

**DARE COUNTY
NORTH CAROLINA**

**THE DARE COUNTY BOARD OF COMMISSIONERS MINUTES
MAY 21, 2007**

The Dare County Board of Commissioners met in a regular session at 3:00 a.m. on May 21, 2007 in the Dare County Administrative Annex in Manteo. Commissioners present were: Warren Judge, Virginia Tillett, Allen Burrus, Richard Johnson, Mike Johnson, and Jack Shea. Max Dutton was absent. Also present were County Manager Terry Wheeler and County Attorney Bobby Outten. A moment of prayer was offered by Commissioner Mike Johnson, followed by the pledge of allegiance to the flag.

ITEM 1 – PUBLIC COMMENTS

1. John Koenig of USCG Auxiliary Flotilla 1607 on the Outer Banks, presented Proclamation National Safe Boating Week. The auxiliary is promoting four easy tips for boaters: (1) life jackets (2) take a safe boating class (3) get a free vessel safety check from the auxiliary & (4) avoid alcohol while on the water (boaters & drivers). Attorney Outten read the proclamation.

MOTION

Commissioner Shea moved the adoption of Proclamation National Boating Week May 19-25, 2007 and Commending Flotilla 1604 and 1607 of the Coast Guard Auxiliary for their Important Work in Outer Banks Communities.

Vice Chairman Burrus seconded the motion.

VOTE: AYES unanimous

ITEM 2 – RECOGNITION OF COUNTY GOVERNMENT WEEK ART CONTEST WINNER FROM CAPE HATTERAS ELEMENTARY SCHOOL

Chairman Judge introduced Kalee Barnett and her family. Her artwork was selected to represent Cape Hatteras Elementary School in the County Government Week Art Contest. Since she was unable to attend the Commissioners' meeting on April 16 due to bad weather, Kalee came today. Her artwork is being enlarged like the other winners and will be placed on a sanitation truck that makes its way throughout Dare County. This truck will visit Cape Hatteras Elementary School in the next couple of weeks during recess time so all of the students will be able to see her artwork. Kalee's original artwork will be displayed in the new Dare County Administration Building.

ITEM 3 – INTERFAITH COMMUNITY OUTREACH PRESENTATION

Ginger Candelora, Executive Director, ICO, Jay Burrus and Chris Payne, ICO Board of Director members, provided information about their organization.

Chris Payne informed the Board that for every \$1 that they spent last year to help the residents of Dare County this year they are on track to spend \$1.80 because of the slow down in construction and real estate. A lot of the retail businesses

have been affected by the slowdown. No matter how high their demand is for help they have always been able to meet it. They are very appreciative of the people of Dare County for their help and especially the Board of Commissioners. In terms of funding, they spent over \$100,000 to help people in the county. They had over 5500 hours of volunteer time as in-take volunteers, as fund raisers, and in re-hab projects. Their phone number is (252) 480-0070 and call if there is someone who needs help. They would not be nearly as effective without the help of Dare County Social Services.

Jay Burrus, Social Services Director, informed the Board that ICO is an excellent example of a non profit organization that extends in a very effective and efficient way that blends with the work of government. He shared a couple of examples of the excellent working relationship that Social Services has working with ICO.

ITEM 4 – INTER-LOCAL AGREEMENT FOR A SKATEBOARD PARK

Kermit Skinner, Manteo Town Manager, informed the Board that for the past few months, Town of Manteo staff and Dare County Parks and Recreation staff have been working together on the design and location of skate plaza. The Town sought input from local residents and skaters and after a public meeting on April 18, 2007 Staff was able to find an agreeable location. Town representatives met and spoke with COA staff and all agreed that a compact plaza behind the old Middle School would be appropriate for this type of use. Staff of Dare County Parks and Recreation agreed that this would not interrupt the two ball fields that are also at the rear of the middle school. The Town is seeking to partner with Dare County to build a facility for use by all Dare County residents and visitors. The Town is willing to construct a facility for an amount up to \$50,000.00. The County would be the owner of the facility and the County Parks and Recreation Department would be the operator. Mr. Skinner showed drawings of the Skate Plaza. He noted that the design of this park may change slightly from these drawings, but will not exceed 200' in length or 30' in width. The area surrounding the park will be well landscaped and will have a fence on the east side. The concept drawings, project budget, and authorization to enter into the MOU were approved by the Town of Manteo Board of Commissioners at their May 9, 2007 meeting. He also handed up a draft Memorandum of Understanding (MOU) for approval.

MOTION

Commissioner Tillett moved to approve the Inter-Local Agreement for the Construction and Operation of a Skateboard Facility.

Vice Chairman Burrus seconded the motion.

VOTE: AEYS unanimous

ITEM 5 – RONALD L. MIDGETT GROUP HOUSING DEVELOPMENT PRELIMINARY PLAT – FACT SHEET

Ryan Simons, Planner, informed the Board that this development has been submitted to comply with Sec. 22-58.3: "Family Housing Incentive Standards" (FHIS). This section applies as a conditional use in those zoning districts which provide for FHIS, and a CUP application is on file with Planning staff. As with any

CUP, the Board may schedule a public hearing. A draft CUP is enclosed which contains explicit regulation of the FHIS. Planning Board recommended approval on April, 2007.

MOTION

Commissioner Johnson moved the approval of the preliminary plat and conditional use permit subject to the following conditions: that any and all supplementary permits be submitted to staff, and that installation of improvements may not begin until those permits are received, and that if any changes result from those reviews, that the plan be resubmitted to the Planning Board for further review; that the development must comply with those standards listed in Sec. 22-58.3, and those conditions contained within the conditional use permit; that the developer establish a visual buffer, determined suitable by staff, along the east boundary of the property; and that staff secure information from the CDC regarding rent and price controls of affected properties.

Commissioner Burrus seconded the motion.

VOTE: AYES unanimous

ITEM 6 – ELIOT TOD GASKILL / RONALD L. MIDGETT TEXT AMENDMENT REQUEST – FRISCO

Ryan Simons, Planner, presented the Eliot Tod Gaskill / Ronald L. Midgett Text Amendment request - the proposed text amendment to Sec. 22-27.3 – “SED-1 Environmental District”. The Board recommended denial of the request in April, 2007. See attached memorandum and supplementary materials for further details. In summary, it boils down to an issue of timing and comprehensiveness and they think this is not the right time and it would be better to address it from a comprehensive basis. Commissioner Shea felt the Board should not overrule staff and Planning Board.

MOTION

Vice Chairman Burrus moved to accept the staff's recommendation to deny the request.

Commissioner Shea seconded the motion.

VOTE: AYES unanimous

Commissioner Tillett asked if there will be a way to help the developer in securing his project. Mr. Sturza responded yes but after a comprehensive analysis of the changes that have occurred to that portion of Hatteras Island where a former Board chose to put severe environmental constraints. We will find that a lot of those conditions have changed. His location may well be one of them where they have changed but until staff has identified that and made it clear to the partnership we made with the state of NC and the Coastal Resources and they agree that those conditions have changed. The procedures staff will need to file to make that determination are greater than staff's ability to do here today. Ronnie Midgett stated that he was the one applying for the text amendment and noted that the biggest issue from the environmental groups was the aquifer. He proposes to put in a wastewater treatment plant like he will in Waves.

If it is to protect the aquifer, they will be protecting the aquifer. He feels if the process will take three years then there will be a big problem with needing work force housing and not having it.

ITEM 7 – SKYCO ZONING – AMENDMENTS TO DRAFT SNC DISTRICT

Ryan Simons, Planner, reminded the Board that in March they conducted a public hearing on draft zoning regulations for a handful of properties in the Skyco area that are currently unzoned. Following the hearing, there was a general discussion among the Board of Commissioners in reference to the speakers' comments and the Board expressed some concerns about non-conformities, the need for multifamily housing, and protection of the County well fields in the area. There was a consensus among the Commissioners to amend the SNC to address the comments received at the public hearing. Based on this consensus, the Board voted to refer the Skyco zoning back to the Planning Board to address three specific areas-multifamily dwellings, fuel service, and perpetual rebuilding of non-conforming structures/uses. The SNC draft regulations have been amended to reflect the attached items.

MOTION

Commissioner Johnson moved that the draft SNC as presented today and recommended by the Planning Board be sent to Public Hearing on June 18, 2007 at 5:30 p.m.

Commissioner Shea seconded the motion.

VOTE: AYES

ITEM 8 – EMS WEEK PROCLAMATION

William "Skeeter" Sawyer, EMS Director, informed the Board that May 20 to 26 is National Emergency Medical Services Week. This is a time to reflect on the crucial role EMS makes in many lives and to emphasize the importance of strong public support for Dare County EMS System. Through the efforts of the EMS providers, both career and volunteer, Dare County EMS stands as one of the best EMS organizations in North Carolina.

MOTION

Commissioner Shea moved the adoption of Proclamation EMS Week May 20-26, 2007.

Commissioner Burrus seconded the motion.

VOTE: AYES unanimous

ITEM 9 – CONSENT AGENDA (ATT # 1)

MOTION

Commissioner Shea moved the approval of the Consent Agenda:

1. Approval of Minutes
2. Road Request – Timber Trail & live Oak Lane, Frisco
3. Social Services Budget Amendment – Day Care Funding
4. Contract with Charter Communications for Fiber Optic Lines
5. Stumpy Point Boat Ramp Breakwater

Commissioner Burrus seconded the motion.

VOTE: AYES unanimous

ITEM 10 – BOARD APPOINTMENT

1. DARE COUNTY YOUTH COUNCIL

MOTION

Commissioner Richard Johnson moved to appoint Keri Simmons to fill the unexpired term of Amy Hudgins who resigned on the Dare County Youth Council.

VOTE: AYES unanimous

ITEM 11 – COMMISSIONERS' BUSINESS

COMMISSIONER MIKE JOHNSON

- Stumpy Point Water & Sewer Board – There was a request from Stumpy Point to appoint a person from Stumpy Point on the Stumpy Point Sewer Board. Attorney Outten responded that under the provisions of 162A there are two ways to create a Water and Sewer Authority. One is a Water & Sewer Authority and the other is a Water & Sewer District. Dare County choose a Water & Sewer District. There are no provisions in the statute regarding the terms of a board. The Board of Commissioners is the decision makers in the Water & Sewer District. If a lay person is on the Board they can come to the meetings but cannot vote. If the Stumpy Point Community still wanted a lay person on the Board the Board of Commissioners would agree. He spoke with Buddy Shelton who would be willing to serve. The Board will wait to hear from Stumpy Point.

COMMISSIONERS VIRGINIA TILLET

- House Bill 1917 / Senior Homestead Tax Relief – She asked the County Attorney to find out if it would benefit the seniors of Dare County. If so, the Board would like to go on record supporting the bill. The County Attorney and Finance Director will handle the issue.
- 4-H Summer Camp – She requested that the Board of Commissioners ask the Board of Education to waive the \$10,000 fee for summer camp held at the school and sponsored by NC Cooperative Extension. The Board concurred to have the County Attorney draft a letter.
- Manteo Middle School / PTA – She congratulated the parents for participating in Teachers Appreciation Week of May 7-11 at MMS by assisting in the cafeteria so the teachers could have a full 30 minute lunch break that was served in a different location. It was a very fun week and they plan to do the same thing next year. She also spoke to 7th & 8th graders on setting career goals.
- Dare Day / 1st Saturday in June - Please calendar and try to attend.
- Coast Watch Magazine – There are some Dare County articles and one is about students at FFHS. She urged all to read.
- Information Technology – She asked if IT could filter some of the unacceptable emails on their computers.
- Manteo Bike Path – She received an email from a resident that the Manteo Bike Path needs repairing. Stan White, DOT member has been contacted as well as the local DOT office.

COMMISSIONER RICHARD JOHNSON

- Coastal Studies Institute – He thanked everyone for coming to the reception.

VICE CHAIRMAN BURRUS

- East Lake Boat Ramp – He noted that Waterways Commission met and they are not sure which side the bridge is coming on and they have not pushed the dredging issue. A decision will have to be made about the bridge dredging can begin. So the boat ramp is inoperable at this time.
- Sunken / abandoned boats – He asked if the County Attorney could find out what can be done about the problem and ask the state to give the county authority to remove them.
- Non profit groups – He asked if the Finance Director could find out how the money is being spent that the Board has given to the various organizations.
- Skate Board Park in Hatteras – It is the most used facility on Hatteras Island and the residents appreciate it.
- Happy Birthday Virginia Tillett on 22nd

COMMISSIONER JACK SHEA FOR COMMISSIONER MAX DUTTON

- Dare County Dance Recital – He reported for Commissioner Dutton that the dance recital was outstanding and commended Director Lisa Cudworth and her staff.
- Britthaven – He reported for Commissioner Dutton that he visited with the volunteers at Britthaven and wanted to thank the volunteers at Britthaven for an appreciation luncheon. He thanked the volunteers for the great job they do.

COMMISSIONER JACK SHEA

- Board of Education Meeting – He visited Kitty Hawk and Nags Head Elementary Schools and was impressed by the faculty, facilities and programs. He also attended the BOE meeting during which many students were honored for their achievements during the year.
- Coastal Studies Institute – He stated that the land transfer is a worthwhile endeavor.

CHAIRMAN WARREN JUDGE

- Happy Birthday to Commissioners Virginia Tillett and Allen Burrus.

ATTORNEY BOBBY OUTTEN (ATT # 2)

- Resolution in Support of Funding for North Carolina's Coastal Studies Institute

MOTION

Commissioner Shea moved the adoption of Resolution #07-05-16 In Support of Funding for North Carolina's Coastal Studies Institute.

Vice Chairman Burrus seconded the motion.

VOTE: AYES unanimous

THE DARE COUNTY BOARD OF COMMISSIONERS RECESSED AT 4:35 P.M. AND RECONVENED AT 7:30 P.M. FOR THE MANN'S HARBOR / MASHOES ZONING INITIATIVE ON A DRAFT PROPOSAL.

ITEM 12 – PUBLIC HEARING (ATT # 3)

AT 7:30 P.M., THE DARE COUNTY BOARD OF COMMISSIONERS HELD A PUBLIC HEARING AT THE MANNS HARBOR COMMUNITY CENTER ON THE MANNS HARBOR / MASHOES ZONING INITIATIVE ON A DRAFT PROPOSAL.

Commissioners present were: Warren Judge, Allen Burrus, Richard Johnson, Mike Johnson, and Jack Shea. Commissioners Virginia Tillett and Max Dutton were absent. Also present were County Manager Terry Wheeler and County Attorney Bobby Outten. Approximately 50 people attended.

Ryan Simons, Planner, provided a copy of the proposed zoning language and map for the villages of Manns Harbor and Mashoes. These documents are the result of several months of dedicated effort by community volunteers, with assistance from Planning staff. The "Manns Harbor/Mashoes Zoning & Preservation Committee" was not selected or appointed by county officials, rather a group of individual volunteers who took it upon themselves to remain involved in the zoning process. While this language was not drafted in complete consensus, much of it is reflective of decisions made as a group, with considerable thought given to any suggestions offered by other citizens. See attached for more details.

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

1. Attorney Chris Seawell, representing the Outdoor properties, informed the Board that the group purchased the property in 2005 for the proposed group development project but the project is no longer planned. Now they have a new project for a marina and at the present time have permits to rebuild a marina. He requested the adoption of an ordinance to have a permitted use for marinas. This would be a non-conforming use. This would be the best use for this property and consistent with the MHA district.
2. Mike Baldwin, Consulting Engineer for the project and one of the owners of the property, stated that they plan to build a 1st class operation and requested the permitted use.
3. James Fletcher, Manns Harbor, spoke in opposition to the zoning. He said that zoning will raise the tax rate of the property in Manns Harbor. Also he said that they will not keep the heritage as long as they continue to spray with chemicals. The sprays and chemicals are killing the fishing industry.
4. James Harris, Manns Harbor, found it interesting that the first two speakers were not from Manns Harbor. He said that the majority of the residents in Manns Harbor supported zoning.
5. Wayne Umphlett, Mashoes, informed the Board there are 63 parcels in Mashoes and he does not see water and sewer ever coming to Mashoes. His concern is why the urgency to zone Mashoes. He asked the Board to table the zoning of Mashoes as they did with Skyco when Wanchese was zoned.
6. Timmy Midgett, Manns Harbor, stated that the Zoning Committee had worked really hard for a year and tried to do what the Manns Harbor residents wanted. He asked to see a show of hands in support for zoning.

The majority raised their hands. He asked the Board to approve zoning for Manns Harbor.

- 7. Jim Beasley, Manns Harbor, spoke in support for zoning. He said that he is confused about the marina project and wondered if it would benefit the rich or the residents of Manns Harbor.

Chairman Judge closed the hearing at 7:55 p.m.

There was discussion regarding the marina project. Commissioner Richard Johnson inquired if the owners could build a marina without the 40,000 sq. ft. building. Mr. Sturza explained that the Manns Harbor committee chose to zone without a marina because they wanted to make sure there were no marinas up and down the sound shore. The marina would open up the whole waterfront. Commissioner Mike Johnson felt they needed to find a way to give people what they wanted in all fairness even if they have to table this parcel of land. Commissioner Shea felt that staff could put together some uses for that parcel of land (marina). Chairman Judge reminded they have permits to build on it even though it is not permitted and non-conforming. Attorney Outten explained that the problems would be in remodeling.

Vice Chairman Burrus asked if there are public piers and Elmer Midgett, Chairman of Planning Board, explained there is county owned property for piers.

MOTION

Commissioner Michael Johnson moved to approve both the zoning map and regulation for the villages of Manns Harbor and Mashoes, as submitted, for immediate implementation; the map and regulations are consistent with the Dare County Land Use Plan, for the good of the citizens of Dare County by establishing zoning, to control growth for the benefit of health and safety.

Commissioner Shea seconded the motion.

VOTE: AYES unanimous

AT 8:30 P.M., THE DARE COUNTY BOARD OF COMMISSIONERS
ADJOURNED UNTIL 10:30 A.M. ON JUNE 4, 2007.

(SEAL)

Respectfully Submitted,

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

APPROVED:

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