



# 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

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## DARE COUNTY BOARD OF COMMISSIONERS MEETING

November 19, 2012 — 5:00 p.m.

Dare County Administration Building, Manteo, NC

**Commissioners Present:** Chairman Warren Judge, District 3; Vice-Chairman Allen Burrus, District 4; Virginia Tillett, District 1; Max Dutton, District 2; Jack Shea, District 5

**Commissioners Absent:** Richard Johnson, District 1; Mike Johnson, District 2;

**Others Present:** County Manager/Attorney Bobby Outten; Finance Director, Dave Clawson; Public Information Officer, Dorothy Killingsworth, Clerk to the Board, Gary Gross

**Public Comments:** Made by two (2) people — Heidi Leo, and Perry White

### **Presentations:**

Outer Banks Catch recognized the photo contest winners from the Outer Banks Catch Education & Heritage Tent at the Seafood Festival

### **Actions:**

Proposed Zoning Text Amendment to Allow Temporary Seafood Sales — **Item was pulled from the Agenda**

Engineering Services Contract Approval Nanofiltration Pilot Plant Testing and Preliminary Design Report for the Skyco Nanofiltration Water Treatment Plant — **Approved**

Budget Amendment 2011 & 2012 Water Capital Project Ordinance — **Approved**

Hiring of Deputy Pursuant to NCGS 153A-103 — **Approved** hiring Brent Doughtie as Deputy Sheriff

Amendment to Grant Project Ordinance for FEMA Final Audit of Debris for Hurricane Irene — **Approved**

Report on Rodanthe Beach Nourishment — **Directed** the County Manager to proceed with the RFQ (Request for Qualifications) process

Policy on Funding of Special Appropriations — **Approved**

Public Hearing — 2013 Schedules, Standards, and Rules for Real Property Appraisal — **Conducted** a Public Hearing

Public Hearing—H345 Text Amendment to Add Temporary Portable Concrete Plants — **Conducted** a Public Hearing & **Adopted** the proposed H345 Text Amendment to allow temporary portable concrete plants, & **Adopted** the finding statement prepared by staff

Consent Agenda — **Approved**

1. Approval of Minutes (11.05.12)
2. Health — Received State Funds to Supplement the Immunization Action Plan
3. Sheriff's Department—Reclassify Position
4. Dare County EMS Ambulance Purchase
5. Tax Collectors October 2012 Reports

Manager's/Attorney's Business — *Following is a brief synopsis of Manager/Attorney items, see the Minutes for more information —*

1. **Authorized** the County Manager to grant a final extension until December 31, 2012 on the Roanoke Island Water Expansion Project
2. **Approved** a C&D landfill fee policy outlined by the County Manager

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Chairman Warren Judge called the November 19, 2012 meeting of the Dare County Board of Commissioners to order at 5:01 p.m. He invited the Rev. Spottswood Graves to share a prayer, and then he led the Pledge of Allegiance to the flag.

Chairman Judge explained that Commissioner Mike Johnson would not be present due to a schedule conflict, but would have a comment later in the meeting. The Chairman reported that Commissioner Richard Johnson extends his apologies but would likely not make it back from Chapel Hill in time to attend the meeting after an unavoidable change of his doctor's appointment.

It was announced by Chairman Judge that Item 3 (Proposed Zoning Text Amendment to Allow Temporary Seafood Sales) will be pulled from the Agenda. He explained that two Commissioners attending tonight's meeting will need to recuse themselves, and with two Commissioners' absent, there would only be three Commissioners available, which is not enough for a quorum. He added that the applicant has been informed and that this item will be on a future Agenda.

#### **ITEM 1 – PUBLIC COMMENTS**

The County Manager outlined the procedure for making public comments. Two (2) people spoke –

- 1) Heidi Leo said she has seen Dare County Schools (DCS) slowly slip from being a great system to one that struggles with being above average. She said DCS technology has not been overhauled since the nineties and has not kept up with the times. Ms. Leo said DCS is no longer at the top and commended Currituck County schools for their investment in technology infrastructure and 21<sup>st</sup> century skills programs. She said Currituck County offers Early College School and DCS does not. Ms. Leo said good school rankings attract businesses and families and called on the Board of Commissioners to hold DCS responsible for their actions. She recommended a task force be appointed saying that students, teachers, parents, and taxpayers deserve better.
- 2) Perry White said the Dare County EMS Ambulance Purchase item on the Consent Agenda should be commended. He explained that the piggyback purchase of ambulances saves money and is something that should be looked into more often by local governments. He expressed gratitude to whoever did the due diligence on this item.

#### **ITEM 2 – OUTER BANKS CATCH – PHOTO CONTEST WINNERS**

Dorothy Killingsworth reported that the recent Seafood Festival was special because of the Outer Banks Catch "Education and Heritage" tent. She explained that a team of volunteers showcased the work of our local Working Watermen and she reviewed the educational and heritage components featured at the Outer Banks Catch tent. She introduced Carl Curnutte and thanked him for serving as Chairman of the project. Mr. Curnutte said the tent celebrated our Working Watermen, a group that is culturally unique in our community. He thanked the volunteer committee and the sponsors of the Outer Banks Catch tent saying we have the most generous community on earth. Mr. Curnutte introduced Sharon Tinnell, Chair of the photo contest. He explained that the 2012 Life on the Water Photo Contest was designed to tell a story through photographs. The photo contest winners were called forward to receive their prizes. The photography of Katie Monday, Craigen Davenport, Daniel Waters, Jessica Wentz, Kera Miller, Ray Midgett, Chandler Tillet, Billon Hollingsworth, and Sadie Daniels were recognized. Chairman Judge thanked the group for their efforts and recognized Carl Curnutte for his leadership on this project.

#### **ITEM 3 – PROPOSED ZONING TEXT AMENDMENT TO ALLOW TEMPORARY SEAFOOD SALES**

This item was pulled from the Agenda. In convening the meeting, the Chairman explained that two Commissioners attending tonight's meeting will need to recuse themselves, and with two Commissioners' absent, there would only be three Commissioners available, which is not enough for a quorum. He added that the applicant has been informed and that this item will be on a future Agenda.

#### **ITEM 4 – ENGINEERING SERVICES CONTRACT APPROVAL NANOFILTRATION PILOT PLANT TESTING AND PRELIMINARY DESIGN REPORT FOR THE SKYCO NANOFILTRATION WATER TREATMENT PLANT (Att. #1)**

Ken Flatt said the price of salt used at the Skyco Water Plant has almost doubled. He introduced the Water Department's consultant, Ian Watson of Rostek and Associates, who has looked at available options. Mr. Watson

said a study was done to determine where water will be needed and what plant will best supply it. He outlined a PowerPoint presentation that reviewed the demand forecast and current peak capacity. Mr. Watson provided details on expansion options and listed the benefits of changing to nanofiltration (NF). Commissioner Shea asked if there would be any difference in water taste with NF. Mr. Watson said there would not be much difference. In response to Chairman Judge's question about the project's timetable, Mr. Watson said the protocols would first be submitted to the State followed by piloting, which could begin in the 2<sup>nd</sup> quarter of 2013. Commissioner Tillett asked if the contract price is firm. Mr. Watson said it is a lump sum contract covering all work listed in the scope. He added that any extra work that the County may want to have done would be at an additional charge.

**MOTION**

Commissioner Shea motioned to approve the contract with Rostek Associates.

Commissioner Dutton seconded the motion.

VOTE: AYES unanimous

**ITEM 5 – BUDGET AMENDMENT 2011 & 2012 WATER CAPITAL PROJECT ORDINANCE (Att. #2)**

Ken Flatt presented a Water Capital Project Ordinance (CPO) for FY2011 to amend the one originally adopted on November 1, 2010. He also presented a FY2012 CPO to amend the one originally adopted on October 3, 2011. The amended versions pertain to the NRO plant expansion engineering and design, Skyco plant nanofiltration pilot study, NRO production wells #13 & #14 design, and Skyco plant nanofiltration design.

**MOTION**

Commissioner Shea motioned to approve the Water Capital Project Ordinance for FY2011 CIP Approved Projects and approve the Water Capital Project Ordinance for FY2012 CIP Approved Projects.

Commissioner Dutton seconded the motion.

VOTE: AYES unanimous

**ITEM 6 – HIRING OF DEPUTY PURSUANT TO NCGS 153A-103 (Att. #3)**

Sheriff Doug Doughtie said he wanted to hire Brent Doughtie, a blood relative, as Deputy Sheriff. He reported that other Sheriffs in North Carolina have done this including the Currituck County Sheriff. He explained that he always tries to hire people who are in or from Dare County because they understand the cost of living on the Outer Banks. He added that his son, Brent Doughtie, is established in this community and is a good candidate for a Deputy Sheriff position. Sheriff Doughtie asked the Board to approve the hire as required in NCGS 153A-103.

**MOTION**

Vice-Chairman Burrus motioned to approve the hiring of Brent Doughtie.

Commissioner Shea and Commissioner Dutton seconded the motion.

VOTE: AYES unanimous

**ITEM 7 – AMENDMENT TO GRANT PROJECT ORDINANCE FOR FEMA FINAL AUDIT OF DEBRIS FOR HURRICANE IRENE (Att. #4)**

Finance Director David Clawson said the amendment to the Grant Project Ordinance reflects FEMA's final audit of debris for Hurricane Irene. He outlined the eligible and ineligible items for an expenditure increase of \$905,497 and a revenue increase of \$502,942. Mr. Clawson said there is \$328,436 under second appeal for Colington and Martin's Point debris. He said \$370,780 is the estimated fund balance remaining after Hurricane Irene costs.

**MOTION**

Commissioner Tillett motioned to adopt the amendment to the grant project ordinance as presented.

Commissioner Dutton and Vice-Chairman Burrus seconded the motion.

VOTE: AYES unanimous

**ITEM 8 – REPORT ON RODANTHE BEACH NOURISHMENT (Att. #5)**

County Manager, Robert Outten, said in response to instruction from the Board of Commissioners he has looked at a timeline for beach nourishment. He reported that Nags Head took 6.5 years. Mr. Outten said he talked with Tim Kana from Coastal Science and Engineering who was involved in the Nags Head project. He reported that Mr. Kana said that the Rodanthe area would be a challenging project and that it might cost \$20 to \$24 million, which would be two thirds of Nags Head's project. He said Mr. Kana described it as a doable project that could take two to three years. Mr. Outten said if the Board wants to move forward the next step would be gathering Requests for Qualifications (RFQ's), and then choosing a consultant. The Board of Commissioners by consensus directed the County Manager to proceed with the RFQ process.

**ITEM 9 – POLICY ON FUNDING OF SPECIAL APPROPRIATIONS (Att. #6)**

The County Manager presented a policy pertaining to political campaign activities by entities that receive special appropriations from the County. He said there are some freedom of speech issues involved and he consulted with the UNC School of Government. In drafting the policy, Mr. Outten said he patterned it after the Internal Revenue Service (IRS) code for 501c3 tax-exempt status.

**MOTION**

Commissioner Shea motioned to adopt the policy on funding of special appropriations.

Commissioner Dutton seconded the motion.

VOTE: AYES unanimous

**ITEM 10 – PUBLIC HEARING – 2013 SCHEDULES, STANDARDS, AND RULES FOR REAL PROPERTY APPRAISAL (Att. #7)**

At 5:45 p.m., the Dare County Board of Commissioners held a Public Hearing to receive input concerning the 2013 Schedules, Standards, and Rules for Real Property Appraisal. County Manager Outten conducted the hearing and explained the procedure for making comments. No one in the meeting room responded. Chairman Judge closed the hearing at 5:46 p.m.

**ITEM 11 – PUBLIC HEARING – H345 TEXT AMENDMENT TO ADD TEMPORARY PORTABLE CONCRETE PLANTS**

At 5:46 p.m., the Dare County Board of Commissioners held a Public Hearing to receive input concerning the H345 Text Amendment to Add Temporary Portable Concrete Plants. County Manager Outten conducted the hearing and explained the procedure for making comments. The following people spoke –

- 1) John Robbins said he supports the plant, but had a couple of suggestions to offer. He said the setback should be 2 times the height of the project's tower structure, and that the parcel should be four contiguous acres of the land. In making these recommendations, Mr. Robbins said otherwise he supports the project.
- 2) Bryce Faust, General Superintendent for PCL, the Contractor for the Bonner Bridge project, said the quantity of material at the site will be carefully managed and it will not be a massive amount. He said the majority of the concrete for the new bridge will not come out of this plant. He said approximately 70% will be precast.

Chairman Judge closed the hearing at 5:53 P.M.

Mr. Chris Seawell, on behalf of CC on the Outer Banks LLC, informed the Board that there are problems associated with the plant's distance from the bridge. He explained that there is a limited time window during which concrete must be delivered. He said this requirement eliminates some possible sites in Dare County because they are too far from the project site and provided internet material showing the distance from East Lake. Mr. Seawell said when the project is completed the area will be restored. He noted that this will be a conditional use and the Board can incorporate whatever concerns they have. Mr. Seawell asked the Board to allow this project to move forward and identified Larry Tysinger and Tim Newsome and said they and other experts are available to answer questions.

Chairman Judge read an email from Commissioner Richard Johnson outlining three conditions he would insist upon:

- 1) a bond assuring that the site will be restored after the project is completed.
  - 2) setting hours that restrict concrete trucks and deliveries during the morning rush when people are going to work and school.
  - 3) the driveway to the plant must be designed wide enough that tractor trailers do not block smooth traffic flow, and possibly requiring a flashing yellow light during the plant's operating hours.
- Vice-Chairman Burrus noted that the existing driveway barely has enough room. Mr. Newsome, from Commercial Ready Mix, answered questions pertaining to the cement silo and dust collector. There was considerable discussion on the amount of money that should be required for the bond. Mr. Outten said in addition to whatever amount the Board decides, he would recommend adding language that if the bond is insufficient, the applicant would still be liable. Commissioner Tillett agreed with Commissioner Richard Johnson that the Wanchese community worked hard for their zoning and the Board should make sure the site is properly restored. Commissioner Dutton asked how long it would take for the land to be restored at the conclusion of the project. Planning Director, Donna Creef said the draft specifies 30 days for completion before the performance bond takes effect. In response to questions about the length of the project, Mr. Faust said it will be 39 months from when he receives the Notice to Proceed. Commissioner Tillett asked if any citizen comments have been received. Ms. Creef said there has been none, however, a sign was posted on the property and the item was

advertised. There was extensive discussion of possible hours of operation for the concrete plant. Mr. Faust said a large amount of work will be done at night and they must coordinate with restrictions established by NCDOT, however, a 90-minute restriction in the morning and in the afternoon would not be insurmountable. Chairman Judge noted that the applicant, a good corporate citizen, will need to come back with a site-specific plan.

**MOTION**

Vice-Chairman Burrus motioned to adopt the proposed H345 text amendment to allow temporary portable concrete plants and to adopt the finding statement prepared by staff in conjunction with this amendment.

Commissioner Dutton seconded the motion.

VOTE: AYES unanimous

**ITEM 12 – CONSENT AGENDA (Att. #8)**

County Manager Outten presented the Consent Agenda.

**MOTION**

Commissioner Shea motioned to approve the Consent Agenda:

- 1) Approval of Minutes (11.05.12)
- 2) Health – Received State Funds to Supplement The Immunization Action Plan
- 3) Sheriff's Department – Reclassify Position
- 4) Dare County EMS Ambulance Purchase
- 5) Tax Collectors October 2012 Reports

Commissioner Dutton seconded the motion.

VOTE: AYES unanimous

**ITEM 13 – COMMISSIONERS' BUSINESS**

Commissioner Mike Johnson – by audio recording

- For his last meeting as a Dare County Commissioner, he expressed his appreciation for current and past Members of the Board of Commissioners. He also thanked the employees of Dare County for the high quality service they give and the considerable sacrifice they have made to help their neighbors. He also thanked the citizens of Dare County for electing him and giving him the privilege to serve the community as a Dare County Commissioner.

Vice-Chairman Allen Burrus

- He thanked the Ferry and Road Division of NCDOT and extended his condolences to the family of the NCDOT employee who lost his life while on the job.
- He thanked Commissioner Mike Johnson and noted that he has enjoyed serving with him.
- Vice-Chairman Burrus wished everyone a Happy Thanksgiving and a God blessed holiday.

Commissioner Jack Shea

- He said Commissioner Mike Johnson has been a real asset and thanked him for his service.
- He thanked the Board of Commissioners for what they do especially during hurricanes.
- Commissioner Shea wished everyone a safe and Happy Thanksgiving.
- Said he and Commissioner Dutton met with school officials and asked Commissioner Dutton to give a summary report.

Commissioner Max Dutton

- He thanked Commissioner Mike Johnson.
- Commissioner Dutton explained that he and Commissioner Shea met with Dr. Burgess and staff regarding questions about early college studies. He said they were impressed with what they were told. He said Dare County has Advanced Placement (AP) classes where students can earn college credit while still in high school. He provided enrollment details and Commissioner Shea noted that AP classes are considered valuable by colleges and universities. Commissioner Dutton said the Dare County schools are also considering teaming up online with a university.
- Commissioner Dutton wished everyone a Happy Thanksgiving to enjoy with their family and friends.

### Commissioner Virginia Tillett

- She thanked Commissioner Dutton and Commissioner Shea for their report on the excellent offerings of Dare County Schools.
- She commended Commissioner Mike Johnson for his service and friendship and noted that he will be missed.
- Commissioner Tillett wished everyone a Happy Thanksgiving holiday.
- She asked about the proposed temporary closure of the Alligator River Bridge. County Manager Outten said he would address that during Manager's Business.
- Commissioner Tillett asked if it would be possible to have a later time for the last ferry to leave Stumpy Point. She said this would accommodate people in the workforce. Mr. Outten outlined the current ferry schedule and explained that there are crew time and Coast Guard issues involved. He said if given specifics about additional ferry service requests he could contact NCDOT and see what can be done.
- She asked the Manager if any Board Members submitted legislative goals for the NC Association of County Commissioners (NCACC) or provided any opportunities to name something in honor of Senator Marc Basnight. She was told that no legislative goals or naming opportunities were submitted.
- Commissioner Tillett reminded the Board of Commissioners that the JCPC is planning a luncheon for them at the December 3<sup>rd</sup> meeting.

### Chairman Warren Judge

- He said NCDOT is conducting a meeting on November 29 about the proposed temporary closure of the Alligator River Bridge.
- He expressed his appreciation for Commissioner Mike Johnson.
- He acknowledged Commissioner Elect Bob Woodard.
- Chairman Judge noted that Jim Trogdon, NCDOT's Chief Operating Officer, has been to Dare County and met with Dennis Stewart from U.S. Fish and Wildlife about the situation on Highway 12 at Mirlo Beach. He said although nothing was decided, Mr. Trogdon went back to Raleigh feeling good that the agencies are working on the problem and making efforts for a solution.

### **MANAGER'S/ATTORNEY'S BUSINESS**

- 1) County Manager Outten explained that calls are still coming in from people wanting to connect to the Roanoke Island water expansion project. He asked the Board to consider granting a final extension until the end of calendar year 2012. He added that a letter will be sent to all those who have been assessed but have not hooked-up to the system informing them that this will be the last extension.

#### **MOTION**

Commissioner Shea motioned to authorize the County Manager to grant a final extension until December 31, 2012.

Vice-Chairman Burrus, Commissioner Dutton, Commissioner Shea, and Commissioner Tillett seconded the motion.

VOTE: AYES unanimous

- 2) Mr. Outten said the C&D landfill site has had inconsistencies in the policy pertaining to charges. He said individuals get to drop off 500 pounds free and pay for the remainder. He explained that material taken to the convenience site at Kill Devil Hills or Nags Head incurs no charge when the municipality transports it to the landfill. However, Kitty Hawk is charged when material is taken to the Kitty Hawk roll-off box. Mr. Outten recommended that everyone be charged the same. He said he would like to give the towns notice and inform them that beginning January 1, 2013, whatever C&D is taken to the landfill will be charged at the tipping rate. He said individuals will get 500 pounds free and everyone else will pay the scale rate.

#### **MOTION**

Commissioner Shea motioned to approve the policy outlined by the County Manager.

Vice-Chairman Burrus seconded the motion.

VOTE: AYES unanimous

- 3) County Manager Outten reported on a proposed temporary closure for repairs of the Alligator River Bridge. He said NCDOT will conduct a meeting November 29, 2012 at the Town of Columbia Municipal Building

to discuss a possible two-week bridge closure that is being considered for February or March of 2013. The purpose of the meeting is to discuss impacts and explore alternatives. He said that in talking with the Town of Columbia Manager, it appears the closure would involve 200 people per day who go back and forth from Dare County. Commissioner Tillett asked about the impact of the bridge closure on tourism and the workforce. There was discussion of alternate routes and the extra time that would be required. Mr. Outten said he will be attending the November 29 meeting and invited the Board to participate to help NCDOT understand the importance of the Alligator River Bridge.

AT 7:27 P.M. THE DARE COUNTY BOARD OF COMMISSIONERS ADJOURNED UNTIL 9:00 A.M. ON DECEMBER 3, 2012.



Respectfully submitted,

By:   
Gary Gross, Clerk to the Board

APPROVED:

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

