



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

October 5, 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; Jack Shea, Dist. 5; Mike Johnson, Dist. 2.; Richard Johnson, Dist. 1; Max Dutton, Dist. 2.

Commissioners Absent: None

Others Present:

County Manager Bobby Outten, Dorothy Toolan — Public Information Officer, Katie Smith—Clerk to the Board

Action:

EMPLOYEE OF THE MONTH (OCTOBER) — **Postponed until October 19, 2009**

BREAST CANCER AWARENESS MONTH PROCLAMATION — **Adopted**

MARY ELLON BALANCE—APPLICATION FOR HOME OCCUPATION — **Approved**

STANLEY AND NANCY BEACHAM—PRELIMINARY PLAT REVIEW— **Approved**

CONSENT AGENDA — **Approved**

- Approval of Minutes (9.21.09)
- Roanoke Island Water Project Initial Easement Acquisitions
- Department of Public Health Budget Amendment
- Resolution authorizing lease of Dialysis Center to Pitt Memorial Hospital
- Designation of Deputy Finance Officer
- Grant Project Ordinance - Dare County Tourism Board - Buxton Back Road Multi-Use Path Project
- Day Care Budget Amendment

BOARD APPOINTMENTS

- Library Board—Dare — **Reappointed (Virginia Tillett)**
- Stumpy Point Community Center Board— **Appointed (Sheila Golden)**
- Parks and Recreation Advisory Council— **Reappointed (Tim Cafferty)**

PAMCO LEASE AGREEMENT — **Execution by County Manager Authorized**

REFINANCING OF SERIES 1998 AND 2001 — **Finance Director Authorized to Proceed and Public Hearing Scheduled 10/19/09 5:30 PM As Needed**

LAND OF BEGINNINGS

COMMISSIONERS OFFICE— PO Box 1000, MANTEO, NC 27954 • 252.475.5700 • DARENC.COM

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

Chairman Judge noted the agenda would need to be amended to remove Item 2: Employee of the Month – October 2009 to be presented at the October 19, 2009 meeting, and to add a brief presentation from Edward Lee Mann, Public Works Director.

MOTION

Commissioner Shea motioned to amend the agenda as detailed.

Vice-Chairman Burrus seconded the motion.

VOTE: AYES unanimous

ITEM 1 – PRESENTATION OF COUNTY SERVICE PINS

- 1) Doug Remaley, Fire Marshal, received his 15 year pin from Ray Sturza, Planning Director.
- 2) Jenny Jones, Grants and Waterways Commission Administration, received her 15 year pin from Ray Sturza, Planning Director.
- 3) Rita Pledger, Office Manager, received her 20 year pin from Rodney Midgett, Sheriff.
- 4) James McMurrin, Fleet Maintenance Mechanic I, received his 20 year pin from Edward Lee Mann, Public Works Director.
- 5) Connie Poole, Business Personal Property Administration, received her 25 year pin from Greta Skeen, Tax Assessor.
- 6) Crystal Cox, Real Property Appraisal Technician, received her 30 year pin from Greta Skeen, Tax Assessor.
- 7) Joanne Pullen, Office Assistant IV, received her 25 year pin from Anne Thomas, Public Health Director.

ITEM 3 – PRESENTATION OF ADVANCE CERTIFICATES

Sheriff Rodney Midgett presented Advanced Law Enforcement Certificates from the NC Sheriff's Education and Training Standards Commission to Inv. Tammy Willis and Cpl. Nate Lusk.

ITEM 4 – PUBLIC COMMENTS

- 1) Tom Hranicka, Hatteras Island, shared his concerns regarding wind turbines on Hatteras Island. He noted the adverse impacts of the expansive project on Hatteras Island including obstructing views and potentially affecting the tourism and rental industries, and real estate values. He felt the value of the unobstructed beauty and views of Hatteras Island cannot be quantified on a cost/benefit ledger sheet.
- 2) Don Hernley, Manteo business owner, spoke to the Commissioners regarding Breast Cancer Awareness and the personal effects on his family. He shared his support of the resolution being passed and noted ways his business and family work to support the search for a cure for Breast Cancer.

ITEM 5 – DARE COUNTY DEPARTMENT OF PUBLIC HEALTH – BREAST CANCER AWARENESS MONTH PROCLAMATION

Ellie Ward, Nursing Director of Dare Home Health and Hospice, and Betse Kelly, Coordinator of the Outer Banks Hospital Cancer Resource Center, presented information on Breast Cancer Awareness Month activities in the community. Ms. Ward introduced the Outer Banks Task Force, shared its history, and stated its mission of raising awareness in the community. She noted several upcoming events in partnership with community members to support Breast Cancer Awareness. Jesse Buchanan, senior at First Flight High School and member

of the Healthy Carolinians of the Outer Banks Cancer Task Force, then read a proclamation requesting October 2009 be declared Breast Cancer Awareness Month in Dare County.

MOTION

Commissioners Tillett and Shea motioned to adopt the Breast Cancer Awareness Month proclamation. Commissioners Mike Johnson and Dutton seconded the motion.

VOTE: AYES unanimous

ITEM 6 – MARY ELLON BALLANCE: APPLICATION FOR HOME OCCUPATION (Att. 1)

Ms. Donna Creef, Senior Planner, explained Ms. Mary Ellon Ballance has submitted a conditional use permit application in order to operate a beauty/nail salon in her residence at C. Deering Ridge Road in Hatteras village. The residence is located in an R-2H zone in which home occupations are permitted. She noted Ms. Ballance's residence meets all requirements for a home occupation. The Planning Board reviewed the application, drafted a CUP with conditions, and recommended approval.

MOTION

Commissioner Shea motioned to approve the conditional use permit for Mary Ellon Ballance's home occupation.

Vice-Chairman Burrus seconded the motion.

VOTE: AYES unanimous

ITEM 7 – STANLEY AND NANCY BEACHAM: PRELIMINARY PLAT REVIEW (Att. 2)

Ms. Donna Creef, Senior Planner, detailed a Preliminary Plat for the Stanley and Nancy J. Beacham Subdivision on Roanoke Island. She noted in September 2008, the Board amended the subdivision ordinance to include minor subdivision standards and this is the first subdivision submitted to be reviewed under these standards. This family owned property is less than three (3) acres with existing frontage on Ananias Dare Street and requires no road improvements. Their intention is to subdivide the property in order to pass the lots on to their children. She noted the Planning Board reviewed the proposed division in September 2009 and voted to recommend approval. Commissioner Richard Johnson inquired why this item required Board approval. Ms. Creef stated this item still must follow the procedures with the Planning Board and the Board of Commissioners and she noted the main change in the ordinance amendment was the reduction in the right of way.

MOTION

Commissioner Tillett motioned to approve the preliminary plat as recommended by the Planning Board. Commissioner Richard Johnson and Vice-Chairman Burrus seconded the motion.

VOTE: AYES unanimous

PRESENTATION BY PUBLIC WORKS DIRECTOR

Edward Lee Mann, Public Works Director, offered an update on the new law passed October 1, 2009 which bans plastic bottles from landfills. This North Carolina legislation prohibiting plastic bottles from being thrown in the trash or burned was passed in an effort to promote recycling. He noted while Solid Waste employees have to inspect the loads that come into the transfer station, individual trash will not be inspected. If large amounts of plastic are found in the loads, other action might need to be taken to help reduce the plastic in the load. He stated there are recycle centers all over the County from Kitty Hawk to Hatteras. He listed other banned items including used oil, yard trash, antifreeze, aluminum cans, old scrap tires, lead acid batteries, beer bottles, whiskey bottles, wine bottles, oyster shells, motor vehicle oil filters, and now recyclable plastic containers with the exception of pesticide containers less than five (5) gallons. He also noted wooden pallets and in 2011, computer equipment and televisions, will not be allowed in the landfill. Dare County has an outlet

for everything that is banned from the landfill. He encouraged everyone to bring these items to Public Works if there is concern in throwing these items away. In an attempt to put the public at ease he reiterated individual trash will not be checked for plastic. Chairman Judge asked if the satellite recycle centers would take all of the items named as well. Mr. Mann replied indeed all locations are prepared to take these items. Commissioner Mike Johnson asked if these locations' sites and addresses are on the website. Mr. Mann replied they are indeed on the site. County Manager Outten clarified recycling alcohol bottles apply to commercial establishments with ABC permits only. Chairman Judge thanked Mr. Mann for the update and stated questions would be directed to his department. Vice-Chairman Burrus stated his appreciation for Mr. Mann and Mr. Carl Walker.

ITEM 8 – OREGON INLET UPDATE

Vice-Chairman Burrus provided the Board with an update regarding Oregon Inlet stating they are working to schedule a meeting with DOT to make sure everything is progressing. At this point, it seems everything is moving along well, but they would like to hear this from DOT. If everything is indeed on track, there will hopefully be contracts for work by February.

RECESS 9:58 A.M. – 10:31 A.M.

ITEM 9 – CONSENT AGENDA (Att. 3)

Commissioner Shea motioned to approve the Consent Agenda:

- 1) Approval of Minutes (9.21.09)
- 2) Roanoke Island Water Project Initial Easement Acquisitions
- 3) Department of Public Health Budget Amendment
- 4) Resolution authorizing lease of Dialysis Center to Pitt Memorial Hospital
- 5) Designation of Deputy Finance Officer
- 6) Grant Project Ordinance - Dare County Tourism Board - Buxton Back Road Multi-Use Path Project
- 7) Day Care Budget Amendment

Vice-Chairman Burrus seconded the motion.

VOTE: AYES unanimous

ITEM 10 – BOARD APPOINTMENTS

- 1) Library Board – Dare

Commissioner Shea motioned to reappoint Virginia Tillett to server another three (3) year term.

Vice-Chairman Burrus seconded the motion.

VOTE: AYES unanimous

Commissioner Tillett requested the Board wait to fill the other vacant seats until after the next Library Board meeting where she will ask for recommendations for the vacancies.

- 2) Stumpy Point Community Center Board

Commissioner Tillett motioned to appoint Sheila Golden to fill the unexpired term of Linda Barbee.

VOTE: AYES unanimous

- 3) Parks and Recreation Advisory Council

Commissioner Shea motioned to reappoint Tim Cafferty to serve another three (3) year term.

Commissioner Tillett seconded the motion.

VOTE: AYES unanimous

ITEM 11 – COMMISSIONERS’ BUSINESS

Commissioner Richard Johnson asked the Board to look into an ordinance or resolution requiring windmills to be out of sight of land. He noted if the windmill pilot project is successful, other sites will be reviewed in the future and the Board needs to be proactive on preserving unobstructed views of the sunset. Vice-Chairman Burrus agreed with Commissioner Johnson stating there should not be an obstruction to sight by these windmills. He stated a committee or the County Manager may need to research what other people have done to handle this type of situation. County Manager Outten noted he has asked staff to be looking into a power/windmill ordinance, but also noted no matter what is passed by the County, the State is not bound by the County’s zoning ordinances. He was not sure how far into the Sound the zoning jurisdiction goes, but stated zoning ordinances adopted will only apply to private entities within the jurisdiction. Commissioner Richard Johnson explained the State requires the County to provide a land use plan and feels this should be taken into consideration. County Manager Outten noted as a legal matter, the State is not required to abide by the County’s ordinances. Commissioner Shea shared his concerns with preserving the value of both sunsets and sunrises. Commissioner Tillett shared the meeting in Hatteras was interesting and felt it might be a good idea if a small group of Commissioners ask for a meeting with Sen. Basnight and Gov. Perdue to share the thoughts and concerns from our constituents. She felt this should be done before a resolution. Commissioner Mike Johnson shared his concerns that these windmills are in the middle of a major wintering ground and flyaway for wintering water fowl. He noted a triangle of Pea Island, Hatteras reef and Ocracoke reef show the windmills in the middle of this flyaway area. He felt the introduction of these structures could potentially have an adverse impact on their behavior and may cause them to leave the County. Vice-Chairman Burrus explained the location was determined without using the Ocracoke reef. He felt this may need to be taken into consideration and suggested a possible committee to review this information. Chairman Judge suggested first contacting the scientists involved to see if they can make a presentation on the pilot project, and stated a meeting with Sen. Basnight and Gov. Perdue could be requested once the Board has heard clarification on the issues. Commissioner Tillett also noted the need to ask the scientists about the potential for noise from the windmills as this question was not clearly answered at the meeting in Hatteras.

Commissioner Mike Johnson – None

Commissioner Tillett noted an email received from Duke Geraghty, Outer Banks Home Builders Association, regarding the use of local contractors in projects by the County. County Manager Outten elaborated on the State Bidding Statutes in which state jobs are awarded to the lowest qualified bidder and not determined by locality. The County has attempted to break larger projects into smaller jobs allowing local contractors to have the opportunity to bid as they are able to obtain smaller bonds. He shared the County does everything they can to allow local contractors as much opportunity as possible, but noted the statutes are very specific. Commissioner Tillett asked if information can be gathered regarding the number of foreclosures in Dare County. County Manager Outten stated he would ask the clerk for this information. She then noted she attended the Dominion Resources meeting with Dorothy Toolan and Edward Lee Mann. She shared they distributed a lot of information at the meeting and would follow up with an email for further distribution of the material. She was impressed by their attempts to improve the grid line for Dare County as it is currently at capacity. They shared three (3) programs that are available to citizens for help during the winter months. Once the email with material for distribution is received, she noted it would be shared with the public. She also attended the 25th Anniversary of the COA campus. She shared Dr. J. Parker Chesson and Dean James’s appreciation for the Commissioners’ support over the years. She noted her attendance, along with Chairman Judge, at the Girl Scouts ribbon cutting for their new facility in the old County Manager’s office. She invited

all to visit as they have done great work on the space. She thanked Edward Lee Mann for sharing information on the new recycling law. She appreciated the presentation and clarification.

Vice-Chairman Burrus shared how he has seen many problems with garbage pickup in other counties and is very thankful for Dare County's system. He commended the service pin recipients for their hard work. He noted he has worked with Jenny Jones and Doug Remaley a great deal. He shared Ms. Jones is patient and kind and works through problems with citizens. He noted he is also fortunate to sit on the Inlet and Waterways Commission with her as she is always dutiful on keeping up with the most current information involving dredging and other issues. He offered congratulations to Tammy Willis and Nate Lusk, officers that work on Hatteras Island. He noted Ms. Willis's good humor even though she handles some of the worst situations with domestic violence on Hatteras Island. He then gave a brief overview of a trip taken to Washington D.C. by himself, Chairman Judge, and County Manager Outten. He explained a lot of times he feels many of the offices seem like they are just trying to send you on your way, while others like Congressmen Miller and Kissell handled the meetings quickly and easily. He was impressed by their quick responses and their involvement in the issues. He shared his gratitude for Governor Perdue and Senator Basnight for writing letters to the Congressmen about the meetings and requests for support. He shared his concerns regarding the windmills. He stated he is not against the windmills, but noted past dealings with the Federal Government and sometimes State Government with projects such as these. He noted the need to preserve tourism and to make sure we are diligent to take time and make sure we know all adverse affects to any project. He felt it was a great idea to have the scientists come for a presentation to hear these concerns and address the issues. He shared the dredging projects are fairly close to being completed. He noted the ten (10) year anniversary of the Cape Hatteras Lighthouse move and he thanked the Senators and Congressman for sending representatives to the event. He also commented while beach access is a problem, access to parks across the country is also an issue. He encouraged everyone to continue to do things that are productive to keep access open to all parks. He congratulated Gary Gross and Dorothy Toolan on winning an award for their efforts with the "Preserve Beach Access" campaign. He shared this is testament to the correct and professional campaign efforts. He thanked everyone for their work to allow families to go to the beach and enjoy spending time with one another.

Commissioner Shea thanked the service pin recipients and the Advanced Law Enforcement Certificate recipients for their hard work. He congratulated Gary Gross and Dorothy Toolan for their award with the Preserve Beach Access website. He encouraged everyone to be aware of Breast Cancer and noted while it primarily affects women, it can affect men as well.

Chairman Judge stated in regards to the Cape Hatteras National Seashore, it is difficult for the Dare County Board of Commissioners and those who work and live in Dare County as it is an uphill battle to debate and defend comments from special interest groups and their powerful lobbies. He cited an email from a resident who feels the government of Dare County opposed the preservation of wildlife and protection of birds and turtles. He noted the opponents paint the Board of Commissioners in this way. He noted in 2005 when he attended the first Public Hearing for the scoping process of the Interim Management Plan, the message he carried from the Board was one of support for free and open access to all who wish to use the CHNS recreational area. He stated the vision and purpose has not changed since this time. He cited a second email regarding a copy of an ongoing blog of annual attendees to the "Wings Over Water" festival. They had read where someone was to blow an air horn in the parking lot of the CHNS recreational area lighthouse in order to scare the birds away. He shared a response from Derb Carter, Southern Environmental Law Center and attorney for the Defenders of Wildlife and National Audubon. Mr. Carter called the people of Dare County "thugs" citing instances of unfounded vandalism and implicating that he knows who committed these acts.

Chairman Judge called on Mr. Carter to bring to justice those who committed these acts as everyone agrees criminals need to be prosecuted to the fullest extent. He stated these are the types of things that hurt the efforts in the campaign. He begged all to make themselves aware of the situation and that the purpose of the Board of Commissioners is to preserve beach access for all. He encouraged everyone to contact congress and the senate to help save next summer for the merchants on Hatteras Island. He felt this is only possible through congressional action. He asked everyone to imagine their favorite activity at the beach and encouraged them to take it to the CHNS recreational area to see how difficult it is to go to the seashore. He also encouraged everyone to imagine these activities could not take place from March 1 until the end of August next year. He explained this is what is happening to those citizens and visitors of Hatteras Island. He then explained how statistics can be interpreted differently and noted how the Park Service is showing an increase in the bird population in 2008 and 2009. He noted 2008's increase is due to the success of the Interim Management Plan as the nests were in place before the Consent Decree went into effect. They also state 2009 as successful even though statistics show fewer birds. He explained the need for citizens and visitors to join in the effort for Congress to affect change and save summer for Dare County next year. He then noted Public Hearings that were held ten (10) years ago on whether or not to move the lighthouse. He stated it is now part of our heritage and culture. He shared his memories of that day and his appreciation for being involved on that day. He jokingly explained how John Hooper had called and asked if the lighthouse could be moved back as it was great for business. He noted the "Bike the Light" fundraiser by the Hatteras Kiwanas Club where participants decorated bikes, wore costumes, and rode their bikes from the Cape Hatteras School of Coastal Studies to the Lighthouse. He shared his hopes for visitors to be involved in this event in the future. He thanked the many participants and asked Commissioner Mike Johnson and Vice-Chairman Burrus to encourage the Tourism Board to have a festival each weekend. He announced on 3:00 p.m. on October 19, the Dare County Center will hold its ribbon cutting and grand opening and encouraged all to attend. Commissioner Richard Johnson commented on Derb Carter's "thug" comment stating this should be viewed as a badge of honor as the radicals are attacking because we are doing the things we should be doing in the fight against them. He feels we are exactly where we should be in representing our people. Chairman Judge thanked Commissioner Richard Johnson for his comments and related everyone involved in the effort feels this way.

MANAGER'S/ATTORNEY'S BUSINESS (Att. 4)

County Manager Outten explained budget funds were approved for the renewal of the PAMCO Implement, Inc. lease agreement. Since that time, he has been working with the landlord on the terms of that lease. These terms have been finalized and consist of renewing the old lease for a three (3) year term with a two (2) year renewal right on the County's part. The price was noted in the budget and the County agreed to pay maintenance, insurance, and taxes. He asked for authorization to renew the lease based on these terms.

MOTION

Commissioner Shea motioned to authorize the County Manager to enter into the lease agreement based on the terms as detailed.

Vice-Chairman Burrus seconded the motion.

VOTE: AYES unanimous

Mr. Dave Clawson, Finance Director, noted the County is always monitoring debt refinancing opportunities and currently Series 1998 and certain maturities of the 2001 Series are marginal at 3%. He explained the Series 1998 was done under an old indenture when it was traditional for the counter parties to be the underwriting bank (First Union). They are currently trying to figure out what structure new refinancing would have and what would be needed from First Union and Wachovia/Wells Fargo. He noted a Public Hearing may be needed for the refinancing. He requested the Board's authorization to pursue the refinancing in an attempt to be ready

when the refinancing structure is ready. He asked a Public Hearing be scheduled for October 19, 2009 at 5:30 p.m. if it is necessary.

MOTION

Commissioners Tillett and Shea motioned to authorize the Finance Director to proceed with the refinancing and to schedule a Public Hearing on this refinancing for October 19, 2009 at 5:30 P.M.

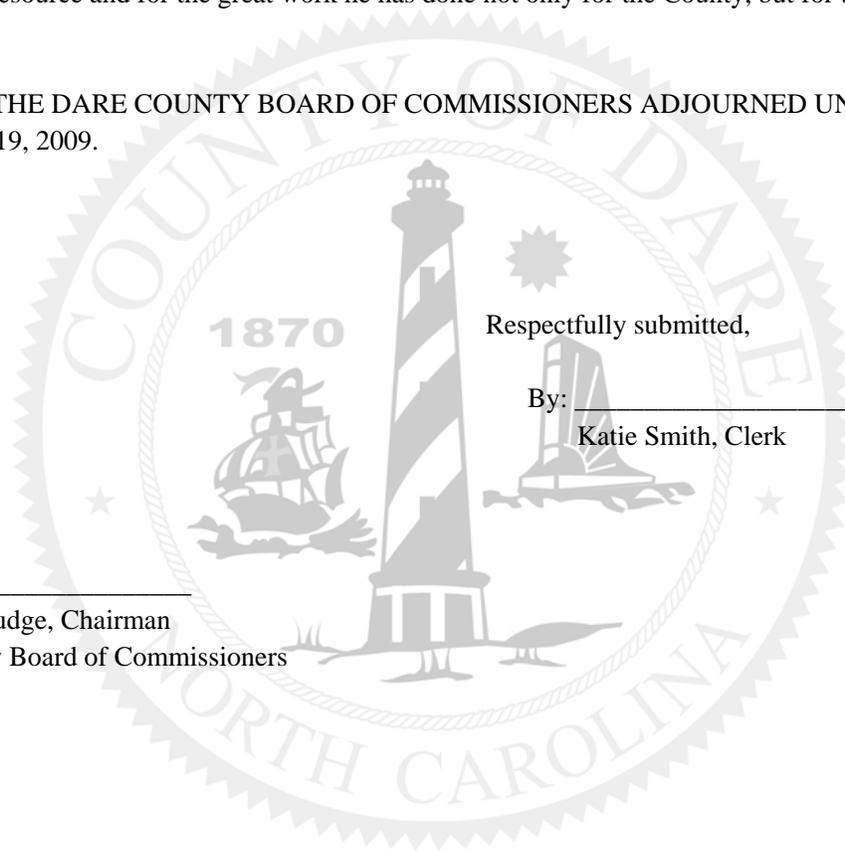
Vice-Chairman Burrus seconded the meeting.

VOTE: AYES unanimous

County Manager Outten presented Dave Clawson, Finance Director, with the Outstanding County Finance Officer award. He explained for the past year Mr. Clawson was the President for the North Carolina Association of County Commissioners Finance Officers. He shared his appreciation for Mr. Clawson being such a valuable resource and for the great work he has done not only for the County, but for the entire State of North Carolina.

AT 11:24 A.M. THE DARE COUNTY BOARD OF COMMISSIONERS ADJOURNED UNTIL 5:00 P.M. ON OCTOBER 19, 2009.

(SEAL)



Respectfully submitted,

By: _____
Katie Smith, Clerk

APPROVED:

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