



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

MINUTES

DARE COUNTY BOARD OF COMMISSIONERS MEETING

Dare County Administration Building, Manteo, NC

5:00 p.m., June 2, 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
Clerk to the Board, Gary Gross

Chairman Judge called the meeting to order at 5:04 p.m. He invited the Rev. Ken Simpson from the Manteo Baptist Church to share a prayer, and then he led the Pledge of Allegiance to the flag.

ITEM 1 – PRESENTATION OF COUNTY SERVICE PINS

- 1) Ellen Gibbs, Health Department, received a 10-year pin.
- 2) Christopher Hickman, Sheriff's Office, received a 10-year pin.
- 3) Eleen Bryant, Finance Department, received a 15-year pin.

ITEM 2 – EMPLOYEE OF THE MONTH – JUNE 2014

Julia McPherson, Children's Librarian, received the Employee of the Month certificate for June 2014 from Jonathan Wark who described her as someone who exemplifies what it means to be a great employee. Her dedication and service to Dare County's children were described to the Board of Commissioners.

INTRODUCTION OF NEW EMERGENCY MANAGEMENT DIRECTOR

The County Manager introduced the new Emergency Management Director, Drew Pearson. His educational background and 30 years Coast Guard experience was outlined to the Board. Mr. Outten noted that Mr. Pearson has the education and experience the County needs to replace the retiring Emergency Management Director.

ITEM 3 – PUBLIC COMMENTS

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

1. Anne Vroman said she is a Waves resident who lives next to the site of the proposed concrete plant. She said it is a farce that the community has been told that distance is an issue in order to have proper concrete temperature. She said it can be controlled by liquid nitrogen and cited a relative who is an engineer. Ms. Vroman reported that liquid nitrogen would eliminate the need for nighttime pours. She told the Board that people's lives and livelihoods are at stake and urged them to reconsider this.
2. Ava Johnson from Colington Road said she is perplexed about Bill's Marine and the requirement for a solid wooden fence. She said she has followed all the proper channels and that the Conditional Use Permit (CUP) is incongruent with what is being constructed at the site.
3. Terri Nunemaker raised concerns about violations of several CUP conditions for Bill's Marine. She explained that her water has been turned off and signs have been posted mentioning her and her husband by name. She reported on conversations she has had with the State Fire Marshal's office and the Dare County Planning Department Office in Kill Devil Hills. Ms. Nunemaker provided information to Commissioner Woodard and a series of photos to the Clerk to the Board. She called on the Board of Commissioners to take action on this.
4. Ben Sproul, Board of Education Chair, acknowledged the hard work that was accomplished at today's joint meeting with the Board of Commissioners. He said this is a challenging situation that we face for the future of our schools. Mr. Sproul said he wanted to let people know that movement has been made towards the middle. He explained that the revised funding levels will lessen the negative impact. He also noted that Dare County will be covering what the North Carolina General Assembly may do regarding raises for locally funded teachers.
5. Sara Hansley read excerpts of material from the UNC School of Government concerning conflicts of interest. She said a Board Member whose opinion is fixed, must not vote on this matter, or participate in the discussion. She said it is not fair and not legal.
6. Asa Gray said when Commissioner Burrus spoke about the impact on his personal business at the last meeting that he was out of line. He noted that he is good friends with Commissioner Burrus, but he should not be allowed to vote on the concrete plant because he stepped over the line.
7. Lucille Lamberto quoted the Board's agenda headline by asking how will these decisions impact our children and families. She noted that the Board has a difficult job and urged them to be fair and unbiased. She said the health and safety of local residents is at issue and asked what will be done to mitigate the impact of noise, pollution, health issues, and other concerns. She said there will

be economic impact and called on the Board to table the matter in order to let an environmental assessment be done on this type of industrial development.

8. Natalie McIntosh asked the Board to abide by the rules and have Commissioner Burrus step away from this decision so an impartial decision can be made. She noted that the burden of proof is on the applicant and said she feels strongly that there has not been transparent communication.
9. Maynard Outlaw said he lives on Colington Road next to Bill's Marine and agrees with what was said by Ms. Nunemaker. He said the site is now an industrial park with no accountability. Mr. Outlaw described a hideous looking fence that is not up to code and susceptible to winds. He added that there is no accountability for how much fuel is stored at Bill's Marine, which is very close to his property.
10. Mark Nunemaker provided a history of his property and that of Bill's Marine. He described how his family has helped local fishermen make a living. He recalled that years ago there were no fences and no problems between local people. Mr. Nunemaker reported that Bill's Marine has violated the original CUP and is now violating the latest CUP. He said the fencing and parking problems need fixed so he can have quiet enjoyment of his property.
11. Trip Foreman thanked the Board for staying late at the last meeting. He said at that time he did not think many would be able to attend tonight because of the Triple-S Invitational Tournament. He noted that the event wrapped up early today, so people were able to attend. He explained the significance of the event and what it means to Hatteras Island. Mr. Foreman said holding such an event across the street from a concrete plant will have a noxious, harmful, and deleterious impact. He said when the experts were asked for facts they were unable to provide answers.
12. John Griffin of Salvo said that tonight people in Colington turned out to report to the Board on CUP conditions in their community that have not been honored by a property owner. He asked if the people of Hatteras Island will have to come back to the Board of Commissioners for the next 10 years and point out conditions that have not been met, as the people have had to do in Colington. He reminded the Board that businesses cannot always be trusted.
13. Jason Slezek said with the tourism season in full swing the roads are filled with vehicles and pedestrians. He said everyone is aware of the need for a new bridge so that all businesses can survive and called on the Board to think of the safety and health of the people when making their decision.
14. Mike Egan, a 31-year resident of Salvo explained his involvement with a Variance Board and told how the group had to keep up with changes in the building industry. He asked the Board to look at the Ordinance and the Land Use Plan and deal with this type of industrialization.

15. Laura Vroman of Waves explained how a 10-foot fence will be inadequate. She also challenged statements made at the previous meeting by Mr. Starkey about traffic and crosswalk safety. Ms. Vroman said if the applicant has the option for nighttime pours, they will happen constantly. She said the people are not against bridge construction, but want a concrete plant at a better-suited location.
16. April Contestable from Salvo said her main concern dealt with the environmental impact caused by Hatteras Island winds. She said the applicant's plan cannot control the pollution that will be off the charts and their expert should speak to that. She also raised traffic concerns and declining real estate values as a result of the concrete plant.

RECESS: 6:00 p.m. – 6:15p.m.

ITEM 4 – COMMERCIAL READY MIX PRODUCTS INC. – GROUP DEVELOPMENT CUP/APPLICATION (Att. #1)

A full and complete account of this agenda item is archived on a video that is available for viewing on the Dare County website www.darenc.com

This item was handled as a quasi-judicial proceeding with each speaker being duly sworn by the Clerk to the Board. Those offering testimony today were reminded that they are were under oath from the portion of the meeting that was recessed until today.

The Chairman recessed the June 2, 2014 meeting of the Board of Commissioners to reconvene this agenda item from the previous meeting on May 19, 2014.

After a motion failed to deny the Conditional Use Permit application, the Board made substantial changes to the draft CUP, which were unanimously approved with a finding of sufficiency.

Following is a brief synopsis of the Board's discussion and action on this agenda item –

Chairman Judge asked the County Manager to address the issue of S-1 zoning and the conflict of interest question that was raised during public comments. Mr. Outten explained that S-1 is the broadest zone where all uses are permitted. He noted that Paragraph f of the Dare County code says no industrial use shall be permitted which has noxious, harmful, or deleterious effect on other development. He added that a concrete plant has been allowed in other more restrictive zones with the same language and that any denial would have to have a finding of fact. In regards to the conflict of interest question, Mr. Outten informed the Board that a conflict would exist only if there was a direct pecuniary interest. He noted that the comments made on May 19, 2014 by Vice-Chairman Burrus were after the close of the evidentiary portion and that there is no need for him to recuse himself.

The Board then directed questions to the panel of experts assembled by the applicant, with each being reminded that they were still duly sworn.

Hal Goodman, Engineer with Construction Engineering Services fielded questions about the ability of the sound attenuation wall to reduce decibels.

Mike Beacham, after being duly sworn by the Clerk to the Board, said he was representing Parsons. He said his firm anticipates pouring concrete sometime in the next few weeks.

Tim Newsome, Commercial Ready Mix Products, (CRMP) explained that it will take 4 to 6 weeks to get the site ready once approved. He said his firm has little experience using liquid nitrogen and said it is possibly dangerous and not cost effective. He noted that at the present time the concrete plant in Nags Head is the only site available for concrete pours that will be needed in the next few weeks. Commissioners reported on the research they have done to determine that there is ample driving time to deliver concrete from Nags Head to the construction site. Mr. Newsome said his firm does not make the night pouring schedule, which is determined by Parsons. However, Mr. Beacham, on behalf of Parsons, was unable to provide details.

John Cox from Swope & Associates explained what he called the volatile nature of liquid nitrogen. He said it can be dangerous and cause equipment damage due to the extreme temperature differential.

Mr. Sharp, on behalf of the applicant, reported that the onsite pond will be repaired so that it does not overflow from rain. He added that the site will not create more runoff and that is why a State permit is not required. Mr. Outten noted that the County is not allowed to impose a stricter environmental standard than the State.

RECESS: 7:15 p.m. – 7:38 p.m.

Chairman Judge and other Commissioners thanked the people who spoke. He explained that if the site were vacant, this application would have been handled administratively. He noted that the Board must have findings of fact for whatever conditions are imposed.

MOTION

Commissioner Woodard motioned to deny the Conditional Use Permit (CUP) application based on the information we have received finding that the project would adversely impact other development as outlined in paragraph f of the Dare County Code. Commissioner Tillett seconded the motion.

VOTE: AYES: 3 (Commissioners: Woodard, Tillett, and Shea)

NOES: 4 (Commissioners Judge, Burrus, Dutton, and Overman)

The Board then reviewed each draft Condition with the Planning Director. There were language changes made to reflect concerns about keeping aggregate materials wet at all times, requiring 3-sided and roofed buildings to contain materials, fencing, decibel levels, and abandonment. An initial request to place a travel trailer on site was removed. There were also significant changes made to the hours of operation with the hours determined to be Monday through Friday from 8:00 a.m. to 5:00 p.m. and that there will be no provision for nighttime operation.

MOTION

Vice-Chairman Burrus motioned to approve the Conditional Use Permit (CUP) application and site plan for the proposed CRMP Inc. group development with the changes outlined to the Planning Director with the finding that sufficient information documenting compliance with the S-1 zoning requirement has been submitted by the applicant and reasonable and appropriate conditions have been identified and applied to the proposed group development permit.

Commissioner Dutton seconded the motion.

VOTE: AYES unanimous

Chairman Judge expressed hope that the application will set the gold standard for good corporate ownership in the community. At the conclusion of this agenda item, the Chairman asked for a motion to adjourn the recessed meeting of May 19, 2014 and reconvene the June 2, 2014 meeting.

MOTION

Commissioner Woodard motioned to adjourn the recessed meeting of May 19, 2014 and reconvene the June 2, 2014 meeting.

Commissioner Dutton seconded the motion.

VOTE: AYES unanimous

RECESS: 9:18 p.m. – 9:37 p.m.

ITEM 5 – TOURISM BOARD REQUEST CONSENT FOR SPENDING FROM RESTRICTED FUND

Monica Thibodeau, Tourism Board Chair, and Lee Nettles, Executive Director, presented a Restricted Fund spending request to augment lifeguard services at Coquina Beach and Buxton from Memorial Day to Labor Day. It was explained that this would expand lifeguard coverage from 5 days to 7. It was noted that Dr. Beach has once again given the beaches of Hatteras Island a high rating.

MOTION

Commissioner Tillett motioned to approve the \$20,000 Restricted Fund expenditure request and the County held contract for lifeguard services from Memorial Day to Labor Day at Coquina Beach and Buxton.

Commissioner Shea and Commissioner Woodard seconded the motion.

VOTE: AYES unanimous

ITEM 6 – PRIMARY & SECONDARY CONTRACTS FOR DEBRIS REMOVAL

Finance Director, David Clawson, presented primary and secondary contracts for hurricane/disaster debris removal services.

MOTION

Commissioner Shea motioned to authorize the Chairman to execute the primary contract with TAG Grinding Services, Inc. and the secondary contract with T.F.R. Enterprises, Inc. for debris removal.

Vice-Chairman Burrus and Commissioner Overman seconded the motion.

VOTE: AYES unanimous

ITEM 7 – AMENDMENT TO CAPITAL PROJECT ORDINANCE FOR MANTEO ELEMENTARY SCHOOL ADDITION (Att. #2)

The Finance Director explained that an amended Capital Project Ordinance (CPO) is needed for the Manteo Elementary School reflecting \$65,450 for furniture, fixtures, and equipment (FF&E). He noted that the contingency is reduced by the same amount.

MOTION

Commissioner Tillett motioned to adopt the amendment to the Capital Project Ordinance for the Manteo Elementary School Addition.

Commissioner Dutton and Vice-Chairman Burrus seconded the motion.

VOTE: AYES unanimous

ITEM 8 – INITIAL RESOLUTION FOR FINANCING OF MANTEO ELEMENTARY SCHOOL ADDITION, SERIES 2014 LOBS (Att. #3)

Mr. Clawson reported that this is the first step in the process of financing the Manteo Elementary School addition for a total project amount of \$3,015,000. He explained that the debt will be an issue of a Limited Obligation Bond (LOB), which will work like a private placement. He provided a schedule related to the financing and outlined details of the Resolution.

MOTION

Commissioner Shea motioned to adopt a Resolution authorizing the negotiation of an amendment to an installment purchase contract and providing for certain other related matters thereto and set a Public Hearing for 5:30 p.m., June 16, 2014.

Commissioner Dutton and Vice-Chairman Burrus seconded the motion.

VOTE: AYES unanimous

ITEM 9 – MANAGER’S RECOMMENDED BUDGET – FISCAL YEAR 2015 (Att. #4)

A full and complete account of the Board’s discussion on this agenda item is archived on a video that is available for viewing on the Dare County website www.darenc.com

Following is a brief synopsis of the action related to the budget presentation –

1. The Manager presented a 2 page list of changes, which included changes to the Board of Education (BOE) funding that were discussed in the 1:00 p.m. June 2,

2014 Special Meeting of the Dare County Board of Commissioners with the Dare County Board of Education. Mr. Outten explained that \$295,000 is being added to the BOE budget and that \$500,000 is being held back for maintenance. He noted that the County will be covering State mandated increases for locally funded teachers.

2. The Board unanimously approved dividing the \$100,000 appropriation to Vidant Avon Medical Center with \$50,000 going to Vidant Avon and \$50,000 to the Hatteras Medical Center. Commissioner Burrus reviewed the history of the allocation and explained the merits of splitting the amount.

MOTION

Vice-Chairman Burrus motioned to divide the \$100,000 appropriation with \$50,000 going to Vidant Avon and \$50,000 to the Hatteras Medical Center. Commissioner Tillett seconded the motion.

VOTE: AYES unanimous

3. The Board unanimously approved the FY2015 Dare County budget as presented with the list of changes referenced earlier and reflecting the split of the \$100,000 Vidant appropriation. During Board discussion on the budget, Commissioner Tillett expressed regret that County employees will not be getting a pay increase.

MOTION

Commissioner Shea motioned to adopt the budget as presented with the list of changes and reflecting the split of the \$100,000 Vidant appropriation. Commissioner Dutton seconded the motion.

During discussion of the motion, it was clarified that voting on the motion does not include action on either of the Fire District tax rate increase requests.

VOTE: AYES unanimous

4. In a 6 to 1 vote, the Board approved a \$0.0239 increase in the Buxton Fire District Tax rate to a rate of \$0.1058 as requested by the Buxton Volunteer Fire Department. Buxton Fire Chief Perry explained the need for the increase.

MOTION

Vice-Chairman Burrus motioned to approve the request to increase the Buxton Fire District tax rate.

Commissioner Dutton seconded the motion.

VOTE: AYES: 6 (Commissioners: Judge, Burrus, Tillett, Dutton, Shea, Overman)

NOES: 1 (Commissioner Woodard)

The Board discussed the increase requested by the Colington Volunteer Fire Department. Commissioner Woodard noted that he is not prepared to vote for a tax increase without the support of the Colington community. There was no motion made for a Colington Fire District tax rate increase and no Board action was taken.

5. The County Manager was asked to reconsider taking \$2,000 from Parks & Recreation salaries to cover Dare County Center maintenance. The Manager said he will address this with a budget amendment.

ITEM 10 – CONSENT AGENDA

The Manager presented the Consent Agenda. The items were visually displayed in the meeting room and read into the record.

MOTION

Commissioner Shea motioned to approve the Consent Agenda:

- 1) Approval of Minutes (05.19.14) **(Att. #5)**
- 2) North Carolina Blue Cross Blue Shield Community Garden Grant
- 3) Outer Banks Visitors Bureau Tennis Event Grant
- 4) Donations Fund Budget Amendment – Sheriff Donations

Vice-Chairman Burrus and Commissioner Dutton seconded the motion.

VOTE: AYES unanimous

ITEM 11 – BOARD APPOINTMENTS

- 1) Dare County Public Facilities Corporation

Commissioner Woodard motioned to reappoint Warren Judge and Sally DeFosse and to appoint Commissioner Wally Overman.

VOTE: AYES unanimous

DISCUSSION OF THE CONDITIONAL USE PERMIT (CUP) FOR BILL’S MARINE

The County Manager/Attorney addressed issues and remarks that were raised during Public Comments about the Conditional Use Permit (CUP) for Bill’s Marine in Colington. He explained that the required fence needs a building permit and that the County Building Inspector will make sure the proper engineering plans are in place. Mr. Outten said that consistently doing business after the authorized hours of operation would not be permitted. However, he added that there needs to be a reasonableness test when a customer transaction may go beyond the cutoff, i.e. to 7:09 p.m. instead of 7:00 p.m., or if the applicant is there on a Sunday doing paperwork or checking on his business.

Commissioner Woodard reminded everyone that the applicant accepted conditions that required the completion of a 10-foot solid wooden fence and now he is not doing what he agreed to do. Commissioner Overman reported on his visit to the business site last week. Commissioner Woodard said in the future the County needs to be more explicit with CUP applicants so that there is a clear understanding that will not be controversial after the fact. The County Manager explained the instructions that were given to staff about adding on to an existing fence to meet the required height. He added that the applicant will be required to get an engineering seal and building permit for the property fence and will have 19 days from getting the engineering seal to complete the work rather than the June 21st deadline outlined in the Conditional Use Permit.

ITEM 12 – COMMISSIONERS’ BUSINESS & MANAGER’S/ATTORNEY’S BUSINESS

Vice-Chairman Burrus

- He said he appreciates the Board of Commissioners and was offended that the Board’s integrity has been questioned.
- Vice-Chairman Burrus thanked the people who came today and reached compromise with Board of Education.
- He noted that the National Park Service will have new local leadership.

Commissioner Shea

- He thanked the service pin recipients and the Employee of the Month for all that they do to make Dare County such a special place.

Commissioner Overman

- He congratulated the service pin recipients and Employee of the Month.
- Commissioner Overman read into the record a list of students that were recognized at a recent School Board meeting for their accomplishments. The students that were honored included Ian Folb, Savannah Brown, Madison Fairbanks, Liam Becker, Chris Johnson, Lorraine Turick, Olivia Gaskins, and Alexis Gray.
- He reported on the community meeting he attended along with Chairman Judge and Commissioner Tillett about Highway 345. He thanked the First Flight Civics students for their excellent presentation about improving traffic safety. He asked that a resolution or letter from the County be sent to NCDOT in support of reducing the speed limit to 45 miles per hour on Highway 345.

MOTION

Commissioner Overman motioned to authorize the Manager to execute a Resolution or letter to NCDOT in support of reducing the speed limit to 45 miles per hour on Highway 345.

Commissioners Shea, Burrus, and Dutton seconded the motion.

VOTE: AYES unanimous

Commissioner Woodard

- He extended kudos to the Board of Commissioners for the hard work done today with the Board of Education. He thanked the School Board members for working with us as we move in the right direction.
- Commissioner Woodard thanked the County Manager and staff for holding the line on the budget and presenting the Board with a flat budget for FY2015.

Commissioner Dutton

- He commended the County Manager and Finance Director for their budget preparation.
- Commissioner Dutton thanked the Board for its hard work on the budget and the valuable input provided today by the Board of Education.
- He stressed the importance of keeping Dare County schools well maintained.
- He congratulated the service pin recipients and the Employee of the Month.

- Commissioner Dutton announced that a Social Security office will be operating in Dare County during Tuesdays in the month of June to serve the needs of visiting students. The County Manager noted that the Social Security office in Elizabeth City was very helpful and accommodating in making these special arrangements for our international student workforce.

Commissioner Tillett

- She expressed her appreciation for the First Flight High School students and their work to improve safety on Highway 345. She added that she was very pleased with the recent community meeting about the road.
- Commissioner Tillett reminded everyone about Dare Day and noted that Chairman Judge will be making the presentation honoring the Citizen of the Year.
- She said she hopes the citizens in Rodanthe-Waves-Salvo will not have to come back to the Board with reports that the Conditional Use Permit for the concrete plant are not being honored by the applicant. She asked who monitors CUP compliance. Mr. Outten explained that monitoring has been complaint driven. He added that staff will be diligent in monitoring the situation related to the concrete plant rather than waiting for complaints to be made.

Chairman Judge

- He thanked staff and the Board of Commissioners for their work on the budget and acknowledged the Board of Education for their participation in today's Special Meeting on education funding.

MANAGER'S/ATTORNEY'S BUSINESS

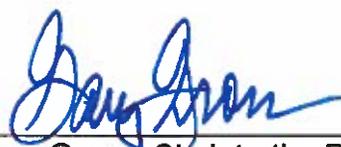
The County Manager thanked the Finance Department staff for their work on the budget and commended the Dare County Department Heads for their diligent efforts.

At 11:05 p.m., the Board of Commissioners adjourned until 5:00 p.m., June 16, 2014.



APPROVED:

Respectfully submitted,

By: 
Gary Gross, Clerk to the Board

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