

**DARE COUNTY
NORTH CAROLINA**

**THE DARE COUNTY BOARD OF COMMISSIONERS MINUTES
July 19, 2004**

The Dare County Board of Commissioners met in a regular session at 3:00 p.m. on July 19, 2004, in the Dare County Administrative Annex in Manteo. Commissioners present were: Warren Judge, John Robert Hooper, Virginia Tillett, Cheryl Byrd, and Stan White. Renee Cahoon and Richard Johnson were absent. Virginia Tillett had called the Chairman to let him know that she would be arriving late. Also present were Manager Terry Wheeler and Attorney Norma Mills. Chairman Judge opened the meeting with silent meditation followed by the pledge of allegiance to the flag.

ITEM 1 – PRESENTATION OF COUNTY SERVICE PINS

1. Brian Mitchell, Air Operations Tech., received his 10 Year Pin from George Speake, Airport Director.
2. George King, Carpenter, received his 20 year pin from Edward Lee Mann, Public Works Director.
3. Randy McPhee, Asst. Utility Director, received his 25 Year Pin from Bob Oreskovich, Utilities Director.

ITEM 2 – EMPLOYEE OF THE MONTH

Roland Bowser, Fleet Maintenance Supervisor for the Dare County Garage, received the Employee of the Month Certificate from Public Works Director Edward Lee Mann.

ITEM 3 – REBUILDING TOGETHER

Mr. Dave Huff from the Outreach Committee of St. Andrews presented a request from the Outreach Committee to establish a community service program in Dare County called "Rebuilding Together". Rebuilding Together is a volunteer-based program devoted to the repair and rehabilitation of homes and nonprofit facilities. Designed to help low-income, elderly and disabled people maintain and repair their homes, this program is spreading across America. He believes that Dare County is an area where these services are needed. From a single program in Midland, Texas, Rebuilding Together has spread across the country, with 250 programs serving 770 cities and towns. In 2003, more than 8,050 homes and nonprofit facilities were repaired by some 257,250 volunteers. The idea is simple: On the last Saturday in April of every year, volunteers in communities across America come together to paint and repair houses for needy residents. He explained that the national office of Rebuilding Together, Inc. coordinates new launches of this trademarked organization and provides ongoing services to the affiliate network. A carefully designed step-by-step process results in a strong locally based affiliate tied to the national organization by a formal Agreement.

Rebuilding Together is best designed by local people representing a broad variety of community, civic, corporate, church, foundation and neighborhood interests. It is designed to be a program for all... neighbors helping neighbors build a better world. Chairman Judge expressed appreciation for his presentation.

COMMISSIONER TILLET ARRIVED AT 3:15 P.M.

ITEM 4 – PUBLIC HEARING / HURRICANE ISABEL RECONSTRUCTION AND HEIGHT ALTERNATIVES (ATT # 1)

AT 3:35 P.M., THE DARE COUNTY BOARD OF COMMISSIONERS HELD A PUBLIC HEARING TO RECEIVE INPUT FROM THE PUBLIC.

Ray Sturza, Planning Director, reminded that in early June, the Board conducted a hearing on four alternatives to address construction and building height in Hatteras village. Following the extensive discussion and the revisions to the draft language rule to substantive, staff was instructed to re-advertise two of the alternatives. On June 21, a third alternative was added for public hearing. A copy of the three alternatives and illustrations prepared by the County Engineer are attached. He reminded that these alternatives are only for Hatteras village and would apply to those areas that currently have a 35' building height. The ocean overlay district that applies in Hatteras village would remain unchanged with a building height of 52 feet.

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

Attorney Mills presented two letters that were mailed by people who could not attend the hearing – Mr. George Banks and Ms. Jody Stowe. Attorney Mills read both letters.

1. Catherine Jones of Hatteras Island stated that the villagers had worked hard for the alternative that was passed last year. There are too many exceptions for zoning on Hatteras Island. The county professes to endorse a coastal village atmosphere and Hatteras Island should not have exceptions. Give them the same protection provided for other areas of the County. She referred to the alternatives as "tall alternatives."
2. Ricky Shepherd of Hatteras Village is disappointed that the hearing is not being held in Hatteras Village. The Community of Hatteras Village worked hard to come up with a plan for Hatteras Village and now that work is being disregarded. There are safety issues that need to be considered. She recommended holding a public hearing on the issue to let the people decide which alternative to implement.
3. Buddy Foster of Hatteras said that the changes that took place that brought us here was a small number of people favored 35'. Most people want to see the 52' back.
4. Judy Bonney of Hatteras Village has listened to the comments. If 52' is a problem for fire department, that should have been addressed years ago. She reviewed the three alternatives and said that she would choose alternative 3 with 47'. 35' height is too restrictive and out of line.

5. Dan Johnson does not believe in the 35' height limit. He does not think people's rights should be taken away. At least go to 47' so a garage is possible.
6. Larry Bonney of Hatteras thanked Commissioners for their help following Isabel. He said to get the height back to somewhere between 47' and 52'
7. Steve McDonald of Virginia, a property owner in Hatteras Village, would like to see the roof limit go back to 50' range. His plan is for 45'.
8. Melinda Willis of Hatteras Village said that as responsible adults, decisions must be made to preserve and protect for the future of Hatteras Village.
9. Tim Midgett of Hatteras Village reiterated his statements that if you want to stop building in Hatteras Village, then the Board has done a good job. The ladder truck will reach beyond 52' and he requested that height go back to 52'.
10. Beth Midgett of Hatteras Village stated she has looked at alternatives and they are difficult to figure them out. She feels height needs to be at least 47' so that there is clear space under the homes. Flood insurance will not cover it.

Chairman Judge closed the hearing at 3:51 p.m.

Vice Chairman Hooper heard the number 47' several times today which would require another public hearing.

Commissioner Byrd recommended an approach for dealing with the issue. It is difficult for people to get to Manteo in July and a decision is being made for residents of Hatteras Village without their input. She recommended a referendum vote for November with several options. Then the Board will have a better idea of what the villagers would like. Alternatives would have to be ironed out.

Vice Chairman Hooper feels the Board is elected to make these decisions. The divide is great and Alternative 3 was a compromise. He would not support a referendum.

Commissioner Tillett feels this is a tough decision and to keep straight who wants which height alternative. She thinks there should be a public hearing in Hatteras Village to hear from more people.

Commissioner White stated that anything that can be done to get off center should be done today. 45' can be adopted today and there can be discussion about other versions that require another public hearing. Any of the options that have been advertised can be voted on today, according to the County Attorney. Need to stop talking things to death and move forward.

Chairman Judge agreed that the Board needs to move forward on the issue. He pointed out that two members are absent today. He stated that houses with steeper roofs fared better and those that were elevated also fared better during Isabel. Does alternative 3 encourage the builder to elevate the home?

Vice Chairman Hooper said when he met with the group in Hatteras, Alternative 3 was a compromise.

Commissioner White asked if the Board could rescind the zoning that was enacted a year ago. County Attorney said no, not without a public hearing.

A public hearing can be held in Hatteras Village and the issue can be voted on at that time according to the County Attorney.

Commissioner White noted that Alternative 3 gives everyone what they want if he understands it correctly.

The Board took a short recess.

MOTION

Commissioner White moved that Alternative 3 as advertised be adopted for those areas zoned R-2H, R2-AH, and C-2H in Hatteras village.

Vice Chairman Hooper seconded the motion.

VOTE: AYES unanimous

ITEM 5 – WRENN & ASSOCIATES TIME EXTENSION AMENDMENT (ATT # 2)

Ray Sturza, Planning Director, explained that the contract services with Lee Wrenn and Associates included a completion date that was compacted in anticipation of an autumn 2004 construction start of the federal beach nourishment project. He noted that they know the start date will not be achieved. Therefore, a time extension will allow for less tension in the negotiation and settlement of complicated easements. Mr. Sturza said that the extension will save the County approximately \$250,000 in legal fees.

MOTION

Commissioner White moved to approve the extension request.

Vice Chairman Hooper seconded the motion.

VOTE: AYES unanimous (Judge, Hooper, White and Byrd)

ITEM 6 – MANTEO FAITH BAPTIST CHURCH – CUP APPLICATION AND SITE PLAN REVIEW

Donna Creef, Senior Planner, presented a site plan for the construction of Manteo Faith Baptist Church on Roanoke Island. The church's property is located at the corner of Burnside Road and Payne Road. A portion of the property is zoned R-2 and the remainder is zoned RS-8. Both of these districts permit churches as conditional uses. The church proposed seating for 200 people with the parking based on this number. A site plan, stormwater plan, NCDOT driveway permit, and septic improvement permit are attached. To date, staff has not received any opposing comments to the request. Should the Board wish to hold a public hearing, such hearing could not be held until the September 7th Board of Commissioners meeting.

MOTION

Commissioner White moved the approval of the site plan and conditional use permit prepared for Manteo Faith Baptist Church.

Commissioner Tillett seconded the motion.

VOTE: AYES unanimous

ITEM 7 – JOHN HARRIS / YOU CAN FLY LLC – GROUP DEVELOPMENT CUP APPLICATION AND SITE PLAN

Donna Creef, Senior Planner, presented a site plan for a commercial group development in Rodanthe, NC. The proposal features 3 buildings, two of which

will be used for retail and water sports rentals and the third building will be a 74-seat restaurant. Since the project consists of more than one building on one tract, it is considered a group development under Section 22-31 of the DC Zoning Ordinance and subject to review by the Planning Board and approved by the Board of Commissioners.

Commissioner Byrd noted that the site is full and suggested that there be a requirement that some parking be pervious rather than impervious. Ms. Creef pointed out that the zoning ordinance does not require paved parking, but said that it would be a reasonable request to ask that some parking be impervious. This would not require a change in design, only in the amount of hard coverage. 60% coverage is allowed in S -1

Eddie Valdivieso of Quible said that they would look at impervious parking for some areas on the site.

Vice Chairman Hooper asked whether the 3 to 1 slope will hold in the area that is designated for wave runners to be stored and Mr. Valdivieso said that it will. Stormwater permit will have to be obtained and will be added as a conditional use.

MOTION

Commissioner Tillett moved the approval of the site plan and draft conditional use permit application with stormwater runoff kept on site language added.

Commissioner White seconded the motion.

VOTE: AYES unanimous

ITEM 8 – OUTER BANKS SPCA CONTRACT FOR SERVICES (DOCUMENT FILED WITH COUNTY ATTORNEY)

Attorney Mills reviewed the amendments to the SPCA Contract for Services. Lauri Brazelle, Executive Director of Outer Banks SPCA, and Paul Cagiano were on hand to answer questions.

MOTION

Commissioner Byrd moved to authorize the Chairman to sign the Contract for Services.

Commissioner Tillett seconded the motion.

VOTE: AYES unanimous

ITEM 9 – WATER DEPARTMENT – SCADA SYSTEM IMPROVEMENTS (ATT # 3)

Bob Oreskovich, Utilities Director, reported that the following cost recommendation from the Water Department was pulled from the Water Department CIP and placed into the FY 04-Maintenance & Repair budget because it essentially replaces obsolete equipment to maintain the SCADA system's outdated telemetry originally installed during the NRO plant inception in 1989. Mr. Oreskovich noted that he agreed with staff Instrumentation Technician Ken Flatt's recommendation per the attached.

MOTION

Commissioner White moved to approve the expenditure of \$295,000 (\$281,678 for equipment and award bid for this amount to System's East, \$13,322 for

contingency) to replace the outdated and obsolete SCADA system equipment at the County's NRO desalination plant in the Kill Devil Hills.

Vice Chairman Hooper seconded the motion.

VOTE: AYES unanimous

ITEM 10 – AMENDMENT TO SERIES 2004 COP'S CAPITAL PROJECT ORDINANCE FOR FINANCING SOURCES & USES AND TRANSMITTAL OF RATINGS WRITE-UPS (ATT # 4)

Dave Clawson, Finance Director, presented the amendment to the Capital Project Ordinance. (See attached.) Series 2004 COPS goes on sale next week. Clawson presented the attached updated report for the Series 2004 COPS. Clawson reviewed the issue.

MOTION

Commissioner Byrd moved to adopt amendment to the Capital Project Ordinance.

Commissioner Hooper seconded the motion.

VOTE: AYES unanimous

ITEM 11 – JUSTICE CENTER PROPERTY PEDESTRIAN EASEMENT (DOCUMENT FILED WITH COUNTY ATTORNEY)

Norma Mills, County Attorney, noted that the owners of the property adjacent to the Justice Center, Chuck and Naomi Hester, have requested an easement be granted across a portion of the Justice Center property to allow for pedestrian access between their property and the County's. This arrangement was discussed during the County's acquisition of property from the Hesters upon which the Justice Center was built. The attached easement agreement grants this access (Exhibit A depicts the area of the proposed cross over point). Commissioner Byrd asked about the size of the easement and expressed concern about the dimensions. Attorney Mills pointed out that this is a pedestrian easement only and would involve either a culvert or a foot bridge.

MOTION

Commissioner White moved to approve the attached easement agreement.

Commissioner Tillett seconded the motion.

VOTE: AYES unanimous

ITEM 12 – TEMPORARY DISASTER DISPOSAL SITE AGREEMENT (DOCUMENT FILED WITH COUNTY ATTORNEY)

Norma Mills, County Attorney, reported that the county has need of a site in the northern area of Dare County to serve as a temporary disaster debris disposal site in the event of a disaster necessitating such a site. Mr. H.D. Newbern has agreed to make the property he owns in Currituck County available for County use should the County determine that use of his property is necessary. The attached agreement sets forth the terms and conditions of this arrangement. It was pointed out that this is a three year agreement and there is no compensation unless the County actually uses the site.

MOTION

MOTION

Commissioner Byrd moved to approve the attached agreement between H.D. Newbern and Dare County for use of property as a temporary disaster debris disposal site.

Commissioner Hooper seconded the motion.

VOTE: AYES unanimous

ITEM 13 – UPDATE ON OREGON INLET BRIDGE (ATT # 5)

The letter from Secretary Tippet to Commissioner White on DOT's stance to move forward with the short bridge alternative was presented. Commissioner White stated that DOT is trying to get the Merger team together to ask them to add this option to their list. The exact amount of land that will be impacted will be indicated on the application to US Fish & Wildlife Services. The 25th of July is the date that the Merger team hopes to meet.

ITEM 14 – CONSENT AGENDA (ATT # 6)**MOTION**

Commissioner White moved the approval of the Consent Agenda:

- A. Approval of Minutes – June 21, 2004
- B. Road Request – Empire Gem Lane, Hatteras
- C. Budget Actions for the Approved 2005 Capital Improvements Plan
- D. Reimbursement Resolution #04-07-31 for Fiscal Year 2004-1005 Vehicle & Equipment Financing
- E. Board of Election HAVA Accessibility Grant
- F. Emergency Management Grant Award
- G. Modified Gov't. Consulting Services Interlocal Agreement
- H. Department of Transportation – Resolution #04-07-32 / Budget Amendment
- I. Public Works – Sanitation Contracts

Commissioner Tillett seconded the motion.

VOTE: AYES unanimous

ITEM 15 – BOARD APPOINTMENTS**A. EAST LAKE COMMUNITY CENTER****MOTION**

Commissioner Tillett moved the reappointment of Violet Cahoon and the appointment of Craig Burgess to serve a three-year term on the East Lake Community Center Board.

VOTE: AYES unanimous

B. HATTERAS COMMUNITY CENTER BOARD**MOTION**

Commissioner Hooper moved the reappointments of Richard Midgett and Rom Whitaker to serve a two-year term on the Hatteras Community Center Board.

VOTE: AYES unanimous

C. LIBRARY BOARD – REGIONAL**MOTION**

Commissioner White moved the reappointment of Dorothy Fink to serve a four-year term on the Library Board – Regional.

VOTE: AYES unanimous

D. PARKS AND RECREATION ADVISORY COUNCIL

MOTION

Commissioner Tillett moved the reappointment of Mitchell Bateman to serve a three-year term on the P&R Board.

Commissioner Byrd nominated Aleen Bryant

VOTE: Bateman (4) Judge, Tillett, Hooper & White

Bryant (1) Byrd

E. GAME & WILDLIFE COMMISSION

MOTION

Commissioner Tillett moved the reappointments of Timmy Midgett, David Pruitt, and Bill Walker to serve a three-year term on the Game & Wildlife Commission.

Commissioner Byrd nominated Patty Walker.

VOTE: Midgett all

Pruitt all

Walker (1) Byrd

Austin (1) Byrd

Timmy Midgett, David Pruitt, and Bill Walker were reappointed to serve a three year term on the Game & Wildlife Commission.

F. WANCHESE COMMUNITY CENTER

MOTION

Commissioner Byrd moved the reappointment of Joyce Meekins to serve a two-year term on the Wanchese Community Center Board.

VOTE: AYES unanimous

ITEM 16 – PUBLIC COMMENTS – 5:30 P.M.

1. Ray Midgett of Southern Shores spoke about the local legislation to support beach nourishment. He feels that Rep. Culpepper sold the residents of Dare County out when he presented the bill. He told the Board that he does not believe that the Board of Commissioners knows where the citizens stand on this issue. There is not a lot on the beach today that is not worth over a million dollars. He was an auditor for many years, but does not understand the figures presented by the Beach Nourishment Committee. The bill was stripped of everything except sales tax and the sales tax was doubled. He asked the Board to put the sales tax to public vote to see if the people in the county support beach nourishment.
2. Catherine Jones of Waves paraphrased a letter that was sent to the Board pertaining to the CUP that was granted Mr. Harris today. There are several commercial buildings in this area and the Board should wait until those projects are finished before developing more commercial developments. The local Coastkeeper does not feel it is a good idea to build this commercial project. Jet skis and kite surfing are not compatible. She presented a Petition.

3. Beth Midgett of Hatteras asked that the Board of Commissioners adopt a resolution that urges NC Dept. of Insurance to begin an in depth inquiry into the handling of claims filed under National Flood Insurance Policies in Dare County after the flooding of Hurricane Isabel.
4. Ken Johnson of Colington Harbor said that he agrees with Commissioner Byrd's comments regarding beach nourishment. His family bought property here 28 years ago in Colington Harbor and he has to maintain his bulkhead. He asked how in the world people that will benefit from the bill get scrapped from the bill. Any commissioner that has holdings where beach nourishment will fix the beaches should be excused from the process. Let the people decide. On the way to the candidates meeting last week, a young teenager was racing him and his chain broke. Almost hit him. Paths are needed on Colington Road to move bikers and pedestrians off the road.

ITEM 14 – COMMENTS BY COMMISSIONER BYRD

Special appropriations/community enhancement grants – There needs to be a process for reviewing applications.

- League of Women Voters – She agrees with them. This will help the Board decide who gets funding. She suggested letting those receiving funds know that it will be a competitive process next year. A committee should be established so that there is more professionalism with the process. This is an area where work is needed.
- House Bill 142 – The bill was passed by General Assembly over the weekend for an additional one cent sales tax for beach nourishment. It is time to subject all aspects of beach nourishment to local vote. Voters need to voice their opinion. Choice can be made by voters. If voters approve beach nourishment, there is a serious question about who should pay for it. Those who want to develop businesses on the oceanfront must take the risks associated. The government should not assume the risks. Four of the Commissioners on the Board (Warren, Renee, John and Stan) have oceanfront property and there needs to be an ethical way to approach the issue. She wishes the General Assembly had not passed the bill.
- Public Comments – At 5:30, a number of agenda items have already been discussed. The Board should provide a comment period at the beginning of the meeting to allow people to speak on agenda items that will be heard prior to the public comment time. A second period could be established to allow people to speak on other items.
- Housing/transportation issues – The Board has been considering a variety of ways to deal with housing and transportation issues. She suggested establishing a center for assistance with these areas – a formalized group or center which would be able to facilitate matches between employees and houses for rent, connect people who need jobs with employers, and coordinate transportation.

ITEM 15 – COMMENTS BY COMMISSIONER WHITE

- Department of Transportation - Don Connor, Division Engineer with DOT, is retiring. He asked if the Board might consider a resolution. There is a retirement party in his honor in a couple of weeks. Anthony Roper was appointed as Don's replacement beginning August 1. Attorney Mills will draft a resolution from the Board recognizing his service.

ITEM 16 – COMMENTS BY VICE CHAIRMAN HOOPER

- Highway Task Force Meeting – He attended a task force meeting for Highway 12 regarding a new study. People from Atlanta Corps office talked about getting task force federally legislated so that federal money might be available. Dr. Stan Riggs was there. Vice Chairman Hooper responded that he had been approached about some sand that is available that will be pumped along Pea Island to protect Highway 12. 2 970
- Cardiac Center – He reported that the center is planning to close. There are 6 to 18 residents who use the facility and it is a concern for them.

ITEM 17 – COMMENTS BY COMMISSIONER WHITE

- Public Meeting in Corolla – He reported that a public meeting was held in Corolla and others are planned (Wednesday at Southern Shores) to show what the Currituck/Dare Advisory Board has come up with. Four through Southern Shores and Duck is not a popular option.

ITEM 18 – COMMENTS BY CHAIRMAN JUDGE

- Board of Education - The School Board has petitioned Town of Manteo for annexation of school site for middle school so the school can go on Manteo's sewer system. A public hearing will be held this Friday.
- Dedication of FFHS - Ribbon cutting is planned for August 14th at 10 am for First Flight High School.
- Luncheon planned for August 2nd at 12:30pm - The luncheon will be held to honor new First Sergeant Craig Garriss at the Justice Center.
- Public Meeting - September 9th at 7 p.m. at Justice Center to gather input about the location for a new County Administration Building.
- Oregon Inlet and Waterways Commission – Chairman Moon Tillett has resigned from OIWC. Before leaving, he asked for help with dredging and widening of the Oregon Inlet.
- Near drowning - David Bien sent a letter about the near drowning incident that occurred at a local motel. He asked that Paul Flynn, Kelly Shippman and Julie Anderson of Dare County EMS be commended for their fine work saving his son's life. A copy of the letter will be placed in each file.

ITEM 19 – COMMENTS BY ATTORNEY MILLS (DOCUMENT FILED IN CLERK TO THE BOARD'S OFFICE)

Presented Report on General Assembly Actions of Interest to Dare County.

ITEM 20 – UPCOMING BOARD APPOINTMENTS FOR AUGUST

Upcoming board appoints are: A.B.C. Board and Stumpy Point Community Center Board.

**AT 5:52 P.M., THE DARE COUNTY BOARD OF COMMISSIONERS
ADJOURNED UNTIL 9:00 A.M. ON AUGUST 2, 2004.**

Respectfully Submitted,

By:

Frances W. Harris
Clerk to the Board

APPROVED:

BY:

Warren Judge, Chairman
Dare County Board of Commissioners