



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

May 4, 2009—9:00 A.M.

Dare County Administrative Building
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 Attorney Bobby Outten, Dorothy Toolan-Public Information Officer, Katie Smith—Clerk to the Board

Action:

APPROVAL OF AMENDED AGENDA (Removal of Item 3 and 5, Addition of Item 11B) — **Approved**

EMPLOYEE OF THE MONTH (APRIL) — **Presented to Patty Hayman**

EMPLOYEE OF THE MONTH (MAY) — **Postponed until June 1, 2009**

PROCLAMATION – SAFE BOATING CAMPAIGN — **Adopted**

SOCIAL SERVICES POSITION REQUEST AND BUDGET AMENDMENT — **Approved**

PUBLIC HEARING: MORATORIUM ON THE DEVELOPMENT OF NEW TRACKS FOR THE OPERATION OF MOTORIZED OFF-ROAD RECREATIONAL EQUIPMENT — **Held and Moratorium Adopted**

AMENDMENT TO CHAPTER 97 NOISE — **Approved (VOTE: 4-2)**

BOWSERTOWN LANDFILL ASSESSMENT PROJECT— **Approved**

AUTHORIZATION OF EXPENDITURES FROM DCTB RESTRICTED FUND— **Authorized**

HURRICANE / DISASTER DEBRIS REMOVAL CONTRACT— **Approved**

BRADFORD MARX-WENDY WEBB REZONING REQUEST TO AVON ZONING MAP— **Public Hearing Scheduled June 1, 2009 at 10:00 A.M.**

ZONING TEXT AMENDMENT REQUEST—FAMILY HOUSING INCENTIVE STANDARDS— **Public Hearing Scheduled June 1, 2009 at 10:00 A.M.**

PRESENTATION OF MANAGER'S FISCAL YEAR 2009-2010 RECOMMENDED BUDGET— **Presented & Public Hearing Scheduled June 1, 2009 at 10:00 A.M.**

CONSENT AGENDA — **Approved**

- Approval Of Minutes (4.20.09)
- Lifeguard Contract for the "Old Swimming Hole"
- Amendment to Capital Project Ordinance for Dare County Center
- Additions to Insurance Lawsuit on Beach Plan Deductibles
- Budget Amendment—Donations Special Revenue Fund

BOARD APPOINTMENTS

- Extra Territorial Jurisdiction (ETJ) District — **Reappointed (Moncie "Punk" Daniels)**
- Board of Adjustment—**Reappointed (Jay Hart)**

LAND OF BEGINNINGS

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Chairman Warren Judge called the meeting to order at 9:00 a.m., invited Vice-Chairman Allen Burrus to share a prayer and then led the pledge of allegiance to the flag. He thanked everyone for attending and recognized former Commissioner Moncie “Punk” Daniels, and former Mayor and Commissioner of Nags Head, Bob Muller.

Chairman Judge asked for the adoption of an amended agenda removing Item 3 – Employee of the Month for May, Item 5 – Resolution Honoring Naomi Augusta Collins Hester, and adding Item 11B – Amendment to Chapter 97 Noise.

MOTION

Commissioner Shea motioned to adopt the amended agenda.

Vice-Chairman Burrus and Commissioner Dutton seconded the motion.

VOTE: AYES unanimous

ITEM 1 – PRESENTATION OF COUNTY SERVICE PINS

- 1) Linda Webb, Detention Trans/Class Officer, received her 10 year pin from Rodney Midgett, Sheriff.
- 2) Kelly Larson, Deputy Sheriff Master Officer, received her 10 year pin from Rodney Midgett, Sheriff.
- 3) Orbie Little, Parks & Recreation Maintenance Crew Leader, received his 10 year pin from Tim White, Parks & Recreation Director.
- 4) Beverly Lafferty, Public Health Nurse II, received her 10 year pin from Judy Flagge, Clinical Nursing Director.
- 5) Debbie Simmons, Income Maintenance Caseworker III, received her 20 year pin from Jay Burrus, Social Services Director.
- 6) June Knotts, EMT Intermediate, received her 20 year pin from Skeeter Sawyer, EMS Director.

ITEM 2 – EMPLOYEE OF THE MONTH – APRIL

Patty Hayman, Social Services Accounting Technician III, received the Employee of the Month certificate for April from Jay Burrus, Social Services Director.

ITEM 3 – EMPLOYEE OF THE MONTH – MAY

This presentation will be made at the June 1, 2009 meeting.

ITEM 4 – PUBLIC COMMENTS

No one came forward to speak.

ITEM 5 – RESOLUTION HONORING AUGUSTA COLLINS HESTER

This presentation will be made at a future meeting.

ITEM 6 – CDC ANNUAL REPORT

Bob Muller, Chairperson for Community Development Cooperation of the Outer Banks, presented the annual report. He shared instances where CDC housing counselors were able to help members of our community avoid foreclosure and better their living situations. He stated twelve (12) families in Dare County have purchased homes since the last presentation, and they have assisted one-hundred and sixty (160) families since January 2008. He also spoke about the

Bowsertown project stating six (6) clients have signed letters of intent and he believes the rest can be sold. CDC will be meeting with the CIP committee and the Board for guidance on proceeding with this project. Commissioner Dutton thanked Mr. Chuck Poe, Mr. Muller, and CDC's Board for their hard work in getting twelve (12) families placed.

ITEM 7 – DARE COUNTY COOPERATIVE EXTENSION ANNUAL REPORT TO THE PEOPLE

Susan Ruiz-Evans, Cooperative Extension Director, gave a brief overview of the accomplishments of the program in 2008. She stated Cooperative Extension is a state and County partnership with NC State and NCA&T universities. She explained they target the needs of the community, research, design, and implement educational programs to meet those needs and create sustainable communities. She shared a visual presentation highlighting programs and educational activities such as teaching proper pesticide, educating homeowners and professionals, Master Gardening, horticulture education, Coastal Gardening Festival, childcare training, library programs, Eat Smart campaign, youth culinary programs, and 4-H programs. She explained the total economic fiscal impact for 2008 is \$1,942,262.46 which includes grants, donations, fundraisers, documented potential savings from program impacts, and volunteer time. She shared goals for 2009 and acknowledged council members, volunteers, and the dedicated staff of Cooperative Extension.

ITEM 8 – PROCLAMATION: SAFE BOATING CAMPAIGN

Mr. Dave Hilton, Flotilla Commander, thanked the Commissioners for taking time to recognize the importance of National Safe Boating week. He stated the flotilla has eighty (80) active volunteers who will be on the water approximately two-thousand (2,000) hours this year for safety patrols and support of the Coast Guard air station in Elizabeth City. They will perform two-hundred (200) to three-hundred (300) vessel safety checks and teach three (3) to four (4) public safety boating classes. He shared statistics of boating fatalities and shared ways they are proactively working to avoid this. Following the presentation, County Attorney Outten read the proclamation.

MOTION

Commissioner Shea motioned to adopt the Proclamation: Safety Boating Campaign. Commissioner Dutton seconded the motion.

VOTE: AYES unanimous

ITEM 9 – AED PRESENTATION

Steve Taylor, EMS, made a presentation regarding the automated external defibrillator (AED) device. He noted locations where these devices can be found, and invited Vice-Chairman Burrus to participate in the demonstration by using the device on a dummy. Mr. Taylor noted EMS respondents will also guide the user through the process in the case of an emergency. He explained the Good Samaritan's Statute which will not hold someone civilly liable who is aiding another person in an emergency. Commissioner Dutton inquired about the cost of the device. Mr. Taylor responded the cost is approximately \$1,000. Chairman Judge thanked Mr. Taylor for the presentation.

ITEM 10 – SOCIAL SERVICES POSITION REQUEST AND BUDGET AMENDMENT (Att. 1)

Mr. Jay Burrus, Social Services Director, explained the American Recovery and Reinvestment Act of 2009 will have funds available to provide the 50% match for the new Food Stamps Income Maintenance Caseworker II position which was included in the FY' 10 budget. A total of \$25,614 is available April 9, 2009 for use by September 30, 2009. He stated it is more than sufficient to provide the required match during July through September 2009. He requested the immediate establishment of an IMC II position and approval of a budget amendment appropriating normal federal funding and Recovery funds for the position during May and June. He explained these actions will not impact County dollars as the position will be funded 100% through September 2010. He noted the budget being presented includes the position for next year, and requested the addition of the position and the adoption of the budget amendment.

MOTION

Commissioner Tillett motioned to establish an IMC II position within the Dare County Department of Social Services and approve a budget amendment appropriating normal federal funding and Recovery funds for the position during May and June 2009.

Commissioner Dutton and Vice-Chairman Burrus seconded the motion.

VOTE: AYES unanimous

RECESS 9:57 A.M. – 10:09 A.M.

10:00 A.M. PUBLIC HEARING

ITEM 11 – MORATORIUM ON THE DEVELOPMENT OF NEW TRACKS FOR THE OPERATION OF MOTORIZED OFF-ROAD RECREATIONAL EQUIPMENT (Att. 2)
AT 10:09 A.M., THE DARE COUNTY BOARD OF COMMISSIONERS HELD A PUBLIC HEARING TO RECEIVE INPUT CONCERNING MOTORIZED OFF-ROAD RECREATIONAL EQUIPMENT AMENDMENTS.

The following speaker appeared before the Board:

- 1) Jerry Raveling, Colington Harbor resident, shared his concern concerning the zoning code amendment allowing ORV's to operate in unincorporated Dare County, and expressed his support of the motion by Commissioner Mike Johnson at the April 20th meeting to declare a moratorium on building new tracks until the ordinance has been reviewed and modified by a committee of Commissioners and citizens.

Chairman Judge closed the hearing at 10:14 A.M.

MOTION

Commissioner Shea moved the resolution enacting the 180-day moratorium on the development of new tracks for the operation of motorized off-road recreational equipment in the zoned areas of unincorporated Dare County be adopted.

Commissioner Richard Johnson seconded the motion.

Vote: AYES unanimous

ITEM 11B – AMENDMENT TO CHAPTER 97 NOISE (Att. 3)

Mr. Outten explained at the last meeting the Board adopted Section 22-28.1 of the Dare County Zoning Ordinance to allow the operation of motorized off road recreational vehicles under the conditions set forth in the ordinance. Since that time, he has spoken with the Sheriff's Department and several parents who are concerned about complaints still being received by the

Sheriff regarding noise from off-road vehicles. He stated in order to solve that issue and allow the use of motorized off road recreational vehicles, an amendment to Chapter 97 Noise has been requested. He stated the request is to add a paragraph (C) to Section 97.04 of the Dare County Code of Ordinances as follows:

97.04(C) Notwithstanding the other provisions of Chapter 97, the operation of a motorized off road recreational vehicle in compliance with Section 22-28.1 of the Dare County Zoning Code shall be exempt from the provisions of Chapter 97 of the Dare County Code of Ordinances.

MOTION

Vice-Chairman Burrus motioned to add paragraph “C” to Section 97.04 of the Dare County Code of Ordinances.

Commissioner Richard Johnson seconded the motion.

VOTE: (4-2) AYES Commissioners Dutton, Richard Johnson, Vice-Chairman Burrus, and
Chairman Judge
NOES Commissioners Shea and Tillett

ITEM 12 – BOWSERTOWN LANDFILL ASSESSMENT PROJECT (Att. 4)

Ms. Jenny Gray Jones presented the proposed contract with Quible & Associates, P.C. for the assessment project at the Bowsertown Landfill and a description of phase one Scope of Work. She explained the process in which each phase of work will be submitted to NCDENR, Division of Waste Management prior to being submitted to Dare County for approval. She stated once it is approved by Waste Management, Dare County would need to approve the Scope of Work before moving forward with the project. She noted there would be numerous phases allowing for closer monitoring to ensure the work is being completed according to Division guidelines. The County will apply for reimbursement of costs from NCDENR once each phase of work is completed. She requested the Board accept the contract and Scope of Work; and, authorize the County Attorney to accept the Scope of Work for all consecutive phases. She distributed a letter dated April 15 stating all necessary documentation has been received, reviewed, and approved.

MOTION

Commissioner Tillett motioned to accept the contract and Scope of Work, and authorize the County Attorney to accept future phases’ Scope of Work.

Vice-Chairman Burrus and Commissioner Dutton seconded the motion.

VOTE: AYES unanimous

**ITEM 13 – AUTHORIZATION OF EXPENDITURES FROM DARE COUNTY
TOURISM BOARD RESTRICTED FUND (Att. 5)**

Renee Cahoon, Dare County Tourism Board Chairperson, explained Dare County had applied for funding through DCTB for the multi-use paths in Hatteras Island villages. Former Commissioner and Buxton resident, John Hooper, had money set aside many years prior for bike paths on Hatteras Island. Dare County had applied for a \$100,000 matching grant from this fund which was unanimously approved by the DCTB. She asked for Dare County’s concurrence for the expenditures of the grant from the Restricted Fund. She noted Duck and Hatteras Village had taxed themselves to provide these paths and encouraged other towns and villages to also make provisions to provide similar paths.

MOTION

Vice-Chairman Burrus motioned to approve DCTB expenditures from the restricted fund line item #4069 for the multi-use paths in Hatteras Island villages. He also noted Hatteras is working on its T.I.P. plan to have drainage issues addressed before the pathways are laid.

Commissioners Tillett and Dutton seconded the motion.

VOTE: AYES unanimous

ITEM 14 – HURRICANE / DISASTER DEBRIS REMOVAL CONTRACT (Att. 6)

County Attorney Outten explained there has been a five (5) year contract in place with Crowder Gulf for debris removal in the event of a hurricane or disaster. He noted it was time to renew this contract which was bid again. Crowder Gulf was the lowest bid at \$45,854,400, and Ash Britt was the next lowest bid at \$47,434,530. The staff recommendation is to award Crowder Gulf as 1st response and Ash Britt as 2nd response so the contract can be in place for the upcoming season.

MOTION

Vice-Chairman Burrus motioned to award 1st response to Crowder Gulf and 2nd response to Ash Britt.

Commissioner Shea seconded the motion.

VOTE: AYES unanimous

ITEM 15 – BRADFORD MARX-WENDY WEBB REZONING REQUEST TO AVON ZONING MAP (Att. 7)

Ms. Donna Creef, Senior Planner, explained Bradford Marx and Wendy Webb have submitted an application for an amendment to the Avon zoning map. The applicants' property, off of Bonito Road, is currently zoned R-2 residential, and they are seeking a re-classification to C-2 commercial. She explained the circumstances surrounding the zoning map adoption in 1992 and the resulting classification of the Marx-Webb property as R-2. Mr. Marx operates a marina from a boathouse located on the property and is seeking reclassification to C-2 to be consistent with the use of the site as a marina. She noted the methods in developing draft zoning maps in 1992 were not as accurate as those used presently, and it appears the map incorrectly identified the boathouse property as R-2 in conjunction with the adjoining lot Hatteras Island subdivision. In order to correct the map, upon recommendation by the Planning Board, action by the Board of Commissioners is required. She explained if the Board of Commissioners would like to proceed with the rezoning application, they would need to set a Public Hearing period in June.

MOTION

Commissioner Shea motioned to schedule a Public Hearing for this rezoning application at 10:00 A.M. on June 1, 2009.

Commissioner Tillett and Vice-Chairman Burrus seconded the motion.

VOTE: AYES unanimous

ITEM 16 – ZONING TEXT AMENDMENT REQUEST – FAMILY HOUSING INCENTIVE STANDARDS (Att. 8)

Ms. Donna Creef, Senior Planner, explained Mr. Rodney Midgett has submitted an application to amend the Family Housing Incentive Standards to allow the sale of workforce housing units at "market-rate" prices. He received approval for the group housing project in 2008, secured the building permits, and began construction. Because the market has fallen since he began the

project, he asked staff if he could market the units at market rates to allow investors to purchase and/or rent six (6) units or 30%. The ordinance would need to be amended in order to allow this which requires a Public Hearing to be scheduled on the proposed text amendment. The Planning Board recommends adoption of the amendment by a 6-1 vote. Vice-Chairman Burrus inquired about the 6-1 vote and asked for clarification regarding how many units need to be sold at market value. Ms. Creef replied under the current ordinance, all of the units have to be based on the Workforce Housing Standards and the established median income. She noted he has had worked with the CDC and has had extensive advertisement of the units, but there seems to be no interest at this time. Vice-Chairman Burrus asked if the whole zoning process would be changed or just an amendment to allow the waiver for this project. Mr. Outten stated if the amendment was approved, it would authorize anyone who constructs affordable housing to allow 30% to be sold at market value.

MOTION

Commissioner Burrus motioned to schedule a Public hearing on June 1, 2009 at 10:00 A.M. After the Public Hearing, if the Board elects to approve the text amendment, he motioned to modify the fee schedule appropriately.

Commissioner Shea seconded the motion.

Chairman Judge echoed Vice-Chairman Burrus' thoughts as he is also concerned about adopting an amendment to the zoning ordinance when there has been a great deal of time spent with affordable housing in order to provide these types of projects. He noted this action would lay the path for developers to be successful when the economy improves. He asked if there is a way to protect the integrity of affordable housing developments and prevent developers in the future from requesting similar text amendments. Mr. Outten noted anyone can request a text amendment. He explained this ordinance has gone from 100% affordable to 70% affordable. He stated in the future, this amendment would give density concessions and fee concessions in the ordinance in return for 70% affordable housing project. He noted the Commissioners cannot make the amendment project specific and the ordinance would need to be changed to allow the requested concession. He explained in order to have the ability to make some projects 100% affordable, and others 70% affordable, a discernable standard would need to be developed to allow all situations to be treated equally. Commissioner Richard Johnson shared this action may make the ordinance better in that it will encourage people to build and invest. Chairman Judge asked if any fees had been reduced. Ms. Creef noted the fee schedule reduction with a 50% reduction in site plan review fees and the building permit review. She also clarified this ordinance is specific to duplexes and triplexes. Chairman Judge asked if the reduction in the fee schedule would change if this text amendment was allowed. Ms. Creef stated Mr. Midgett is aware more money will be collected if the text amendment is approved as the reduction is only allowed for affordable housing. Mr. Outten asked if schedule modification language is in the ordinance. Ms. Creef noted she would check the language to make sure it is included.

The motion was amended to include the modification of the fee schedule if the Board elects to approve the text amendment after the Public Hearing.

VOTE: AYES unanimous

RECESS 10:47 A.M. – 11:00 A.M.

**ITEM 17 – PRESENTATION OF MANAGER’S FISCAL YEAR 2009-2010
RECOMMENDED BUDGET (Att. 9)**

County Attorney Bobby Outten presented the Manager’s recommended 2009-2010 Budget. He thanked Dave Clawson, Finance Director, and staff who have worked tirelessly in order to balance this budget. He noted the current conditions of the economy and stated the total for 2010 is 4.16% less than 2009 at \$135,296,890. The General Fund budget is \$97,782,378 which is a 5.07% decrease. He detailed revenues, expenditures, and other proposed changes considered in balancing the final budget. He explained several effects on employees including the elimination of ten (10) vacant positions in eight (8) departments, decreases in some employee benefits and health insurance plan changes, but noted layoffs and furloughs have been avoided. Due to uncertainty in the state’s budget and in the future economy, he recommended the biennial process be suspended for fiscal year 2010 and 2011 to be resumed in 2012. At that time, the County is expected to implement a five (5) year financial forecast. He noted the Board would need to determine a schedule for any Board workshops and set a Public Hearing for June 1, 2009 at 10:00 A.M. and adopt the budget by June 30, 2009.

Mr. Outten elaborated on the Board of Education decreased funding stating the School Board was a priority and in writing the budget, and they made every effort to minimize the impact. He noted the County had to eliminate all capital spending, and therefore did the same for the BOE resulting in an operating decrease of 4%. This was necessary in order to balance the budget without eliminating programs or people. They had met with the Superintendent and Finance Officer about the decreased funding. Mr. Clawson reiterated these changes were necessary in order to protect filled positions and programs, and to prevent furloughs. Mr. Outten stated they did the best they could to recover \$8.5 million with the least impact. Chairman Judge stated workshops may not be needed as there are not many options.

MOTION

Commissioner Shea motioned to schedule a Public hearing on June 1, 2009 at 10:00 A.M. Vice-Chairman Burrus and Commissioner Dutton seconded the motion.

VOTE: AYES unanimous

ITEM 18 – OREGON INLET UPDATE

Vice-Chairman Burrus offered an update on Oregon Inlet by displaying live video feed from the new webcam at Oregon Inlet Bridge. He thanked everyone for their work in getting this camera running. He stated work on the bridge has been postponed to begin in February 2010. He noted while he is not happy with this decision, there is not much that can be done as it was the State who made the postponement. He was disheartened by the inactivity of the state for fifteen (15) years on the project and noted postponement often causes problems. He shared he had hoped the issue could have been thought about and reworked in the beginning stages and not at this point in the process.

ITEM 19 – CONSENT AGENDA (Att. 10)

Commissioner Shea motioned to approve the Consent Agenda:

1. Approval of Minutes (4.20.09)
2. Lifeguard contract for the "Old Swimming Hole"
3. Amendment to Capital Project Ordinance for Dare County Center
4. Additions to Insurance Lawsuit on Beach Plan Deductibles

5. Budget Amendment - Donations special revenue fund
Commissioner Burrus seconded the motion.
VOTE: AYES unanimous

ITEM 20 – BOARD APPOINTMENTS

1. Board Appointment - Extra Territorial Jurisdiction (ETJ) District (Three Year Term)

MOTION

Commissioners Tillett and Shea moved to reappoint Moncie “Punk” Daniels, III to serve another three (3) year term.

VOTE: AYES unanimous

2. Board Appointment – Board of Adjustment (Three Year Term)

MOTION

Commissioner Shea moved to reappoint Jay Hart for another three (3) year term.

VOTE: AYES unanimous

3. Upcoming Board Appointments for June

The upcoming board appointments for June are: COA Board of Trustees, Hatteras Community Center Board, Library Board-Dare, Manns Harbor Community Center Board, Oregon Inlet and Waterways Commission, Roanoke Island Community Center Board, Rodanthe-Waves-Salvo Community Center Board, Dare County Transportation Advisory Board, Juvenile Crime Prevention Council, Extra Territorial Jurisdiction (ETJ) District (Southern Shores), and Land Transfer Tax Appeals Board.

ITEM 21 – COMMISSIONERS’ BUSINESS

Vice-Chairman Burrus stated the dredging is in process to begin at Rodanthe, Walters Slough, and Stumpy Point. He noted “Keep ‘em open” magnets, brochures and bumper stickers are being distributed by the Preserve Beach Access campaign. He noted the print materials will be placed at many locations to help with public awareness and education on the campaign. He shared his concern with the possible state implementation of a ten (10) cent charge on the use of plastic bags. He noted if this is passed, he invited those who pass the legislation to experience the problems and remarks that would result from this action by spending time in his store.

Commissioner Shea shared appreciation to those receiving service pins and to the Employee of the Month for April.

Commissioner Richard Johnson - None

Commissioner Dutton congratulated service pin recipients and the Employee of the month. He thanked the Cooperative Extension staff for all of their important work towards being environmental stewards and improving the quality of life here in Dare County.

Commissioner Tillett asked for prayers for Tim White’s daughter who was in a serious accident. She thanked the Commissioners for allowing her the opportunity to attend the North Carolina Alliance of Black Elected Officials. She noted there were many great speakers on health, education, crime, and economic empowerment. She distributed an email from Jenny Jones

regarding a possible grant for Dare County. She asked the Commissioners to read over the email and encouraged them to talk about it at a meeting next month.

Chairman Judge thanked Commissioner Shea for his devotion to the battle against beach closures.

ATTORNEY'S BUSINESS

None

MANAGER'S BUSINESS

None

AT 12:06 P.M. THE DARE COUNTY BOARD OF COMMISSIONERS ADJOURNED UNTIL 5:00 P.M. ON MAY 18, 2009.

(SEAL)

Respectfully submitted,

By: _____

Katie Smith, Clerk

APPROVED:

By: _____

Warren C. Judge, Chairman
Dare County Board of Commissioners

