



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

April 20, 2009—5:00 P.M.

Dare County Administrative Building
954 Marshall C. Collins Dr.— 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; Mike Johnson, Dist. 2

Commissioners Absent: None

Others Present:

County Attorney Bobby Outten, Dorothy Toolan —PR Director, David Clawson—Finance Director, Ray Sturza—Planning Director, Katie Smith—Clerk to the Board

Action:

CHILDREN & YOUTH PARTNERSHIP PROCLAMATION: WEEK OF THE YOUNG CHILD — **Adopted**

DEBT COMPLIANCE POLICY ADDITION TO FINANCIAL & BUDGETARY POLICIES — **Approved**

NC20 DESIGNATION OF BOARD MEMBER — **Appointed (Warren Judge)**

PUBLIC HEARING: MOTORIZED OFF-ROAD RECREATIONAL EQUIPMENT AMENDMENTS — **Held. Alternative 1 Excluding items "E" and "F" Approved and Formation of Committee to Modify as Appropriate Approved**

SCHEDULE PUBLIC HEARING FOR MORATORIUM FOR MAY 4, 2009 — **Approved**

CONSENT AGENDA — **Approved**

- Approval Of Minutes (4.6.09)
- Department of Public Health Family Planning Budget Amendment
- Budget Amendment for Contributions for Insurance Rate Appeal
- Social Services Budget Amendment

CLOSED SESSION: APPROVAL OF MINUTES — **Approved**

LAND OF BEGINNINGS

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Chairman Warren Judge, called the meeting to order at 9:00 a.m., invited Ginger Candelora to share a prayer and then led the pledge of allegiance to the flag.

ITEM 1 – PRESENTATION OF COUNTY SERVICE PINS

- 1) Aulander Liverman, Sanitation Truck Driver, received his 10 year pin from Edward Lee Mann, Public Works Director.
- 2) Edward Lee Mann, Public Works Director, received his 10 year pin from Bobby Outten, County Attorney.
- 3) Carl Walker, Recycling Coordinator, received his 15 year pin from Edward Lee Mann, Public Works Director.
- 4) Al Hardy, Sanitation Superintendent, received his 30 year pin from Edward Lee Mann, Public Works Director.

ITEM 2 – PUBLIC COMMENTS

No one came forward to speak.

ITEM 3 – INTERFAITH COMMUNITY OUTREACH PRESENTATION

County Attorney Outten introduced Bill Pitt, Chair of Interfaith Community Outreach, and Ginger Candelora who presented the report on the program. Mr. Pitt shared this is the sixth year of operation and 4th year of cooperation with Dare County. They respond to the need within our County and sometimes outside of the County in an attempt to bridge the gap for those who have very little resources. This group intervenes financially when there is an event that requires assistance to get through a crisis. He stated this is not a program where they sustain those in need for a period of time but rather, this is a short term solution. He gave information about the program's staff, office locations, and financial resources. In 2008, they provided fourteen-hundred (1400) instances of service which doubled from the year previous. The main source of help has been for shelter and power. He thanked the Commissioners and hoped they could continue their support in the upcoming year. Chairman Judge thanked Interfaith Community Outreach for all their work in the community.

ITEM 4 – CHILDREN & YOUTH PARTNERSHIP ANNUAL REPORT

Loretta Michael, Executive Director for Children & Youth Partnership, presented an annual report of the program. She recognized the staff and Board of Directors in attendance. She noted the importance of supporting children at this early age because of the affects this has physically and emotionally for a child. She explained there are critical times of development that have a lasting impact on the child as they grow into adulthood. The program was established in 1994 and offers a range of services including health programs, family support programs, pre-literacy programs, and early childhood education programs. She gave an overview of two specific programs: 1) Connect for Kids, and 2) Parents as Teachers. Ms. Sara Sampson presented information of the Parents as Teachers program which is an early childhood parent education and family support program. She stated this year they have served forty-seven (47) children and twenty-seven (27) families. Ms. Beth Tillett explained various activities and programs Parents as Teachers offers. Three (3) families shared how this program has positively influenced their family: 1) the McNamara's, 2) the Chapman's, and 3) the Daniel's. Ms. Michael announced the 2nd Annual Kids Fest on Friday, April 23rd from 9:30a.m. to 12:30p.m. in Festival Park and invited everyone to attend the activities. She then thanked the Commissioners for their continued support.

ITEM 5 – 20TH ANNIVERSARY CELEBRATION OF THE OUTER BANKS HISTORY CENTER

County Attorney Outten introduced KaeLi Spears, Curator for the Outer Banks History Center, who provided the Board with information about the center. She explained they are celebrating their 20th Anniversary. Several services found at the center include: a reading room to review information at the facility, a stack room which contains information available for review by the public, a gallery, access to collections, reference assistance, image reproduction, outreach, oral history interviews, and conservation expertise. She detailed many collections and topics the History Center specializes in and displayed examples. She shared many events that will be taking place regarding the 20th Anniversary and invited all to attend. She stated attendance would be especially appreciated on May 7th which will be the actual anniversary date. They plan to hold an event honoring David Stick and the History Center.

ITEM 6 – DEBT COMPLIANCE POLICY TO ADD TO FINANCIAL & BUDGETARY POLICIES (Att. 1)

Dave Clawson, Finance Director, explained earlier in 2009, the IRS chose one-hundred (100) government agencies who would receive a Governmental Bond Financings Compliance Check Questionnaire. While Dare County was not one of these agencies, the questionnaire showed in the future, the IRS will look for written policies and procedures in the event of an audit. He presented a policy that was drafted based on the compliance checklist questions and Deloitte & Touche, the County’s arbitrage rebate calculation provider. He noted all of the policies are currently being followed; however he asked the Board to adopt the debt compliance policy so it could be added to the Financial and Budgetary Policies.

MOTION

Vice-Chairman Burrus motioned to approve the debt compliance policy and requested it be added to the Financial and Budgetary Policies.

Commissioner Shea seconded the motion.

VOTE: AYES unanimous

ITEM 7 – NC20 DESIGNATION OF BOARD MEMBER

County Attorney Outten explained there is a request for all counties who have joined NC20 designate a Board member. He noted a Board meeting would take place either in New Bern or Washington on April 23, 2009.

MOTION

Commissioner Tillett motioned to appoint Chairman Judge as the NC20 Board member.

Commissioner Dutton and Vice-Chairman Burrus seconded the motion.

VOTE: AYES unanimous

MOVE TO ITEM 9

MOTION

Commissioner Shea and Tillett motioned to adopt the proclamation establishing April 19-25, 2009 “Week of the Young Child.”

Commissioner Burrus seconded the motion.

VOTE: AYES unanimous

6:30 P.M. PUBLIC HEARING

ITEM 8 – MOTORIZED OFF-ROAD RECREATIONAL EQUIPMENT AMENDMENTS (Att. 2)

AT 6:40 P.M, THE DARE COUNTY BOARD OF COMMISSIONERS HELD A PUBLIC HEARING TO RECEIVE INPUT CONCERNING MOTORIZED OFF-ROAD RECREATIONAL EQUIPMENT AMENDMENTS.

The following speakers appeared before the Board:

- 1) Kathy McMahon, Manteo Resident, read a letter for Dennis Stewart, Manteo resident, who is opposed to the amendment.
- 2) Mike Lay, Manteo resident, is opposed to the amendment.
- 3) Gail Hutchison is opposed to the amendment.
- 4) Joe Zoll, Manteo resident, is opposed to the amendment.
- 5) David Light supports the amendment.
- 6) Tom Wagner supports the amendment.
- 7) Marietta Trainor is opposed to the amendment.
- 8) Greg Spencer, Manteo resident, supports the amendment.
- 9) Celia Evans Miller, Dare County resident, is opposed to the amendment.
- 10) Sandy Ross is opposed to the amendment.
- 11) Quentin Bell, Manteo resident, is opposed to the amendment. He read a portion of a letter by Clarence Skinner who is also opposed to the amendment.
- 12) Mike Mattingly, Manteo resident, is opposed to the amendment.
- 13) Bobby Tolson, Manteo resident, supports the amendment.
- 14) John Finelli, President of the Martin's Point Homeowner's Association asked for Martin's Point to be excluded from the amendment if it passed.
- 15) James Hilliard, Manteo resident, supports the amendment.
- 16) Carol Hopkins, Community Manager of Colington Harbor Association, asked for Colington Harbor to be excluded if passed.
- 17) Ashley O'Neil, Wanchese resident, supports the amendment.
- 18) Stephen Johnson, Manteo resident, supports the amendment.
- 19) Walker Hampton, Manteo resident, supports the amendment.
- 20) Major Hooper, Manteo resident, is opposed to the amendment.
- 21) Anne White, Manns Harbor resident, is opposed to the amendment.
- 22) Ryan Vance, Wanchese resident, supports the amendment.
- 23) Robert Fuqua, Manteo resident, supports the amendment.
- 24) James Cahoon, Manteo resident, supports the amendment.
- 25) Allen Poole, Manteo resident, is opposed to the amendment.
- 26) Sydney Daniels, Wanchese resident, supports the amendment.
- 27) Virginia Overman, Manteo resident, is opposed to the amendment.
- 28) Edward Greene, Manteo resident, is opposed to the amendment.
- 29) Bo Dame stated he is a Kitty Hawk resident and the northern sites manager for NC Coastal responsible for managing Kitty Hawk Woods and Buxton Woods. He asked the Commissioners to consider language in the amendment to prevent unintended consequences that would prohibit existing rules and regulations for Buxton Woods and Kitty Hawk Woods to remain in place.
- 30) Marlene Roberts Brantley, Manteo resident, is opposed to the amendment.

RECESS 8:06- 8:23P.M.

- 31) Ned Cabe, Manteo resident, is opposed to the amendment.
- 32) Jack Overman, Manteo resident, is opposed to the amendment.
- 33) Jack Cook supports the amendment.
- 34) Uriah Sheets supports the amendment.
- 35) Paul Miller is opposed to the amendment.
- 36) J.R. Tolson, Manteo resident, supports the amendment.
- 37) Talmadge Jones, Manteo resident, supports the amendment.
- 38) Matthew Casper supports the amendment.
- 39) Mary “Tinka” Martin, Manteo resident, is opposed to the amendment.
- 40) Austin Gray supports the amendment.
- 41) Annie Gullet, Manteo resident, supports the amendment.
- 42) David Wayne Light, Wanchese resident, supports the amendment.
- 43) Willie Daniels, Wanchese resident, supports the amendment.
- 44) Ivy Johnson, Manteo resident, supports the amendment.
- 45) Rachel Johnson, Manteo resident, supports the amendment.
- 46) Jonathan Johnson, Manteo resident, supports the amendment.
- 47) Joel Tillett, Manteo resident, supports the amendment.

Chairman Judge closed the hearing at 8:56 P.M.

Chairman Judge thanked everyone for participating and opened the floor for Commissioner discussion. Commissioner Tillett thanked everyone for coming to speak.

MOTION

Commissioner Tillett motioned to deny the proposed amendments and asked the Chairman to appoint a committee to study both sides of the issue and return with a recommendation to the Board.

Commissioners Shea and Dutton seconded the motion.

Following the motion, the Commissioners had lengthy discussion on the issue. Vice-Chairman Burrus stated there is no easy solution to this issue, but felt the kids should be able to be allowed to ride. He noted the idea of a designated park for this activity is unrealistic for Hatteras Island residents as they would have to travel a great distance in order to participate in the activity. He noted he wakes up every morning to charter boat noise and asked where the line would be drawn for noise issues.

Commissioner Mike Johnson noted he had visited one of the sites in questions to experience the noise level. He spoke with a neighbor who lives in close vicinity to the track and she stated the noise did not bother her. He also noted he could hear a clock ticking in Mr. Johnson’s, owner of the track, house over the noise from the motorcycles. He did not have a problem with neighborhood’s asking for exclusion from the ordinance and noted the majority of people against the ordinance are in incorporated Dare County. He suggested passing the ordinance to allow the kids to ride, and then fine tuning the ordinance.

Commissioner Shea stated he is not against motorbikes, but feels there is a place for every activity. He felt by adopting the amendment, it opens unincorporated Dare County to activities such as this which may

impose on current and future residents. He did not support either amendment and requested the Commissioners take a look at the situation and find a compromise.

Commissioner Tillett felt this issue affects many people and requested the Commissioners deny both amendments and take opportunity to digest the public comments and issues surrounding this situation. She supported forming a committee to discuss this issue rather than rushing to make a decision that could potentially have a negative impact on the County.

Commissioner Dutton thanked everyone who attended and spoke on this issue. He asked County Attorney Outten if the item was tabled until a compromise could be reached, could the kids continue to ride the motorcycles on the track. Mr. Outten responded there are two issues: zoning ordinance and noise. The Commissioners are attempting to address the zoning ordinance and noted this is a civil, not criminal, offense. However, noise is handled by the Sheriff's Department because it is a criminal offense if there is a violation. The Commissioners have no control over how the Sheriff's Department handles criminal offenses.

Chairman Judge clarified the violation of the zoning ordinance is because the kids are riding on a lot without a house. Mr. Outten confirmed riding on empty lots is not a use permitted in zoned residential areas. Commissioner Richard Johnson also offered clarification on the issue stating the kids are not breaking the noise ordinance, otherwise they would have been written a ticket for the activity. He stated if the amendment did not pass, the kids would not be able to ride.

Commissioner Shea recommended passing a moratorium to allow the kids to ride until the amendments could be reworked; however, Mr. Outten stated moratoriums have to be scheduled for a public hearing. After discussing possible options in adopting alternatives one (1) or two (2) with minor changes, Commissioner Mike Johnson suggested adopting alternative one (1) excluding items "E" and "F", and to form a committee to work out the details of the ordinance that will be in place more permanently. Commissioners Shea and Dutton agreed to withdraw their seconds of Commissioner Tillett's motion on the floor. Commissioner Tillett also withdrew her motion.

MOTION

Commissioner Mike Johnson motioned to support an amendment with language that mirrors alternative one (1) less "E" and "F," and to form a committee of Commissioner Shea, Commissioner Tillett, himself, and four (4) public members to make modifications as appropriate to the proposed ordinance and return to the Board with a recommendation. He further moved that the Board found this amendment to be consistent with the policies of the 2003 Dare County Land Use Plan and other officially adopted plans of Dare County that are applicable and in the public interest of Dare County since this amendment promotes a wider and more convenient means of recreational activity for children.

Commissioner Dutton and Vice-Chairman Burrus seconded the motion.

VOTE: AYES (Chairman Judge, Vice-Chairman Burrus, Commissioners Shea, Dutton, Richard Johnson, Mike Johnson)

NOES: Commissioner Tillett

MOTION

Commissioner Shea motioned to instruct staff to advertise for a public hearing on May 4, 2009 for a moratorium on the development of new tracks for the operation of motorized off-road equipment under the terms of this ordinance.

Vice-Chairman Burrus seconded the motion

VOTE: AYES unanimous

ITEM 9 – CONSENT AGENDA (Att. 3)

Commissioner Shea motioned to approve the Consent Agenda:

1. Approval Of Minutes (4.6.09)
2. Department of Public Health Family Planning Budget Amendment
3. Budget Amendment for Contributions for Insurance Rate Appeal
4. Social Services Budget Amendment

Commissioner Burrus seconded the motion.

VOTE: AYES unanimous

ITEM10 – COMMISSIONERS' BUSINESS

Commissioner Tillett

None

Vice-Chairman Burrus requested a letter of support for Senate Bill 832. This bill would allow CRC to permit terminal groins. He attended the Working Watermen meeting in Hatteras and noted the great job by Commissioner Mike Johnson and committee members on handling a delicate issue. He noted they have been working hard to get Rodanthe and Stumpy Point dredged and opened. There is progress, but it is very slow due to the viewpoint of the Corps and State that this is not an emergency. He congratulated Al Hardy on receiving his 30 year pin and noted his excellent work over the years. He noted the work on pathways in Buxton is progressing and looking good. He stated Cape Point has been closed due to two birds that are making signs they will mate even though they are too young. This has deprived the village of Buxton a huge amount of its economy.

Commissioner Shea congratulated pin recipients and stated they make the County what it is.

Commissioner Richard Johnson

None

Commissioner Mike Johnson noted the Working Watermen recently met in Hatteras to discuss Individual Transferrable Quotas (ITQ's) or Limited Access Permits (LAP's) for Striped Bass because there was rumor fishermen in Hatteras thought these avenues may be successful. Approximately fifty (50) people attended and not one fisherman supported either options. He shared this information with legislators and contacted Dr. Louis Daniel, Executive Director Division of Marine Fisheries. He replied he would look into other avenues to aid the current situation with Striped Bass.

Commissioner Dutton offered congratulations to pin recipients. He also thanked Ms. Loretta Michaels and the staff at Children & Youth Partnership for the great job they do.

Chairman Judge

None

ATTORNEY'S BUSINESS

None

MANAGER'S BUSINESS

None

ITEM11 – CLOSED SESSION: APPROVAL OF MINUTES

Commissioner Shea, pursuant to the provisions of NCGS 143-318.11, moved the Dare County Board of Commissioners go into Closed Session to: approve the minutes of the last Closed Session.

Vice-Chairman Burrus seconded the motion.

VOTE: AYES unanimous

AT 6:25 P.M. THE DARE COUNTY BOARD OF COMMISSIONERS ENTERED CLOSED SESSION AND EXITED AT 6:27 P.M.

BREAK 6:27-6:45 P.M.

Chairman Judge reconvened the meeting. After returning from closed session, Attorney Outten reported the minutes from the last Closed Session had been approved.

MOVE TO ITEM 8

AT 10:20 P.M. THE DARE COUNTY BOARD OF COMMISSIONERS ADJOURNED UNTIL 9:00 A.M. ON MAY 4, 2009.

(SEAL)

Respectfully submitted,

By: _____

Katie Smith, Clerk

APPROVED:

By: _____

Warren C. Judge, Chairman
Dare County Board of Commissioners

