

**DARE COUNTY
NORTH CAROLINA**

**THE DARE COUNTY BOARD OF COMMISSIONERS MINUTES
FEBRUARY 19, 2007**

The Dare County Board of Commissioners met in a regular session at 5:00 p.m. on February 19, 2007 in the Dare County Administrative Annex in Manteo. Commissioners present were: Warren Judge, Virginia Tillett, Allen Burrus, Richard Johnson, Mike Johnson, Max Dutton and Jack Shea. Also present were County Manager Terry Wheeler and County Attorney Bobby Outten. A moment of prayer was offered by Vice Chairman Burrus followed by the pledge of allegiance to the flag.

**ITEM 1 – AMEND AGENDA / ITEM 2 – FOOD FOR THOUGHT AND
ITEM 11 - ROANOKE ISLAND SENIOR CENTER SITE SELECTION
MOTION**

Commissioner Tillett moved to amend the agenda to removed Items 2 and 11 from the agenda. Item 2 will be rescheduled and Item 11 will be placed on the March 19th meeting as was the consensus of the Board at their last meeting. Commissioner Shea seconded the motion.

VOTE: AYES unanimous

ITEM 1A – PUBLIC COMMENTS

No one came forward to speak.

ITEM 2 – FOOD FOR THOUGHT

The Item will be rescheduled for a future meeting.

**ITEM 3 – DRAFT ZONING REGULATIONS FOR UNZONED AREA OF
ROANOKE ISLAND (SKYCO) (ATT # 1)**

Ray Sturza, Planning Director, informed the Board that there are currently 15 properties in the Skyco area of Roanoke Island that are unzoned. These properties are located in the Manteo outside tax district and therefore were not part of the Wanchese zoning initiative completed last year. The majority of the sites have frontage along the eastern side of Highway 345. The State of North Carolina also owns several tracts that are unzoned. The area along the west side of Highway 345 was zoned in 1975 as part of the original zoning for Roanoke Island. The area zoned in 1975 designated a portion of the road frontage as C-3 commercial and the remainder including Skyco Road as R-1, residential. (See attached for more details).

MOTION

Commissioner Shea moved to schedule a public hearing for March 19, 2007 at 10:00 a.m. and that both alternatives considered by the Planning Board be advertised for consideration.

Commissioner Dutton seconded the motion.

VOTE: AYES unanimous

ITEM 4 – AFFORDABLE HOUSING COMMITTEE – PRESENTATION ON BOWSERTOWN PROPERTY (DOCUMENT FILED IN CLERK TO THE BOARD’S OFFICE)

Ray Sturza, Planning Director, on behalf of the Affordable Housing Committee made a short Power Point presentation on the Bowsertown property. See attached for details.

Summary:

- The Bowsertown site was acquired for workforce housing development.
- Opportunity for the County to demonstrate its “commitment” to address the workforce housing issue.
- No additional funding from the County needed for the development.
- Project will allow for a funding of “land trust account” which can be used for future development of workforce housing.
- Not a federally subsidized housing project.

Mr. Sturza introduced the Committee: Commissioner Richard Johnson, Chairman; Donna Creef, Senior Planner; Attorney Bobby Outten; Elmer Midgett, Chairman of Planning Board; Chuck Poe, Affordable Housing Administrator; Malcolm Fearing, resident and himself.

Following the presentation, discussion was held.

All Board members applauded the concept and the committee. In the future, a quarterly report will be given to the Board members.

MOTION

Commissioner Shea moved to consider a proposal for development of Bowsertown property and instructed staff to draft a long-term agreement for transfer of land to the Community Development Corporation and that a Board member will be appointed as a member of the CDC. The agreement will be subject to Board approval at a later date.

Commissioner Burrus seconded the motion.

VOTE: AYES unanimous

ITEM 5 – COLINGTON PIZZA – CUP APPLICATION AND SITE PLAN

Donna Creef, Senior Planner, informed the Board that Colington Pizza is a proposed 31-seat restaurant to be located in Colington at the corner of Colingwood Lane and Colington Road. The site is zoned VC-2 which permits restaurants as conditional uses subject to review by the Planning Board and approval by the Board of Commissioners. The VC-2 language does not permit drive-thru window service as noted in the draft CUP attached to this summary. Access to the site from Colington Road is precluded by a “no ingress-egress” easement that was recorded in conjunction with the Colingwood Subdivision plat years ago. Access for all patrons and service vehicles will be from Colingwood Lane. The Planning Board reviewed this item at their January 8, 2007 meeting and voted to recommend approval of the proposed site plan and CUP application. Other conditions may be added to the draft CUP based on the Board’s discussion.

MOTION

Commissioner Mike Johnson moved that the site plan and CUP application for Colington Pizza be approved as recommended by the Planning Board
Commissioner Burrus seconded the motion.

VOTE: AYES

ITEM 6 – PUBLIC HEARING – TEXT AMENDMENTS FOR GROSS FLOOR AREA NON-CONFORMING STRUCTURES

AT 5:30 P.M., THE DARE COUNTY BOARD OF COMMISSIONERS HELD A PUBLIC HEARING TO RECEIVE INPUT FROM THE PUBLIC REGARDING TEXT AMENDMENTS FOR GROSS FLOOR AREA NON-CONFORMING STRUCTURES.

County Attorney Bobby Outten reminded the Board that they instructed staff to proceed with a public hearing on text amendments to address commercial structures that were rendered non-conforming with the gross floor area standards adopted by the Board in 2002. The draft language, if adopted, would be added to several of the commercial zoning districts that include a 20,000 square foot gross floor area limitation. These districts are: C-1, C-2, C-3, CS, I-1, S-1 and VC-2. Some of the other commercial districts associated with the Wanchese zoning include different gross floor area limitations and non-conforming standards which do not need amending.

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

No one came forward.

Chairman Judge closed the hearing at 5:50 p.m.

MOTION

Commissioner Burrus moved that the draft non-conforming language associated with the 20,000 square foot gross floor area limitation for commercial structures be adopted as advertised and that it is consistent with all the Land Use Policies and Ordinances of Dare County and it is in the public interest.

Commissioner Shea seconded the motion.

VOTE: AYES unanimous

ITEM 7 – REPORT ON SHERIFF DEPARTMENT SALARIES

Tom O'Neal, Human Resources Director, reported that Chairman Judge and Commissioner Tillett were appointed by the Board to meet with the Sheriff, County Manager, Finance Director, and Human Resources Director to review Sheriff's Department Salaries and assess the requirement for a Classification and Pay Study. The report is as follows:

Classification and Pay Study: At the current time there is no set schedule for doing Classification and Pay Studies of County positions. A Classification and Pay Study of County positions was completed in August 2005, five years from the date of the previous study, however, it did not include the positions in the Sheriff's Department. The last Classification and Pay Study for the Sheriff's Department was completed in September 2002.

Recommendation: Recommend all County positions including those in the Sheriff's Department be placed on a four year cycle for a Classification and Pay

Study. One-quarter of the County positions would receive a classification and pay review each year with the first year to include a review of the positions in the Sheriff's Department. By studying one-quarter of the positions each year it will help in budgeting for recommended increases.

Deputy Sheriff Salaries: The Sheriff's Department has recently lost several trained deputies to neighboring jurisdictions with higher starting salaries. A number of options for an interim solution were considered and four options are attached for review (Attachment 2).

Recommendation: Recommend the Board wait until April after the budget requests have been received before approving a start date for a Classification and Pay Study or approving an Option for an interim adjustment to Deputy Sheriff Salaries. This will allow Finance an opportunity to assess the availability of funds.

Following the presentation, each Commissioner shared his or her thoughts and the Board then decided to look at this issue again in April when staff has a better idea of the budget requests for the next fiscal year. The Board also reviewed the options presented to address the issue for the short term, without benefit of the classification and pay study that would take effect before the new fiscal year begins. These increases would be covered with unspent funds in the Sheriff's salary line item in the current budget. The Board will also consider the short term proposal in April.

ITEM 8 – DRAFT FLOOR PLAN FOR OLD COURTHOUSE / BOARD MEETING SPACE (ATT # 2)

Dave Clawson, Finance Director, informed the Board that the draft floor plan for the old courthouse, to be used for Board of Commissioners meeting space, is in its third draft. The CIPC met on 2/15 to review the second draft and the third draft was presented to the Board. See attachment for details.

Recommendations were made, including:

2nd floor: Show podium in the middle and make sure that it is mobile.

2nd floor: Look at space between seats for the Board and staff. What is used now works well and the layout looks like seats are too close together. A suggestion would be to drop one of the extra seats so that there is a total of 12.

2nd floor: The preferred location for the camera booth is in the bottom right hand corner – option B.

2nd floor: With the exposed rafters, be certain are OK; must avoid a barn effect.

Dorothy Toolan will provide input for screen and camera locations. She is scheduled to visit some other sites this week.

Dave Clawson, Finance Director, will look at the layout of the Currituck County meeting room as they have previously renovated their historic Courthouse to accommodate the Board's meeting room.

Commissioner Mike Johnson spoke in favor of moving the Commissioners meeting room to the new Administrative building that is being built by the Justice

Center, but did not move forward with a motion since financing arrangements would be affected.

ITEM 9 – HATTERAS SATELLITE OFFICE BID AWARD

Dave Clawson, Finance Director, informed the Board that bids for the Hatteras Satellite Office were opened Tuesday, February 6th at 2:00 p.m. The following bids were opened: Outer Banks Construction, A.R. Chesson Construction and O.C. Mitchell Jr., Inc. Chesson and Mitchell were repeat bidders. He presented a request to award the bid to the low bidder Outer Banks Construction.

MOTION

Commissioner Burrus moved to award the bid to Outer Banks Construction Company Inc.

Commissioner Tillett seconded the motion.

VOTE: AYES unanimous

ITEM 10 – SERIES 2007 CERTIFICATES OF PARTICIPATION – BUDGET, PROPERTY RELEASE & RATINGS (ATT # 3)

Dave Clawson, Finance Director, noted that the project budget for the Administration Building and the Old Courthouse renovation, as amended on 2/5/07, is the first attachment following the summary. A reconciliation has been added at the bottom to show the sources of funds being used for the project. (See attached for details).

MOTION

Commissioner Richard Johnson moved to adopt the amendments to the capital project ordinance.

Commissioner Burrus seconded the motion.

VOTE: AYES unanimous

ITEM 11 – ROANOKE ISLAND SENIOR CENTER SITE SELECTION

The item was removed from the agenda until the March 19th board meeting.

ITEM 12 – DOMINION POWER RIGHT OF WAY AGREEMENT (DOCUMENT FILED IN COUNTY MANAGER'S OFFICE)

Manager Wheeler informed the Board that Dominion Power has requested a right-of-way agreement be signed to allow them access along the south and north sides of the former Manteo Middle School property. The south access goes along the north and east side of the Food for Thought building. There was not enough room to take it along the south side of the building.

The CIP met with COA this afternoon about future improvements and COA does not have a problem with this but the County Attorney suggested some additional language to go into the agreement.

Attorney Outten suggested adding a provision to the easement that says that the granting of the easement is contingent upon Dominion Power's agreement that should it become necessary to relocate those power lines in the future based on whatever improvements might be made to the site that they will agree to relocate them at their expense. It is not likely that it will happen but if it were to happen

then the County would have the flexibility to get the lines moved so it would not interfere with whatever was going to be done on that site.

Commissioner Richard Johnson suggested if the County was going to give them a right of way he thought they should give it to them along the edge of the road. Manager Wheeler stated he did not mind taking it back and asking them to follow property lines.

Commissioner Shea suggested that the easement should be on the private sector.

The Board concurred for the County Manager to meet with Dominion Power to discuss other options and bring back to the Board in the near future.

ITEM 13 – CONSENT AGENDA (ATT # 4)

MOTION

Commissioner Tillett moved the approval of the Consent Agenda:

1. Approval of Minutes
2. Acceptance of Grant from DC Arts Council by Parks and Recreation
3. Application for Fit Community Designation and Fit Community Grant
4. Eastern Athletic Conference All-Star Tournament
5. Road Request – Park Road, Rodanthe
6. Health Department Budget Amendment
7. Administration Building Change Order
8. Monthly School Construction Report

Commissioner Shea seconded the motion.

VOTE: AYES unanimous

ITEM 14 – COMMISSIONERS' BUSINESS

COMMISSIONER MAX DUTTON -

Health Department – He referred to a note from the Department of Public Health that the FDA is warning consumers not to eat some peanut butter that is contaminated with salmonella. No cases have been confirmed in Dare County
 League of Women Voters – He commended them for an outstanding job on their Citizen's Guide.

March 11th – St Patrick's Day Parade – He noted that Dare County's St Patrick's Day Parade is the largest in North Carolina and encouraged everyone to attend.

COMMISSIONER VIRGINIA TILLETT

Employee of the Year – She congratulated County Manager Terry Wheeler on being Rotarian Employee of the Year.

Parks & Recreation – She referred to a memo that was presented to the Commissioners from P&R recommending that the center proposed on Roanoke Island be for multi-generational use and located at the Justice Center site.

Freedman's Colony Blues Jam - Friday, 3rd at Roanoke Island Festival Park. She encouraged all to attend.

COMMISSIONER RICHARD JOHNSON

Selling of right of way at the Manns Harbor Bridge – He has received a lot of calls about the DOT right of way and property use near the old Manns Harbor Bridge. He is not sure if the Commissioners should get involved in the issue, but thinks they should because if it is sold, the Board will not have any say. He noted the issue was not popular with the locals.

Chairman Judge feels that if the state has surplus property then the local government should be considered and offered first right of refusal. This has gotten tied into the zoning initiative for Manns Harbor. The Board concurred that they should become involved.

Commissioner Mike Johnson noted that he was aware of the project as the Wildlife Resources Commission was involved and has agreed to put in a public boat ramp. He feels that it is a good project that has been proposed by the developers at the site of the old marina.

MOTION

Commissioner Shea moved to direct the County Attorney to draft a letter from the Board asking the state to consider local government first refusal if property is surplus in case there is a need for public use.

Commissioner Burrus seconded the motion.

VOTE: AYES unanimous

COMMISSIONER ALLEN BURRUS

OIWC Bridge – He noted it was out of federal review and back with the state.

Approval of the draft EIS is complete and public hearings will be scheduled soon for March and April on Hatteras Island and Roanoke Island.

Fireworks – He has received many emails and has asked the County Attorney to look into it. Attorney Outten will address this in his comments.

COMMISSIONER JACK SHEA

League of Women Voters – He acknowledged their fine work in compiling the guide.

Finance Department – He commended the Finance Director on the debt rating upgrade.

COUNTY ATTORNEY OUTTEN

Fireworks – Attorney Outten reviewed the state statute regarding fireworks. A pyrotechnic is anything that explodes or propels and it is a crime to use them in North Carolina. It is an enforcement issue, not an ordinance issue. He will take a look at the ordinance that Ocracoke has put into effect and find out if the County can regulate the things that the state has exempted in the statute. When asked how the County can address the enforcement issue, he said that the same issue has been discussed in some of the local towns. It is a Class 1 misdemeanor according to state law. The Boards inquired as to how local businesses can sell the fireworks if they are illegal according to state statute. The issue is unclear. Attorney Outten will discuss the enforcement issue with the Sheriff. The Public Information Officer will work with towns to disseminate information through local realtors.

Ad valorem tax – The Board received a letter from a lady who is concerned about exemption for ad valorem tax. He noted that social security is counted according to the state statute. Statute provides that citizens have until June 1 to file an

exemption. The Board can adopt a resolution requesting action if the Board feels changes are needed.

Crowder Gulf Renewal Contract for debris removal for storm related events.

Prices have remained the same.

MOTION

Commissioner Burrus moved to renew the contract and authorize the County Manager to sign it.

Commissioner Shea seconded the motion.

VOTE: AYES unanimous

ITEM 15 – CLOSED SESSION – APPROVAL OF CLOSED SESSION

MINUTES

MOTION

Vice Chairman Burrus, pursuant to the provisions of NCGS 143-31811, moved that the Dare County Board of Commissioners go into closed session to approve the minutes of the last closed session.

Commissioner Mike Johnson seconded the motion.

VOTE: AYES unanimous

AT 8:20 P.M., THE DARE COUNTY BOARD OF COMMISSIONERS ENTERED CLOSED SESSION AND EXITED AT 8:25 P.M.

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

AT 8:30 P.M., THE DARE COUNTY BOARD OF COMMISSIONERS ADJOURNED UNTIL 9:00 A.M. ON MARCH 19, 2007.

(SEAL)

Respectfully Submitted,

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

APPROVED:

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