS Advisory Council and outlined options under consideration. He described public scoping meetings that are scheduled and outlined how public comments can be submitted through March 18, 2016. The Superintendent said his agency wants to actively involve the Dare County Board of Commissioners in plans for the MNMS. Chairman Woodard read comments from the Board of Commissioners opposing any expansion of the Sanctuary. Members of the Board repeatedly emphasized that while they appreciate Superintendent Alberg's positive approach to providing recreational and fishing access in the MNMS; history has proven that other federal agencies have broken promises when superintendents retire or move on to other assignments. Mr. Alberg thanked the Board for sharing their comments and promised to keep them well informed throughout the process.

MOTION

Commissioner Judge and Commissioner Shea motioned to submit the comments that were presented by Chairman Woodard.

Commissioner Burrus seconded the motion.

VOTE: AYES unanimous

ITEM 11 – PRESENTATION ON GYPSY MOTHS

Christopher Elder, the Gypsy Moth Program Manager for the NC Department of Agriculture and Consumer Services, gave a presentation on a gypsy moth infestation on Hatteras Island. He explained the life cycle of the gypsy moth and described the harm they can cause. Mr. Elder outlined treatment options and the approach that his agency will use in addressing the problem on Hatteras Island.

CLOSED SESSION

The County Manager asked for a Closed Session pursuant to NCGS 143-318.11(a)(3) to consult with an attorney employed or retained by the County in order to preserve the attorney-client privilege and to approve the minutes of the last Closed Session.

MOTION

Commissioners Overman, Judge, Shea, Burrus, Boswell, and Umphlett motioned to go into Closed Session pursuant to the provisions of the North Carolina General Statutes cited by the County Manager.

Chairman Woodard seconded the motion.

VOTE: AYES unanimous

At 12:12 p.m., the Commissioners exited the room to meet in Closed Session. They reconvened at 1:03 p.m. and Mr. Outten reported that during the Closed Session the Board approved previous Closed Session minutes, gave guidance to the County Attorney, and took no other action.

ITEM 12 – DARE COUNTY FARM LEASE

Mr. Outten invited Tommy Ormand to the podium to answer Commissioner questions regarding the Sow and Reap LLC bid to lease Dare County farmland. Vice-Chairman Overman asked Mr. Ormand to describe the main purpose of Sow and Reap. He was told it is for agricultural farming. The Vice-Chairman asked if he understood that no hunting, of any kind, is allowed. Mr. Ormand confirmed that he did. In response to a question from Commissioner Boswell, Mr. Ormand outlined his farming experience, which he said has been a lifelong endeavor. Commissioner Boswell asked him to clarify his relationship with former Commissioner Mike Johnson. Mr. Ormand said Mr. Johnson made him aware that the Dare County site might be up for bid. He explained that Mr. Johnson manages one 500-acre farm that Mr. Ormand tends in Hyde County. He added that Mr. Johnson is not the Manager of Sow and Reap Farms. Mr. Ormand further clarified that he, Mr. Ormand, would be the Manager of the Dare County farmland. Mr. Ormand told Commissioner Shea that he plans to plant soybeans, or corn, beans, and cotton. Chairman Woodard asked Mr. Ormand if he was aware of the parameters of the Request for Proposal compared to the submitted bid and why it was not under his own name instead of Sow and Reap LLC. Mr. Ormand explained that the lease would be signed by Sow and Reap Farms rather than Thomas Ormand or Ormand Farms, which would have been a different federal identification number. He added that Sow and Reap has only been in existence on paper for three years, however his other farming endeavors have been going on since 1984. Mr. Ormand noted that

his daughter is the Registered Agent for Sow and Reap and that he also has power of attorney along with his wife. Chairman Woodard asked why the corporation address is not the same as the one on the submitted bid. Mr. Ormand explained that he has two addresses, with one being a post office box and the other a physical address. He confirmed for Chairman Woodard that he understands that hunting will not be permitted and that Mr. Johnson will have nothing to do with the Dare County site. Vice-Chairman Overman noted that Mr. Ormand deals with 37 different landlords and therefore must be doing it right. Chairman Woodard said he was not questioning Mr. Ormand's integrity, but wanted clarity on why the RFP was not followed.

MOTION

Commissioner Burrus motioned to approve the lease agreement with Sow & Reap LLC. Commissioner Judge and Vice-Chairman Overman seconded the motion.

VOTE: AYES: 4 (Commissioners: Overman, Judge, Shea, Burrus)

NOES: 3 (Commissioners: Woodard, Boswell, Umphlett)

Motion carried in a 4 to 3 vote.

ITEM 13 – AUDIT CONTRACT FOR THE FISCAL YEAR TO END JUNE 30, 2016

Finance Director, David Clawson, presented the audit contract and engagement letter with Potter & Company for fiscal year 2016. It was noted that the firm's response to the Request for Proposal (RFP) was \$63,000 and the proposed contract is for \$62,400.

MOTION

Vice-Chairman Overman motioned to approve the contract and authorize Chairman Woodard and Commissioner Shea, as Chairman of the Audit Committee, to sign the contract and to authorize Chairman Woodard to sign the Engagement Letter.

Commissioner Boswell seconded the motion.

VOTE: AYES unanimous

ITEM 14 – RESOLUTION ASKING THE RPO TO DELAY CONSIDERATION OF FERRY TOLLING (Att. #1)

The County presented a resolution asking the Albemarle Rural Planning Organization (RPO) to refrain from considering ferry tolling. Vice-Chairman Overman reported that at a recent RPO meeting, the group decided to delay consideration in order to allow the upcoming session of the NC General Assembly to explore alternate funding sources.

MOTION

Vice-Chairman Overman motioned to approve a resolution in support of asking the Albemarle RPO to delay consideration of tolling ferry routes.

Commissioner Burrus and Commissioner Judge seconded the motion.

VOTE: AYES unanimous

ITEM 15 – NON-WARRANTY DEED TO THE CHILDREN AND YOUTH PARTNERSHIP (Att. #2)

The County Manager reminded the Board that the group home for foster care behind Manteo Baptist Church is no longer used by Dare County for that purpose. He said there is a reversionary provision in the deed that requires the title to revert to the

Children and Youth Partnership (C&YP). He said although the title has already reverted, the C&YP needs additional proof of ownership and has requested a non-warranty deed to document that they are now the legal owners of the property.

MOTION

Commissioner Umphlett motioned to approve the Non-Warranty Deed and authorize the County Manager to execute the document.

Commissioner Shea seconded the motion.

VOTE: AYES unanimous

ITEM 16 – PUBLIC HEARING – SECTION 22-29.2 TELECOMMUNICATIONS SYSTEMS

At 10:12 a.m., the Dare County Board of Commissioners held a Public Hearing to receive input concerning this agenda item. The County Manager conducted the hearing and explained the procedure for making comments. No one responded to the invitation to address the Board. Chairman Woodard closed the hearing at 10:12 a.m.

During discussion, Commissioner Burrus asked how Distributive Antenna Systems (DAS) differ from existing technology. The Planning Director explained that they are designed to be stealth technology mounted on existing utility poles. Mr. Outten noted that with increasing demand for antennas, DAS may be a solution that is less intrusive for communities rather than having so many communications towers.

MOTION

Commissioner Judge motioned to adopt the proposed amendments to Section 22-29.2 Telecommunications Systems to add Distributive Antenna Systems to this section as recommended by the Planning Board with the finding that these amendments are consistent with the policies of the 2009 Dare County Land Use Plan and other official documents by updating the telecommunications regulations to reflect changing infrastructure technologies.

Commissioner Burrus and Commissioner Shea seconded the motion.

VOTE: AYES unanimous

ITEM 17 – PUBLIC HEARING – PROPOSED FLOOR AREA RATIO REGULATIONS FOR S-1 DISTRICT

At 10:17 a.m., the Dare County Board of Commissioners held a Public Hearing to receive input concerning this agenda item. The County Manager conducted the hearing and explained the procedure for making comments. No one responded to the invitation to address the Board. The Public Hearing was closed at 10:17 a.m.

Chairman Woodard asked to be recused from discussion and voting on this item because of a business relationship that he has with the applicant.

MOTION

Commissioner Judge motioned to approve Chairman Woodard's request to be recused. Commissioner Shea seconded the motion.

VOTE: AYES unanimous (Chairman Woodard left the room at 10:17 a.m.)

During discussion, Commissioner Burrus asked if this amendment will be in line with new state regulations. The Planning Director said the recent legislation does not apply to multifamily structures. Mr. Outten said the new statute only applies to limitations being placed on the number of bedrooms.

MOTION

Commissioner Judge motioned to adopt the amendments to the S-1 district to establish a FAR of 0.4 for multifamily developments, Section 22-2 definitions and Section 22-56 Parking with the finding that these amendments are consistent with the 2009 Dare County Land Use Plan and other policies and documents of the County since the proposed amendments will provide for residential development at a scale that is compatible with existing neighborhoods.

Commissioner Shea seconded the motion.

VOTE: AYES unanimous – (6 votes) Chairman Woodard was absent from the room during discussion and voting on this agenda item. He returned at 10:20 a.m.

RECESS: 10:20 a.m. – 10:34 a.m.

ITEM 18 – CONSENT AGENDA

The Manager announced the items as they were visually displayed. During discussion, Commissioner Burrus asked that advertisement of tax liens be delayed until spring, if possible. The County Manager outlined the timetable.

MOTION

Commissioner Shea motioned to approve the Consent Agenda:

- 1) Approval of Minutes (01.19.16 Meeting & 01.19.16 Town Hall) **(Att. #3)**
- 2) Public Health Division – PICH Grant to Purchase Banner for E-Cig Prevention
- 3) DCDHHS – Public Health Division – Add'l State Healthy Communities Funding
- 4) Motor Vehicle Incident Review Policy Revision
- 5) Advertise 2015 Tax Year Liens 6) Homeland Security Grant

Commissioner Boswell seconded the motion.

VOTE: AYES unanimous

ITEM 19 – BOARD APPOINTMENTS

- 1) Albemarle Resource Conservation & Development Council

Commissioner Umphlett motioned to appoint Ann Sinclair.

Vice-Chairman Overman seconded the motion.

VOTE: AYES unanimous

- 2) Board of Equalization and Review

Commissioner Judge motioned to approve the recommendation of the Board of Equalization and Review by making the following appointments –

Jonathan Waddill to replace Bette Gray

Jeffrey Scott to replace Talmadge Jones

Charles Evans to replace Michael Davenport

Commissioner Shea seconded the motion.

VOTE: AYES unanimous

3) Fessenden Center Advisory Board

Vice-Chairman Overman motioned to approve the recommendation of the Fessenden Center by appointing Marcie Shoemaker to fill the unexpired term of Heidi Blackwood (Buxton Area).

Commissioner Burrus seconded the motion.

VOTE: AYES unanimous

4) Juvenile Crime Prevention Council (JCPC)

Commissioner Umphlett motioned to approve the recommendation of the JCPC by appointing Michael Lewis to fill the unexpired term of Lynn Bryant (Representing the United Way/other Non-profit).

Vice-Chairman Overman seconded the motion.

VOTE: AYES unanimous

5) Planning Board

Initially a motion was made by Commissioner Judge to appoint Allen Moran to the District 1 seat and Terry Gore to the At-Large seat. This was followed by a motion from Vice-Chairman Overman to reappoint Ricky Scarborough to the District 1 seat and appoint Terry Gore At-Large. Vice-Chairman Overman's motion also included switching the district designations of John Finelli and Charles Read and appointing John Finelli as Chairman. The motions were voted on separately as follows –

District 1 Seat –

Commissioner Judge motioned to appoint Allen Moran.

VOTE: AYES 2 (Commissioners Judge and Burrus)

Vice-Chairman Overman motioned to reappoint Ricky Scarborough.

VOTE: AYES 5 (Commissioners Woodard, Overman, Shea, Boswell, Umphlett)

With 5 votes, Ricky Scarborough was reappointed to the District 1 seat.

At-Large Seat –

Commissioner Judge motioned to appoint Terry Gore.

VOTE: AYES unanimous

Note: Commissioner Umphlett stated that she did not vote on this appointment. Chairman Woodard explained that the rules of procedure consider a non-vote as a vote in the affirmative.

Terry Gore was appointed to the At-Large seat.

Other Action Concerning the Planning Board –

Vice-Chairman Overman motioned to switch the district designation for John Finelli and Charles Read by giving John Finelli the At-Large position and Charles

Read the District 3 position and appointing John Finelli as Chairman of the Planning Board.

VOTE: AYES unanimous

6) Tourism Board

Commissioner Judge motioned to appoint Mike Hogan as the Kill Devil Hills (KDH) representative to the Tourism Board. Commissioner Burrus seconded the motion.

During discussion of the motion, Commissioner Boswell said it is not fair that there is only one name for the Board to consider for this appointment. Mr. Outten explained the statutory requirements concerning nominees and his conversations about this issue with the School of Government.

VOTE: AYES: 6 (Commissioners: Woodard, Overman, Judge, Shea, Burrus, Umphlett)

NOES: 1 (Commissioner: Boswell)

With 6 votes, Mike Hogan was appointed as the KDH Tourism Board representative.

7) Upcoming Board Appointments

The upcoming Board appointments for March, April, and May 2016 were announced.

ITEM 20 – COMMISSIONERS’ BUSINESS & MANAGER’S/ATTORNEY’S BUSINESS

Following is a brief outline of items raised during this segment. Commissioners and the County Manager frequently make extensive remarks, which can be viewed in their entirety on a video archived on the Dare County website www.darenc.com.

Vice-Chairman Overman – congratulated the service pin recipients and the Employee of the Month. He gave kudos to Trillium Health Resources that arrangements could be made to continue school based services for the remainder of the school year. He said the Board’s position on expansion of the Monitor National Marine Sanctuary is based on experience and their proposal raises legitimate concerns for our local fishing fleet. The Vice-Chairman commended the Water Department for their prompt repair of a recent line problem on Hatteras Island.

Commissioner Shea – acknowledged the service pin recipients and the Employee of the Month. He also reported that an economic development meeting will be held tomorrow with representatives of NC State.

Commissioner Burrus – thanked the service pin recipients and the Employee of the Month. He described the work that is being done to utility pole lighting by the Cape Hatteras Electric Cooperative and called it a win-win situation. He said he was impressed with today’s presentation on gypsy moths. Commissioner Burrus asked if the advertisement of tax liens could be delayed. The County Manager said he would look into the matter.

Commissioner Boswell – complimented the service pin recipients and the Employee of the Month. She reported on a tour of First Flight Elementary School that she participated in with Senator Cook. She said she was very impressed with both the

teachers and the students. Commissioner Boswell thanked the NCDOT Ferry Division for the excellent way they handled the recent ferry grounding. She gave an update on dredging activity at Oregon Inlet and the status of the Memorandum of Agreement.

Commissioner Judge – saluted the service pin recipients and the Employee of the Month. He commented on the federal government’s possible offshore leases for energy exploration and how it could impact Dare County. Commissioner Judge reported on a meeting of the NC House Select Committee on Transportation that was held in Hyde County. He said there appeared to be a consensus that the General Assembly would make a sincere effort to find a funding alternative to ferry tolls. He noted that North Carolina is a leader in the unmanned aircraft industry with the Hyde County airport being used as a testing ground.

Commissioner Umphlett – congratulated the service pin recipients and the Employee of the Month. She commended Vice-Chairman Overman and others for their quick action to addressing funding of school based services. She urged Dare County citizens to get involved in government by submitting applications to serve on Boards and Committees and by examining the candidates for public office.

Chairman Woodard – thanked Vice-Chairman Overman and Jay Burrus for working on the funding of school based services. He echoed the positive comments that were made by others about NCDOT and the Ferry Division. The Chairman said good things were accomplished during 2015 and he is excited about the future. He reminded everyone of this week’s Town Hall meeting on Hatteras Island.

MANAGER’S/ATTORNEY’S BUSINESS

1. Mr. Outten said in follow-up to Commissioner Burrus’ question during the presentation of the Consent Agenda, he called the County Tax Collector. He reported that publication of the tax liens can be done anytime between March 1 and June 30, however, collection action cannot be taken until at least 30 days after publication. He explained that typically the County publishes the notice at its first opportunity so that there will be ample time later for other collection remedies. Commissioner Burrus stated it is best then to leave it alone and noted that he would not be making a motion.
2. The County Manager said staff was previously instructed to get costs reduced for the E911/EOC Building project to meet the budget target of \$9,639,213. He said staff has met with the architect and the Construction Manager, Whiting Turner, to finalize the value engineering items that were previously presented to the Board. He reported that Whiting Turner has submitted a Guaranteed Maximum Price (GMP) of \$9,844, 617. Mr. Outten outlined two changes that will generate a cost savings resulting in a GMP that will match the approved budget of \$9,639,213.

MOTION

Commissioner Umphlett and Commissioner Shea motioned to authorize the Chairman to execute Change Order #001 to establish the Guaranteed Maximum Price, and authorize the County Manager to execute all related budget

amendments and amendments to the project ordinance, and give authority to issue the notice to proceed.
Vice-Chairman Overman seconded the motion.
VOTE: AYES unanimous

At the conclusion of the meeting, Chairman Woodard asked for a motion to adjourn.

MOTION

Commissioner Shea motioned to adjourn the meeting.
Commissioner Umphlett seconded the motion.
VOTE: AYES unanimous

At 2:02 p.m., the Board of Commissioners adjourned until 5:00 p.m., February 15, 2016.



Respectfully submitted,

By: 
Gary Gross, Clerk to the Board

APPROVED:

By: 
Robert Woodard, Chairman
Dare County Board of Commissioners