



# 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

**5:00 p.m., May 19, 2014**

Commissioners present: Chairman Warren Judge, District 3  
Vice-Chairman Allen Burrus, District 4  
Virginia Tillett, District 1; Wally Overman, District 1  
Max Dutton, District 2; Robert Woodard, District 2;  
Jack Shea, District 5

Commissioners absent None

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

Chairman Judge called the meeting to order at 5:08 p.m. He invited the Rev. Ted Bishop from All Saints Episcopal Church to share a prayer, and then he led the Pledge of Allegiance to the flag.

Chairman Judge directed everyone's attention to a short video of the recent Kids Fest event provided by The Outer Banks Voice. He acknowledged the Children & Youth Partnership and many community partners who made this endeavor a huge success.

Note – In order to accommodate the Public Hearing scheduled for 5:30 p.m., some agenda items were handled out of sequential order.

### ITEM 1 – PUBLIC COMMENTS

The County Manager outlined the public comment procedure. The following spoke -

1. Natalia Titenkova, a student at the College of the Albemarle, explained that she is a member of the Bicycle and Pedestrian Safety Coalition and is concerned about providing information and help for foreign exchange students who come to the Outer Banks. Ms. Titenkova cited safety concerns, lack of public transportation, and housing issues as items that need urgent attention. She called for an organization to be established to address these issues for foreign students.

**ITEM 2 – HURRICANE/DISASTER DEBRIS REMOVAL, REDUCTION, AND DISPOSAL CONTRACT**

Finance Director, David Clawson, explained that a Request for Proposal (RFP) was issued for debris removal and responses were received. He said Tag Grinding Services, Inc. submitted the lowest cost proposal, and T.F.R. Enterprises, Inc. was the second lowest. Mr. Clawson said references were checked for both companies and reported that they were favorable. He asked the Board to award contracts to Tag Grinding Services as the first responder and T.F.R. Enterprises as the second responder. Vice-Chairman Burrus asked why the County does not continue its relationship with Crowder Gulf in view of the good job they have done in the past. Mr. Clawson reviewed the FEMA bidding procedure and explained that Crowder Gulf did not submit a bid as low as Tag Grinding Services or T.F.R. Enterprises. The County Manager noted that the money is only spent if the need arises and then submitted to FEMA for reimbursement. In response to a question from Commissioner Tillett about debris pickup on private roads, Mr. Clawson explained how FEMA handles what are considered non-system roads.

**MOTION**

Commissioner Shea motioned to approve awarding contracts to Tag Grinding Services, Inc. as first responder and T.F.R. Enterprises, Inc. as second responder for hurricane/disaster debris removal, reduction, and disposal.

Commissioner Dutton and Commissioner Overman seconded the motion.

VOTE: AYES unanimous

**ITEM 3 – COMMERCIAL READY MIX PRODUCTS, INC. – GROUP DEVELOPMENT CUP APPLICATION (Att. #1)**

A full and complete account of the testimony offered and Board discussion on this agenda item is archived on a video that is available for viewing on the Dare County website [www.darenc.com](http://www.darenc.com)

This agenda item was handled as a quasi-judicial proceeding. Prior to offering testimony, each speaker was duly sworn by the Clerk to the Board.

The Board of Commissioners heard sworn testimony from 17 members of the community, the Planning Director, an NCDOT Engineer, and 5 people representing the Applicant.

After extensive testimony and discussion that lasted for hours, the Board took no action on the CUP application and due to the extreme lateness of the hour voted to recess the item until 5:00 p.m. on June 2, 2014.

Following is a brief synopsis of the testimony and discussion –

Planning Director, Donna Creef, summarized the Conditional Use Permit (CUP) application related to a proposed concrete plant in Waves, North Carolina. She

explained that the proposed site is in the S-1 zoning district and recapped what occurred when the Planning Board considered the applicant's request. She identified issues addressed in the draft CUP including air quality/dust control, noise, lights, hours of operation, runoff, traffic, other improvements, and removal of the plant. Ms. Creef also described several issues the applicant has addressed since the Planning Board's April meeting. The Board asked the Planning Director follow-up questions about parking, dust collection, and noise.

At 8:41 p.m., the public portion of testimony began. The following local residents, who were previously sworn by the Clerk to the Board, offered testimony.

1. Debbie Owens read excerpts of a letter from one of her neighbors who she described as a prominent doctor. The letter expressed opposition to a concrete plant at the proposed site because it would adversely impact the quality of life, the livelihood of property owners, and have lasting negative impact. The letter also mentioned pollution concerns and possible adverse health effects, which were raised by the letter's author as an expert in inhalation toxicology. It was stated in the letter that there will be excessive traffic and diesel noise and that the proposed plant would depreciate property values and tourism revenues. The Board was asked to reject the proposed site and consider other alternatives.
2. Sara Hansley explained that she is a yoga instructor and was concerned about the impact a concrete plant would have on her working out of her home. She said the request to put a concrete plant in Waves is unconscionable and described it as a punch in the gut. She raised concerns about odors, noise, and the effect that nighttime traffic will have on thriving businesses.
3. Asa Gray explained that although he is in favor of building bridges, he asked the Board to say no to this site for a concrete plant. He explained the impact it would have on his campground and cited potential health problems for older residents, buffer issues, traffic, lighting, and noise concerns. Mr. Gray also addressed stormwater runoff, diesel fuel storage, and the potential for fuel and oil leaks. He said other sites are available and said that the zoning ordinance language gives the Board of Commissioners the right to say no to this proposed use.
4. Blake O'Sullivan read a letter by Chandra Rutledge describing her dream of living at the ocean that prompted her to buy property on Hatteras Island. He said the concrete plant would force her to keep her windows shut due to toxic dust. He also referenced language in the zoning ordinance concerning noxious, harmful, or deleterious effects as reason for the Board of Commissioners to say no.
5. Barry Wells read a letter from Chandra Gupta explaining that the sound barrier will not be sufficient and that the silos will be a visible eyesore. He said the nighttime pours will have adverse effect on the quality of life and cited concern for those with allergies and asthma. He said there will be few hours of peace and

quiet and raised the need for a hurricane or storm plan. Mr. Wells said home property values will plummet and asked the Board to reject the CUP application.

6. Judith Sagan asked the Board to vote against it and said alternative locations are available. She said this does not pass the common sense test and raises safety issues. She mentioned the blind curve that would have heavy truck traffic and jeopardize safety for those on the multi-use path. Ms. Sagan said the plant would have a noxious, harmful, or deleterious effect. She also cited an adverse economic impact that will hurt tax revenues and raised concerns about dust, noise, and the lighting impact on turtle mating.
7. Anne Vroman asked the Board to interpret the zoning language in favor of the people who would suffer from the dust, noise and other problems generated by the proposed concrete plant. She raised concerns about hurricanes and soundside flooding, which she said have not been properly addressed.
8. Donna Peele explained the unique appeal of the nearby Watermen's Retreat and related businesses that would suffer because of the proposed concrete plan. She said we want visitors to have a wonderful experience rather than the bad memory of a concrete plant. She said the site is not suitable.
9. Laura (Lulu) Vroman said she lives near the proposed site and described why she thinks it is too small. She voiced concerns of congestion and quoted the Planning Board Chairman in saying that the project needs to happen, but not on the backs of local residents.
10. Jason Slezek cited noxious, harmful, or deleterious effects caused by noise and traffic problems that would be generated by the site. He explained that as a kiteboard athlete he needs a peaceful and quiet environment when he is home, which would be disrupted by the concrete plant. He said he is concerned about the noise, light, and hours of pours. He referenced an article by Trip Foreman and outlined the large amount of truck traffic that would be generated. He noted that there have already been fatal accidents in the area of the proposed site.
11. Jamie Armstrong reminded everyone that the Planning Board voted 4 to 2 against this proposed site. She said the lot size is too small and expressed concerns about nighttime pours, dust, and pollutants. Ms. Armstrong said stormwater will go into the pond, which will then filter into drinking water.
12. Tommie Kogut said he has lived in the neighborhood for five years and described the hard working people who would be disrupted by the proposed concrete plant. He said the nighttime pours would present a problem for his family and asked the Commissioner to take into account that the Planning Board voted against it.
13. Natalie McIntosh explained that the neighborhood around the proposed site provides affordable housing. She expressed concern about the need and

frequency of nighttime pours. She added that the proposed 10-foot wall does not address the noise that will be generated once the trucks have left the site. Ms. McIntosh also expressed safety concerns and outlined the impact that increased traffic would have on the crosswalks in the vicinity of the plant compared to those at another potential site near Island Convenience. She called on the Board not to approve the CUP and said they should renegotiate with Island Convenience.

14. Trip Forman listed his businesses that are located across the street from the proposed site. He recapped the action of the Planning Board in rejecting the application and outlined a letter he prepared for the media about the situation. Mr. Forman said the site is not suitable for the proposed project because of noxious, harmful, or deleterious effects and cited noise, dust, and traffic concerns. He explained that tarps covering raw materials at the plant will be severely inadequate based on his experience with tarps at his business. Mr. Forman offered extensive testimony about the large number of trucks that will be needed to sustain the proposed concrete plant. He said the NCDOT requirement that concrete be 75 degrees should not cause the people to suffer the dramatic and harmful effects that will result. He recalled a fatal traffic accident in the area and said the safety issue is one that hits home. Mr. Forman said the proposed site plan has not addressed hurricanes, which could present huge liability problems. He added that if the CUP is granted, it should be limited to 5 years.
15. Ken Wenberg described the importance of air quality as a compelling reason for living on Hatteras Island. He said many live there for health reasons, which would be jeopardized by the proposed concrete plant. He said that as a person in his 70's he cannot just pick up and leave. He asked the Board to take a close look at this on behalf of military people and those like him with medical issues.
16. Jackie Wenberg said she lives almost directly across the road from the proposed plant. She said she will be 80 next year and expressed concern about health, noise, and environmental issues. Ms. Wenberg said she fears not being able to sit outside her home because of the proposed plant. She said the Planning Board did the right thing and called on the Commissioners to do the same.
17. Betty Gray said the site is not the proper place for a concrete plant. She cited noise, traffic, and the other important issues that were presented tonight in public testimony. She asked the Board to give this thought and not vote in favor of it.

At 9:59 p.m., the public portion of testimony ended. Chairman Judge thanked the people who spoke and noted that the hour is beginning to get late. He cautioned that if the proceeding goes much longer, it may be necessary to recess in order to have time to properly make a decision.

**RECESS: 10:01 p.m. – 10:26 p.m.**

Starkey Sharp, on behalf of the applicant, introduced others who were previously sworn to provide expert testimony. The following spoke –

1. Pablo Hernandez, NCDOT Resident Engineer, explained that he was here to represent NCDOT and answer any technical questions about the project. The Board discussed with him at length the role that temperature plays in concrete pouring. He provided a page of information listing elapsed times for pouring concrete based on temperature and additives.
2. John Cox from Swope & Associates addressed the additive mixtures that will be used for the project. He described the containers that will house the chemicals and fielded questions about their potential to cause respiratory problems. When asked if a leak or line break could contaminate the ground water, he said it would not. He said the biggest intangible is determining who is going to control the property, the materials, and their delivery to the job site. In that regard, he noted that the applicant has a first class safety record.
3. Hal Goodman, Structural Engineer with Construction Engineering Services, described the sound walls proposed by the applicant and how they will abate noise at the site. In addressing Board questions about the wind rating of the fencing, he said it has a 130 mile per hour wind load.
4. Michael Strader, Quible & Associates, said he is the site planner and fielded questions from the Board about parking, stormwater runoff, and other aspects of the operation.
5. Tim Newsome, Commercial Ready Mix Products (CRMP) answered questions about the adequacy of covering materials on site with tarps. In response to repeated questions from Commissioner Woodard about the viability of using concrete from Nags Head, Mr. Newsome said that plant cannot deliver 75-degree concrete to the site. Mr. Cox explained the importance of being as close as possible to the project site and that adding another 30 minutes is a critical consideration. Commissioner Woodard asked if a slight variation in temperature would compromise the quality. Mr. Hernandez, as the on-site inspector, explained the range of flexibility that he has based on several variables.
6. Starkey Sharp outlined changes that the applicant has made since the Planning Board meeting. He said the applicant has tried to address everything. He added that CRMP would rather not do night pours, but is committed to building a safe bridge. Mr. Sharp said the proposal is not noxious, as some have cited in the zoning language. He noted that nobody appeared tonight speaking against the proposal from Buxton, where there is a concrete plant. He concluded that the applicant is trying to address concerns and build a state of the art system. The County Manager asked Mr. Sharp if the applicant had any additional evidence to offer and he did not.

The Board, having heard hours of testimony and discussion, talked about whether to continue deliberations at such a late hour or recess until another day. Board Members discussed various dates and the consensus favored moving the time of the June 2, 2014 regularly scheduled Commissioners meeting from 9:00 a.m. to 5:00 p.m. and recessing this agenda item until then.

**MOTION**

Commissioner Woodard motioned to change the time of the June 2, 2014 meeting to 5:00 p.m.

Commissioner Dutton seconded the motion.

VOTE: AYES unanimous

Note: after the Chairman closed the meeting at 12:18 a.m. on Tuesday, May 20, 2014, Trip Forman spoke up from the audience and said that June 2 is not a good date for many people in the room.

**ITEM 4 – PUBLIC HEARING – PROPOSED FISCAL YEAR 2015 BUDGET  
(Att. #2)**

A full and complete account of the Public Hearing and Board discussion on this agenda item is archived on a video that is available for viewing on the Dare County website [www.darenc.com](http://www.darenc.com)

Following is a brief synopsis of the comments and discussion –

The County Manager presented a comprehensive PowerPoint outlining FY2015 education funding. A Public Hearing on the budget was conducted and 11 people addressed the Board of Commissioners. After extensive discussion, the Board agreed to put adoption of the FY2015 budget on the meeting agenda for June 2, 2014.

Prior to the start of the Public Hearing, Mr. Outten presented a list of budget changes that will be included in the final version when approved by the Board. The Manager said the list contains Health Department salary adjustments that are budget neutral. He added that the final version of the budget will also include a rearrangement for Parks & Recreation to provide for maintenance needs at the Dare County Center.

Chairman Judge then reviewed the history of school funding and described Dare County schools as a marvel with passionate teachers and students who excel. He briefed everyone on conversations that have occurred with the Chairman and Members of the Board of Education (BOE) and the School Superintendent on the need for ongoing maintenance and the advance notice given to them that no new education money would be available in the FY2015 budget. He described an offer made to the BOE to have the County do school maintenance, which the BOE has not accepted. In order to meet the pressing maintenance needs that have been identified by the BOE, Chairman Judge noted that \$1.427 million of the FY2015 education funding will be directed for deferred maintenance. He said this is not cutting the school budget and

reminded everyone that the Board of Commissioners has strongly advocated and funded local education.

The County Manager presented a comprehensive PowerPoint outlining FY2015 education funding. He provided the rationale for the Board of Commissioners' education funding decisions and explained that school funding will increase in FY2015. Mr. Outten added that if the State approves raises for teachers, the County will fund the local teacher share, which could cost between \$150,000 and \$350,000. He reviewed the rate of increase in the Local Current Expense (LCE) for education, which he described as unsustainable. He outlined how Dare County is number one in per pupil funding in the State and well above the State average. The Manager explained the differences that exist between the Board of Commissioners and the BOE over the definition of Capital expense items versus Maintenance. He said the BOE defines Capital and Maintenance in a manner that shifts the responsibility to the County. He noted that this is not a new issue and outlined directed maintenance funding going back to 2001. Mr. Outten summarized that this not a matter of the Board of Commissioners underfunding schools, but rather, it is a matter of the BOE setting priorities. He documented how well Dare County has funded local education and echoed what Chairman Judge said about the pride that Dare County has of its teachers and students.

**RECESS: 6:18 p.m. – 6:33 p.m.**

At 6:34 p.m., the Dare County Board of Commissioners held a Public Hearing to receive input concerning the Proposed Fiscal Year 2015 Budget. The County Manager conducted the hearing and explained the procedure for making comments. The following people spoke –

- 1) Glenn Rainey, Chief of the Colington Volunteer Fire Department outlined his Department's request to increase the Fire District tax rate in order to replace aging firefighting apparatus. He explained the need for new equipment and described how it is needed to maintain insurance ratings.
- 2) Susie Walters said budget preparation should be based on common goals and values. She said the Board of Education and the Board of Commissioners both have roles that are set forth in the North Carolina General Statutes. Ms. Walters said the per pupil funding formula was designed to prevent conflicts. She added that it was never to include maintenance. She expressed her disappointment in the tactics, personal attacks, and information that is being published by the County regarding education funding. She asked the Board of Commissioners to reconsider their decision to abandon per pupil funding.
- 3) Jessica Sands, a Colington parent with two children in Dare County Schools, said she supports continuing the per pupil formula to avoid conflicts between education and government. She said utilities have gone up and the community does not want to see a decline in school services or an increase in

class size. She called on the Board of Commissioners to fully support additional funding for capital maintenance; otherwise, she said teachers and students will suffer.

- 4) Bea Basnight explained that the Commissioners hold in their hands the future of Dare County schools and called on them to prioritize the funds for both education and maintenance. Ms. Basnight said historically the Commissioners have funded operating, capital, and maintenance. She said you can label it any way you want, but withholding 1.4 million is not honoring the per pupil funding formula. Ms. Basnight said that the Board of Education has been cooperative and invited Commissioners to tour the schools, yet you still distrust us. She called on the Board of Commissioners to rethink their priorities and do the right thing. She urged them to remember that the children are our future and should be the first priority.
- 5) Barbara Taft Shea said she has written to the Board of Commissioners and thanked Chairman Judge and Commissioner Woodard for responding. She said it has been frustrating putting information together but cited a need for something to be done about the stagnant wages for lower echelon County employees. She requested that wage information be more readily accessible on the Dare County website. Ms. Shea recommended that a weighted percentage for increases be established pending a salary study.
- 6) Stephanie Huband said if the money requested by the Board of Education is not appropriated, then it is essentially a cut in funding. She said the Commissioners claim that the Board of Education must prioritize; however, in her view the Commissioners are not supporting the School Board and the children by these cuts. She asked them to think about that as they make decisions about education funding.
- 7) Adam Herman outlined his years of teaching experience and expressed appreciation for the efforts the Board of Commissioners has made. However, he said some information has been left out and described the impact that unfunded mandates will have on local education. He said there has to be more money for new teachers in Dare County and throughout the State. Mr. Herman said that students should not be the ones to suffer. He urged the Board of Commissioners to think about the students in their budget proposal.
- 8) Ben Sproul said the issue of local school funding has been terribly handled and that he is troubled by the rhetoric and distortion. He said the County is not telling the whole story. He said with flat County funding and withholding maintenance money, the Board of Education will have to find funds to make up the difference. He said withholding the 1.4 million will have a detrimental effect. He said the Board of Commissioners has misread what the voters and parents want. Mr. Sproul said the Board of Education carefully stewards every dollar and has made tremendous efforts to do more with less, however,

this is the most dramatic funding cut we have ever seen. He said the County's efforts are misguided and asked those in the audience who agreed with him to stand. A large number stood in support, which can be seen in the video archive of the meeting available for viewing on the Dare County website [www.darenc.com](http://www.darenc.com)

- 9) David Oaksmith reviewed a history of school funding going back to a 1999 court case when, in the presence of a mediator, the Board of Education and the Board of Commissioners agreed to a per pupil formula to eliminate annual bickering over the funding of schools. He outlined the items included and said it was a wise formula that was fair to everyone. Mr. Oaksmith noted that 7 years ago the County decided that the per pupil formula was not written in stone and began dismantling it. He said the County is now delivering deathblows to it with flat funding. He said that by the County claiming the per pupil formula is unsustainable means that the Board of Commissioners has changed their priorities and no longer wants to support schools at the level that they have done in past.
- 10) Brittany Graham, a student at First Flight High School, said she started AVID in the sixth grade and described how the program has helped her and other students to plan for college. She asked the Board to consider that during their budget planning.
- 11) Elizabeth Gamel said after Friday's call to action meeting she has spoken to County Commissioners and arrived at the conclusion that both the Board of Education and the Board of Commissioners care deeply about the children and their education. She said regrettably the two Boards are not getting along and that there is a misinterpretation of terms. She described decisions that are having a direct impact on children and cited overcrowding at Manteo Middle School. She called on the Board of Commissioners to resolve their differences and come to terms for the sake of the students.

Chairman Judge closed the Public Hearing portion at 7:09 p.m. and thanked those who participated.

The County Manager explained that the list of changes to the budget includes a request from the Buxton Volunteer Fire Department for a .0239-cent increase in the Fire District tax rate. He said the request is related to the cost of a new fire station. He said another change that may be included in the final budget would be a possible raise for County funded teachers depending on what happens with the State budget as was outlined in the earlier presentation.

Chief Rainey on behalf of the Colington Volunteer Fire Department answered Board questions about the equipment needed for his Department. He said a mid-mount fire apparatus might be the best choice to meet the needs of the Colington community. He added that their existing Fire Station has space to house a new truck.

Commissioner Tillett thanked everyone who spoke on behalf of Dare County's children. She urged people not to leave upset or not understanding that the Board of Education and the Board of Commissioners share the same goal of educating our children to the fullest. She said having served as a School Board Member it hurts her that the County cannot find the funds to give the School Board everything they want. She and the Board discussed how the 1.4 million for maintenance would be handled. Commissioner Dutton noted that the reason for the maintenance amount is to get caught up or the maintenance needs will be 10 million by 2018. Commissioner Shea said the 100 million that has been spent on school buildings are assets that need to be properly maintained. Commissioner Woodard questioned figures provided by the School Superintendent concerning the increase of 97 students and asked that further study be done on this. Chairman Judge asked the Finance Director to review the matter. Commissioner Woodard thanked those who spoke on school funding and those who showed up to demonstrate their concern. He said this is not a matter that is taken lightly. He said this will have his full and undivided attention before making a decision.

Vice-Chairman Burrus requested that the Buxton Volunteer Fire Department Chief be asked to attend the next meeting to address possible questions about the Department's requested increase in the Fire District tax rate. Mr. Outten explained that the Fire Department's facility has a bay area that is rapidly deteriorating and needs replacement. He added that they have money for a down payment, but need to raise the Fire District tax rate to service the debt.

Chairman Judge suggested that the budget be placed on the June 2, 2014 agenda and by consensus, the Board agreed. Commissioner Tillett expressed hope that the County will meet again with the Board of Education in hopes of getting back on an even keel. Chairman Judge said the County would do so and thanked everyone who participated in person or by email or phone.

**RECESS: 7:52 p.m. – 8:15 p.m.**

#### **ITEM 5 – CONSENT AGENDA**

The Manager presented the Consent Agenda and the items were read into the record.

#### **MOTION**

Commissioners Burrus and Shea motioned to approve the Consent Agenda:

- 1) Approval of Minutes (05.05.14) **(Att. #3)**
- 2) Workers' Compensation and Liability & Property Insurance Renewal
- 3) Health – Additional Family Planning Funding
- 4) Tax Collectors April 2014 Reports

Commissioner Dutton seconded the motion.

VOTE: AYES unanimous

**ITEM 6 – COMMISSIONERS' BUSINESS & MANAGER'S BUSINESS – None**

At 12:18 a.m. on May 20, 2014, the Board of Commissioners adjourned until 5:00 p.m., June 2, 2014.



Respectfully submitted,

By:   
Gary Gross, Clerk to the Board

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