

**DARE COUNTY
NORTH CAROLINA**

**THE DARE COUNTY BOARD OF COMMISSIONERS MINUTES
JANUARY 16, 2007**

The Dare County Board of Commissioners met in a regular session at 5:00 p.m. on January 16, 2007 in the Dare County Administrative Annex in Manteo. Commissioners present were: Warren Judge, Virginia Tillett, Allen Burrus, Richard Johnson, Max Dutton and Jack Shea. Commissioner Mike Johnson was absent. Also present were County Manager Terry Wheeler and County Attorney Bobby Outten. The meeting opened with silent meditation followed by the pledge of allegiance to the flag.

ITEM 1 – AMEND AGENDA / RESOLUTIONS

MOTION

Commissioner Richard Johnson moved to amend the agenda to add Item 8A, Resolution Supporting Protection, Preservation and Safety at the Old Manns Harbor Bridge Purple Martin Roost and Item 8B, Resolution in Support of Limited Herring Harvest.

Commissioner Burrus seconded the motion.

VOTE: AYES unanimous.

ITEM 1A – COMMISSIONER MIKE JOHNSON'S ABSENCE

MOTION

Commissioner Allen Burrus moved to excuse Commissioner Mike Johnson from today's meeting. Commissioner M. Johnson is attending an Emergency Management Meeting.

Commissioner Shea seconded the motion.

VOTE: AYES unanimous.

ITEM 1B – PUBLIC COMMENTS

Luther Daniels, Jr. came forward asking Commissioners to support either C3 zoning or SNC zoning with an amendment to allow multi family housing for Skyco. He was unable to attend the planning board meeting when this was discussed earlier and he wanted to provide input for himself and five other property owners.

Jamie Reibel of Manteo came forward of behalf of NC Watermen United to thank Commissioners for their support of commercial fishermen and for passing the resolution at their last meeting.

**ITEM 2 – DARE COUNTY OREGON INLET & WATERWAYS COMMISSION
UPDATE (ATT # 1)**

Chairman Michael Davenport and representatives of the Army Corps of Engineers provided Dare County Commissioners with an update of current and future dredging planned for Oregon Inlet for winter of 2006-2007.

Mr. Davenport presented a framed Resolution #07-01-3 to Howard Varnum honoring him for his service of 37 years as a dedicated public servant with the US Army Corps of Engineers in the Wilmington District. He has received numerous awards for his outstanding work and achievements. (See attached).

MOTION

Commissioner Shea moved to approved the Resolution honoring Mr. Varnum
Commissioner Dutton seconded the motion.

VOTE: AYES unanimous

ITEM 3 – PROPOSED ZONING AMENDMENT – GROSS FLOOR AREA LIMITATION EFFECT ON EXISTING STRUCTURES

Ray Sturza, Planning Director, informed the Board that in 2002, the Dare County Board of Commissioners amended the Zoning Ordinance to include a 20,000 square foot floor area limitation in all commercial zoning districts. At that time, no language to address existing structures greater than 20,000 feet was included in the amendment language. These existing structures were rendered non-conforming with the adoption of the 20,000 sq. ft. floor area limitation. One of the existing structures rendered non-conforming is the Hatteras Island plaza in Avon, NC. Should this or any other structure larger than 20,000 square feet be damaged or destroyed beyond 50% of its value, the current zoning regulations preclude their reconstruction except in conformance with the 20,000 square foot floor limitation. The Hatteras Island Plaza was constructed in 1987 before any zoning regulations applied in Avon village. Recalling the discussions in 2002 during the establishment of the gross floor area limitation, he did not think it was the intent to preclude reconstruction of existing structures. To address this issue, language for inclusion in each of the commercial zoning districts has been drafted by staff. The Planning Board reviewed this proposed language in December 2006 and concurred with the staff's assessment that it was not the intent of the gross floor area limitation to precluded or hinder the reconstruction of large structures in existence in 2002. The draft language is as follows:

In the event a natural disaster or accidental occurrence leads to extensive damage (in excess of 50% value) of a structure or group development project in existence prior to May 6, 2002, such structure or group development may be repaired, replaced or reconstructed to 100% of its status prior to damage or destruction but no greater unless otherwise authorized by the Dare County Board of Commissioners.

MOTION

Commissioner Shea moved to schedule a public hearing on February 19, 2007 at 5:30 p.m. for proposed zoning text amendment.

Commissioner Burrus seconded the motion.

VOTE: AYES unanimous

ITEM 4 – REAL KITEBOARDING GROUP DEVELOPMENT – CUP APPLICATION AND SITE PLAN REVIEW

Ray Sturza, Planning Director, informed the Board that the owners of Real Kiteboarding have submitted a site plan for the development of property in Waves with two proposed structures on one large tract of land. Any proposal for two or more principal use structures on one tract is considered a group development under Section 22-31 of the Zoning Ordinance and subject to review by the Planning Board and approval by the Board of Commissioners. The CUP process is designed to provide an opportunity for the Board to apply reasonable and appropriate conditions to a proposed development. The site is zoned S-1, a zoning district which permits all uses. Pages C-4.1 and C-4.2 of the site plan depict the layout of the proposed site improvements.

MOTION

Commissioner Burrus moved that the Real Kiteboarding group development site plan and CUP application be authorized as recommended by the Planning Board.

Commissioner Tillett seconded the motion.

VOTE: AYES unanimous

ITEM 5 – PUBLIC HEARING / SERIES 2007 CERTIFICATES OF PARTICIPATION

MOTION

Commissioner Shea moved to hold the public hearing.

Commissioner Burrus seconded the motion.

VOTE: AYES unanimous

AT 5:30 P.M., THE DARE COUNTY BOARD OF COMMISSIONERS HELD A PUBLIC HEARING CONCERNING THE APPROVAL OF THE EXECUTION AND DELIVERY OF THE CONTRACT AND THE DEED OF TURST AND THE PROPOSED AVQUISITION, CONSTRUCTION, EQUIPPING AND FURNISHING OF THE PROJECTS.

Dave Clawson, Finance Director, informed the Board that the Projects are the new Administration Building and the renovation of the old courthouse, the purchase of land in Kitty Hawk, and the Hatteras Satellite Office. The Notice of Public Hearing that was advertised is attached.

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

There were no speakers. No action was taken.

MOTION

Commissioner Burrus moved to close the public hearing at 5:40 p.m.

Commissioner Dutton seconded the motion.

VOTE: AYES unanimous

ITEM 6 – ANNUAL REPORT FROM NURSING HOME ADVISORY COMMITTEE (DOCUMENT FILED IN CLERK TO THE BOARD'S OFFICE)

Kay White, Chairman of the Nursing Home Community Advisory Committee, presented the report for 2006. She informed that there was a quorum at all committee meetings and for the eight unannounced facility visits. The quarterly

visit reports are attached along with meeting agendas and other relevant information. In addition to quarterly visits to Britthaven Nursing Home the committee also visited the assisted living facility, Spring Arbor that opened May 2005, in Kill Devil Hills. Even though it is a lovely facility, there is concern that the census has only grown from 48 residents to 54 in 2006. There were more admissions, but several residents transferred to other facilities due to changes in their health care needs. The facility has 72 units.

Britthaven continues to operate with a closed hall due to a census of approximately 95 residents. Although this facility has an administrator dedicated to quality care, they continue to seek RN's, LPN's, and CNA's for permanent staff so they will not be as dependent upon use of contract staff. They are seeking a Director of nursing. The Committee is appreciative of having Cyrithia Kalonji and Gail Sonnesso reappointed to the NHAC.

Chairman Judge expressed appreciation to Mrs. White for her presentation.

ITEM 7 – SHERIFF'S DEPT. SUBSTANCE ABUSE OVERTIME GRANT

Sheriff Rodney Midgett presented a request to apply to the Governor's Crime Commission for a grant that will provide overtime funding for salaries of officers to work narcotics investigations in Dare County. The Sheriff's Department has received funding from the Crime Commission for the past 3 years for this project. In the year that ended on June 30, 2006, officers made 61 felony drug charges and 90 misdemeanor-drug charges on 119 different people as a result of this funding. If the grant application is approved, the Crime Commission will provide 75% of the funding, \$7,496.84 and the County will have to provide 25%, \$2,498.95. The funding cycle for this grant application is for July 1, 2007-June 30, 2008.

MOTION

Commissioner Burrus moved to authorize the Sheriff's Department to submit the application to the Governor's Crime Commission.

Commissioner Dutton seconded the motion.

VOTE: AYES unanimous

ITEM 8 – SHERIFF'S DEPT. NON-LETHAL WEAPON GRANT APPLICATION

Sheriff Rodney Midgett presented a request authorization to apply to the Governor's Crime Commission for a grant to purchase 11 Taser weapons. A Taser is a non-lethal weapon that can be fired from a distance of 15 feet that provides an alternative to lethal force if the situation will allow. The effective use of a Taser reduces the likelihood of injury to both the suspect and officer. If approved, the Teasers will be issued to patrol officers, courtroom security officers and will also be available in the Detention Center. The Crime Commission will provide 75% of the funding or \$6,641.25 and the County will have to provide 25% or \$4,413.75. The funding cycle for this grant application is July 1, 2007-June 30, 2008.

MOTION

Commissioner Burrus moved to authorize the Sheriff's Department to submit the application to the Governor's Crime Commission.

Commissioner Tillett blank seconded the motion.
VOTE: AYES unanimous

ITEM 8A – PRESENTATION FROM THE COASTAL CAROLINA PURPLE MARTIN SOCIETY (ATT # 2)

Robin Mann, Treasurer for the Coastal Carolina Purple Martin Society, provided information about efforts to protect the purple martins that roost at the old Manns Harbor Bridge. The presentation included a resolution that involves posting flashing signs to warn motorists of the low flying birds.

MOTION

Commissioner Richard Johnson moved to adopt the Resolution (#07-01-7).
Commissioner Burrus seconded the motion.

VOTE: AYES unanimous

ITEM 8B – RESOLUTION IN SUPPORT OF LIMITED HERRING HARVEST (ATT # 3)

Commissioner Burrus presented the Resolution in Support of Limited Herring Harvest. This resolution would allow fishermen to catch some herring since recent regulations allow a zero harvest recommendation.

MOTION

Commissioner Burrus moved to adopt the Resolution (#07-01-8).
Commissioner Shea seconded the motion.

VOTE: AYES unanimous.

ITEM 9 – AWARD OF FY 2006-07 VEHICLE AND EQUIPMENT FINANCING (ATT # 4)

Dave Clawson, Finance Director, informed the Board that on December 20, the Finance Department received proposals for the financing of county vehicles and equipment as approved in the fiscal year 2006-07 operating budget. As detailed in the attached RFP, the total amount to finance was \$1,285,788. Six responses were received, as shown on the attached tabulation.

MOTION

Commissioner Burrus moved to adopt Resolution #07-01-4 awarding financing to RBC Centura, at interest rate of 3.98% for 36 months and authorizing County Manager, Finance Director, and Clerk to execute all necessary documents.

Commissioner Shea seconded the motion.

VOTE: AYES unanimous

ITEM 10 – RESOLUTION APPROVING AN INSTALLMENT PURCHASE CONTRACT TO PROVIDE FOR THE ACQUISITION, CONSTRUCTION, RENOVATION, IMPROVEMENT, EQUIPPING AND FURNISHING OF CERTAIN FACILITIES AND RELATED MATTERS (ATT # 5)

Dave Clawson, Finance Director, presented the resolution after presenting an explanation of the projects and the process. Following discussion, the Board agreed that a second elevator is necessary at the historic courthouse which will accommodate the Commissioners meeting room. (See attached summary).

MOTION

Commissioner Burrus moved to adopt Resolution #01-01-5.

Commissioner Tillett seconded the motion.

VOTE: AYES unanimous

**ITEM 11 – REIMBURSEMENT RESOLUTION FOR KITTY HAWK LAND
(ATT # 6)**

Dave Clawson, Finance Director, informed the Board that the purchase of land in Kitty Hawk has been completed and is to be financed by the 2007 Certificates of Participation. In order to be reimbursed from the debt proceeds, the Board needs to adopt the attached Resolution stating its intent to do so.

MOTION

Commissioner Tillett moved to adopt Resolution #07-01-6.

Commissioner Burrus seconded the motion.

VOTE: AYES unanimous

ITEM 12 – DARE COUNTY PUBLIC FACILITIES CORPORATION

Dave Clawson, Finance Director, informed the Board that the Dare County Public Facilities Corporation acts as the counter-party for Dare County for debt transactions financed through Certificates of Participation. The Corporate Board meets once for each COPs transaction and one time per year otherwise. The Board is asked to reappoint Warren Judge and Sally Defosse (Assistant Finance Director) as Directors of the Dare County Public Facilities Corporation.

The Board is also asked to appoint a third person as a director to take the seat vacated by former Commissioner Stan White.

MOTION

Commissioner Shea moved to reappoint Warren Judge and Sally Defosse and appoint Commissioner Burrus as Directors of the Dare County Public Facilities Corporation.

Commissioner Dutton seconded the motion.

VOTE: AYES unanimous

ITEM 14 – CONSENT AGENDA (ATT # 5)

MOTION

Commissioner Shea moved to approve the Consent Agenda:

1. Approval of Minutes
2. Contract and Agreement Renewal between Dare County and the Chicamacomico Banks Fire Department, Inc.
3. Contract for Aerial Photography Services through Kimball Associates, P.A.

Commissioner Burrus seconded the motion.

VOTE: AYES unanimous

ITEM 15 – COMMISSIONERS' BUSINESS

COMMISSIONER JACK SHEA

None

COMMISSIONER MAX DUTTON

None

COMMISSIONER VIRGINIA TILLET

None

COMMISSIONER RICHARD JOHNSON

None

VICE CHAIRMAN ALLEN BURRUS

Cape Hatteras Elementary School is competing for a national reading award. He read a paragraph from the application that describes the drastic situation the community is dealing with and the effort of islanders to read to their young people.

CHAIRMAN WARREN JUDGE

Chairman Judge made changes/appointments to various Committees and Boards.

Audit Committee – Jack Shea as Chairman and Commissioner Judge will also continue to serve.

Task Force on Higher Education – Commissioner Virginia Tillet.

Board of Education Liaisons – Commissioners Jack Shea and Max Dutton.

Animal Control Committee - Commissioner Mike Johnson.

Outer Banks Scenic Byways Committee – Vice Chairman Allen Burrus.

Oregon Inlet and Waterways Commission

MOTION

Commissioner Richard Johnson moved to appoint Commissioner Burrus to fill the unexpired term of Chairman Judge.

Commissioner Max Dutton seconded the motion.

VOTE: AYES unanimous

Dare County Transportation Board

MOTION

Commissioner Richard Johnson moved to appoint Commissioner Shea to fill the unexpired term of former Commissioner Cheryl Byrd.

Commissioner Max Dutton seconded the motion.

VOTE: AYES unanimous

COUNTY ATTORNEY’S BUSINESS – None

COUNTY MANAGER’S BUSINESS – None

ITEM 16 – CLOSED SESSION – APPROVAL OF MINUTES OF LAST CLOSED SESSION

MOTION

Attorney Outten, pursuant to the provisions of NCGS 143-318-11, moved that the Dare County Board of Commissioners go into closed session to approve the minutes of the last closed session.

Commissioner Burrus seconded the motion.

VOTE: AYES unanimous

AT 6:25 P.M., THE DARE COUNTY BOARD OF COMMISSIONERS ENTERED CLOSED SESSION AND EXITED AT 6:30 P.M.

Attorney Outten reported that the Board approved the minutes of the last closed session.

Chairman Judge reminded the Board members of the meeting with Dean Roper on January 17th at 2 p.m. at the Visitors Bureau and their meeting as the Stumpy Point Water & Sewer District on January 22nd at 7:00 p.m. at the Stumpy Point Community Center.

AT 6:35 P.M., THE DARE COUNTY BOARD OF COMMISSIONERS
ADJOURNED UNTIL 9:00 A.M. ON FEBRUARY 5, 2007.

(SEAL)

Respectfully Submitted,

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

APPROVED:

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