

**DARE COUNTY  
NORTH CAROLINA**

**THE DARE COUNTY BOARD OF COMMISSIONERS MINUTES  
NOVEMBER 5, 2007**

The Dare County Board of Commissioners met in a regular session at 9:00 a.m. on November 5, 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. Chairman Judge called the meeting to order. He called on Commissioner Mike Johnson to give prayer followed by the pledge of allegiance to the flag.

**ITEM 1 – PRESENTATION OF COUNTY SERVICE PINS**

1. Holly Meekins, PHN Supervisor, received her 10 Year Pin from Ellie Ward, Home Health and Hospice Nursing Director.
2. John Blackburn, Detention Officer, received his 10 Year Pin from Rodney Midgett, Sheriff.
3. Norman Johnson, Deputy Sheriff Detention Administrator, received his 25 Year Pin from Rodney Midgett, Sheriff.

**ITEM 2 – EMPLOYEE OF THE MONTH**

Dallas "Mac" Midgett, III, Public Works Recycling, received the Employee of the Month Certificate from Clyde Gard, Public Works Supervisor. Mac is a good employee who steps up to the plate any time that he is needed. He has a Class A CDL driver's license so he can operate any Public Works vehicles. According to Gard, all employees enjoy working with Mac and he is well deserving of this recognition.

**ITEM 3 – PUBLIC COMMENTS**

1. Gail Sonesso representing GEM Adult Day Services thanked the county for helping them through the new burst of growth and helping all to recognize Group Respite as a viable and needed program. November is National Alzheimer's Month and GEM will celebrate several events. The first is Candlelight Reflections at Saint Andrews by the Sea on Thursday at 6:30 p.m. and Memories in autumn, a musical treat.

**ITEM 3A – MEMORANDUM OF UNDERSTANDING BETWEEN DARE COUNTY AND COMMUNITY DEVELOPMENT CORPORATION (ATT # 1)**

Attorney Outten informed the Board that the Memorandum of Understanding was developed by him and the CDC and has been discussed by the Board. He explained that the document recognizes the CDC as a partner with the county for the workforce housing project.

**MOTION**

Commissioner Shea moved the approval of the Memorandum of Understanding between the County of Dare and the Community Development Corporation subject to the inclusion of language to # 7 concerning financial disclosures.

Vice Chairman Burrus seconded the motion.

VOTE: AYES unanimous

**ITEM 4 – PRELIMINARY ASSESSMENT ROLL FOR THE LOOPED WATER MAIN EXTENSION TO KITTY HAWK WOODS SUBDIVISION (ATT # 2)**

AT 9:30 A.M., THE DARE COUNTY BOARD OF COMMISSIONERS HELD A PUBLIC HEARING TO RECEIVE INPUT ON THE WATERMAIN EXTENSION TO KITTY HAWK WOODS SUBDIVISION.

Attorney Outten conducted the hearing and invited the public to speak. He said that there were 19 lots included in the original assessment roll that should not have been included because they already have water lines. The new assessment roll has been updated and the assessment amount increased for the remaining property owners because the number of lots in final roll is reduced.

1. Fred Marasca, Kitty Hawk, expressed concern about the road and wanted to know who was responsible for the repairs. Attorney Outten explained that the county does not have responsibility for any roads in the County but said he would speak with him at the break to help clarify the issue.

Chairman Judge closed the hearing at 9:55 a.m.

**MOTION**

Commissioner Shea moved to adopt the Preliminary Assessment Roll Kitty Hawk Woods Water Line as modified to make the assessment \$4566.78 per lot as shown in the assessment roll at 9:59 a.m. on November 5, 2007.

Vice Chairman Burrus seconded the motion.

VOTE: AYES unanimous

**ITEM 5 – CHAPTER 152 AMENDMENT – ADDITIONAL ALTERNATIVES FOR CONSIDERATION (ATT # 3)**

Ray Sturza, Planning Director, informed the Board that in September a public hearing was conducted on proposed amendments to Chapter 152 of the Dare County Code of Ordinances. Following the hearing, the Board could not reach consensus on the two proposed alternatives and referred the item back to Planning staff for study. He noted that these amendments were initiated to address concerns of Commissioner Johnson about building height and gross floor standards for unzoned areas in Dare County. The alternatives that were advertised for the September hearing and the comments that were received at the hearing are summarized. (See attached).

**MOTION**

Commissioner Richard Johnson moved approve Alternative A as recommended by the Planning Board.

Commissioner Shea seconded the motion.

VOTE: AYES (2) Richard Johnson & Shea

NOES (5) Judge, Burrus, Mike Johnson, Tillett & Dutton

THE MOTION FAILED.

**MOTION**

Vice Chairman Burrus moved to adopt Alternative 1 making everything 45 feet.

Commissioner Mike Johnson seconded the motion.

VOTE: AYES (5) Judge, Burrus, Mike Johnson, Tillett & Dutton

NOES (2) Shea and Richard Johnson

**ITEM 6 – PEER POWER “GREAT AMERICAN SMOKEOUT” PRESENTATION AND PROCLAMATION**

Sandy West, Risk Manager, and Lisa Phillips, Health Department, presented the 2007 Great American Smokeout Proclamation for Board approval.

**MOTION**

Commissioner Shea moved the adoption of 2007 Great American Smokeout Proclamation.

Commissioner Dutton seconded the motion.

VOTE: AYES unanimous

**ITEM 7 – HEALTH DEPARTMENT PROCLAMATION – HOME HEALTH AND HOSPICE MONTH NOVEMBER 2007**

Ellie Ward, Public Health Nurse Director I, presented the proclamation for Board approval. The proclamation is to promote community awareness about Home Health and Hospice services, and the positive difference this care can make for individuals and their families.

**MOTION**

Commissioner Shea moved to adopt Proclamation Home Health and Hospice Month November 2007.

Commissioner Dutton seconded the motion.

VOTE: AYES unanimous

**ITEM 8 – HEALTH DEPARTMENT PROCLAMATION – FAMILY CAREGIVER MONTH**

Ellie Ward, Public Health Nurse Director I, presented the proclamation for Board approval. The proclamation is to promote community awareness about Dare Respite Care services, and the positive difference this care can make for family caregivers and their loved ones.

**MOTION**

Commissioner Shea moved to adopt Proclamation Nov. 2007 Family Caregiver Month. Commissioner Dutton seconded the motion.

VOTE: AYES unanimous

THE BOARD TOOK A 10 MINUTE BREAK - 10:30 A.M.

**ITEM 8 – EOC / 911 RELOCATION**

Sandy Sanderson, Emergency Management Director, and Dr. Nancy White, Coastal Science Institute Director, made a presentation on the feasibility / opportunity for Emergency Management and 911 Communication to co-locate with the new Coastal Science Institute.

Discussion was held regarding proposed costs and plans. Sheriff Rodney Midgett also spoke about the need for Communications to have a larger facility. Their purpose is to inform the council on the feasibility of re-locating the two centers in conjunction with the construction of the Coastal Science Institute to the mutual benefit of all concerned. He

noted they would keep their current center for a backup center. Dr. White said that CSI will need to know if the County would like to proceed with plans in the next few weeks since the project is moving forward. The CIP Committee will take a look at this project at their next meeting and it will be discussed again at the Commissioners meeting on November 19<sup>th</sup>. No action was required.

**ITEM 9 – ROANOKE ISLAND PHRAGMITES MANAGEMENT PROJECT (ATT # 4)**

Tim McGonegal, Mosquito Control Officer, informed the Board that Senator Basnight's office has requested that a Phragmites Management Project be looked into and Dare County Mosquito Control has been asked to map areas of concern on Roanoke Island. The attached sheet explains the problems and control of Phragmites. He presented Aquatic Weed Control Program Resolution for Board approval.

**MOTION**

Commissioner Shea moved to adopt Aquatic Weed Control Program Resolution #07-11-30.

Vice Chairman Burrus seconded the motion.

VOTE: AYES unanimous

**ITEM 10 – 2007 MOSQUITO CONTROL SEASON SUMMARY (DOCUMENT FILED IN CLERK TO THE BOARD'S OFFICE)**

Tim McGonegal, Mosquito Control Officer, reported to the Board on the 2007 season and some other issues dealing with mosquito control.

He noted that overall April-November was a pretty good season. There were occasional spikes in populations due to lunar tides and salt marsh mosquitoes. The late season problems occur at the end of September. During the dry conditions and low mosquito activity periods allow them time to learn more about the issue. Surveillance is the first thing they do. He checks the larval surveillance and checks the lunar tides. He has a good idea when the hatch is coming. He also does disease surveillance but said there is nothing to worry about. Staff starts spraying in mid June. The best thing to do is to treat standing water to kill larvae and pupae by treating ditches, yards, pools, woodland, smaller marshes and swamps. They do neighborhood sweeps. The two main mosquito problems are the containers where 99% of the mosquitoes are breeding and the salt marsh mosquitoes. His solutions called for more public education, neighborhood sweeps, use of bug spray and aerial adultciding and aerial larviciding which are expensive.

Chairman Judge expressed appreciation to Mr. McGonegal for his presentation.

**ITEM 11 – HATTERAS SATELLITE OFFICE FURNITURE, FUXTURES AND EQUIPMENT (ATT # 5)**

Dave Clawson, Finance Director, informed the Board that Heery International's design contract for the Hatteras Satellite Office called for Heery to perform ff&e programming services for the facility. Heery has completed that task and has supplied the County with the attached cost list (3 pages) as well as specifications book and a building layout with ff&e locations. The total cost estimate for the programmed and recommended ff&e is \$182,524. The ff&e budget with the project budget is \$50,000. See attached for more details.

**MOTION**

Commissioner Richard Johnson moved to adopt amendments to capital project ordinances.

Vice Chairman Burrus seconded the motion.

VOTE: AYES unanimous

**ITEM 12 – UPDATE ON STORM WATER RULES**

Chairman Judge expressed concern regarding Phase II Storm Water Regulations that DWQ is seeking to impose on the North Carolina coastal counties. He noted that the rules which DWQ seeks to impose are a “one size fits” set of rules that are without scientific basis for Dare County and lead to significant negative impacts to Dare County residents without any demonstrated benefit. He noted that he has requested a meeting with staff representatives and Dare County representatives to discuss storm water problems that exist in Dare County. He is hopeful that Dare County can work with DWQ to resolve the issues.

**ITEM 13 – UPDATE ON UPDATED NEGOTIATED RULE MAKING (ORV) NPS**

Chairman Judge referred to the NPS Rulemaking Authority and Process – Information from the NPS intranet website on regulations, as applied to the CAHA ORV management rule. He talked about the workshop that was held on October 22 and 23 in Nags Head for Negotiated Rulemaking and reminded Board members that just before the workshop, a lawsuit was filed by Defenders of Wildlife and Audubon. The workshop had a different tone because of lawsuit. A great deal of aggravation was expressed towards the environmental groups. He said that again we are faced with these agencies becoming obstructionists after they agreed to be part of the process to move forward. The interim plan is in place and the committee is working to establish rules. He is very disappointed that the groups have chosen this route.

**ITEM 14 – COASTAL RESOURCES COMMISSION VACANCY (ATT # 6)**

Chairman Judge informed the Board of an upcoming vacancy on the Coastal Resources Commission (CRC). He asked for nominations to fill the vacancy.

**MOTION**

Vice Chairman Burrus moved to nominate Rhett White to serve on the CRC Board.

Commissioner Tillett seconded the motion.

VOTE: AYES unanimous

**ITEM 15 – DEPARTMENT OF TRANSPORTATION SECONDARY ROAD IMPROVEMENT PROGRAM**

AT 11:30 A.M., THE DARE COUNTY BOARD OF COMMISSIONERS HELD A PUBLIC HEARING TO RECEIVE INPUT ON THE SECONDARY ROAD IMPROVEMENT PROGRAM.

Attorney Outten conducted the hearing and invited the public to speak. No one came forward to speak.

Chairman Judge closed the hearing at 11:35 a.m.

Jerry Jennings, Acting Division Engineer, presented the Project Listing for Dare County: Sea Breeze Drive, Rodanthe

Kiddy Lane, Avon  
 Sutton Place, Hatteras  
 East Point, Rodanthe  
 Sand Street, Salvo  
 Various Paved Routes

The total new project funding for Fiscal Year 2007-2008 Allocation is \$409,790.25

**MOTION**

Commissioner Tillett moved to approve the Secondary Road Improvement Program for FY 2007-2008.

Vice Chairman Burrus seconded the motion.

VOTE: AYES unanimous

**ITEM 16 - UPDATE ON OREGON INLET BRIDGE**

Vice Chairman Burrus reported that he has been assured that the delegation in Washington, DC has been working overtime and the landing of the bridge will not be contested. He feels comfortable with the Coast Guard but not the Fish & Wildlife Services. The county must be concerned with environmental law suits even though DOT feels like they can win in court. Everything seems to be going in the right direction but he cautioned to be aware of actions that might be taken by the environmentalists.

**ITEM 17 – CONSENT AGENDA (ATT # 7)**

**MOTION**

Commissioner Dutton moved the approval of the Consent Agenda:

1. Approval of Minutes
2. Social Services Budget Amendment Day Care Funding
3. Budget Amendment for Federal FY 2007 VIPER Grant
4. Health Department – Dare Respite Care Grant Funding
5. Amendment to the Ordinance for Criminal History Record Checks
6. Water Tower Antenna Space Lease Agreement

Vice Chairman Burrus seconded the motion.

VOTE: AYES unanimous

**ITEM 18 – BOARD APPOINTMENTS**

1. PARKS AND RECREATION ADVISORY COUNCIL

**MOTION**

Commissioner Tillett moved to appoint Kathy Winstead to fill the unexpired term of Bob Saunders who resigned.

VOTE: AYES unanimous

2. OLDER ADULT SERVICES ADVISORY COUNCIL

**MOTION**

Vice Chairman Burrus moved to reappoint the following to serve a four year term on the OASAC: Lynn Thomason, Henry Haywood, Marjorie Midgett and Kathy Crowder.

VOTE: AYES unanimous

3. JUVENILE CRIME PREVENTION COUNCIL

**MOTION**

Vice Chairman Burrus moved to appoint Katie Lee and Kasey Rollinson to fill the Youth Rep terms of Alex Boncek and Olivia Drury who graduated. Term expires 6/08.

VOTE: AYES unanimous

**ITEM 19 – COMMISSIONERS' BUSINESS**

1. COMMISSIONER VIRGINIA TILLET

- The Community Care Clinic Newsletter – She received a letter and they are doing a wonderful job to assist those in need of health care.
- Letter from Button Daniels – Several Board members have responded to her.
- Bowsertown project – She will share her suggestions at a later date.
- After School Enrichment Program Open House at MES- She expressed concern that there was not enough space since 60 children were enrolled.
- BPW Symposium on November 1<sup>st</sup> – There was mention about old cans and junk in yards which need to be cleaned up. The group addressed health and safety issues regarding the elderly.
- Hurricane Noel – She thanked Dorothy and Sandy for coming to EOC on Saturday to monitor the storm.
- Roanoke Island Senior Center Committee – Their meeting for November 7<sup>th</sup> has been cancelled.
- Monday Night Live at Head Start – It is a program that will need more space.

2. COMMISSIONER RICHARD JOHNSON

- Stumpy Point Wastewater Treatment System – According to Chairman Judge, there is one permit remaining. It is an Army Corps 404 Wetlands permit. This came up 6 or 8 months ago. There are three alternatives being considered and the Army Corps representative is gone for the first part of the week and will talk with our engineer later this week. It looks like they will need to write special conditions to get the 404 permit and that may require zoning ordinance word changes by the Board.

3. VICE CHAIRMAN ALLEN BURRUS

- NCDOT – He thanked DOT for helping them over the weekend on Highway 12 during the storm.
- Cape Hatteras Electric EMC – He thanked them for making repairs during the high winds.
- Grants and Waterways – He noted that Jenny Jones has helped 6 or 7 families to elevate their houses and they have now moved in. He commended her for a fabulous job well done.
- Piney Ridge Road – The Water Department is working on the easements and there is no disharmony. They all want water.
- Dredging at Oregon Inlet – He would like to see if something can be done to put the sand at Pea Island. The approach is to start with the Corps.
- Dare County Respite Care – They provide services on Hatteras Island as well as Roanoke Island and throughout the county. They are doing a great job.
- ORV issue – He said that the environmental groups want to close the beaches to everyone. The county had an opportunity to have reasonable people

making reasonable decisions and the environmentalists don't want any reasonable people making decisions. They are out to win and this cannot happen.

4. COMMISSIONER MIKE JOHNSON

- He praised all the comments he heard today.

5. COMMISSIONER MAX DUTTON

- He also praised all the comments he heard today.
- Affordable housing - He thanks Bob Mueller for his hard work on the project. He also thanked some of the CDC members who came to today's meeting.
- He appreciates the love and support he received following the loss of his sister.

6. CHAIRMAN WARREN JUDGE

- ORV – He called on all user groups on Hatteras Island and all of Dare County to work together to keep the beaches open.
- Underage drinking – He referred to an article in October 21<sup>st</sup> Coastland Times written by a mother regarding the handling of an underage drinking situation. He urged everyone to take a stand and support zero tolerance.

7. COUNTY ATTORNEY BOBBY OUTTEN

- Water issue on Roanoke Island – He has talked with Board of Elections, State Board, and the Attorney General's office. The local Board of Elections cannot run a referendum such as the one discussed. It is not under their guidelines or authority. Dave Clawson, Finance Director, reported on the financial scenarios and stated that even with what the system can contribute, there is still the need for 90%-100% connection fees.

**ITEM 20 – UPCOMING BOARD APPOINTMENTS FOR DECEMBER**

The following are Board Appointments for December: Albemarle Commission Board of Directors, Board of Equalization and Review, Special Motor Vehicle Valuation Review Board, and Dare County Tourism Board,

**ITEM 21 – CLOSED SESSION – LAND / LEGAL MATTERS AND APPROVAL OF MINUTES OF THE LAST CLOSED SESSION**

**MOTION**

Vice Chairman Burrus, pursuant to NCGS 143-318.11, moved that the Dare County Board of Commissioners go into closed session to instruct the County staff or negotiating agents concerning the position to be taken by or on behalf of the County in negotiating the price and other material terms of a contract for the acquisition of real property by purchase, option, exchange, or lease; to consult with an attorney employed or retained by the County in order to preserve the attorney client privilege between the attorney and the County in the matters of Rodanthe property and to approve the minutes of the last closed session.

Commissioner seconded the motion.

VOTE: AYES unanimous

AT 3:25 P.M., THE DARE COUNTY BOARD OF COMMISSIONERS ENTERED CLOSED SESSION AND EXITED AT 4:25 P.M.

Attorney Outten reported that the Board of Commissioners approved the minutes from the last closed session, they gave the County Attorney guidance with regard to the acquisition of real property located in Rodanthe and being known as the wetlands tract of the Steve Midgett et al and also discussed a legal issue and the County Attorney received guidance with regard to that issue. No other action was taken.

AT 4:35 P.M., THE DARE COUNTY BOARD OF COMMISSIONERS ADJOURNED UNTIL 5:00 P.M. ON NOVEMBER 19, 2007.

(SEAL)

Respectfully submitted,

By: \_\_\_\_\_

Frances W. Harris  
Clerk to the Board

APPROVED:

By: \_\_\_\_\_  
Warren Judge, Chairman  
Dare County Board of Commissioners