



County of Dare

P.O. Box 1000 | Manteo, NC 27954

MINUTES

DARE COUNTY BOARD OF COMMISSIONERS MEETING

Dare County Administration Building, Manteo, NC

9:00 a.m., August 7, 2023

Commissioners present: Chairman Robert Woodard, Sr., Vice Chairman Wally Overman
Rob Ross, Steve House, Danny Couch, Jim Tobin, Ervin Bateman

Commissioners absent: none

Others present: County Manager/Attorney, Robert Outten
Deputy County Manager/Finance Director, David Clawson
Master Public Information Officer, Dorothy Hester
Clerk, Skyler Foley

A full and complete account of the entire Board of Commissioners meeting is archived on a video that is available for viewing on the Dare County website www.darenc.gov.

At 9:03 a.m. Chairman Woodard called to order the regularly scheduled meeting with appropriate prior public notice having been given. He invited Rev. Cherri Wheeler to share a prayer, and then he led the Pledge of Allegiance to the flag.

Chairman Woodard administered an oath to Skyler Foley, who was sworn in as Clerk to Board.

ITEM 1 – OPENING REMARKS – CHAIRMAN’S UPDATE

Following is a brief outline of the items mentioned by Chairman Woodard:

- Recognized the passing of Jack Shea, a fellow board member. He discussed many of the achievements Mr. Shea accomplished throughout his lifetime.
- Presented Suzanne Tate and James Melvin with Certificates of Appreciation in recognition of the best-selling children’s “Nature Series” of books the pair have created together over the past three decades.

ITEM 2 – PRESENTATION OF COUNTY SERVICE PINS

- 1) Margaret Lee received a 15-year pin.
- 2) Amy Crawford received a 20-year pin.
- 3) Jeffrey Ambrose received a 20-year pin.

ITEM 3 – EMPLOYEE OF THE MONTH – August, 2023

Norma Miranda received the Employee of the Month award from Roxanna Ballinger who described the many ways that Norma Miranda is an asset to the Health & Human Services Department.

ITEM 4 – PUBLIC COMMENTS

At 9:32 a.m. the Manager outlined the procedure for making public comments in Manteo and via the video link to the Fessenden Center Annex in Buxton. *Following is a summary of citizen remarks from Manteo.*

1. Ronald Williams spoke against the proposed cluster home and stated that is located on a very narrow strip of property. He presented the Board with a ten-page petition of individual signatures that are against the development.
2. Donald Taylor spoke against the proposed cluster home and expressed that it is being proposed on a narrow strip of land. Explained that the neighbors on Kitty Lane are already visible and feels that it will be too crowded once seven additional homes and a road get constructed in between.
3. Jim Schultz spoke against the proposed cluster home and stated that it is being proposed on a narrow, long strip of land. He also explained that there is no entrance from the east side due to a canal and feels there is no space for guest vehicles. Expressed that the proposed development by Mr. Stowe does not fit the parcel and is too much construction.
4. Chris Hanbarger stated that he is against the proposed cluster home and echoed the previous comments. Expressed that he is concerned about the elevation, flooding, and wastewater.
5. Ray Meekins stated that he was reserving comments for the Quasi-Judicial hearing.
6. Basil Hooper spoke against the proposed cluster home development and expressed his concerns about the traffic, lack of sidewalks, ingress & egress capabilities, and safety issues with emergency vehicle apparatus having access.
7. Donna Creef, Government Affairs Director for OBAR, presented a “Resolution in Support of the National Flood Insurance Reauthorization and Reform Act of 2023” that the Outer Banks Association of Realtors recently adopted.

The following comments were made in Buxton – There were no comments made in Buxton

The County Manager closed Public Comments at 9:49 a.m.

ITEM 5– PUBLIC HEARING DARE COUNTY ORDINANCES S-13 AND S-14 (Att.#1)

At 9:50 a.m. the Board held a Public Hearing to receive input concerning this agenda item. The Manager outlined the procedure for making public comments in Manteo and via the video link to the Fessenden Center Annex in Buxton. Following is a summary of all citizen remarks, which may be viewed in their entirety in a video on the County website:

The following comments were made in Manteo – There were no comments made in Manteo

The following comments were made in Buxton – There were no comments made in Buxton

The County Manager closed the Public Hearing at 9:50 a.m.

MOTION

Vice Chairman Overman motioned to adopt the resolution to adopt the Dare County Ordinance supplements numbered S-13 and S-14.

Commissioner House seconded the motion.

VOTE: AYES unanimous

MOTION

Commissioner House made a motion to amended the resolution to remove the word "Deputy" from "Skyler Foley, Deputy Clerk to the Board."

VOTE: AYES unanimous

ITEM 6 – WILLIAM DAVID STOWE CLUSTER HOME DEVELOPMENT – SPECIAL USE PERMIT APPLICATION #5-2023

This agenda item was handled as a quasi-judicial proceeding. Planning Director Noah Gillam, William David Stowe (applicant, Mark Bissell (engineer, and David Dixon (attorney, were all duly sworn by the Clerk before offering any testimony.

Mr. Outten stated that the Cluster Home Ordinance has been repealed from the area where the cluster home is proposed, although the application was submitted prior to the repeal which allows the applicant to move forward with the ordinance that was previously enforced.

Mr. Outten asked if there was anyone else that would like to present evidence. Ray Meekins was duly sworn in by the Clerk.

Mr. Gillam provided the Board with a staff memo and an evidence packet that included details concerning the SUP application for Parcel No. 014690002, along with the Fire Marshal's comments, a floor and site plan, and other additional details.

Commissioner Ross asked Mr. Gillam if there are any conditions implemented to the vegetative buffers on the north and south property lines. Mr. Gillam responded that vegetative buffers are not required by the ordinance and there are no conditions drafted on the SUP at this moment, but it can be added.

Vice-Chairman Overman asked Mr. Gillam for clarification on the initial verbiage that states the separation of the units being 24-feet and then in subsequent it states 15-feet. Mr. Gillam answered that the requirement of the ordinance is that the dwellings are separated by 15-feet but Mr. Stowe has increased that separation to 24-feet exceeding the requirement of the ordinance.

Mr. David Dixon (attorney on behalf of Mr. Stowe asked Mr. Gillam the following questions. Mr. Gillam's responses are italicized in bold following the questions.

1. Have all the terms and conditions of the special use permit been met? – ***As far as the site plan goes, yes.***
2. Are there any other things showing that the special use permit has not been met? – ***At this time, no sir.***

3. At this time, is the vegetation that the commissioner had pointed out, has that been added even though it is not required? - **Yes Sir.**
4. I believe some extra parking was added even though it is not required? – **Yes sir.**

Mr. Krause Gray (attorney that represented Mr. & Mrs. James Coleman) asked Mr. Gillam the following questions. Mr. Gillam's responses are italicized in bold following the question.

1. You indicated that the square footage of this project is 68,963 square feet? – **Yes sir.**
2. What is the lot coverage based on 68,963 square feet as delineated on the site plan if you remember? – **He would be allowed up to 30% lot coverage.**
3. It was something like 29.63% or something in that range, correct? – **Yes sir.**

Commissioner Bateman asked for clarification on whether or not if there is a ten-foot buffer on the site plan. Mr. Gillam stated that he believes that there is a vegetative buffer on the north and south property boundaries. Commissioners Bateman believes that there needs to be a large barrier such as Russian Olives.

Mr. Outten asked Mr. Gillam if we had a definition in other places within the ordinance for vegetative buffers that we could use as the definition in this case. Mr. Gillam stated that there are some zoning districts that have vegetative buffer language when a commercial use abuts a residential property, but not specifically in the R-2A zoning district or in the Cluster Home Ordinance. Mr. Gillam explained that the definition is typically five-feet of vegetation or some type of opaque screening or fencing.

Commissioner Ross inquired where the five-foot vegetative buffer on the site plan came from. Mr. Gillam explained that the applicant and Mr. Bissell proposed that on their own. Mr. Gillam then clarified that the five-foot buffer is width, not height.

Vice-Chairman Overman inquired about the ingress and egress of an emergency vehicle apparatus and wanted to ensure that the Fire Marshal approved it. Mr. Gillam stated that on the east end of the property adjacent to the last house there is an area for emergency vehicle apparatus to turn around and that the Fire Marshall has signed off on the proposed construction.

Mr. Bissell (engineer representing Mr. Stowe) approached the podium to address the Board. His comments are exhibited below:

- Believes the project is an appropriate use and there is an appropriated amount of density for the site.
- The property has adequate access from the existing road and has greater than 120-feet of width at the west end.
- On the north side, within the same length of roadway, there are six exiting lots. On the south side, within the same length of roadway, there are eight exiting lots.
- Seven lots are being proposed which is right in between which makes it roughly the same density as the adjacent development on both sides.
- From a traffic standpoint DOT figured ten trips per day per a standard single-family home. When you spread those out within a typical twelve-hour day you've got maybe one trip for every ten to eleven minutes.

- Provided a guest parking space for each of the units so there will not be parking blocking the road.
- The property is only about a couple of blocks from the existing elevating tank which allows there to be adequate water for fighting fires.
- There is a 20-foot road being proposed with a fire truck turnaround that's designed in accordance with the North Carolina Fire Code.
- A Bed-Type Wastewater System for each unit has been proposed so there is adequate wastewater treatment performed in a smaller footprint. Which allows preservation of vegetation behind the units and the property lines.
- The project does meet all of the requirements of the zoning ordinance of section 22-31.1. and all of the SUP conditions have been met and they are all reasonable and appropriate.
- Buffers are being provided, but on the north side due to the sites configuration there is ten-feet available between the edge of the pavement and the northern property line. They have designed the road so that all the drainage is too the south. On the north side there is a five-foot shoulder for the road and the water line. This then gives the ability to have a vegetative buffer within the remaining five-foot buffer.

Commissioner Ross asked for clarification on what the 2WL stands for that shown on the site plan across the northern property line. Mr. Bissell explained that it represents a two-inch water line. Mr. Bissel further explained that there is a proposed eight-inch water line that comes into the site up to the location of a proposed fire hydrant that will provide fire protection for the development and then once you get beyond that hydrant the water line reduces to two-inch positions providing only domestic service at that point.

Commissioner House asked Mr. Bissell if the fire hydrant that is displayed on the site plan had been moved 37-feet further into the development per the Fire Marshal's report. Mr. Bissell stated that the site plan the Board is reviewing should be reflective of that change.

Vice-Chairman Overman asked Mr. Bissell about the stormwater runoff being contained on site and if that is what the proposed infiltration basin is for. Mr. Bissell answered by stating that is right and that they will be collecting water from the homes and from the roadway and running it to a proposed infiltration basin on the east end of the site which will be more than adequate to meet the requirements for storm water management.

Commissioner Ross inquired if the north and south vegetative barriers could be specified to be Russian Olives. Mr. Bissell stated that it could certainly be specified on the north side but they are hoping to preserve existing vegetation as much as possible on the south side. Although, if they cannot preserve it, a Russian Olive barrier would be appropriate there as well.

Mr. Dixon asked Mr. Bissell the following questions. Mr. Bissell's responses are italicized in bold.

1. What qualifications and licenses do you have? ***I am a registered professional engineer in North Carolina.***

2. How long have you been doing this? *I've been practicing since 1984 I believe.*
3. Do you familiarize yourself with this special use permit and the requirements? *I have.*
4. Have all of the terms and conditions of the special use permit been met? *The conditions all have been met or will be meet before the project goes to record.*

Mr. Gray asked Mr. Bissell the following questions. Mr. Bissell's responses are italicized in bold.

1. With the stormwater retention pond, have you done the calculations as to how much it will be able to hold? *We have done some rough calculations and believe that it's in excess of the requirements. The final will be done with the final grading plan when we apply to the state for an actual permit.*
2. So, the actual amount that it will hold, you do not know yet? *Not yet.*

Mr. Outten stated the Stormwater Permit is a state requirement and it has to be met prior to obtaining a building permit. Mr. Bissell agreed and explained that is one of the conditions that has been proposed as part of the SUP.

Chairman Woodard stated that one of the ordinances in section 22.31.1 talks about long term occupancy and it is defined in the County Zoning Ordinance as a residential dwelling that is occupied and used for residency in housekeeping proposed for a period of thirty-one days or more. He asked the applicant rather than short-term rentals; would he consider extending it to a one-year rental requirement? The applicant responded by stating that with his previous experience with having rental homes that it would be better to do long term rentals. He indicated that he does not want someone going in there every thirty days and the longer they stay the better.

Commissioner Couch explained that the spirit of the central workforce when we were developing this was making things available for law enforcement, medical professionals, and school teachers. He asked the applicant if it was in his intent to provide essential housing for people in the labor force? The applicant indicated that was his intent.

Commissioner Bateman asked if the applicant could tell him roughly what he would be charging for rent and can the average individual afford this place? The applicant stated that he would charge roughly fifteen hundred a month.

Commissioner Bateman asked the applicant if he had a problem putting a buffer on the south side? The applicant explained that there is a lot of vegetation there already and his intent is to leave all the natural trees and vegetation there. He expressed that there are some places that are bare but he would be willing to put something in those bare spots.

Chairman Woodard acknowledged one of the comments that was made during public comment stating that the project would make the area less safe. He asked the applicant if there was any reason to believe that building the seven-home cluster home would make the area less safe? The applicant responded by stating there was no reasoning whatsoever. He elaborated on the statement and said the quality of what they are going to build would be an enhancement to the area.

Commissioner Ross stated that during public comment one of the speakers said you could have ten vehicles when they come for visits and the cars would be all over the street. He asked the applicant if there are any requirements that prohibit parking on the street? The applicant responded by saying that the requirements state that there is not to be any parking on the street and that they were allotted by the law to have two parking spots. He explained that they got questioned at the Planning Board meeting back in July about the possibility of adding an additional parking place, which they did.

Mr. Outten asked the applicant if he would consent to a modification of the SUP as proposed to using Russian Olives to create a five-foot buffer on the north property line and using Russian Olives to create additional buffers to any natural vegetation line in the south and to agree that there would be no rentals for less than one-year terms. Mr. Stowe indicated his agreement.

Ray Meekins, owner of Seaboard Surveying and Planning addressed the Board. He explained that he is in opposition of this plan and presented his supporting evidence. His comments are exhibited below:

- In 2021, my firm was asked to survey the property in order to subdivide it and we were successful in getting a four-lot division approved, but the client decided to change plans and revised the division to a two-lot version with a lot on either side of the canal which was approved and recorded. Mr. Stowe later purchased the parcel known as lot one.
- It is my firm that produced the survey's that have been copied according to one of the disclaimers noted on the submitted conceptual site plan that was before the board.
- I was working under the county subdivision ordinance which required a great deal of detail rather than the cluster home ordinance or they would not have anything to copy for their submittal.
- It is interesting to compare the subdivision ordinance with the process that the Board has created for the approval of cluster home developments in order to facilitate greater housing stock in Dare County.
- Instead of the twelve or so pages of requirements one has to meet for the subdivision of land for the purpose of sale within that ordinance, requirements most likely drafted by the NC Institute of Government, for the health safety and welfare of the public, this Board has carved out this cluster home ordinance having only twelve items as requirements.
- I understand that these two ordinances are completely separate and apart from one another but the subdivision ordinance and the cluster home ordinance do overlap in function regarding regulating the division of land and the requirements for new streets. Except cluster homes do not have all the appropriate review requirements and safeguards that are listed in the subdivision ordinance.
- Noteworthy as well is the fact that in the subdivision ordinance there is the optional sketch plan submittal prior to preliminary plat approval. The conceptual site plan submitted by the applicant would most certainly fall into this category by that ordinance and you would not get vested rights with a sketch plan, only upon approval of the preliminary plat. It appears with the cluster home ordinance, the middle of any type of drawing is sufficient to get vested.

- It is my opinion that there should be a balance between the desires of the development community and the safeguards required for the public good. The cluster home ordinance is tilted heavily towards the developers, but luckily the board has given themselves the option in the last paragraph of the ordinance to apply other reasonable and appropriate conditions to reflect individual specific site conditions which may be applied to cluster home development as part of the special use review and approval process and it is my hope that this board takes that statement to heart in this instant.
- For the following reasons I ask this project to be denied or at least tabled.
 1. Lack of an up-to-date survey with basic facts and existing conditions in order for a signed decision to be made.
 2. Lack of any engineering data concerning stormwater measures to prevent runoff onto adjacent properties along the north side with calculations showing the amount of fill to be required.
 3. An existing guy wire along right-of-way of Old Main Road as shown on the plat by Seaboard Surveying. It is clearly visible if one would actually go on site and look, and would end up within the paved roadway shown on this sketch.
 4. The depiction of the storm water basin on top of a bank running directly through the septic repair areas, where our state regulations require up to a 25-foot setback between the two. I have verified this with the Local Health Department. When corrected on the site plan what is that going to do to the amount of storm water storage available for the impervious coverage proposed?
 5. The five-foot buffers along the sidelines are completely adequate in my view as I understand it after completely denuding the lot of all life forms, grading and infrastructure installed, there might be some sort of buffer laid down upon the five feet which could be grasses, flowers, etc. It seems reasonable to require the applicant to come back with a meaningful buffering plan at least 10 feet in width using the natural vegetation in place and adding to that when necessary to create a solid opaque buffer.
 6. A traffic study should be required, Old Main Road is only a 30-foot right-of-way and a 20-foot wide pavement. There are currently 32 developed lots along this roadway and another 24 undeveloped for a total of 56 on the books already.
- In closing it is my opinion that this plan is just a sketch lacking any specifics or details and with no professional seal to take credit for it. How can you make a proper informed decision with only a conceptual plan?
- I respectfully request that you send it back to the applicant in exchange for an amended detailed plan and have them make an actual investment in surveying, engineering, and planning to protect the health, safety, and welfare of the residents being affected.
- A peer review by a contract of engineers should be considered for all submittals regarding land use matters depicting engineering as most all other municipalities have in place.

Mr. Outten stated that Mr. Meekins had looked at the site plan as presented and he had given his opinion on what it is. He then asked him if there was anything in the site plan that would lead him to believe that it does not meet the conditions of the Dare County Ordinances. Mr. Meekins responded by stating that he is not an engineer, but since he did not see a seal on it he just took some general comments, but he does believe that it meets the Dare County Ordinance. Mr. Outten then acknowledged Mr. Meekins comments about the stormwater and asked if he was aware of that being a state permit. Mr. Meekins responded yes. Mr. Outten further explained that the state will address the concerns that he raised presumably to meet the requirements of the state storm water code.

Commissioner Ross inquired about condition number three, and asked for clarification on the guy wire and is there a problem there technically or legally. Mr. Meekins explained that there is a power pole just south of that guy wire and the guy wires hold the pole in place and they are necessary infrastructure and now there is an easement associated with them. Commissioner Ross asked Mr. Bissell if the development is going to jeopardize a power line and how was it overlooked?

Mr. Meekins commented that if you look at the survey plat that has been copied there is a symbol for a guy wire right next to a concrete stone where the angle makes a road. He stated that if you superimpose the plan upon the Earth that guy wire is in the street and there is nothing proposed in the plan to address it.

Mr. Gray asked Mr. Meekins the following questions. Mr. Meekins responses are italicized in bold.

- You previously prepared a plat of this property you testified to earlier, correct? ***Yes sir.***
- A copy of that plat is recorded in plat cabinet JS Slide 290 in the Dare County Public Registry. Is that also correct? ***Yes.***
- On that plat you showed the total square footage of this tract is that correct? ***Yes.***
- You also show what the square footage of the actual land is? ***Yes.***
- What is the square footage of the land if you can read that? ***+/- 67,493 square feet.***
- When we say land that is because this property does include a canal, correct? ***Yes, we set the division lines between lots one and two along the approximate center of the canal.***
- This canal we are talking about it extends and goes all the way to the sound, correct? ***Yes***
- It is accessible from the sound to come into this property correct? ***It appears that way through aero photography.***
- When you reviewed the site plan that is before this Board, did you note any type of building pad or driveway or anything that is south of the 30-foot x 30-foot building pads? ***No.***

Chairman Woodard asked the Mr. Bissell if the guy wire issue could be remedied. Mr. Bissell responded and explained that they routinely work with the power company to either relocate guy wires, shore them up, or to use a different type of guy wire in order to secure a power pole. He explained they are currently under construction on a project

in Moyock where they are replacing an existing guy wire with a different type to allow a multi-use path to pass underneath.

Mr. Outten stated that he wrote two different conditions to address the concerns that were raised and if the applicant would consent to those conditions the two issues would be resolved.

1. Ensuring the stability of the poll that was in question.
2. Having an engineer, or someone, provide a sealed plan to verify lot coverage.

Planning Director Noah Gillam stated that there is already a condition in the SUP requiring an as-built survey to be submitted that would address lot coverage. Mr. Outten asked what would happen if we get to the end of the project and the applicant is over lot coverage. Mr. Gillam explained that the applicant would have to make adjustments to verify that the lot coverage is not over 30%.

Commissioner Couch asked Mr. Gillam to confirm that the applicant will not be limited to having to tear part of the structure down that there are other options to reduce lot coverage violations. Mr. Gillam stated that is correct. Mr. Outten explained that the applicant could not receive a Certificate of Occupancy if the applicant is over on lot coverage.

Chairman Woodard inquired about the state stormwater permit and if it would address the issue that was proposed about stormwater running through the septic repair area. Mr. Bissell stated that it will, and the swale is not proposed to have standing water in it. He further explained that they have done some calculations on the area that has been set aside for stormwater and infiltration and it appears that based on the impervious coverage that has been proposed it would be able to store on the order of four inches of rainfall where the state requires an inch and a half. Mr. Outten stated that not only do they have to obtain a stormwater permit, but they will have to get the septic/sewer permit from the Environmental Health Department and they are in conjunction with one another.

Commissioners Bateman asked Mr. Bissell if the proposed construction addresses a hundred-year storm and does it meet all of the requirements that would have to be met. Mr. Bissell explained that a hundred-year storm would be probably a six-inch rainfall and we would be addressing something on the order of a 25-year storm. Commissioner Bateman asked does the state only require a 45-year storm? Mr. Bissell responded by saying that the state only requires an inch and a half of runoff which is about a two-year storm.

Hearing adjourned at 10:46 a.m.

Mr. Outten stated that rebuttal and argument was allowed at this time.

Mr. Gray stated his concerns. His statements are shown below.

- I know stormwater is something that we talked about, but to be candid I have to agree. In Mr. Bissell's earlier presentation, he stated that they met stormwater requirements and I just want to make it clear that no they don't at this stage, but that will come later. I understand.

- Also, as a practical I'm in a rare circumstance, I normally represent developers so it is unusual for me to be standing up here before you trying to say let's not do something.
- The burden is on the applicant, the applicant has to prove to you that they met the requirements of the ordinance. That's their burden, once they met that burden the burden shifts to me to show that there are some issues.
- The first issue is lot coverage. You heard testimony that the survey that was prepared by Mr. Meekins clearly shows that the amount of land is approximately 1,500 square feet less than. I did the calculation if we took 1,500 square feet off of the land that gets us down to 67,493 square feet and divide that by their impervious surface, that's 20,640 square feet. That says they are at 30.58% lot coverage.
- Remember the burden is on them to demonstrate to you that they meet their ordinance.
- If you do not include land under water, they do not meet the ordinance. An analogy is if we have a sound front or ocean front lot, we have a lot of those in Dare County that are platted, some of them do not even exist anymore and you can not build on them because the land is under the water.
- I think this Board knows that that canal was not dug by Mr. Stowe for his predecessors in title, that canal was dug by the state. Therefore, there is an issue to who owns the land under the water. I was waiting for them to address that with you, but they did not.
- The testimony you heard is that canal goes all the way to the sound and it is accessible.
- I am not giving testimony but I lived in Avon as a young child and I used to take a canoe down that canal. My point is that it is navigable and what constitutes navigable is water that is primarily owned by the state. If that is the case, and I am not certifying that it is, that is their burden to present.
- During the evidentiary hearing I made it clear what I was trying to get to, it was not like I was hiding anything. They do not meet the requirements of 30% or less lot coverage.
- This plan before you even though it is a sketch, should be denied.
- The second issue is parking. If you go to page 21 of your package, it shows the cars. Your ordinance 22-56 talks about number of spaces. The number of off-street parking spaces required by this section shall be provided on the same lot principal use, except as provided in subsection J of section 22-54 and the required number of off-street spaces specified for you shall be considered as the absolute minimum.
- My point is your own ordinance says you can require more.
- Your ordinance was drafted at some point in time when you were talking about subdivision lots. When somebody comes to visit you what do they do? They park in your driveway.
- Let's take a look at the plan that you have. We have building pads 30-foot x 30-foot, and we have a little bit of space between that building pad and the road right-of-way. I scaled it off and it came to about seven or eight feet. I could not

get it scaled properly so I can not tell you the exact number, but you can look at it and see that it is less than ten feet.

- Remember your building requirements are that each parking space has to be 10-foot x 20-foot.
- I previously asked you to look at page 21, so you can see how they are getting around the issue of where people going to park. What they have shown is out of the 30-foot space you fit a car, they are proposing that a car backs up.
- Remember I asked Mr. Meekins if there was any evidence as shown on their site plan that they were putting some impervious surface to the south of the building pads. In other words, that car is backing up, it is going to go back to what, sand?
- My assumption is that these are going to probably be concrete pads underneath. *Multiple members of the Board stated that the plan shows gravel underneath.*
- What I am trying to indicate is that if you will look on page 21 the proposal for additional parking puts the car south and they are trying to put another one in.
- There is not enough parking and the tail end of the car is going to go into the road right-of-way because there is not enough room. You have a 20-foot requirement, but if you do not have 40-feet from the south edge of that 30-foot (inaudible) all the way to the road right-of-way, it does not exist.
- *Mr. Outten: How many parking spaces are they required to have. It says two, but that is the minimum. Mr. Outten: Are the two they have sufficient if they didn't have the third? Does it meet the code if they have two? Do two places dimensionally meet the standard you are applying? Well they do side by side but when you add the third one it is not enough room. Mr. Outten: If they were required to add the third one that is not required, they could not do it unless they add something to the rear, gravel or some pervious surface. Correct, they are not required yet, but the Board could require it.*

Dorthey Hester, Public Information Officer and Commissioner Ross exited the room at 10:55

- My point being more that when you look at this development look how tight it is. This is not a single-family residential lot where you have a driveway where people can go onto. There is no excess room here and as such the back end of that car is going to be out into the road right-of-way. I know you have signage saying you can not park in the road right-of-way, I'm sorry I live in a development that has signs saying that and guess what, people park in the road right-of-way.
- I would respectfully request two things.
 1. That you frankly deny simply because they had the burden of proof and they have not met it on lot coverage.
 2. If you decide to go forward that you do in fact do what you previously talked about, but you also have to look at realistically how is someone going to park here other than the two spaces. The answer is there really is not any other way.

Mr. Dixon stated that he found what Mr. Gray stated to be very interesting. His statements are followed below:

- When you look down at what we have here I asked a question of Mr. Gillam “Have all of the terms and conditions of the special use permit been met?” and he answered “yes.”
- I asked a licensed engineer, Mr. Bissell, “Have all of the terms and conditions of a special use permit been met?” and he answered “yes.”
- Then most surprisingly when Mr. Outten asked Mr. Gray’s witness the same question, the witness’s response was “I believe it does.”
- I ask that you go ahead and approve this as I believe the law requires.

Chairman Woodard stated that he has tried to scale the plat that he has. He asked Mr. Bissell what is the distance from the piling at the bottom of the sketch to the road. Mr. Bissell responded by saying he believes it is 10-feet from the piling to the road. He stated that what they are proposing is from the edge of the pavement of the proposed road to the back of the second parking space is 40-feet and from the right-of-way to the back of that second parking space is 40-feet. You have two full 20-foot parking spaces in there and the sketch is three parking spaces but there is technically enough room for four parking spaces under each house.

Commissioner Ross returned to the room at 10:58

Commissioner Bateman told Mr. Bissell that he is concerned over the lot coverage issue. He asked Mr. Bissell how do you address the issue with the land under the water and the lot coverage limitation. Mr. Bissell stated that if the numbers that Mr. Gray stated are correct, less than 400 square feet of coverage will have to be modified, and that can be addressed through a simple plan modification. Mr. Outten stated that the permit is already conditioned on them meeting that lot coverage requirement.

Commissioner Ross stated that the evidence did not say that the proposed construction is over the lot coverage limit, but that it is hypothetically if the land in the canal is not considered part of the plat.

Commissioner Bateman asked do we consider the land in the canal to be owned by Mr. Stowe? Mr. Outten explained that he will not know without somebody surveying it and getting the details on the easements.

Mr. Outten stated that the issue before the Board is that there are a number of permits and conditions that have to be met, so to issue the SUP the applicant has to meet those conditions or has to be conditioned upon meeting those conditions. If he has done one or the other, every condition in the SUP has to be complied with prior to the issuance of a Certificate of Occupancy. If Mr. Gray is correct, then before they get the Certificate of Occupancy they would have to create 400 square feet of pervious surface somewhere where they now have impervious surface.

Commissioner Bateman stated that the board has no right to legally deny the SUP based on Mr. Gray’s statement that it does not meet the 30% or less lot coverage. Mr. Outten responded that the evidence he had before him meets all the conditions of the ordinances which includes lot coverage and that Mr. Gray is speculating that it does not, but a survey has not been provided to verify.

Commissioner Ross agreed with Mr. Outten and Commissioner Bateman and stated that they will have to wait for the as-built survey and then they have to go for a variance or whatever they would have to do to make it work.

Dorthey Hester, Public Information Officer returned at 11:06.

MOTION

Vice-Chairman Overman moved to approve SUP #5-2023 and associated site plan for the proposed Cluster Home Group Development to be approved upon the addition of the following conditions:

- Applicant shall plant and maintain a five-foot buffer of Russian Olives in all areas designated as “five-foot vegetated buffer” as depicted on the site plan except those areas along the southern property boundary that have a five-foot buffer of natural vegetation.
- Applicant shall ensure the utility pole at the western entrance to the property is properly stabilized or relocated in compliance with the utility provider.
- Applicant shall extend the lease term to one year.

Commissioner Tobin & Commissioner Ross seconded the motion.

Chairman Woodard opened the floor for Board discussion. Commissioner Couch confirmed with the Board that the R2-A zoning district has been removed from the cluster home ordinance. Commissioner Bateman asked Mr. Gillam if there are any more Cluster Home Projects coming forward to Dare County at this time. Mr. Gillam stated there are none he is aware of, but there is the opportunity in the eight or ten districts that it remains in.

VOTE: Ayes-Unanimous

The Dare County Board of Commissioners Meeting went into recess at 11:08. The meeting resumed at 11:20.

ITEM 7 – PROCLAMATION – CHILD SUPPORT AWARENESS MONTH

Dare County Health & Human Services presented a proclamation to recognize August 2023 as Child Support Awareness Month.

MOTION

Commissioner Couch motioned to adopt the proclamation as presented.

Vice-Chairman Overman seconded the motion.

VOTE: AYES unanimous

ITEM 8 – SAVINGS LIVES TASK FORCE – OVERDOSE AWARENESS MONTH

Dare County Health & Human Services and the Saving Lives Task Force presented a proclamation to recognize August 2023 as Overdose Awareness Month.

MOTION

Vice-Chairman Overman motioned to adopt the proclamation as presented.

Commissioner Bateman seconded the motion.

VOTE: AYES unanimous

ITEM 9 – OUTER BANKS SPCA

At the previous Board meeting, Bill Coleman, Executive Director of the Outer Banks SPCA, advised they had hired a veterinarian to perform simple pet procedures to include spay and neutering. Funds would be needed to properly equip the office.

MOTION

Commissioner Ross motioned to approve the sum of \$25,00 for the purpose of setting up and supplying a new surgical room at the Outer Banks SPCA.

Commissioner Bateman seconded the motion.

Chairman Woodard opened the floor up for Board discussion. He asked for clarification on the potential of providing additional funding. Commissioner Ross explained that if there is any additional funding, or if the cost exceeded \$25,000 that would fall to the Board of the SPCA.

VOTE: AYES unanimous

ITEM 10 – NCDOT's 2023 PROTECT GRANT PROGRAM

Mr. Outten explained that NCDOT is requesting a letter of support to apply for a Solving Access for NC 12 in Dare County (SAND) Grant to help establish a solid foundation for a streamlined National Environmental Policy Act (NEPA) process, permitting, and construction, with the goal of securing the long-term resiliency of NC 12 in the Outer Banks of North Carolina.

MOTION

Commissioner House motioned to approve a letter of support to be sent to the Secretary of the US Department of Transportation.

Commissioner Ross seconded the motion.

Chairman Woodard opened the floor up for Board discussion. Commissioner Ross asked for clarification on the approximation of the funding for the SAND grant. Barton Grover explained that we do not have a scale on the funding but they are focusing on the canal zone, visitors center area, and between Oregon Inlet and Rodanthe.

VOTE: AYES unanimous

ITEM 11 – FY 2024 -2028 RECOMMENDED CAPITAL IMPROVEMENTS PLAN (Att.#2)

Mr. Outten provided an executive summary to the Board. He explained that the two prior Capital Improvement Plans that were approved included the construction of the EMS Stations, Public Works buildings, and the Parks & Recreation improvements. Over the last two years costs have escalated tremendously which has resulted in not having enough funds to fulfill all of the projects that were originally planned. He also informed the Board that the coverage ratios looked great in the Capital Finance Program due to the County and School Capital Improvement Plans being combined. They have now been separated which has also resulted in the county not being able to proceed with all of the original projects and maintain a coverage ratio at one without rearranging the projects. He stated that they have received input from Chief Collins on the stations that have the highest priority prior to making any changes.

Dave Clawson, Finance Director began his presentation to the Board. He explained the reasoning for the splitting of the two Capital Improvement Plans in greater detail and discussed the details on the rearranging of the major project's phases.

- Phase I - \$42,966,952 – S2023A LOBs – Under Construction – EMS Stations in KDH and Southern Shores and the Dare Med Flight
- Phase II - \$21,977,920 – S2024A LOBs – Early CY 2024 – EMS Stations in Manns Harbor and Kitty Hawk and the Manteo Youth Center
- Phase III - \$49,137,507 – S2025A LOBs - ~June 2025 – Public Works, Buxton SW Transfer Station, EMS Nags Head, Sheriff CID & Evidence
- Phase IIII – Paygo as can afford – EMS Manteo, Frisco, & Rodanthe, and Parks and Recreation

Mr. Clawson presented the board a summary of all of the long-term debt, short term debt, and Paygo and noted the following CIP Items:

- 2024: Architect Fees are for Manteo, Frisco, & Rodanthe – no longer debt financed so must change to Paygo,
- 2024: Elevator Replacements in Administration and DHHS
- 2024: I.T. core network replacement
- Annual support to School CIF only in 2024 & 2025
- 2026: Law Enforcement, Emergency Management, & EMS Radio Replacement
- 2027 & 2028: Administrative building HVAC
- 2028: Dare Med Flight engine replacement

Mr. Clawson explained that the maximum level of debt hits in 2025 at \$153 million and the maximum debt service is in 2027 at \$18.4 million. He began informing the Board of the debt service to fund balance, the CIP expenditures by type, and the projected annual debt service as a percentage of consolidated general fund expenditures. He concluded by presenting the Board with the Schools CIF & CIP with details on the revenues & expenses.

MOTION

Vice-Chairman Overman motioned to approve the CIP and related capital project ordinances and budget amendments.

Commissioner Bateman seconded the motion.

VOTE: AYES unanimous

ITEM 12 – CONSENT AGENDA

The Manager announced the items as they were visually displayed in the meeting room.

MOTION

Commissioner House motioned to approve the Consent Agenda in honor of Commissioner Jack Shea:

- 1) Approval of Minutes (07/17/23) **(Att. #2)**
- 2) NC Governor's Highway Safety Program Resolution **(Att.#3)**
- 3) Dare County DHHS /Public Health/Opioid Settlement Funds Budget Amendment/FY24
- 4) Southern Albemarle Association - Annual Meeting Invitation List
- 5) Resolution to Approve Sole Source Purchase **(Att.#4)**
- 6) Resolution Reimbursement – Fiscal Year 2023-2024 Public Works & IT Equipment Financing **(Att. #5)**

Commissioner Ross seconded the motion.

VOTE: AYES unanimous

ITEM 13 – BOARD APPOINTMENTS

1) Roanoke Island Community Center- Modification of the By-Laws

This item was postponed to the September 2023 Agenda.

2) Upcoming Board Appointments

The upcoming Board appointments for September, October, and November 2023 were announced.

ITEM 14 – COMMISSIONERS' BUSINESS & MANAGER'S/ATTORNEY'S BUSINESS

Following is a brief summary outline of the items mentioned by Commissioners and the County Manager during this segment:

Commissioner Bateman

- Recognized the passing of Al Mahaman and Commissioner Jack Shea.
- Made the statement that he has an old schooled mindset when it comes to development. He believed strongly in the Land Use Plan and low-density beach development when he served on the Planning Board for the Town of Kitty Hawk.

Commissioner Couch

- Discussed essential housing and how it has been a number one priority for a long time.
- Recognized the passing of Commissioner Jack Shea.
- Acknowledged that National Aviation Day August 19th and applauded the First Flight committee. He then discussed the local history of aviation in Dare County.
- Expressed that there has been a significant amount of growth since the pandemic.

Commissioner Tobin

- Recognized the passing of Kelly Zatoun and Commissioner Jack Shea.

Commissioner Ross

- Recognized the passing of Commissioner Jack Shea.
- Welcomed Commissioner Bateman to the Northeast Workforce Development Board.
- Stated that Vice-Chairman Overman and himself attended The Lost Colony for Governors Cooper Wife, Kristen Cooper.
- Recognized that August 7th is National Purple Heart Day.
- Explained that *The Friends of Jockey's Ridge* are attempting to get 500 custom license plate registrants that will support and help fund the State Park.
- Announced the Love to Remember Tournament and Fundraiser that raises money for dementia education, caregiving, and support will take place from October 19th-22nd and will be hosted at the Duck Woods Country Club.

Commissioner House

- Stated that on August 16th at 6:00 p.m. the NC Marine Fisheries Commission is accepting public comments on 103 proposed rules pertaining to the data collection and prevention of harassment of the NC Division of Marine Fisheries Staff.

- Read the letter aloud from Alan Holden, Mayor of Holden Beach, in reference to the emergency dredging performed by Miss Katie.
- Announced the Town of Kitty Hawk's reception for the welcoming of the new Police Chief.
- Recognized the passing of Commissioner Jack Shea.
- Today in History: In 1959, Explorer Six took the first photograph of Earth from space.
- Honey & Waffles, two cats, were shown as SPCA "pet of the week" for adoption.

Chairman Woodard

- Entertained a motion to adopt the Resolution in Support of the National Flood Insurance Reauthorization and Reform Act of 2023.

MOTION

Commissioner Couch motioned to adopt the Resolution in Support of the National Flood Insurance Reauthorization and Reform Act of 2023.

Commissioner House seconded the motion.

VOTE: AYES unanimous

Vice-Chairman Overman:

- Congratulated the service pins receptions and the Employee of the Month.
- On July 24th, Roxana Ballinger and himself met with the Opioid Funding Committee in Currituck County to discuss how they are handling the opioid settlement funding.
- Recognized the passing of Commissioner Jack Shea.

MANAGER'S/ATTORNEY'S BUSINESS

Mr. Outten recognized the passing of Commissioner Jack Shea and stated he had the pleasure of knowing him prior to being involved with the county.

Dorothy Hester spoke on the passing of Commissioner Jack Shea and expressed that he was a wonderful man. Informed everyone that the tax bills went out last week and they are due September 1st but can be paid through January 5th without any interest. She also announced that payment plans are available and all of the information is located on the website.

At the conclusion of the meeting, Chairman Woodard asked for a motion to adjourn.

MOTION

Commissioner House motioned to adjourn the meeting.

Commissioner Bateman seconded the motion.

VOTE: AYES unanimous

At 12:39 p.m., the Board of Commissioners adjourned until 9:00 a.m., September 6, 2023.



Respectfully submitted,

By: *Skyler Foley*
Skyler Foley, Clerk

APPROVED:

By: *Robert Woodard, Sr.*
Robert Woodard, Sr., Chairman
Dare County Board of Commissioners

Note: Copies of attachments (Att.), ordinances, resolutions, contracts, presentations, and supporting material considered by the Board at this meeting are on file in the office of the Clerk.