



# COUNTY OF DARE, NORTH CAROLINA

District 1: Roanoke Island & Mainland; Dist 2: Nags Head, Colington, Kill Devil Hills; Dist. 3: Kitty Hawk, Southern Shores, Duck; Dist. 4: Chicamacomico, Avon, Buxton, Frisco, Hatteras; Dist. 5: At Large

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## THE DARE COUNTY BOARD OF COMMISSIONERS MEETING

January 17, 2012 — 5:00 P.M.

Dare County Administration Building, Manteo, NC

**Commissioners Present:** Chairman Warren Judge, District 3; Vice-Chairman Allen Burrus, District 4; Max Dutton, District 2; Mike Johnson, District 2;

**Commissioners Absent:** Virginia Tillett, District 1; Richard Johnson, District 1; Jack Shea, District 5

**Others Present:** County Manager/Attorney Bobby Outten; Finance Director Dave Clawson; Public Information Officer, Dorothy Killingsworth, Clerk to the Board, Gary Gross

**Public Comments:** Made by 1 person — Kevin Gray Conner

### **Presentations:**

Update on the Senior Tar Heel Legislature was presented by Dare County Delegate Kaye White & Alternate Mary Ellen Hawthorne

### **Actions:**

Engineering Contract with CDM for the Mac Midgett Water Plant RWS Well 3 — **Approved**

Public Hearing — Transportation Department NCDOT CTP Grant application for FY2013 — **Hearing Held, Application Approved**

Public Hearing — Transportation Department NCDOT 5310 Grant application for FY2013 — **Hearing Held, Application Approved**

Agenda was amended to delete Item 6 (Hurricane Irene Update) due to the absence of three members, to be rescheduled — **Approved**

Consent Agenda — **Approved**

1. Approval of Minutes (01.03.12)
2. Social Services Department of Transportation Budget Amendment
3. Tax Collectors December 2011 Reports

Board Appointments —

1. Dare County Tourism Board (Kill Devil Hills Representative) — **Appointed Robert Woodard**
2. Dare County Shoreline Management Commission (Kill Devil Hills Representative) — **Appointed Brandi Rheubottom**

Manager's/Attorney's Business

1. Authorized the Manager to follow Kitty Hawk & Southern Shores on their interchange preference and speak for the Board — **Adopted**
2. Resolution seeking Statute amendments concerning property tax exemptions for certain homeowner association property — **Adopted**
3. Manager directed to request legislative changes to allow Dare County to treat abandoned boats like abandoned vehicles — **Approved**
4. Authorized Manager to spend up to \$2,500 to help sponsor the March meeting of the NC Beach, Inlet & Waterway Assoc. — **Approved**
5. Authorized the Sheriff's Office to make application for a grant from the Violence Against Women Act — **Approved**

Closed Session — **Approved** a motion to go into Closed Session pursuant to the provisions of NCGS 143-318.11(a)(4) to discuss matters relating to the location or expansion of industries or other businesses in the County & NCGS 143-318.11(a)(3) to consult with the County Attorney to preserve the attorney-client privilege in the matter of Dare County versus Petra Apartments. The Board entered into Closed Session at 6:12 p.m. and exited at 6:30 p.m.

LAND OF BEGINNINGS

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Chairman Warren Judge called the January 17, 2012 meeting of the Dare County Board of Commissioners to order at 5:06 p.m. He invited the Rev. Ted Bishop from All Saints Episcopal Church to share a prayer, and then led the Pledge of Allegiance to the flag. Chairman Judge explained that Commissioner Shea is absent from the meeting due to a schedule conflict, and Commissioners Virginia Tillett and Richard Johnson are absent due to illness.

#### **ITEM 1 – PUBLIC COMMENTS**

One (1) person made public comments –

- Kevin Gray Conner expressed sympathy to Chairman Judge on the death of his Son-In-Law. He noted that over the years he has suffered the loss of several family members due to cancer and extended condolences to the Chairman's daughter, wife, and family. Mr. Conner also remarked on House Bill 353 and urged the Board to continue its opposition of this bill that would put hard working people out of business. Chairman Judge thanked Mr. Conner for his remarks.

#### **ITEM 2 – MAC MIDGETT WATER PLANT RWS WELL 3 CDM ENGINEERING CONTRACT (Att. #1)**

Water Department Director, Ken Flatt, outlined the engineering contract with CDM for the Mac Midgett Water Plant well 3, on Seabreeze Drive, behind Waterfall Park in Rodanthe. He reported that preliminary engineering work has been done to determine feasibility of permitting and the selected areas can be approved. He added that the site elevation is 2.5 feet, which will be elevated to 12 feet. He said this represents a height that is 1.5 foot higher than the Rodanthe plant. Mr. Flatt stated that the contract will include elevation of the well site, a well house, and the design, permitting, and construction services required for the project. He explained that the well is needed because if use of an existing well were lost during the peak season, it would be a serious problem. He said the engineering contact is for \$109,600 and the project is budgeted in the Water Department's CIP. He displayed a photograph of how the well house will appear and asked the Board to approve the contract.

##### **MOTION**

Vice-Chairman Burrus motioned to approve the engineering contract with CDM.

Commissioner Dutton seconded the motion.

VOTE: AYES unanimous

#### **ITEM 3 – PUBLIC HEARING – TRANSPORTATION DEPARTMENT NCDOT CTP GRANT APPLICATION FY2013 (Att. #2)**

AT 5:16 P.M., THE DARE COUNTY BOARD OF COMMISSIONERS HELD A PUBLIC HEARING TO RECEIVE INPUT CONCERNING THE TRANSPORTATION DEPARTMENT NCDOT CTP GRANT APPLICATION FOR FY2013.

County Manager Outten conducted the hearing and invited the public to speak. No one in the meeting room responded. Chairman Judge closed the hearing at 5:16 P.M.

##### **MOTION**

Vice-Chairman Burrus motioned to approve the NCDOT CTP Grant application for Fiscal Year 2013.

Commissioner Dutton seconded the motion.

VOTE: AYES unanimous

#### **ITEM 4 – PUBLIC HEARING – TRANSPORTATION DEPARTMENT 5310 GRANT APPLICATION FY2013 (Att. #3)**

AT 5:17 P.M., THE DARE COUNTY BOARD OF COMMISSIONERS HELD A PUBLIC HEARING TO RECEIVE INPUT CONCERNING THE TRANSPORTATION DEPARTMENT NCDOT 5310 GRANT APPLICATION FOR FY2013.

County Manager Outten conducted the hearing and invited the public to speak. No one in the meeting room responded. Chairman Judge closed the hearing at 5:17 P.M.

##### **MOTION**

Vice-Chairman Burrus motioned to approve the NCDOT 5310 Grant application for Fiscal Year 2013.

Commissioner Dutton seconded the motion.

VOTE: AYES unanimous

#### **ITEM 5 – UPDATE – SENIOR TAR HEEL LEGISLATURE**

Kaye White, the Dare County Delegate to the North Carolina Tar Heel Legislature, and Alternate Delegate Mary Ellen Hawthorne, gave an informational presentation to the Board. Ms. White explained that the group works on issues of concern to seniors and serves as advocates in assessing legislative needs related to senior issues. She said their meetings are very informative and include updates from key people in Raleigh who provide summaries of bills that are before the legislature. Ms. White reported that after each meeting she releases information about it to the media. She said significant senior issues for the future will include coping with a reduction in federal funds, which will adversely affect social service agencies throughout North Carolina. She said the goal of those involved in the program is to help people age with dignity and worth. Mary Ellen Hawthorne outlined the group's 2012 priorities and their theme of living wise and aging well. She said in looking at priorities, it is vital that funds be restored to continue providing help for those with memory loss. She described the need to mandate pre-employment drug testing at institutions throughout the State that serve senior citizens. Ms. Hawthorne also identified dental care as a priority need. She credited the Senior Tar Heel Legislature with taking a constructive role in raising awareness about an aging society. She also complimented the popular programs that are enjoyed by many seniors at the Baum Center and the Dare County Center. She said their programs are helping to keep older adults healthy and involved in the community. She thanked the Dare County Board of Commissioners for allowing them to participate in the Senior Tar Heel Legislature. Chairman Judge thanked the Delegate and Alternate for their report and for giving their time to this endeavor.

#### **ITEM 6 – HURRICANE IRENE UPDATE – (Agenda was Amended to Delete this Item)**

Chairman Judge explained that this item was intended to be a review and update for the Board. However, since three Commissioners were absent he asked for a motion to postpone this presentation to a future meeting.

##### **MOTION**

Vice-Chairman Burrus motioned to amend the agenda to remove Item 6 – Hurricane Irene Update.

Commissioner Dutton seconded the motion.

VOTE: AYES unanimous

#### **ITEM 7 – CONSENT AGENDA (Att. #4)**

##### **MOTION**

Vice-Chairman Burrus motioned to approve the Consent Agenda:

- 1) Approval of Minutes (01.03.12)
- 2) Social Services Department of Transportation Budget Amendment
- 3) Tax Collectors December 2011 Reports

Commissioner Dutton seconded the motion.

VOTE: AYES unanimous

#### **ITEM 8 – COMMISSIONERS' BUSINESS**

##### **Commissioner Mike Johnson**

- He reported that, so far, we have been successful in our efforts to stop a bill in Raleigh that would give Game Fish Status to several species including red drum, striped bass and sea trout. He said there is no scientific reason for designating Game Fish Status and it simply caters to the whims of a selfish few, at the expense of our local commercial fishing industry. He said the misguided legislation is being pushed by the NC Coastal Conservation Association (CCA) and they have been successful in creating a legislative study group to review it. He outlined a list of legislators serving on the study group and asked people to contact them to express opposition to the designation of Game Fish Status. Commissioner Mike Johnson said we have been active in presenting the facts and garnering community support in opposition of Game Fish Status, which if passed, would mean jobs. Vice-Chairman Burrus echoed his concern saying that only 20% of caught fish are harvested by commercial fishermen, and those pushing for the designation of Game Fish Status want it all and are trying to take even our 20% away from us. Chairman Judge called this an attempt to destroy our heritage and way of life. Commissioner Mike Johnson added that our local fishing industry has already suffered due to conditions at Oregon Inlet, and it is important that our citizens voice their opposition to the designation of Game Fish Status.

Commissioner Max Dutton – none

Vice-Chairman Allen Burrus –

- He expressed his serious concern about the on-going need to maintain navigable channels at Hatteras and Oregon Inlets.
- Reported that a committee is looking to change certain procedures pertaining to NCDOT Ferry reservations. He said this could involve taking the reservation process geographically out of Dare and Hyde Counties, which would force people to make reservations on the phone, rather than at the local facility. Mr. Burrus noted that while this might not hurt those outside the area, it would present a hardship for people here.
- Vice-Chairman Burrus acknowledged two individuals who have recently died, Melvin Twiddy and Anderson Midgett, and said they both made major contributions to our community. He described Mr. Twiddy as an avid trapper, hunter, fisherman, and historian. Mr. Midgett was remembered as the first Chief of the Hatteras Volunteer Fire Department and for his instrumental work on the Bonner Bridge and our road system. Vice-Chairman Burrus recognized Mr. Twiddy and Mr. Midgett as great men from a great generation.

Chairman Warren Judge - none

#### **MANAGER'S/ATTORNEY'S BUSINESS**

- 1) County Manager, Robert Outten, said he received a letter from NCDOT seeking comment on the interchange they have planned for Southern Shores and Kitty Hawk. He reported that at a recent community meeting, the consensus of those present was that people do not want the interchange. Mr. Outten asked for permission to reply to NCDOT in support of whatever the Boards in the Towns of Kitty Hawk and Southern Shores decided pertaining to this issue.

##### **MOTION**

Vice-Chairman Burrus motioned to follow the Towns of Kitty Hawk and Southern Shores on their preference for an interchange and authorize the County Manager to speak on behalf of the Dare County Board of Commissioners.

Commissioner Dutton seconded the motion.

VOTE: AYES unanimous

- 2) Mr. Outten outlined a resolution pertaining to North Carolina General Statute 105-277.8 that exempts homeowners associations from ad valorem taxes. He said through an anomaly in the legislation; an unfair situation exists. He explained that someone could create a homeowners association for a subdivision in another area of the state, and then buy a house in Dare County that is owned by the homeowners association, and be exempt from any ad valorem taxes. He said the resolution supports legislative changes to fix the anomaly and that Nags Head has approved a similar resolution. Vice-Chairman Burrus clarified that the resolution does not seek the creation of any new taxes, or changes that would hurt local homeowners associations. Mr. Outten affirmed that homeowners association within Dare County would continue to get favorable treatment, and that the resolution is intended to remedy an unfair exemption for associations located outside the County.

##### **MOTION**

Vice-Chairman Burrus motioned to adopt a resolution seeking amendments to the North Carolina General Statute concerning property tax exemptions for certain homeowner association property.

Commissioner Dutton seconded the motion.

VOTE: AYES unanimous

- 3) The County Manager said the problem of sunken and abandoned boats has become an issue since Hurricane Irene. He said there is no mechanism for us to deal with these, however, he found House bill 506, a local bill by the Town of Wrightsville Beach granting them the authority to treat abandoned boats like abandoned vehicles. He asked for permission to request something similar from our legislative delegation.

**MOTION**

Vice-Chairman Burrus motioned to authorize the County Manager to request that our Legislative Delegation adopt something similar to the authority outlined to treat abandoned boats like abandoned vehicles.

Commissioner Dutton and Commissioner Mike Johnson seconded the motion.

VOTE: AYES unanimous

- 4) Mr. Outten said Dare County has been an active member of the North Carolina Beach, Inlet, & Waterway Association. He reported that their meeting is held twice per year in Wilmington or Wrightsville Beach and we have lobbied for a long time to have it held in Dare County so that more people here could participate without extensive travel. The Association has agreed to do this in March. Mr. Outten asked for up to \$2,500 to help in sponsoring this meeting. He added that he is also asking the Towns to contribute to this effort as well. He said this will save travel and provide an opportunity to become more involved.

**MOTION**

Vice-Chairman Burrus motioned to authorize the County Manager to spend up to \$2,500 to help sponsor the March meeting of the North Carolina Beach, Inlet & Waterway Association.

Commissioner Dutton seconded the motion.

VOTE: AYES unanimous

- 5) The Manager explained that at a previous meeting we did not have nominees from the Town of Kill Devil Hills for the Dare County Tourism Board. He reported that the Town has now submitted the names of Robert Woodard, Mike Hogan and Brandi Rheubottom and asked the Board to select one nominee.

**MOTION**

Vice-Chairman Burrus motioned to appoint Robert Woodard as the Kill Devil Hills representative on the Tourism Board.

VOTE: AYES unanimous

Mr. Outten said the Town of Kill Devil Hills has requested that we appoint Brandi Rheubottom to replace Ray Sturza as their representative on the Shoreline Management Commission.

**MOTION**

Vice-Chairman Burrus motioned to appoint Brandi Rheubottom as the Kill Devil Hills representative on the Dare County Shoreline Management Commission.

VOTE: AYES unanimous

The Manager informed the Board of Commissioners that the Town of Kill Devil Hills has designated Sheila Davies to serve as their representative on the Gov/Ed Channels Committee. He explained that this appointment was an informational update that did not require Board action.

- 6) Mr. Outten said Captain Deringer at the Sheriff's Office informed him that a \$78,000 grant is available from the Violence Against Women Act to help in dealing with those issues. The Manager said the grant match would be met with like-kind services, which would not require County funds, and there are no reoccurring costs associated with the grant. He asked the Board to authorize the Sheriff's Office to apply for the grant.

**MOTION**

Vice-Chairman Burrus motioned to authorize the Sheriff's Office to make application for a grant from the Violence Against Women Act.

Commissioner Dutton seconded the motion.

VOTE: AYES unanimous

- 7) The County Manager announced that a Closed Session was needed pursuant to NCGS 143-318.11(a)(4) to discuss matters relating to the location or expansion of industries or other businesses in the County; and NCGS 143-318.11(a)(3) to consult with the County Attorney to preserve the attorney-client privilege in the matter of Dare County versus Petra Apartments.

**MOTION**

Vice-Chairman Burrus motioned to go into Closed Session pursuant to the provisions of NCGS 143-318.11(a)(4) to discuss matters relating to the location or expansion of industries or other businesses in the County & 143-318.11(a)(3) to consult with the County Attorney to preserve the attorney-client privilege in the matter of Dare County Versus Petra Apartments.

Commissioner Dutton seconded the motion.

VOTE: AYES unanimous

**AT 6:12 P.M. THE DARE COUNTY BOARD OF COMMISSIONERS ENTERED INTO CLOSED SESSION AND EXITED AT 6:30 P.M.**

Chairman Judge reconvened the meeting. The County Manager reported that the Board discussed matters related to the location or expansion of industries or other businesses within Dare County, and also consulted with the County Attorney to preserve the attorney-client privilege in the matter of Dare County versus Petra Apartments and took no other actions.

AT 6:31 P.M. THE DARE COUNTY BOARD OF COMMISSIONERS ADJOURNED UNTIL 9:00 A.M. ON FEBRUARY 6, 2012.



Respectfully submitted,

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

Gary Gross, Clerk to the Board

APPROVED:

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

Warren C. Judge, Chairman  
Dare County Board of Commissioners