



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

THE DARE COUNTY BOARD OF COMMISSIONERS MEETING

February 2, 2009—9:00 A.M.

Dare County Administrative Annex
PO Box 1000, Manteo, North Carolina 27954

Commissioners Present:

Chairman Warren Judge, Dist. 3; Vice-Chairman Burrus, Dist. 4; Virginia Tillett, Dist. 1; Richard Johnson, Dist. 1; Max Dutton, Dist. 2; Jack Shea, Dist. 5;

Commissioners Absent: Mike Johnson, Dist. 2

Others Present:

County Manager Terry Wheeler, County Attorney Bobby Outten, Katie Smith—Clerk to the Board

Action:

EMPLOYEE OF THE MONTH – FEBRUARY 2009 — **Awarded to Marcy Mann**

800 MHz COMMUNICATION SYSTEM — **Approved**

SUBDIVISION AMENDMENT—EXEMPTION STANDARDS — **Public Hearing Scheduled 3/16/09**

REVISED NUISANCE ORDINANCE — **Public Hearing Scheduled 3/16/09**

OUTER BANKS SCENIC BYWAY COMMITTEE — **Approved (sign permanent right-of-way encroachment agreement with NCDOT)**

GRANT APPLICATION FOR OLD COURTHOUSE — **Approved**

RESOLUTION FOR CAPE HATTERAS NATIONAL SEASHORE RECREATION AREA SPIT AND INLET BEACHES — **Approved**

CONSENT AGENDA — **Approved (VOTE: 5-1)**

- Approval Of Minutes (1.5.09 & 1.26.09)
- Budget Amendment – Dare County Public Health Dr. Anne F. Wolfe Mini-grant
- Budget Amendment – Dare County Public Health Healthy Carolinians of the Outer Banks
- NC Rural Center—2008-09 Clean Water Grant Application
- Advertise 2008 Tax Year Liens
- Grant from Dare County Tourism Board for the “Preserve Access to America’s Beaches” Campaign

BOARD APPOINTMENTS

- Aging Advisory Council for the Albemarle Commission — **Reappointed (Brandi Rheubottom and Isabel Pitcher)**
- Planning Board — **Reappointed (John Finelli and Dan Oden, Jr.)**
- Wanchese Community Center — **Appointed (Sally Defosse)**

RESOLUTION IN SUPPORT OF CONTINUAL ANNUAL FEDERAL FUNDING FOR DREDGING OF OREGON INLET & APPROPRIATION OF \$12—\$14 MILLION FOR DREDGING DURING THE 2009 FEDERAL BUDGET YEAR — **Approved**

RESOLUTION IN SUPPORT OF HOUSE BILL 9 PREVENTING TEXTING AND DRIVING — **Approved**

LETTER OPPOSING ONLINE TRAVEL COMPANIES REQUEST FOR EXEMPTION OF LOCAL HOTEL OCCUPANCY TAX—**Approved**

LAND OF BEGINNINGS

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Chairman Warren Judge, called the meeting to order at 9:00 a.m., invited Ken Simpson, Manteo Baptist Church, to share a prayer, and then led the pledge of allegiance to the flag. He noted Commissioner Mike Johnson's absence was due to his representation for the Board of Commissioners at the South Atlantic Marine Fisheries Commission meeting.

ITEM 1 – PRESENTATION OF COUNTY SERVICE PINS

- 1) Debra Bratton, Income Maintenance Caseworker, received her 10 year pin from Theresa Edwards, Adult Services Supervisor.
- 2) Susan Saulsbury, Social Worker III, received her 20 year pin from Theresa Edwards, Adult Services Supervisor.

ITEM 2 – EMPLOYEE OF THE MONTH – FEBRUARY 2009

Marcy Mann, Land Transfer Department, received the Employee of the Month certificate for February from Michelle Evans, Tax Collector.

ITEM 1 – PUBLIC COMMENTS

- 1) Mark Kent, resident of Kitty Hawk, briefly explained the recent tragedy in the attack of his dog, Jaz, by two Pit bull dogs on Monday January, 19, 2009. He listed several signs of aggression the attacking dogs displayed prior to the incident and expressed his concern that the animals were returned to their owner after she paid the \$25 fine. He noted the dogs were euthanized as a result of an outpouring of public support. Mr. Kent and his wife are extremely fond of animals and took no pleasure in the euthanization of their dog's attackers. However, given the circumstances, the history of aggression in the dogs, and in the interest of public safety, he felt this was the right outcome. He went on to explain the animals could not have committed the acts of violence if the owner had not been irresponsible in allowing the animals to run freely through the area. He felt it is necessary to force owner responsibility by enacting laws and ordinances where penalties are severe enough to discourage the breaking of the laws. The current laws do not provide protection to the public and he asked the Commissioners to punish dog owners who are irresponsible.
- 2) Julie Perry, resident of Kill Devil Hills and concerned parent of a student enrolled in the Heron Pond Montessori School, explained her horror in finding the two Pit bulls had been released back to the owner and into the community after such violent acts. She thanked the police department involved for working to bring the animals back into custody. She explained her focus had shifted from euthanization of the animals to changing the laws to better protect the community. She added the fines need to be increased from \$25 to hundreds of dollars. She felt the SPCA needs to have more recourse when a harmful animal is obtained in order to make certain the public is safe and violent animals are not returned to the streets of the community. Many people she has spoken to has had issues with violent Pit bulls; however, she had hesitations on a breed ban and thought research and documentation are necessary to make this determination. She offered suggestions for laws such as requiring owners to register dogs deemed aggressive, especially when the aggressive animals lived in the vicinity of a school. She stated if the Pit bulls had not been euthanized, she would have withdrawn her son from the Montessori school; thus, affecting Heron Pond's ability to run a business. She

thanked the Commissioners for their time and offered to help any way she could in the work to strengthen laws regarding this issue.

- 3) Sallie Ackley, resident of Kitty Hawk and owner of Heron Pond's Montessori School, appeared before the Board to request they research laws found in other states and counties regarding aggressive animals and asked them to use this information to help address the issue that is now affecting our area. She noted the county is more populated and as a result, the animal control enforcement laws needed updating to allow for the protection of the citizens. She explained the fear that was experienced by residents when the animals were released back to the owners and felt if the victim had been human, the situation would have been handled much differently. She submitted two (2) petitions: the first to have the dogs euthanized which had already been taken care of, and the second to ask the Commissioners to update the ordinances to be more specific allowing authorities power to enact protection.
- 4) Emma Muir, resident of Kitty Hawk, shared her experience with an aggressive Pit bull attack similar to the Kent's situation, but luckily she was at home and able to resolve the situation. She noted the fear in that situation as being unexplainable. She expressed the need for stricter laws and regulations to allow the SPCA to take necessary steps to protect the community from dangerous animals. She noted Pit bull breeds have been banned in several countries. She cited strict laws in some counties in the US where owners are required to register the animals, pay steeper fines, and hold liability insurance of \$100,000. She noted she does not necessarily support breed specific legislation but asked for laws to be researched and enforced to keep the community safe.
- 5) Jim Quinn, Roanoke Island resident, appeared before the Board and spoke on the issue of a noise ordinance. He shared his opposition to allowing ATVs within communities and stated this was a "step backwards" for the community. He asked the Commissioners to enact a noise ordinance instead of allowing race tracks within neighborhoods.
- 6) Frank Jakob, Rodanthe/Salvo area resident, expressed his concerns regarding public beach access in Rodanthe. He explained the area scheduled for public beach access is a high erosion area and will require a great deal of maintenance and subsequent hardship on the tax payers. He noted the area is eroding at a rate of over 30 feet per year according to the DOT. He also noted the over-wash and loss of other properties due to erosion in the surrounding area. He felt this project would not alleviate parking issues at the S-curves and stated there are numerous beach access points in the villages and in the area between the bridge and Rodanthe. He felt the parking issues exist due to the lack of State regulations preventing parking on the shoulders of State roads. He asked the Board to maintain the property for posterity and installation of a public boardwalk to the beach, but put the infrastructure across the road and improve the Rodanthe Harbor and Emergency State Ferry landing. He asked the Board to contact DOT to install "No Parking" signs at the S-curves and signs directing traffic to the Rodanthe Harbor and Community Center for public parking. He thanked the Board for their time.
- 7) Paul Cagiano, President of the Board of Directors for the SPCA, offered his condolences to the Kent family. He noted that he was not speaking as an organization to advocate breed specific legislation, but instead wanted to share the need for a county wide animal restraint law. He would like to see legislation allow Animal Control to impound dangerous animals until a court orders otherwise. He asked the Board to create laws allowing animals to be held until owners provide restraint systems. He added penalties

are needed to hold owners accountable for the actions of their animals. He offered his assistance and expertise in creating laws that can be reinforced realistically. He stated he would sit on a committee to help draft language for legislation to make sure this type of situation will never happen again.

ITEM 4 – OUTER BANKS MARATHON REPORT

Mike Kelly, Outer Banks Marathon, thanked the Commissioners for all of their support and gave a brief presentation regarding the results of the 2008 Outer Banks Marathon that was held on November 9, 2008. He explained the economic impact for this year was about \$2.4 million. He shared the 2009 Marathon would take place on Sunday, November 8th. With the Marathon, Fun Run, and Expo, participation has grown from 222 to 322 in two (2) years and to a total participation of 2500 Dare County residents (7% of the overall population). He added there were 6,000 to 7,000 spectators bringing the total to 25% of residents having direct contact with the Marathon. Forty-eight (48) states were represented and 93% of runners were from outside of Dare County, and thirty-nine (39) runners qualified for the Boston Marathon. He thanked the Commissioners again for their support. Chairman Judge shared his appreciation of the Marathon and all the volunteers. Vice-Chairman Burrus asked Mr. Kelly to share where the proceeds are spent. Mr. Kelly responded all proceeds go to two charities: the Outer Banks Relief Foundation and the Dare Education Foundation. He added 100% of the money goes to these charities and stays within Dare County.

ITEM 5 – 800 MHZ COMMUNICATIONS SYSTEM (Att. 1)

County Attorney Bobby Outten gave a brief presentation regarding the VIPER system and its ability to allow Dare County to come into compliance with the Federal mandate to communicate with other counties throughout the state and US by 2013. He stated after September 11, 2001, it became evident communication systems across the US were not adequate. The original projected cost of a Dare County constructed, owned, and operated system was projected to be \$18 million. After meeting with the Sheriff's Department and Motorola, the County found they could make few adjustments to the VIPER system which the State is building in order to allow highway patrol to communicate across the state. Making these necessary adjustments would allow the communication requirements to be compliant with the mandated communication system. Issues such as identifying penetration in coverage, controlling the number of talk groups, built in redundancies to provide assistance if the site goes down, and expandability of the system were addressed. One new tower in Stumpy Point will be required. Grant money from Homeland Security and monies leftover from the State's communication system project will be used to build the tower. The overall cost will be \$5.8 million for the system and \$750,000 for the tower. He explained he had met with Motorola and paired the cost down to the lowest point. Almey Gray, Sheriff's Department, thanked Mr. Outten for his help in the operation. Dave Clawson, Finance Director, gave an overview of the budget needs to support this project. He explained the bulk of the debt service would be dealt with in two (2) years. He noted he would return with an Operating Budget and Capital Improvements plan. Chairman Judge thanked Mr. Outten for his work and dedication to this project over the last two (2) years.

Vice-Chairman Burrus inquired about the \$750,000 needed to build a tower in Stumpy Point. Mr. Outten explained NC does not need a tower for their system; however, Dare County will require the tower to meet the needs of the system. He explained the County would be required to

provide funding for the construction costs of this tower that are not covered by the leftover NC grant up to \$750,000. Mr. Outten noted they had looked into other grants and submitted the project for funds that may become available via stimulus packages. Commissioner Shea inquired since this is a Federal mandate, how much Federal money would be received. Mr. Outten responded Federal funds were being used for VIPER which Dare County is using to decrease the cost of the system. Commissioner Richard Johnson asked if the Sherriff's Department was satisfied with coverage in buildings and structures. Mr. Gray responded this system will give coverage within buildings and provides greater coverage than the VIPER system alone. He noted they would be using the infrastructure of VIPER and then making additions to suit their needs. Commissioner Richard Johnson also inquired about maintenance of the tower in Stumpy Point. Mr. Outten noted currently the State would hold maintenance responsibility on the tower. However, this could change at any time. Andrew Curd, Motorola, noted the State currently has a maintenance plan on the radio system and would continue with a memorandum of understanding. Commissioner Dutton asked when the current system usage would cease. Mr. Outten explained the usage of the current system would not stop, but the narrow banding equipment would need to be adequate by January 2013. Commissioner Tillett asked if there was system requirement for all counties and if so, why is Dare County behind in meeting these requirements. Vice-Chairman Burrus noted the uniqueness of the size and layout of Dare County and stated counties like Hyde can work within what the State has provided.

MOTION

Commissioner Richard Johnson motioned to authorize Attorney Outten to proceed with sole source purchasing of the system under the provisions of 143-129(e)(4) and to solicit bids for any portions of the project for which competitive bidding is required.

Vice-Chairman Burrus seconded the motion.

VOTE: AYES unanimous

RECESS 10:20 A.M. – 10:40 A.M.

MOVE TO IEM 10

ITEM 6 – SUBDIVISION AMENDMENT – EXEMPTION STANDARDS

Ray Sturza, Planning Director, presented the Board with a draft amendment to the Subdivision Ordinance to address the recombination of non-conforming lots. This amendment would allow property owners to reconfigure existing lots which may be smaller than the current minimum lot size. He noted the Planning Board's recommendation to adopt the amendment and explained the next step would be to schedule a Public Hearing.

MOTION

Vice-Chairman Burrus motioned to schedule a Public Hearing for March 16, 2009 at 10:00 a.m. Commissioner Shea seconded the motion.

VOTE: AYES unanimous

ITEM 7 – REVISED NUISANCE ORDINANCE (Att. 2)

Ray Sturza, Planning Director, presented the Board with draft revisions to the Nuisance Ordinance that would expand the scope of the ordinance to include additional conditions that could be considered in nuisance proceedings. Existing situations must represent extreme or imminent danger to public health and safety. He explained a Public Hearing would be the next step in consideration of these revisions. Commissioner Richard Johnson asked Mr. Sturza about

Item 3 (accumulation of stagnant water or other conditions that may serve as breeding areas for mosquitoes) noting storm water ponds would fall into this category. Mr. Sturza responded this would be for areas such as containers, jars, bowls, and bathtubs and not intended for natural or manmade features of the land. Mr. Sturza will elaborate on the language to clarify the intentions to be exclusive of man-made ponds designed for the purpose of storm water management.

MOTION

Commissioner Shea motioned to schedule a Public Hearing on revisions to Chapter 98, Nuisances, for March 16, 2009 at 10:00 a.m.

Commissioner Tillett seconded the motion.

VOTE: AYES unanimous

ITEM 8 – OUTER BANKS SCENIC BYWAY COMMITTEE FOR DARE COUNTY

Mary Helen Goodloe-Murphy, Chairman of the Outer Banks Scenic Byway Committee, thanked the Board for holding the special called meeting on January 26, 2009, in which they selected Albemarle & Associates LTD as the engineer for the Buxton Back Road pathway project and authorized Dare County administrators to negotiate and sign a contract for the project. The Commissioners also authorized the application for a Safe Routes to School grant, and approved a resolution supporting this application. The last issue to be addressed was the agreement to enter into permanent right-of-way encroachment agreements with NCDOT for constructing and maintaining of two pathways in Avon. Attorney Outten noted the responsibility of the County to maintain the pathways and the associated expense. He also shared the State may consider giving secondary road liability back to the counties for maintenance and shared his concern of the Board's agreement to maintain these pathways being misunderstood as Dare County's support of this action. Chairman Judge noted the aggressiveness of this plan and asked if a special tax district would be needed to fund the project. Mr. Outten said the project could be assigned to a tax district, but he was not sure if the County could be reimbursed for actions already taken. Commissioner Richard Johnson asked if the State has standards for sidewalks. Ms. Goodloe-Murphy responded this project is literally breaking new ground for unincorporated areas. She noted the sidewalks will meet current ADA standards, but will not meet some Federal design standards due to the constraints of the area. Commissioner Richard Johnson also asked if the County has access to Powell Bill money. Mr. Outten stated the State would have to amend the statute to allow counties to have access to these funds. He stated his concern with accepting Powell Bill money would be inviting the State to force the County to not only maintain the pathways, but secondary roads as well. In addition, if the County began receiving funds, our local towns would get less money as a result. Vice-Chairman Burrus asked if application for Rural Development grants would be an option. Mr. Outten responded these grants would most likely be for water/sewer projects. Vice-Chairman Burrus asked if it would be legal and acceptable to request villages who already tax themselves for things like Community Centers if they would be willing to incorporate this project into that budget. Mr. Outten noted tax districts are usually for specific items, but this addition may be possible with an amendment.

MOTION

Vice-Chairman Burrus motioned to accept the responsibility for the 500 feet of pathway maintenance and enter into permanent right-of-way encroachment agreements with NCDOT for constructing and maintaining pathways in unincorporated Hatteras Island villages, but asked the Attorney and Finance Director to research the cost of maintenance for these facilities as we move forward.

Commissioner Dutton seconded the motion.

VOTE: AYES unanimous

ITEM 9 – GRANT APPLICATION FOR OLD COURTHOUSE

County Manager Wheeler introduced Dave Clawson, Finance Director and member of the Capital Improvements Planning Committee, who met with the Roanoke Island Historical Association and the Dare County Arts Council on January 14, 2009. The CIPC voted to recommend the Dare County Board of Commissioners give approval for the County, the RIHA, and the DCAC to apply for a NC Rural Center Grant under its Building Reuse Initiative Program for the old courthouse. He noted grants of up to \$480,000 are available and the local match, due to current economic hardships, could be fulfilled through an in-kind grant administration. Vice-Chairman Burrus asked how much work would this grant fund. Mr. Clawson estimated the HVAC and plumbing to cost approximately \$250,000, and Chairman Judge noted the overall cost at approximately \$750,000. Commissioner Richard Johnson asked if the grant would control how the money is spent, or would the County have control once it is granted. Mr. Outten responded the grant document would most likely contain terms, but the County will be able to read these terms before accepting the grant. Chairman Judge clarified the request at this time is simply for application for the grant.

MOTION

Commissioner Shea motioned to allow the County, RIHA and the DCAC to apply for the Building Reuse Initiative grant.

Vice-Chairman Burrus seconded the motion.

VOTE: AYES unanimous

ITEM10 – RESOLUTION FOR CAPE HATTERAS NATIONAL SEASHORE RECREATION SPIT AND INLET BEACHES

County Manager Wheeler introduced Jim Keene, President of the North Carolina Beach Buggy Association, who presented a letter requesting a resolution identifying Cape Hatteras National Seashore Recreation Area Spit and Inlet Beaches as Traditional Cultural Properties (TCP). This area would then be potentially eligible to the National Register of Historic Places. Mr. Keene thanked the Commissioners for their support and noted the importance of this resolution to help maintain open access to beaches and to continue these traditions and culture that has been a part of Cape Hatteras for more than fifty-five (55) years. He is asking the Park Service and the Federal Government to recognize and fulfill the original purpose of this area as the first recreational National seashore. He felt this was possible through the recognition and administration of this area as a historic site. Local towns, villages, and Hyde County are also being asked to support this designation. Commissioner Richard Johnson described his hesitations on identifying this area as historic for fear this may promote beach closures in order to preserve the area. Mr. Keene clarified stating the resolution would specifically request the area maintain beach access in order to continue to pursue this activity which has taken place for a great number of years. Vice-Chairman Burrus shared other benefits stating this would create a more advantageous position for commercial fishermen to obtain permits from the Park Service and potentially create changes with future catch limits.

MOTION

Vice-Chairman Burrus motioned to direct the County Attorney to draft the resolution to reflect the letter from Mr. Keene, and to authorize the Chairman to sign the resolution once it is

completed. Chairman Judge asked the resolution be sent to the people listed in the letter and to all mayors in Dare and Hyde counties.

Commissioner Shea seconded the motion.

VOTE: AYES unanimous

MOVED TO ATTORNEY'S BUSINESS

ITEM11 – UPDATE ON OREGON INLET

Vice-Chairman Burrus offered an update on the Oregon Inlet stating work has begun and all information at this point has been positive.

ITEM 12 – CONSENT AGENDA (Att. 3)

Commissioner Shea motioned to approve the Consent Agenda:

- 1) Approval of Minutes (1/5/09 & 1/26/09)
- 2) Budget Amendment – Dare County Public Health Dr. Anne F. Wolfe Mini-grant
- 3) Budget Amendment – Dare County Public Health Healthy Carolinians of the Outer Banks
- 4) NC Rural Center – 2008-09 Clean Water Grant Application
- 5) Advertise 2008 Tax Year Liens
- 6) Grant from Dare County Tourism Board for the Preserve Access to America's Beaches Campaign

Commissioner Tillett and Burrus seconded the motion.

Commissioner Richard Johnson inquired on Item 6 asking if this was a request to hire an employee. County Manager Wheeler noted there is a three year grant in place for the compensation of this employee. Commissioner Richard Johnson asked if the position would be better served to be a contractor position. Vice-Chairman Burrus responded a contracted position would be much more expensive, and cited the position being more manageable and affordable in-house. He also stated the position would alleviate the overtime strains on current employees. Commissioner Richard Johnson stated he agreed with these benefits, but disagreed with the financial commitment to a new hire.

VOTE: AYES Judge, Burrus, Dutton, Tillett, Shea.

NOES Richard Johnson

ITEM13 – BOARD APPOINTMENTS

- 1) Aging Advisory Council for the Albemarle Commission

MOTION

Commissioner Shea moved to reappoint Brandi Rheubottom and Isabel "Bel" Pitcher for another two year term.

VOTE: AYES unanimous

- 2) Planning Board

MOTION

Commissioner Tillett moved to reappoint John Finelli and Dan Oden, Jr. for another three year term.

VOTE: AYES unanimous

3) Wanchese Community Center Board

Commissioner Tillett moved to appoint Sally Defosse to fill the unexpired term of Patricia Austin.

VOTE: AYES unanimous

ITEM 14 – COMMISSIONERS’ BUSINESS

Commissioner Dutton

He congratulated the service pin recipients and Marcy Mann as Employee of the Month. He offered his condolences to the Kent family on their loss and the circumstances in which it happened. He attended a Board of Education meeting on January 13, 2009, and noted his appointment to the Calendar Committee. He reviewed the State perimeters for the calendar and discovered ways to push school opening until after Labor Day. The avenues will be reviewed in greater detail in the future. He thanked Mike Kelly and the volunteers for the Outer Banks Marathon. He felt this event was an outstanding opportunity for our community.

Commissioner Tillett

She noted her attendance at the 2009 Legislative Goals conference and asked for guidance on two items: 1) the E911 Funds, and 2) Getting rid of second primaries. She asked the Commissioners to review these items. She stated as Legislative Liaison, she would present any Board concerns or local bills to the group at the next meeting.

MOTION

Commissioner Tillett motioned to approve a resolution in support of House Bill 9 prohibiting texting while driving and to authorize the Chairman to sign this resolution.

Vice-Chairman Burrus seconded the motion.

VOTE: AYES unanimous

Frank Hester, Regional Adult Care and Nursing Home Community Advisory group Chair, toured Outer Banks Britthaven and Spring Arbor. The facilities are acceptable and Britthaven is writing an image improvement plan.

She asked Mr. Outten to research one of the other legislative goals regarding Senate Bill 2 “Lottery School Capital Funds Formula” and explain this to the Board in order for them to offer appropriate support if necessary.

She shared Dare County had been awarded \$400,000 to aid in the improvement of Senior Citizen homes. Dare County’s application was submitted by the Albemarle Commission and was awarded the funds along with Pasquotank and Currituck Counties. She asked the Board for direction for fund use and for volunteers to receive the check in Hertford County on February 13, 2009. Chairman Judge suggested Jenny Gray attend with Commissioner Tillett.

JCPC and Older Adult Services held meeting in January. Older Adult Services and Tim White are working on bylaws to govern the operation of the three centers throughout the county. She noted JCPC’s budget is going to be cut and services will be affected. She asked everyone to show opposition to budget cuts on these services.

She announced the Roanoke Island Community Center group will meet on Friday, February 6, at 10:00 a.m. at the Dare County Administrative building to receive updates on the new center. The committee will be deciding on a name for the building and asked the Board to submit suggestions. She also invited the Commissioners to visit the Youth Center in Manteo which will hopefully be opened next month. She will be notifying the Board of the Dedication Ceremony date when it is scheduled.

Lastly, she made sure everyone had received a copy of the letter from Judith Fearing regarding "Read Across America" and invited all to read to the kids.

Commissioner Richard Johnson

He shared his concern of the Resolution Opposing Texting while Driving getting abused by law enforcement. He noted the dangerousness of the situation but stated he also prefers minimum restrictions to freedoms.

Vice-Chairman Burrus

He noted Commissioner Tillett picture on the cover of "County Lines." He thanked her and congratulated her on her endeavors. He noted problems with Mental Health Carriers with Blue Cross Blue Shield. They have incorrect information of five (5) carriers listed in Avon and seven (7) in Manteo. He asked the State be notified of this issue and be asked to address the situation and seek new providers.

MOTION

Vice-Chairman Burrus motioned to approve a resolution in support of continual annual Federal funding for the dredging of Oregon Inlet and the appropriation of money in the 2009 Federal Budget Year.

Commissioners Shea and Tillett seconded the motion.

VOTE: AYES unanimous

He noted the unemployment rate was at 12% for Dare County in December and is predicted to be over 15% for January. He stated while he does not have any solutions currently, he encouraged the Board to do all they can to help. He shared his appreciation of Marcy Mann for her outstanding work for the County.

He shared there are sidewalks in Hatteras village at this point and asked an investigation be conducted as to why the State maintains these sidewalks, but will not maintain the new Scenic Byway pathways.

Lastly, he shared his condolences on the death of Landry Gray who was instrumental in getting substance abuse treatment centers in our county and across the state. He had been the Special Education Director of Washington County Special Ed programs and passed away with brain cancer. Vice-Chairman Burrus extended his appreciation and admiration for Mr. Gray to his family.

Commissioner Shea

He shared his appreciation for the service pins recipients and to Marcy Mann. He thanked Mike Kelly and the committee for the success of the 2008 Outer Banks Marathon and for the economic impact the event has on our county.

Chairman Judge

He thanked all those who have taken time to attend meetings, speak in Public Comment, and send letters and emails and noted he is trying to respond to everyone. He thanked Terry and the I.T. staff for working through the weekend to produce the maps and overlays for the REG-NEG meetings.

He offered an update on the developing situation regarding the County's actions on Homeowner Insurance decisions. Mr. Outten has been traveling to attend meetings along the coast to help build a coalition opposing the rate increase. The appeal to have a hearing before the Insurance Commissioner was denied. Mr. Outten explained the motion filed by the Attorney General to deny us a hearing before the Commissioner was approved and a hearing could not be held. This has been appealed by the County and will be reviewed. Counties joining Dare in support are: Currituck, Washington, Hyde, Carteret, New Hanover, and Brunswick. Pender, Camden, Perquimans, Pamlico, Craven and Chowan Counties will be addressing this item at their next meeting and the hope is they will join in support. Onslow County has expressed their support but has not contributed financially or joined as parties. They are pursuing remedies through their legislative delegation and not in concert with our efforts at this time. All Dare County towns (with the exception of Manteo) are also in support of Dare County's actions. Mr. Outten explained he has not had opportunity to meet with Manteo yet. Pine Knoll Shores, Emerald Isle, Indian Beach, Carolina Beach, Cape Carteret, Wilmington and numerous other coastal towns are interested in joining with us. Currently there are commitments for funding approaching \$100,000 to be contributed to the cause. Groups such as Outer Banks Home Builder's Association and the Association of Realtors are offering their support. There has been a bill filed in the House and Senate to postpone these increases while the legislature looks for ways to address the overall Insurance industry. It has been expressed that we are only seeking what is fair and do expect to still pay premiums. He stated he would continue to give the Board updates on the process as more information becomes available.

Chairman Judge stated he had toured the Youth Center and it looks great. In addition, the Commissioners should be meeting in their new meeting room by the February 16th meeting.

He then addressed what the County can do to help in light of the current challenges in the economy. There is a great entrepreneurial spirit in this County and we have been able to triple the occupancy revenue tax in sixteen (16) years. The home builders and realtors have put into place opportunities to aid these increases, but we are currently experiencing economic revenue challenges everywhere. He stressed the importance of promoting our great, safe beaches to encourage the tourism industry and stimulate our local economy. He suggested holding a Summit of property owners, hotels, campgrounds, retail and restaurants to come up with a way to promote our product. He noted the challenges experienced last year with high gas prices and beach closures, and expressed his concern at the current figures of 10-25% off bookings for this

summer. He stated we needed to come up with ways to jumpstart the tourism industry as we cannot afford to lose this portion of our County's revenue.

ATTORNEY'S BUSINESS

County Attorney Outten addressed the issue of Dog Legislation in light of the recent situation involving the death of a Labrador Retriever dog caused by an attack by two Pit Bull dogs in Kitty Hawk. He explained he had spoken with Animal Control and the District Attorney's office to see what legislative avenues are available to the Commissioners. He met with Amy Wall, Institute of Government in Chapel Hill, who is an expert on animal control for local governments. He also referenced the State statues. He concluded the Commissioners have broad authority for the county have the right to adopt legislation that will impound and euthanize animals, as well as adopt breed specific ordinances. He explained most options available would be actions taken in response to an incident and based on the level of behavior by the animal. In addition, each municipality would have to adopt individual policies and can differ from those adopted by the County Commissioners. Mr. Outten detailed the current dangerous dog process as deeming the animal potentially dangerous or dangerous, the filing of a report, an investigation, and the determination by the Health Director that the animal is dangerous. The owner has the right to appeal the determination to a board and is appealable to superior courts. Once the animal exhibits a potentially dangerous behavior, currently there are no laws in place allowing the animal to be impounded during this process. Once the animal is deemed dangerous, the owner must restrain the animal and face a misdemeanor charge if they fail to do so. One possible suggestion would be to adopt legislation stating once a dangerous behavior is exhibited, the animal would remain impounded throughout the process. Then, if it was determined the animal was dangerous and exhibited a level severe enough, the animal would be euthanized. The county would need to define behaviors that would warrant euthanization. He explained the issues with breed specific bans stating in some cases, dogs would need to undergo DNA tests to prove they are a certain breed. He also stated the difficulties in determining what constitutes a breed (i.e. is a Pit bull mix indeed a Pit bull).

Chairman Judge asked if an incident happens in Kitty Hawk, which process would be followed: Dare County's or Kitty Hawk's. Mr. Outten explained Kitty Hawk's process would be followed unless they had passed a provision giving authority to Dare County. Commissioner Tillett asked if Mr. Outten could meet with the different municipalities to make sure everyone is in agreement. Mr. Outten replied he would meet with the municipalities if necessary; however, each town would maintain their own authority in creating legislation to deal with dangerous animals. Commissioner Tillett asked if there was an ordinance to deal with dangerous animals besides dogs. Mr. Outten state he was not aware of any currently. He stated there are animal control rules against exotic animals, but he is not aware of a vicious cat or other animal ordinance. Commissioner Shea asked how the County could enact more proactive ordinances. Mr. Outten responded several options are available such as species specific ban, liability insurance requirements, and containment requirements. Commissioner Shea suggested adding registration requirements for certain species. Mr. Outten noted this was possible; however, this would only give notification of the animal but wouldn't prohibit any actions by the animal. Commissioner Shea expressed the need to adopt proactive ordinances especially since there is evidence that certain breeds are more vicious than others. Vice-Chairman Burrus agreed stating proactive legislation was needed so action on aggressive animals did not have to be postponed until a

tragedy. He also noted dog fighting as an issue that needs to be addressed as well. He noted there are more incidents in attacks in denser areas versus unincorporated and less populated areas.

Commissioner Richard Johnson felt the procedure in place currently was good, but had no recourse. He suggested giving authorities power to deal with problems as they arise, establishing fines for boarding the animal in question during the determination process, and better registrations notifying neighbors of the animal in the neighborhood. Commissioner Dutton agreed ordinances should be proactive and dogs should be contained until the judgment is made. Chairman Judge explained the tragedy as a “home invasion with murder.” He explained he supports a species specific ban and noted nothing could predict this type of instance from happening again. Therefore, action needs to be taken to ensure dangerous animals would remain in custody until judgment. He explained elasticity was needed in ordinances to incorporate other types of vicious animals. He shared his appreciation for citizens who called, emailed, and spoke during Public Comment. Mr. Outten stated he would bring back a plan based on the Commissioners desires. He would add recourse to the current dangerous dog process and present this to the Board for approval. He would continue to work on breed specific research and ordinance options. Chairman Judge asked Mr. Outten to keep the towns aware of the processes the County is undergoing to prevent instances such as this in the future.

MOTION

Attorney Outten presented a letter to the Board expressing opposition to the online travel companies (OTCs) request for exemption of local hotel occupancy tax. Commissioner Tillett motioned to authorize the Chairman to sign the letter. Commissioners Shea, Dutton and Vice-Chairman Burrus seconded the motion.
VOTE: AYES unanimous

MANAGER’S BUSINESS

None.

ITEM15 – UPCOMING BOARD APPOINTMENTS

County Manager Wheeler noted there are no upcoming Board appointments for March at this time.

ITEM 16 – CLOSED SESSION – APPROVAL OF MINUTES

Postponed until February 16, 2009.

(SEAL)

Respectfully submitted,

By: _____
Katie Smith, Clerk

APPROVED:

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