

**NORTH CAROLINA
DARE COUNTY****THE DARE COUNTY BOARD OF COMMISSIONERS MINUTES
March 17, 2003**

The Dare County Board of Commissioners met in a regular session at 3:00 p.m. on March 17, 2003, in the Dare County Administrative Annex in Manteo. Commissioners present were: Warren Judge, John Robert Hooper, Renée Cahoon, Richard Johnson, Cheryl Byrd, Virginia Tillett, and Stan White. Also present were Manager Terry Wheeler and Attorney Norma Mills. Chairman Judge opened the meeting followed by silent meditation and the Pledge of Allegiance to the flag. He asked everyone to pray for the armed forces and congressional leaders during the brink of war.

ITEM 1 – HATTERAS ISLAND RESORT – REVISED PRELIMINARY PLAT

Ray Sturza, Planning Director, presented the preliminary plat for Hatteras Island Resort. In December 2002, the Board of Commissioners approved a preliminary plat for Hatteras Island Resort Subdivision, an 18-lot division on the Rodanthe pier site. Since that time the Division of Coastal Management has informed the developer of the need to bridge ditches on the site. This work will involve the submission and approval of a CAMA major permit, a process that often takes several months to complete. The developer has submitted an amended version of the plat to reflect a phasing plan with Phase 1 consisting of lots 1-9 and phase 2 consisting of lots 10-18. No other changes in this layout have been proposed. This phasing plan would allow development to continue in the area proposed as phase 1 while the CAMA major permit is being processed by the State. The developer wishes to install the road and water line improvements for Phase 1 and record this phase then proceed with phase 2 once CAMA major permit is issued. The Planning Board gave approval on February 10, 2003. The Planning Board also recommended extending the approval period for phase 2 until December 2004 to account for the processing time for the CAMA permit. Granting the extension at this time would preclude the need for the developer to apply for such an extension months from now.

MOTION

Commissioner White moved to grant revised preliminary plat approval for Phase 1 and extend approval period for Phase 2.

Commissioner Johnson seconded the motion.

VOTE: AYES unanimous

ITEM 2 – HEDGE PATH SUBDIVISION – PRELIMINARY PLAT

Ray Sturza, Planning Director, at the request of the Hedgepath Family, and their representative, asked to withdraw the item from the agenda so that Planning Board could look at some design issues, which they realize are substandard and will need additional information. The Board concurred.

ITEM 3 – REQUEST FOR PUBLIC HEARING ON DRAFT LAND USE PLAN

Ray Sturza, Planning Director, reported that a tentative timetable of the Adoption of the LUP update was established. Based on this schedule, a Public Hearing would be set for April 21, 2003. Overall, the draft land use plan seems to have developed a consensus and does not require any substantive changes based on Glenn Harbeck's report for the meetings last week. Staff has reviewed Mr. Harbeck's report and comments from the workshop and retreat. Appropriate revisions have been made. Under CAMA regulations, the LUP Hearing must be advertised 30 days in advance of the hearing date. To meet the deadline for April 21, the advertisement will need to be sent to the newspaper no later than March 20, 2003. The Board had indicated a desire to hold another workshop with the staff before sending the LUP to advertisement. The strategy is to conduct a workshop with the Board on March 18 or 19 and then post the final draft March 20th. If the schedule cannot be completed they have an option of scheduling a different hearing date as may be necessary. The Board decided to hold a workshop meeting for the LUP on March 26th at 4:00 p.m.

THE BOARD MOVED TO ITEM 5 – PUBLIC HEARING (TIME SPECIFIC 3:30 P.M.)

ITEM 4 – REPORT ON PROPOSED AMENDMENTS ON GROUP DEVELOPMENTS / MULTIFAMILY STRUCTURES

Ray Sturza, Planning Director, reminded that the Board and staff conducted a workshop to discuss options for multifamily and group development density. At that time, staff presented an alternative that established a maximum floor area for structures to be considered for a density bonus. The Board indicated support of this concept for a maximum floor area of 1,000 square feet. This maximum floor area would allow an increase in the density limitations i.e. from 4 to 8 units per acre. Some of the Board members indicated this density limit was too low and would not serve as an incentive for the private sector. No decision was reached on what was the acceptable density limit. Staff was also instructed to check the parking and lot coverage standards to ensure that we were not creating any inconsistencies in these areas. Parking standards for multifamily projects require 1 space for each 2.5 units. Lot coverage for multifamily structures is 30% the same as all residential uses. The group also discussed the limiting building height to 35 feet. Based on the

feedback from the workshop, staff has drafted the following language for the Board's consideration. (See attached).
The Board held discussion and suggested changes. They concurred to send back to the Planning staff. Staff will bring forth revised amendments for consideration by the Board at a future meeting.

THE BOARD MOVED TO ITEM 14 - PUBLIC COMMENTS AND THEN TO ITEM 9 – HEALTH DEPT. EMPLOYEE VOLUNTARY SMALLPOX VACCINATION PLAN AGREEMENT.

ITEM 5 – HATTERAS VILLAGE ZONING ADMENDMENTS

AT 3:30 P.M., THE DARE COUNTY BOARD OF COMMISSIONERS HELD A PUBLIC HEARING ON A PACKAGE OF ZONING AMENDMENTS SUBMITTED BY THE HATTERAS VILLAGE CIVIC ASSOCIATION FOR THE ZONING DISTRICTS THAT APPLY IN HATTERAS VILLAGE. (See attached).

Ray Sturza, Planning Director, reminded that staff was instructed to advertise a set of zoning text amendment submitted by the Hatteras Village Civic Association (HVCA). During this initial Board discussion, several Board members expressed concerns about the language submitted by the HVAC to measure building height from sea level. As a result of this discussion, two versions of the proposed amendments were advertised: one that measures building height from sea level and one version that measures building height from base flood elevation. Another issue that was mentioned during the initial Board review was language inserted by the HVAC that would increase the proposed dwelling density from 4 units per acre to 10 units per acre for those projects considered "low income year-round housing". Staff included this language in the advertisement however; a staff report on density standards for all zoned areas is also scheduled for March 17. It may be that the alternative presented in that report will be satisfactory to address the HVCA's concern about density. In summary, Planning Board supports these amendments with the exception of two items detailed above. Comments received at the Public Hearing may further clarify concerns about the point for height measurement. After the conclusion of the Public Hearing the Board should have a better perspective as to the adoption of the amendments or the need for further revisions.

Attorney Mills conducted the hearing and invited the public to speak.

1. Howard Rooney with the Hatteras Village Civic Association Zoning Subcommittee stated they wanted to use sea level for all measurements. One thing that makes Hatteras so unique is that the flood plain is 6 feet, which sets them apart from many others. The reason is because they are next to Hatteras inlet. Another unique thing about Hatteras is that everyone in Hatteras Village is in the flood plain and most are below it. He asked that they use sea level as the

benchmark. The association wants to save their village as a village and to also stop the entire filling that goes on in the village.

2. Ricki Sheppard, President of Hatteras Village Civic Association, stated that these are the recommendations of the association. They held community meetings and formulated plan. There have been no negative comments on what is needed. She hopes the Board will vote today and proceed into the future.
3. Ernie Foster, Hatteras Village and member of the subcommittee, stated that the LUP suggest that the unique character of Hatteras Village remain the same. He felt that the height restrictions are not stringent enough. There are no houses that are as tall as what we feel should be acceptable. The people of Hatteras Village are trying to minimize manipulation of heights for developments. He urged the Board of Commissioners to support the plan as presented as the people of the village support it.

Chairman Judge closed the hearing at 3:50 p.m.

There was Board discussion.

MOTION

Vice Chairman Hooper moved to direct staff to look at the building heights and measurement and come back as quickly as possible with consistent language and also to work on the fill issue which will take longer.

Commissioner Cahoon seconded the motion.

VOTE: AYES unanimous

THE BOARD TOOK A 10-MINUTE BREAK.

THE BOARD WENT BACK TO ITEM 6

ITEM 6 – DARE COUNTY TRANSPORTATION ADVISORY BOARD REQUEST

Jeff Tack, Chairman of the Dare County Transportation Advisory Board, requested permission to contract with a company that places advertising on government owned vehicles and pays the government for the opportunity to do this. Dare County owns seven vans, which it uses to transport elderly and needy Dare County citizens for medical appointments and to other locations to meet their other needs. The fees obtained from the advertising on the vans would enable the County to expand these services. Currently, the County places limitation on the services provided to avoid overspending the resources provided by the state and by Dare County. Many other counties in North Carolina are using this advertising approach successfully. The County will have content control over the types of advertising allowed on the vans.

Frank McDuffy with the firm stated they have never had any problems with the issue. They are in about ½ of the counties of the state.

There was Board discussion.

The consensus of the Board was to direct the County Attorney to pursue a countywide policy to address advertising on all county owned vehicles.

THE BOARD MOVED TO ITEM 12 – CAPACITY BUILDING GRANT PROGRAM – APPLICATION APPROVAL AND PUBLIC HEARING

ITEM 7 – DARE COUNTY FUNCTIONAL CLASSIFICATION SYSTEM (ATT # 1)

Manager Wheeler reported the North Carolina Department of Transportation (NCDOT) is proposing to revise the Functional Classification System in Dare County to provide access to a major traffic generator. (The Stumpy Point Ferry Landing Facility).

MOTION

Vice Chairman Hooper moved to approve the proposed change to the Functional Classification System.

Commissioner Tillett seconded the motion.

VOTE: AYES unanimous

ITEM 8 – GOVERNMENT ACCESS CHANNEL – CHANGES TO INTERLOCAL AGREEMENT AND PROPOSED BUDGET FOR 2003/2003 (ATT # 2)

Attorney Mills noted that the Interlocal Shared Use Agreement has been amended to reflect that the Town of Southern Shores and the Town of Kitty Hawk are now participating members of the Government Access Channel. In addition a clause has been added to Section 5 (a) 1 on page 4 of the agreement that will allow Government Access TV fund revenue to be expended to construct, equip, maintain, and improve a broadcast studio for use by all participating communities. The Committee is proposing that an area on the third floor of the Dare County Administrative Office Building on Budleigh Street (formerly Planning) be converted into a television studio so that all participating members of the Government Access Channel can use the area to videotape informative programs relating to local government to air on Channel 20. This change to the Interlocal Agreement will allow money from the appropriated fund balance to be used to purchase or lease the video equipment needed for the studio.

Dorothy Toolan, Public Relations Director, presented the proposed budget for 2003/2004. Each participating community contributes \$1,000. There is a request to use \$12,300 from fund balance to purchase or lease video equipment for a studio that will be used by all participating communities.

MOTION

Commissioner Johnson moved to adopt the revised Interlocal Shared Use Agreement for the Government Access Channel.

Commissioner Byrd seconded the motion.

VOTE: AYES unanimous

MOTION

Commissioner Johnson moved to adopt the proposed 2003/2004 budget for the Government Access Channel with \$1,000 contribution from each participating county.

Commissioner Byrd seconded the motion.
VOTE: AYES unanimous

THE BOARD MOVED TO ITEM 10.

**ITEM 9 – HEALTH DEPARTMENT – EMPLOYEE VOLUNTARY
SMALLPOX VACCINATION PLAN AGREEMENT (ATT # 3)**

Anne Thomas, Health Director, reported that the Health Department is working with the North Carolina Department of Health and Human Services, Division of Public Health, in implementing the Federal Smallpox Vaccination Plan. Public Health workers, medical response teams and first responders (EMS, Law Enforcement and Firemen and Women) are voluntarily receiving the smallpox vaccine in an effort to enhance the health and safety of the community by being prepared to respond to a potential smallpox attack. Currently there is no Federal compensation program for employees who voluntarily receive the smallpox vaccine, which does carry some risk for adverse reaction. If approved, the county would agree to indemnify and hold employees harmless from and against time lost from work and medical expenses that arise as a direct result of any negative reaction to the smallpox vaccine received during stage one and two of implementation of the Smallpox Vaccination Plan. Currently they anticipate vaccinating approximately 59 Dare County employees who have expressed their willingness to be vaccinated.

MOTION

Commissioner Byrd moved to approve the Employee Voluntary Smallpox Vaccination Plan Agreement.

Vice Chairman Hooper seconded the motion.

VOTE: AYES unanimous

THE BOARD MOVED BACK TO ITEM 7.

**ITEM 10 – LOCAL BILL FOR RENOVATION OF OLD COURTHOUSE
AND FOR THE POTENTIAL CONSTRUCTION OF AN
ADMINISTRATION BUILDING (ATT # 4)**

Dave Clawson, Finance Director, reminded that local bills are due to the General Assembly by 3/03. He presented Resolution requesting a local bill to enable the County to use a "Design Plus Construction Management At Risk" process as was used for the new Justice Center, for the renovation of the Old Courthouse and for a potential Administration Building. The staff recommendation is based upon the results obtained with the Justice Center. Construction Management at Risk is now allowed by NCGS but staff feels that combined approach, design plan construction, yields better results.

MOTION

Commissioner White moved the adoption of Resolution #R03-3-14.

Commissioner Cahoon seconded the motion.

VOTE: AYES unanimous

ITEM 11 – SCATTERED SITES GRANT (ATT # 5)

Attorney Mills explained that in order for the County to comply with the requirement of the CDBG Scattered Sites Grant, the County must adopt a Citizens Participation Plan and a Citizens Complaint Procedure, and must appoint members to a Citizens Advisory Committee. The Plan, Procedure, and Committee are required as part of the County's participation the Scattered Sites grant program and are intended to ensure citizen awareness of and input in the County's planning for and implementation of this grant program. The Plan and Procedure will also be applicable to all future CDBG grant programs in which the County may participate. The attached Citizens Participation Plan lists individuals who are recommended for appointment to the Citizens Advisory Committee. These individuals were contacted when the County applied for this grant in 2002, and all indicated their willingness to serve. The Board may appoint additional individuals to this Committee.

MOTION

Commissioner Byrd moved to adopt the Citizens Participation Plan, including appointments to the Citizens Advisory Committee and adding the names of Commissioner Virginia Tillett and Angelica Lewis (who is an Interpreter for the Hispanic population) and to adopt the Citizens Complaint Procedure.

Commissioner Johnson seconded the motion.

VOTE: AYES unanimous

ITEM 12 – CAPACITY BUILDING GRANT PROGRAM – APPLICATION APPROVAL AND PUBLIC HEARING (ATT # 6)

Attorney Mills reported that Dare County is eligible to receive \$75,000 Capacity Building Grant under the CDBG Program administered by the NC Division of Community Assistance. The attached memorandum and information summarizes the grant program, and request that the Dare County Board of Commissioners approve initiating the formal application process and set a public hearing for April 7, 2003 as required as part of the grant application process. The overall goal of this program is to assist local governments in building the technical capacity i.e. either the brainpower at the local level to better access CGBD funds for housing and water sewer. The person who would be hired would receive training at the state level on how to apply for the grants. This grant is not funding an affordable housing project but the grant is enabling the county to hire someone to work in this county to help put together such a project. The county will be the applicant in partnership with the Chamber of Commerce. There is no local match required and no physical obligation to receive this grant.

MOTION

Commissioner White moved to approve initiation of the formal grant application process for receipt of a CDBG Capacity Building Grant and moved to set a public hearing for April 7, 2003 at 10:00 a.m. Commissioner Tillett seconded the motion.

VOTE: AYES unanimous

THE BOARD MOVED BACK TO ITEM 4.

ITEM 13 – RESOLUTION IN SUPPORT OF REPEALING SECTION 36 OF SENATE BILL 1217 (ATT # 7)

Attorney Mills presented a resolution urging the NC General Assembly to repeal Section 36 of Senate Bill 1217 enacted during the 2001 Session (2002 Short Session). She explained the bill poses significant risk of harm to consumers, creates unfair competitive advantage for large retailers at the expense of small contractor businesses, and threatens significant economic harm to small contractors.

MOTION

Commissioner Tillett moved to adopt Resolution #03-03-15.

Commissioner Johnson seconded the motion.

VOTE: AYES unanimous

ITEM 14 – PUBLIC COMMENTS – NO SPEAKERS**ITEM 15 – CONSENT AGENDA (ATT # 8)****MOTION**

Commissioner Johnson moved the approval of the Consent Agenda:

1. Approval of Minutes – March 3, 2003
2. Social Services Budget Amendment – Day Care Funding
3. Road Request – Timber Trail, Indiantown Shores Sub., Frisco

Commissioner Byrd seconded the motion.

VOTE: AYES unanimous

ITEM 16 – BOARD APPOINTMENT – HATTERAS COMMUNITY CENTER BOARD**MOTION**

Vice Chairman Hooper moved the appointment of Rom Whitaker to fill the unexpired term of Mr. Shanklin Peele (6/02-6/04).

VOTE: AYES unanimous

ITEM 17 – COMMENTS BY COMMISSIONER BYRD

- Community Meeting – March 24th at 7:00 p.m. at the Fessenden Center – She would like to submit topics for discussion. Chairman Judge will meet with staff this week to discuss the format.
- Rural Planning Organization (RPO) – She has replaced the County Manager at his request and attended her first meeting. She asked

to be placed on an April agenda to discuss some of the issues concerning the RPO. She will inform the Board what they are doing as well as find out the role that Dare County wants to play in helping RPO to accomplish their goals.

- **Underground Utilities** – She noted that if the County excludes Hatteras Island and the Mainland, they are left with only a small amount of the county that is in the unincorporated area and may need to be working in cooperation with the towns. She recommended involving all six municipalities.

ITEM 18 - COMMENTS BY COMMISSIONER CAHOON

- **NC State budget** – She reported the Governor stressed education in his budget for more lower classroom size with fewer teachers while one of his major cuts was in school capital construction. The two things do not go hand in hand. The Governor is placing a bigger burden in the communities while cutting the funds to help pay for these burdens. There needs to be more consistency in educational priorities.
- **Colington** – She asked staff to look at the nuisances and debris in Colington and begin encouraging a clean-up campaign.
- **Temporary employee for Airport Authority** – County Manager will address during his business.
- **Impact of fill** – She said that they really need to take long hard look at the issue because it is beginning to impact septic systems.

ITEM 19 – COMMENTS BY COMMISSIONER TILLET

- **Juvenile Crime Prevention Council** – The new officers are Judge Amber Davis Chairperson, Nancy Griffin Vice Chair, and Bonnie Bennett Treasurer. They are still working on programs to benefit the youth in an effort to keep them out of trouble.
- **DCOAS** – Senior Games / Opening Ceremony April 4th. Closing Ceremony April 12th at Dunes Restaurant.
- **Cable Television** – The County Attorney will handle the issue.
- **Parks & Recreation Youth Group** – They had a good season.
- **Coastland Times** – She commented on an article in the paper about the County Manager and his activities with sports.
- **Teacup Quilters** – The group captured the Blue Ribbon at the Williamsburg Festival for a quilt they made on First Flight.
- **First Flight Middle School Cheerleaders** – They won a competition.

ITEM 20 – COMMENTS BY VICE CHAIRMAN HOOPER

- **Hatteras Town Meeting** – Thanked everyone in advance for planning to come to Hatteras on March 24th for the town meeting.

ITEM 21 – COMMENTS BY CHAIRMAN JUDGE

- Governor's Budget – He concurred with Commissioner Cahoon's comments. The unfunded mandates are breaking the backs of local government.
- Colington issue – The County Attorney is working with Public Works Director about ways to increase the number of trash receptacles to make it more accessible for citizens.
- Parks & Recreation – They had a great All - Star Invitational Basketball Tournament in the county this weekend. Congratulations to the Parks & Recreation Director and staff.
- St. Patrick's Day Parade – Sponsor Mike Kelly had the luck of the Irish with no rain on his parade.
- DC Trip – He reported he met with Senator Dole's Chief of Staff, Congressman Jones and Senator Edwards's Project Director. They had good meetings and he expressed the county's thanks for the work they did to get the Construction General Designation on the Beach Nourishment Project and look for their support in 2004.

ITEM 20 – COMMENTS BY COUNTY ATTORNEY (DOCUMENTS FILED IN COUNTY ATTORNEY'S OFFICE)

- Board of Adjustment – Attorney Mills presented a proposed draft ordinance creating a separate Board of Adjustment for Dare County for the Board's review. This ordinance tracks the current Planning Board ordinance and in other ways makes appropriate changes to comply with the General Statutes. She explained that since there is no zoning on the Mainland, there is not a requirement under the statute that the Board appoints someone from the Mainland, but it can be included in the requirement. She welcomed feedback from the Board members.
- Summary of Cell Tower Lease Agreement Amendments

MOTION

Commissioner Cahoon moved to adopt the Cell Tower Lease Agreement Amendments.

Commissioner Byrd seconded the motion.

VOTE: AYES unanimous

ITEM 21 – AIRPORT AUTHORITY / TEMPORARY EMPLOYEE

Manager Wheeler reported that the Human Resources Director researched the unemployment issue. It was determined that it would expose the county to \$8100 a year for that employee should she seek unemployment after being terminated at the end of her time. After consultation, Dr. Connie Brothers and Chairman of Airport Authority will deal with the issue of the contract and whether or not they will purchase a liability policy for the employee.

MOTION

Commissioner Byrd moved to rescind the motion with regard to the Airport Authority coming on board as a Dare County employee. (March 3, 2002 minutes – Item 27).

Vice Chairman Hooper seconded the motion.

VOTE: AYES unanimous

ITEM 18 – CLOSED SESSION – PERSONNEL AND LAND MATTERS

MOTION

Vice Chairman Hooper, pursuant to the provisions of NCGS 143-318.11, moved that the Dare County Board of Commissioners go into closed session to instruct the county staff or negotiating agents concerning the position to be taken by or on behalf of the County in negotiating the price and other material terms of a contract for the acquisition of real property by purchase, option, exchange or lease and to consider the qualifications, competence, performance, character, fitness, conditions of appointment, or conditions of initial employment of an individual public officer or employee or prospective public officer or employee.

Commissioner Byrd seconded the motion.

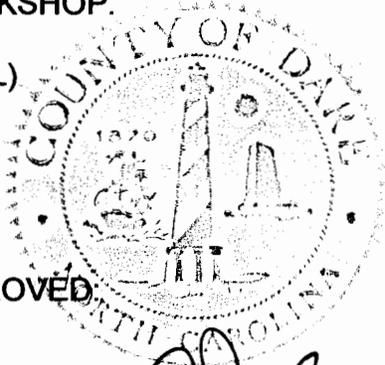
VOTE: AYES unanimous

AT 6:45, THE DARE COUNTY BOARD OF COMMISSIONERS ENTERED CLOSED SESSION AND EXITED AT 8:40 P.M.

Attorney Mills reported the Board took no action that requires Board action in open session.

THE DARE COUNTY BOARD OF COMMISSIONERS RECESSED AT 8:40 P.M. UNTIL 4:00 P.M. ON MARCH 26 FOR A LAND USE PLAN WORKSHOP.

(SEAL)



APPROVED

By: Warren Judge
Warren Judge, Chairman
Dare County Board of Commissioners

Respectfully Submitted,

By: Frances W. Harris
Frances W. Harris
Clerk to the Board