



# COUNTY OF DARE, NORTH CAROLINA

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

Meetings of the Dare County Board of Commissioners are videotaped and can be viewed at [www.darenc.com](http://www.darenc.com)

## MINUTES

### DARE COUNTY BOARD OF COMMISSIONERS MEETING

Dare County Administration Building, Manteo, NC

**2:30 p.m., March 4, 2013**

Commissioners present: Chairman Warren Judge, District 3  
Vice-Chairman Richard Johnson, District 1  
Virginia Tillett, District 1; Max Dutton, District 2;  
Robert Woodard, District 2; Jack Shea, District 5

Commissioners absent Allen Burrus, District 4  
Jack Shea, District 5 absent only for the Public Hearing

Others present: County Manager/Attorney, Robert Outten  
Finance Director, David Clawson  
Public Information Officer, Dorothy Killingsworth  
Clerk to the Board, Gary Gross

Chairman Warren Judge called the March 4, 2013 meeting of the Dare County Board of Commissioners to order at 2:39 p.m. He invited the Rev. Fran Peel to share a prayer, and then he led the Pledge of Allegiance to the flag. Chairman Judge announced that Commissioner Allen Burrus was sick and unable to attend.

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

- 1) Cynthia Crabtree, Social Services, received her 10-year pin from Bonnie Drewry.
- 2) Chris Saunders, Sheriff's Office, received his 10-year pin from Sheriff Doughtie.
- 3) Sandy Sanderson, Emergency Management Director, received his 20-year pin.

#### ITEM 2 – EMPLOYEE OF THE MONTH – MARCH 2013

Carl Berg, Water Department, received the Employee of the Month certificate for March 2013 from Ken Flatt who described Mr. Berg as a dedicated employee who is proactive in making sure the Water Department's equipment is well maintained.

#### ITEM 3 – PUBLIC COMMENTS

The County Manager outlined the procedure for making public comments. Two (2) people made Public Comments –

1. Perry White said the Dare County Republican Party wanted to remind those who may have recently moved here that the fight to preserve beach access has been

going on since 2007. He explained the lack of unanimous consensus in previous proceedings caused a frustrating situation and the same thing is happening all over again. Mr. White announced that the Dare County Republican Party is paralleling a Resolution by the Dare County Board of Commissioners expressing support for H.R. 819. He presented a newspaper article and a copy of the Resolution.

2. Lin Logan spoke on behalf of the Dare County League of Women Voters. She reviewed several forums the group has conducted and presented copies of the 2013 Citizens Guide. She complimented the publication's Editor, Geri Sullivan and said 6,500 free copies have already been delivered throughout the community.

#### **ITEM 4 – DARE COUNTY TOURISM BOARD REQUEST CONSENT FOR SPENDING FROM RESTRICTED FUNDS (Att. #1)**

Lee Nettles, Executive Director, Outer Banks Visitors Bureau, reviewed two projects for which the Tourism Board requests expenditures from Restricted Funds. He outlined a \$54,600.51 Town of Manteo project for construction and exhibits of a net shed as part of the Maritime History Trail. He said this will give visitors the opportunity to put their hands on the tools that are used by our fishing industry. Mr. Nettles provided details on a second project that would spend up to \$49,187.00 to renovate and modernize the Roanoke Island Welcome Center. He explained how this will take a good thing and make it even better. Commissioner Shea said both of these are worthy projects.

#### **MOTION**

Commissioner Shea motioned to approve expenditures of \$54,600.51 from line item 4520 for the Town of Manteo project; and up to \$49,187.00 from line item 4503 for the Roanoke Island Welcome Center project.

Commissioner Woodard and Commissioner Dutton seconded the motion.

VOTE: AYES unanimous

#### **ITEM 5 – JAR-DON PROPERTIES CUP APPLICATION AND SITE PLAN REVIEW**

Planning Director, Donna Creef, explained that the Conditional Use Permit (CUP) application is a follow-up to rezoning that was done to allow vehicle storage impoundment facilities in the C-3 district. She reviewed components of the CUP and said the Planning Board recommended approval. Commissioner Shea commented on the importance of condition #6 requiring security to help prevent a child from possibly becoming entrapped in a vehicle. Mr. Outten said language changes are needed for two conditions: #4) to say "shall not" install any permanent light fixtures; #7 to say "shall" repair any damage to the existing sidewalk.

#### **MOTION**

Commissioner Shea motioned to grant approval of the Conditional Use Permit and associated site plan with the changes outlined for Conditions #4 and #7.

Commissioner Tillett and Commissioner Dutton seconded the motion.

VOTE: AYES unanimous

**ITEM 6 – AMENDMENT TO CHAPTER 151 FLOOD DAMAGE PREVENTION ORDINANCE**

The Planning Director reported that the State Department of Emergency Management conducted a Community Assistance Visit (CAV) to ensure that the County is correctly administering floodplain regulations. She said some of the language in the Dare County Flood Ordinance was based on a model provided by the State in 2006, which the NC Attorney General has since determined to be unconstitutional and needs to be amended. Ms. Creef explained that the ordinance change requires a Public Hearing.

**MOTION**

Commissioner Shea motioned to set a Public Hearing for 10:00 a.m. on April 1, 2013. Commissioner Woodard seconded the motion.

VOTE: AYES unanimous

**ITEM 7 – SELECTION OF ENGINEERING FIRM FOR PROPOSED BEACH NOURISHMENT PROJECTS IN RODANTHE & BUXTON**

The County Manager outlined the four (4) engineering firms that made presentations at the previous Board meeting. The Chairman clarified the difference between the NCDOT project to protect the road at Rodanthe, and the County's effort to provide protection of infrastructure. Board members expressed their preferences for selection of an engineering firm. Commissioner Shea voiced support for Coastal Planning & Engineering of NC. Vice-Chairman Johnson recommended Coastal Science & Engineering. Chairman Judge said although both are outstanding choices, he felt Coastal Planning & Engineering did an outstanding job. Commissioner Dutton said he would support Coastal Science & Engineering and noted that they have demonstrated what they can do on the Nags Head project and Commissioner Tillett concurred. Commissioner Woodard joined in supporting Coastal Science & Engineering citing the important benchmarks they provided for the project.

**MOTION**

Vice Chairman Johnson motioned to authorize the County Manager to negotiate a contract for Board approval with Coastal Science & Engineering.

Commissioner Woodard seconded the motion.

VOTE: AYES: (4) Vice-Chairman Johnson, Commissioners Tillett, Dutton, Woodard

NOES: (2) Chairman Judge, Commissioner Shea

**ITEM 8 – RESOLUTION SUPPORTING H.R. 819**

County Manager Outten presented a Resolution in support of H.R. 819, a U.S. House of Representatives bill, to preserve access to the Cape Hatteras National Seashore Recreational Area.

**MOTION**

Commissioner Shea motioned to adopt a Resolution supporting H.R. 819 to preserve access in the Cape Hatteras National Seashore Recreational Area.

Commissioner Dutton seconded the motion.

VOTE: AYES unanimous

**RECESS: 3:38 p.m. – 7:01 p.m.**

AT 3:38 P.M. FOLLOWING COMMISSIONERS' BUSINESS AND MANAGER'S/ATTORNEY'S BUSINESS, THE DARE COUNTY BOARD OF COMMISSIONERS RECESSED THE MEETING UNTIL 7:00 P.M. AT THE EAST LAKE COMMUNITY CENTER, 16674 HIGHWAY 64 IN EAST LAKE.

**ITEM 9 – PUBLIC HEARING – EAST LAKE ZONING MAP**

Chairman Judge called the recessed meeting to order at 7:01 p.m. at the East Lake Community Center, 16674 Highway 64, East Lake, NC. He announced that Commissioner Allen Burrus would not be present at the Public Hearing due to illness, which had prevented him from attending the afternoon portion of today's meeting. He also reported that Commissioner Shea had gone home not feeling well after the afternoon session and was unable to attend the Public Hearing.

Prior to starting the Public Hearing, the Chairman asked the County Manager to present a couple of items needing Board attention. The County Manager reported that a Resolution had been prepared during the recess to reflect the Board's earlier discussion of the composition and size of the LME Board for ECBH.

**MOTION** (see Item #12 – Commissioners' Business, for more information)

Commissioner Dutton motioned to approve a Resolution reflecting the County's concerns about the composition and size of the LME Board for ECBH that was prepared during the meeting recess.

Commissioner Woodard and Commissioner Tillett seconded the motion.

VOTE: AYES unanimous

The County Manager reported that bids for the Scenic Byways sidewalks project have turned out favorably enough to possibly include the first block of Harbor Road in Avon to the project. He asked for authority to negotiate with the project engineer for the design work to add this portion of Harbor Road to the project.

**MOTION**

Commissioner Tillett motioned to authorize the County Manager to negotiate on adding the first block of Harbor Road in Avon to the Scenic Byways project.

Commissioner Dutton seconded the motion.

VOTE: AYES unanimous

At 7:06 p.m., Chairman Judge opened the Public Hearing to receive input concerning the East Lake Zoning Map. The County Manager conducted the hearing and explained the procedure for making comments. The following people spoke:

1. Ted Moseley outlined his concern that the draft zoning language does not include utility businesses, such as his, that provide LP gas services. He asked that the wording be added and he described how this could help his business.

2. John Delucia spoke in favor of Mr. Moseley's request. He said Mr. Moseley runs a good operation and his property is in a well-suited location.
3. Shelly Perrot expressed gratitude to the Commissioners for giving the community a voice. She said the zoning map looks great and she has no qualms with it.
4. Ted Hemilright thanked the Board of Commissioners for coming to the East lake community and giving the people a chance to live half way in peace. He described the problems that are occurring related to issues with standing water.
5. Heidi Leo asked the Board to consider added a manufacturing clause that would provide options in the event someone might want to lease her land for that purpose. She said otherwise, everything looks very good.
6. Courtney Gallop raised a concern that business owners making a 25% change would trigger a restrictive buffer requirement. She asked that the percentage be increased from 25% to 40% to help encourage business owners to expand and hire. She asked for clarification about whether uses are allowed if they are not specifically stated.
7. Tom Mackel thanked the Board of Commissioners for the work they have done on East Lake zoning.
8. Corey Hemilright asked whether NCDOT's placement of the highway had been taken into consideration.

The County Manager noted that the Board of Commissioners has received documents concerning the proposed zoning from the law firm of Rodman, Holscher, Peck & Edwards on behalf of First South Bank, which will be considered. Chairman Judge closed the hearing at 7:17 p.m.

The Planning Director clarified for Ms. Gallop that if a use is not specifically written in, it is not allowed. She said it must be outlined in the documents. In response to questions about cutting down trees, The County Manager said people can down all the trees they want and sell them for profit anywhere in Dare County. Ms. Creef noted that although Derek Hatchell did not attend the Public Hearing, he submitted a letter requesting a change in the designation of property that he had recently purchased and showed the location of his property on a map displayed in the meeting room. The Planning Director said since NCDOT's alignment of the highway is unknown at the present time, any adjustments that may be needed later could be addressed when the path of the road is determined. Vice-Chairman Johnson noted that the Planning Director has done a good job working with the community and the Board has a clear indication of what the public wants. Ms. Creef said she will prepare changes and have draft language ready for the April 1 agenda. Chairman Judge thanked the community for their participation.

**MOTION**

Commissioner Dutton motioned to adjourn the Public Hearing meeting.  
Vice-Chairman Johnson seconded the motion.

VOTE: AYES unanimous

**ITEM 10 – CONSENT AGENDA (Att. #2)**

The County Manager presented the Consent Agenda.

**MOTION**

Commissioner Shea motioned to approve the Consent Agenda:

- 1) Approval of Minutes (02.18.13)
- 2) Health – Home Health Donation Received
- 3) Health – Grant from NC Public Health Foundation for Quality Improvement
- 4) 5-year Elevator Contract: Justice Center and Administration Building
- 5) CenturyLink Contract for Internet and Enhanced Ethernet Services
- 6) RWS Water Supply Well 3 and Raw Water Piping Contract Approval
- 7) Water Shortage Emergency Response Plan Resolution
- 8) Budget Amendment – HAVA Grant Proceeds 2013
- 9) Sheriffs Department – Reclassify Position

Commissioner Dutton seconded the motion.

VOTE: AYES unanimous

**ITEM 11 – BOARD APPOINTMENTS**

- 1) Older Adult Services Advisory Council

Commissioner Tillett motioned to appoint Linda Lengyel.

VOTE: AYES unanimous

- 2) Parks and Recreation Advisory Council

Commissioner Tillett motioned to reappoint Susan Gray.

VOTE: AYES unanimous

- 3) Upcoming Board Appointments – April & May

The County Manager announced the upcoming Board appointments –

April – None

May – Health Board & Dare County Board of Adjustment

**ITEM 12 – COMMISSIONERS' BUSINESS & MANAGER'S/ATTORNEY'S BUSINESS**

Commissioner Tillett

- She asked the County Manager to look into having potholes repaired at the entrance to the Roanoke Island recycling plant.

Commissioner Shea

- He thanked service pin recipients and congratulated the Employee of the month.

- Commissioner Shea expressed hope that H.R. 819 will get the traction it needs in our Federal Government.

#### Vice-Chairman Johnson

- He asked the County Manager about what happened to research that was done at the old Bowsertown landfill site. Mr. Outten said questions were raised at the end of the project that would have involved considerable additional expense to pursue. He said he will follow-up to see if more can now be done.

#### Commissioner Woodard

- He explained that at the recent meeting of the Oregon Inlet Task Force Advisory Committee, the group discussed setting up a page on the Dare County website so people can get additional information. The County Manager explained that a page has been prepared and is ready to go pending Board approval.

#### **MOTION**

Commissioner Woodard motioned to setup a web page on the County Website containing information related to Oregon Inlet.

Commissioner Dutton seconded the motion.

VOTE: AYES unanimous

#### Commissioner Dutton

- He reported on an East Carolina Behavioral Health (ECBH) meeting where changes to the composition and size of the group's Board was discussed. He said it had been proposed that Commissioner seats on the ECBH Board might be replaced with representatives from the behavioral health and/or insurance industry and that the size of the Board would expand to 30 members. Commissioner Dutton expressed his concern that Dare County not lose their voice on the ECBH Board. Vice-Chairman Johnson said it would be wrong to eliminate elected officials from the ECBH Board and replace them with contractors who would be supervising themselves. The Commissioners also discussed the efficiency challenges that are associated with a large 30 member Board. Chairman Judge noted that each County in the ECBH service area should have an elected official on the group's Board.

#### **MOTION**

Vice-Chairman Johnson motioned to adopt a Resolution reflecting Dare County's concerns about the LME Board for ECBH stating that each participating county have Commissioner representation and that Board size not exceed 21 members.

Commissioner Dutton seconded the motion.

VOTE: AYES unanimous

#### **MOTION** (this motion was made at the 7:00 p.m. Public Hearing – Item 9)

Commissioner Dutton motioned to approve a Resolution reflecting the County's concerns about the composition and size of the LME Board for ECBH that was prepared during the meeting recess.

Commissioner Woodard and Commissioner Tillett seconded the motion.

VOTE: AYES unanimous

- Commissioner Dutton congratulated the service pin recipients and the Employee of the Month.

Chairman Warren Judge - None

### MANAGER'S/ATTORNEY'S BUSINESS

1. For construction management of the Scenic Byways project, Mr. Outten asked the Board of Commissioners to approve the contract subject to recommended changes outlined by the Manager.

**MOTION**

Commissioner Tillett motioned to approve the contract reflecting changes recommended by the County Manager for Construction Management for the Scenic Byways project.

Vice-Chairman Johnson seconded the motion.

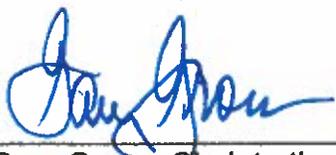
VOTE: AYES unanimous

2. Mr. Outten summarized the two parts of the Scenic Byways sidewalks project and explained that the Rodanthe, Waves, Salvo portion has been slowed down due to a determination by NCDOT that the lowest bidder did not meet the minority bid quota goals. He explained the appeal process that is underway.
3. The Manager presented an update on the planned closing of the Alligator River Bridge for repairs. He said as NCDOT releases plans about a park & ride service during the repair period, the County will assist in publicizing the information.

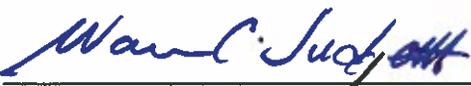
AT 7:32 P.M. THE DARE COUNTY BOARD OF COMMISSIONERS ADJOURNED UNTIL 9:00 A.M. ON APRIL 1, 2013.



Respectfully submitted,

By:   
Gary Gross, Clerk to the Board

APPROVED:

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