

**DARE COUNTY
NORTH CAROLINA**

**THE DARE COUNTY BOARD OF COMMISSIONERS MINUTES
JUNE 18, 2007**

The Dare County Board of Commissioners met in a regular session at 5:00 p.m. on June 18, 2007 in the Dare County Administrative Annex in Manteo. Commissioners present were: Warren Judge, Virginia Tillett, Allen Burrus, Richard Johnson, Mike Johnson, Jack Shea and Max Dutton. Also present were County Manager Terry Wheeler and County Attorney Bobby Outten. A moment of prayer was offered by Pastor C.L. Reynolds, followed by the pledge of allegiance to the flag.

ITEM 1 – AMEND AGENDA

The Board of Commissioners concurred to amend the agenda and remove Item 2 – Dare County Tourism Board from the agenda until the July 16th meeting and move Attorney's Business to Item 2.

ITEM 1A – PUBLIC COMMENTS

1. Her Majesty, Queen Elizabeth and Sir Walter Raleigh came before the Board on behalf of the Roanoke Island Historical Association to bid greetings of appreciation. Sir Walter Raleigh read the Queen's proclamation of gratitude and support for The Lost Colony outdoor drama. The Lost Colony began the summer of 1937 and is celebrating its seventieth season.

ITEM 2 – ATTORNEY'S BUSINESS

Attorney Outten reviewed the following:

1. Immigration Issue – The question is whether or not the county could adopt some type of local ordinance to prohibit the hiring of illegal immigrants or to regulate immigration within Dare County. There are no NC Statutes or rules that govern this type of activity. The county has not been granted any right or powers by the legislator. The only way to do anything would be under the general police powers for the health, safety, and welfare of the public. The Institute of Government agreed there was no governing authority that gave the county any power. If Dare County were to adopt any type or regulation with regard to immigration the county would be one of the first local governments in North Carolina to do that. A number of municipal governments throughout the country have tried to do that and those are filtering their way through the courts at this time. The issue is whether the federal statutes preempt local legislation. Until the courts rule he will not know for sure. He said that if the county decided to adopt immigration regulations it would get tested in the courts. He noted that the Board should be prepared to go forward with that test.

2. Employee Wide Drug Testing – The US Supreme Court has ruled that random drug testing cannot be done throughout the entire employee base. Random Drug testing can be done on employees who actions affect the health and safety such as truck drivers, transportation drivers, heavy equipment operators, law enforcement, etc.
3. Moratoriums – To have a moratorium on any kind of development, there must be public notice and public hearing. If the moratorium is 60 days or less there must be a 7 days notice and if longer than that there is the regular notice. To establish a moratorium, it does not apply on things that have already been approved such as building permits. In order to have a moratorium there must be findings of fact on the problem in order to adopt a moratorium and set a public hearing.
4. Surfing ordinance – The surfing ordinance is in the statutes and states where and what is prohibited. It is not difficult to change.
5. Health Benefits policy – The case law says that where one has a vested right then the rights are vested and cannot take a vested right away. If someone does not have a vested right then the policy can be changed.
6. Water Services Agreement – The agreement reads that if Dare County had a water emergency or Carolina Water had an emergency the counties would share water with each other to solve the emergencies. The agreement expires in a month. Manager Wheeler informed the Board that it has never been hooked up.

ITEM 3 – OTTER POINT CONDITIONAL USE PERMIT AND SITE PLAN REVIEW

Donna Creef, Senior Planner, presented the proposed conditional use permit for Otter Point. The group housing development is a proposed 19-unit housing project that is located within the Kinnakeet Shores Soundside Subdivision in Avon, NC. A CUP was issued in the late 1990's but that CUP has expired. The developers have revised the proposed layout of the project and decreased the number of housing units from 23 to 19 units as depicted on the site plan. The remainder of the tract is proposed for future subdivision into three 10-acre tracts. The site plan depicts this future configuration but it is not the intent of the developer to subdivide the remainder of the tract at this time.

MOTION

Commissioner Richard Johnson moved that the Otter Point site plan and conditional use permit be approved as recommended by the Planning Board. Vice Chairman Burrus seconded the motion.

VOTE: AYES unanimous

THE BOARD MOVED TO ITEM 5 – PROPOSED ZONING CLASSIFICATION FOR BUXTON COAST GUARD STATION.

ITEM 4 – PUBLIC HEARING/ SKYCO ZONING AMENDMENTS

AT 5:30 P.M., THE DARE COUNTY BOARD OF COMMISSIONERS HELD A PUBLIC HEARING TO RECEIVE INPUT ON SNC-1 DISTRICT.

Donna Creef, Senior Planner, reminded the Board that staff was instructed to schedule a public hearing on zoning regulations for the handful of properties in the Skyco area that remained unzoned. This second public hearing on the draft SNC-1 zoning district was needed to consider a series of revisions made to the SNC-1 as a result of an earlier hearing in March 2007. A copy of the draft SNC-1 as advertised is attached to this agenda summary.

Attorney Outten conducted and invited the public to speak.

1. Jo Ann Baum Cliff, Skyco, came forward and asked that the multifamily use be listed as a conditional use instead of a permitted use.
2. Malcolm Fearing, Manteo, stated he owns property in Skyco and has developed a plan for individual houses for the workforce housing. He would like to have a permitted use and not a conditional use permit.
3. Connie Daniels, Wanchese, stated that they own an acre of property on Highway 345 and would like to be able to place 6-8 units on their property. She would also like county water.

Chairman Judge closed the hearing at 5:45 p.m.

MOTION

Commissioner Shea moved that the Roanoke Island zoning map be amended to apply the SNC-1/NH zoning designations to those properties as depicted in the draft map attached to the agenda item summary and find this action to be consistent with the objectives and policies for growth and development contained in the 2003 Dare County Land Use Plan or other officially adopted plans of Dare County that are applicable and is in the public interest because planned growth provides for better community organization effective June 18, 2007.

Commissioner Dutton seconded the motion.

VOTE: AYES unanimous

**ITEM 5 - PROPOSED ZONING CLASSIFICATION FOR BUXTON COAST
GUARD BASE**

Ray Sturza, Planning Director, reminded the Board that at the May 7, 2007 Board of Commissioners meeting, it was noted that a zoning classification was needed for the Coast Guard housing site in Buxton. The site is currently unzoned since it is federal property. The Board indicated that the item should be referred to the Planning Board for consideration. The Planning Board discussed this issue at their May 14, 2007 meeting. Due to its proximity to the Buxton Woods SED-1 zoning district, the Board of Commissioners had indicated that a conservation-oriented district would be appropriate. Upon review of the Zoning Ordinance, staff recommended to the Planning Board that the NH-1, natural historic, classification be applied to the Coast Guard housing parcel. The Planning Board agreed with the staff suggestion and voted to recommend the Buxton zoning map be amended to reflect this NH-1 designation. He noted that a public hearing must be held before any changes to the Buxton village zoning map can be adopted by the Board of Commissioners. Earliest possible date is July 16, 2007.

MOTION

Vice Chairman Burrus moved to hold a public hearing at 5:30 p.m. on July 16, 2007.

Commissioner Tillett seconded the motion.

VOTE: AYES unanimous

**ITEM 6 – RESOLUTION IN SUPPORT OF ESTABLISHING THE
NORTHEASTERN NORTH CAROLINA HERITAGE AREA IN NORTH
CAROLINA (ATT # 1)**

Edward Greene, noted that in March the Land of Beginnings Event was held at the beach for a week and during that time there was also a Sustainable Cultural Heritage Symposium. It was sponsored by the College of the Albemarle, Currituck County Department of Travel and Tourism, Dare County Arts Council, North Carolina Arts Council, and National Park Service. Their plan is to extend to four counties – Hyde, Tyrrell, Currituck, and Dare.

Teresa James, COA Director, stated they have been approached by the Northeast Tourism Group which is a 16 county coalition asking for assistance in passing a resolution. The North Carolina Group is trying to get the four counties designated as a national heritage area to protect the cultural and heritage of the area, to preserve the authentic sense of place, to attract visitors looking for the authentic quality experiences, cultural heritage, and arts. The national heritage designation would allow them to apply for federal, state, local, private funds. It would help them to collaborate with other successful groups.

Amy Huggins came forward and presented the resolution.

MOTION

Commissioner Tillett moved to adopt Resolution # 07-06-18 Supporting an Act to Direct the Secretary of the Interior to Conduct a Study of the Suitability and Feasibility of Establishing the Northeastern North Carolina heritage Area in North Carolina.

Commissioner Shea seconded the motion.

VOTE: AYES unanimous

**ITEM 7 – WANCHESE ZONING – RECOGNITION OF OUTSTANDING
ENVIRONMENTAL SERVICE**

Lorraine Tillett, former Zoning Administrator for Dare County, presented copies of the 2007 Summer Edition of "Coastwatch", a magazine publication of the North Carolina Sea Grant Program to the Commissioners. This edition of "Coastwatch" features the Wanchese community as a "Community of Charm" and praises efforts by the community to create innovative zoning. Wanchese zoning promotes and sustains a family-fishing atmosphere, a family-oriented business way of life while protecting the environmentally sensitive coastal wetlands and other unique features representative of the village of Wanchese.

Wanchese zoning was included in the State's Waterfront Access Commission final report to the North Carolina General Assembly on April 13, 2007. The 2006 Pelican Award for Citizen Action was presented to Wanchese Zoning Committee by the North Carolina Coastal Federation in recognition of their outstanding environmental Service.

Chairman Judge thanked Ms. Tillett for her presentation.

ITEM 8 – RESOLUTION / RESTART OF WORK ON PROJECT R-4557 IN THE NCDOT TRANSPORTATION IMPROVEMENT PLAN (TIP) (ATT # 2)

Manager Wheeler presented the resolution.

MOTION

Commissioner Shea moved the adoption of Resolution #07-06-19 in Support for Restart of Work on Project R-4457 in the NCDOT TIP.

Vice Chairman Burrus seconded the motion.

VOTE: AYES unanimous

ITEM 9 – ADOPTION OF FISCAL YEAR 2007- 08 BUDGET (ATT # 3)

Manager Wheeler informed the Board that the attached is the list of changes since the Manager's recommended budget per the Board's workshop, discovery of errors, and things that have occurred since May 7. He noted that it was one of those years they did not have a lot to work with because of the revenue stream and the down turn in the economy which hopefully is temporary. He handed out an amendment to the proposed budget which listed some adjustments the Board wanted to include. He noted that some of the non profits and special appropriations were cut and in the planned budget for 2008/2009 those funds hopefully will be restored in full as they were. He reminded that one of the priorities made by the Board was a \$2,000 across the board increase in the Sheriff's budget. In this budget there are funds for pay/classification study which will start January 2008. Approximately ¼ of the employees each year are taken into consideration and reclassified and hopefully they can implement the salary study. The first group of people to be considered would be the law enforcement community, the Detention officers, and the Communication staff. It is important to know that the level of services to the citizens will not be compromised.

MOTION

Commissioner Tillett moved to adopt the budget based upon the Manager's recommended budget, the change list and the change with the vesting in the retirement benefits to twenty year service for anyone hired on June 19, 2007.

AMENDED MOTION

Commissioner Richard Johnson amended the motion to add that the money going to the GEM Center be reimbursed rather than be paid out before services are rendered as 1/12 per month and that the County Manager, Finance Director, and Social Services Director approve the expenditures of that money and they execute the contract that will come from the Audit Committee.

Vice Chairman Burrus seconded the amended motion.

VOTE: AYES unanimous

Commissioner Dutton seconded the original and amended motions.

VOTE: AYES unanimous

ITEM 10 – ADOPTION OF FISCAL YEAR 2008-THROUGH 2012 CAPITAL IMPROVEMENTS PLAN (ATT # 4)

Dave Clawson, Finance Director, informed the Board that the attached is the recommended CIP with the addition of the recently awarded \$500,000 PARTF Grant for the Kitty Hawk Recreation Park.

MOTION

Commissioner Burrus moved to adopt the recommended CIP with the addition of the PARTF grant.

Commissioner Tillett seconded the motion.

VOTE: AYES unanimous

ITEM 11 – CONSENT AGENDA (ATT # 5)

MOTION

Commissioner Shea moved the approval of the Consent Agenda:

1. Approval of Minutes – 6/04/07
2. County Contract with Outer Banks SPCA
3. Hurricane / Disaster Debris Removal Interlocal Agreements
4. Disposal of Personal Property Valued at less than \$5,000

Commissioner Burrus seconded the motion.

VOTE: AYES unanimous

ITEM 12 – COMMISSIONERS' BUSINESS

COMMISSIONER VIRGINIA TILLETT

- Certificate of Appreciation from Monday Night Alive – She presented the certificate to the Board.
- Health Insurance – She thanked the Board for listening to the employees regarding the benefits.

COMMISSIONER RICHARD JOHNSON

- Manns Harbor Bridge – In regard to the building that has been permitted at the foot of the bridge, he asked the Planning staff to revisit the zoning ordinance and address it at the next meeting to make sure every district has a 20,000 square foot limit on the size of buildings and no building can be built in Dare County over 45 feet above the flood zone.
- Dare County Marine Industry Association – He thanked staff at Manns' Custom Yachts for the luncheon and tour of the building. The boat building industry is pumping money into the economy of Dare County.
- Audit Committee – He suggested forming a committee to look at grants awarded by Dare County to establish guidelines that must be followed in order to receive funds from the county. Commissioner Shea responded that the Audit Committee will present suggestions at the July meeting.

VICE CHAIRMAN BURRUS

- Eagle Scout - Charles G. Yates will receive his Eagle Scout Award on June 30th. A letter of congratulations has been sent to Charles from the Board.
- Department of Transportation / Highway 12 – He asked the County Attorney for a resolution regarding how to handle over wash in Mirio Beach area. Attorney Outten will address a letter and resolution for the Board's approval prior to the next meeting. The Board concurred.

- Feasibility Study by National Park Service – The study is in regard to the winter habitat of the piping plover. He asked the County Attorney to provide comments regarding this study. Attorney Outten will read the study and provide comments at the next meeting or before then if comments are required sooner. Vice Chairman Burrus will forward the study to the County Attorney and all Board members. The Attorney will check into the deadline and request an extension for submitting comments if necessary.
- Proposal for establishing a working waterfront in Hatteras Village will be presented at the next meeting.

COMMISSIONER JACK SHEA

- Mann's Custom Yachts – He was very impressed by the economic impact that the marine industry has on Dare County.
- Wanchese Zoning – He expressed appreciation to the folks in Wanchese for winning the Pelican Award.

COMMISSIONER MIKE JOHNSON

- Board members and community - He thanked everyone for their thoughts and calls when his son was sick. The amount of compassion in this community is humbling. There was an outpouring of love and support.

COMMISSIONER MAX DUTTON

- Mann's Custom Yachts – He was very impressed with the boat building industry in Dare County.
- Dare County Graduating Classes – He congratulated all 373 students who graduated from all the high schools in the county and commented on the special recognitions that were presented at the Board of Education meeting.
- Eagle Scout – Congratulations to Charles Yates.
- Community Development Committee – He attended the meeting and good things are happening and moving forward.

CHAIRMAN WARREN JUDGE

- National Park Service – On Tuesday and Wednesday, the NPS will host public forums on draft management plan alternatives. He asked the Manager to look into how long comments can be submitted.
- Roanoke Island Water System – There is a meeting on Tuesday, June 19th at 7:00 p.m. at Festival Park.
- Graduates – He enjoyed the recent graduation ceremonies and congratulated the young people and teachers.

COUNTY MANAGER TERRY WHEELER – GRANT / RESOLUTION (ATT # 6)

Manager Wheeler presented the Percy W. & Elizabeth G. Meekins grant application. The grant money will be used for furnishing a room at the Roanoke Island Senior Center. No match money is required.

MOTION

Vice Chairman Burrus moved approval to submit the grant application.

Commissioner Shea seconded the motion.

VOTE: AYES unanimous

Dave Clawson, Finance Director, presented the Resolution Opposing Senate Bill 1125 which would have an adverse effect on Dare County by eliminating the sales tax adjustment factors in NCGS 105-486 (b).

MOTION

Vice Chairman Burrus moved to adopt Resolution #07-06-20 Opposing Senate Bill 1125.

Commissioner Shea seconded the motion.

VOTE: AYES unanimous

ITEM 13 – CLOSED SESSION – APPROVAL OF MINUTES

MOTION

Commissioner Shea, 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.

Vice Chairman Burrus seconded the motion.

VOTE: AYES unanimous

AT 7:00 P.M., THE DARE COUNTY BOARD OF COMMISSIONERS ENTERED CLOSED SESSION AND EXITED AT 7:05 P.M.

Chairman Judge reported that the Board approved the minutes of the last closed session and conducted no other business.

AT 7:10 P.M., THE DARE COUNTY BOARD OF COMMISSIONERS ADJOURNED UNTIL 5:00 P.M. ON JULY 16, 2007.

(SEAL)

Respectfully Submitted,

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

APPROVED

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