



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., December 4th, 2023

Commissioners present: Chairman Robert Woodard, Sr., Vice Chairman Wally Overman
Rob Ross, Steve House, Bea Basnight, Danny Couch, 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 9:18 a.m. Chairman Woodard called to order the regularly scheduled meeting with appropriate prior public notice having been given. He invited Dr. Wayne Berry to share a prayer, and then he led the Pledge of Allegiance to the flag.

The First Flight High School Choir provided holiday entertainment.

ITEM 1 – SWEARING IN CEREMONY (Att. #1)

MOTION

Commissioner Ross motioned to appoint Elizabeth (Bea) Basnight to the vacant Commissioner seat.

Commissioner Bateman seconded the motion.

VOTE: AYES unanimous

The Clerk to the Board administered the oath of office to Elizabeth (Bea) Basnight (District 1). The oath was in the form prescribed in Article IV, Section 7 of the NC Constitution.

ITEM 2 – ELECTION OF CHAIRMAN (Att. #2)

The Clerk outlined the procedures for the election. In accordance with Robert's Rules, no second would be necessary for a nomination and four votes would be required to win the election. The Clerk opened the floor for nominations.

NOMINATION

Commissioner Rob Ross nominated Robert "Bob" Woodard, Sr. There were no other nominations.

VOTE: AYES - 7 votes by show of hands.

Commissioner Woodard was elected as Chairman by unanimous vote.

ITEM 3 – ELECTION OF VICE_CHAIRMAN (Att.# 3)

Newly reelected Chairman Woodard conducted the election of the Vice-Chairman.

NOMINATION

Commissioner Bateman nominated Wally Overman.

There were no other nominations.

VOTE AYES - 7 votes by show of hands.

Commissioner Overman was elected as Vice-Chairman by unanimous vote.

ITEM 4 – OPENING REMARKS – CHAIRMAN’S UPDATE

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

- Recognized Drew Pearson with the Emergency Management Department for receiving the 2023 Preparedness Award from the International Association of Emergency Managers for the “Love the Beach, Respect the Ocean” campaign.
- Announced that it is the 120th Anniversary of Flight, and there will be a celebration on December the 17th at the Wrights Brothers Memorial.
- He presented the FFHS Men’s Soccer Team with a Certificate of Achievement for winning the Division III State Championship.

ITEM 5 – PRESENTATION OF COUNTY SERVICE PINS

- 1) Kimberly Whitehurst, received a 20-year pin.
- 2) Elizabeth Twine, received a 25-year pin.
- 3) Stephen Smith, received a 10-year pin.
- 4) Edward Scarborough, received a 25-year pin.

ITEM 6 – EMPLOYEE OF THE MONTH – DECEMBER 2023

Angela Grant received the Employee of the Month award from Debbie Dutton who described the many ways that she is an asset to the Health and Human Services Department.

ITEM 7 – PUBLIC COMMENTS

At 9:57 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 all citizen remarks, which may be viewed in their entirety in a video on the County website:

No one responded to the invitation to address the Board.

The County Manager closed Public Comments at 9:58 a.m.

ITEM 8 – PUBLIC HEARING – PROPOSED ORDINANCE AMENDMENT TO SECTION 91.056 REDEMPTION; ADOPTION (Att. #4)

At 9:59 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:

1. Grace Hallenbeck

- Stated that she noticed in Section 91.052 that it allows for immediate destruction of surrendered animals and she finds that very disturbing and suggested adding “after a two-week period of impoundment.”
- In Section 91.054 it reads if someone surrenders an animal it can be disposed of immediately, she recommends adding “after a two-week period of impoundment” to that as well.
- In Section 91.056 Subsection (A)(1) she recommended that the three days be approved and in Subsection 2 she recommended putting “the owner shall be entitled, after the five days of expiration, for someone to redeem their animal.” She feels that five days is a safe compromise.
- In Section 91.056 Subsection B, she recommends putting “After 5 days’ notice the animal could be adopted.”

The County Manager closed the Public Hearing at 10:03 a.m.

The County Manager discussed the use of the word “disposed” and recommended changing the language to “suitably placed or other disposition is made pursuant to the ordinances.”

Mr. Coleman addressed the Board and discussed the reasoning for the 72-hours was to have the ability to get animals adopted into families earlier instead of them sitting in the shelter for eight days. He explained the procedure for when an animal gets dropped off at the shelter or when a stray is picked up throughout the county. He also cited 2022 statistics from the shelter and expressed that the shelter has a 90% live outcome rate. There was a lengthy discussion regarding euthanizing animals - it was stated that the shelter does not euthanize healthy animals and there is no time limit on how long an animal can remain in the shelter.

Dorothy Hester, Public Information Officer, left the room at 10:19 a.m., and returned at 10:23 a.m.

MOTION

Commissioner Ross motioned approve the modifications that the County Manager suggested. Removing the wording “disposed of” and replacing it with “suitably placed or other disposition is made pursuant to the ordinances” and to modifying the language to read “notice thereof shall be posted for a minimum of five days” instead of 72 hours.

Vice-Chairman Overman seconded the motion.

VOTE: AYES unanimous

After the motion was passed, Debbie Doughtie asked if she could address the Board. Chairman Woodard allowed her to come to the podium and state her concerns. She stated that she is from “Spay and Neuter Today” and her husband is a veterinarian. She stated that her concern is that the animals cannot be treated for the first three days if they are sick and asked when that happened. Mr. Coleman responded that has never happened. Mr. Outten clarified that the five days is simply the amount of time the shelter will hold the animal prior to disposition or prior to having them adopted, it does not mean they will not treat the animal. Ms. Doughtie then stated that cats in Kill Devil Hills that have been fixed and the ears have been clipped are getting euthanized now that the Kill Devil Hills animal control has their euthanizing license. The Board advised her to go discuss her concerns on this issue with the Town of Kill Devil Hills.

ITEM 9 – PUBLIC HEARING – BUXTION ZONING MAP AMENDMENT (Att. #5)

Chairman Woodard exited the room at 10:20 a.m., he returned at 10:30 a.m.

Mr. Gillam addressed the Board and expressed that a zoning map amendment application has been submitted by the Cape Hatteras Electric Membership Corporation and Point Break Pools and Spas LLC for their six properties along Light Plant Road in Buxton, NC. The parcels are currently zoned R2-A Medium Density Residential. The applicants are requesting to have their parcels rezoned C-3 Commercial to allow an increase in lot coverage for future expansion as power needs increase on Hatteras Island.

The meeting recessed at 10:23 a.m. and reconvened at 10:30 a.m.

At 10:31 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 -

1. Susan Fly – Executive Vice President and General Manager of Cape Hatteras Electric Membership Corporation
 - Stated that Cape Hatteras Electric Cooperative is a Non-Profit Electric Distribution Utility that serves approximately 8,000 members and countless visitors. It has operated on Light Plan Road since the 1940's.
 - Expressed that the current residential zoning has created a challenge in the construction of the new operation center/truck storage facility.
 - The building permit was issued in December 2021 and the building is nearly complete.
 - Explained that the reason for the construction of this building is to alleviate some of the flooding issues and to provide additional truck storage, accommodate employee training, and to feed outside crews that come to provide storm assistance.
 - She stated that the change of the zoning will not change any of their current operations, they need 20 feet of concrete pads outside of each truck bay and the 30% lot coverage restriction would make it impossible.

Vice-Chairman Overman asked Ms. Fly if they are planning to add any additional buildings or trucks in the future? Ms. Fly responded no, not at this time, but may in the future decide to add some type of a residential property to house employees on the other side of the street, which will still be zoned residential.

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

The County Manager closed the Public Hearing at 10:35 a.m.

MOTION

Vice Chairman Overman motioned to approve the map amendment for CHEC and Point Break Pools & Spa LLC Properties located along Light Plant Road in Buxton be reclassified from R2-A to C-3 Commercial.

Commissioner Couch & Commissioner Ross seconded the motion.

VOTE: AYES unanimous

ITEM 10 – PUBLIC HEARING – ZONING TEXT AMENDMENT TO SECTION 22-22.1 R-2A ALTERNATIVE MEDIUM DENSITY RESIDENTIAL DISTRICT TO ALLOW FOR ACCESSORY USE TO CHURCHES (Att. #6)

Mr. Gillam addressed the Board, he stated that The St. John United Methodist Church in Avon has submitted a text amendment application to amend the R2-A Zoning Ordinance. The church is seeking the addition of accessory uses to churches to include youth retreat centers and/or recreation centers with overnight accommodations. It is the church goal to have a facility to host and house groups from other churches for mission work and camp retreats. The R2-A district applies to portions of Hatteras Island, and is intended to encourage the development of moderate density residential neighborhoods, to serve as a transition zone between the low-density areas and more intensely developed areas, and provide a setting for a limited number of business uses associated with a coastal village location. Any text amendment to the R2-A district would apply to all lands zoned R2-A.

At 10:39 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:

No one responded to the invitation to address the Board of Commissioners on this issue.

The County Manager closed the Public Hearing at 10:39 a.m.

MOTION

Commissioner Bateman motioned to move that the draft amendment to the R2-A Zoning District, Section 22-22.1 of the Dare County Zoning Ordinance be adopted as drafted.

Vice-Chairman Overman seconded the motion.

VOTE: AYES unanimous

ITEM 11 – KENRICK ALBAUGH STORAGE WAREHOUSE GROUP DEVELOPMENT – SUP #6-2023

This agenda item was handled as a quasi-judicial proceeding. Planning Director Noah Gillam, and the applicant, Kenrick Albaugh, were both duly sworn by the Clerk before offering any testimony. Mr. Outten explained the Board could only use the evidence presented at this hearing to make their decision.

Mr. Gillam explained the applicant, Mr. Kenrick Albaugh, had submitted a special use permit for a group development for his property located at 40041 Brinkley Lane in Avon. Currently on the parcel there are two buildings that function as mini storage facilities and they have been in existence since 1985, prior to the zoning being implemented in Avon. He is proposing to install a 60' ft x 20' ft building on the parcel that will function as six individual mini storage units.

Mr. Outten asked Noah if he had offered the file into evidence. Mr. Gillam affirmed he had done so.

Commissioner Couch acknowledged Steve Kovacs recommendation of an installation of a fire hydrant closer. Mr. Gillam stated that the fire hydrant would need to be installed somewhere along the intersection of Westerly Lane and Brinkley Lane, which is the road to access Brinkley.

Mr. Outten then asked Mr. Albaugh, if he had testimony to provide. His testimony follows:

Mr. Albaugh:

- The Planning Board has been trying to accommodate my wishes to add six more unconditioned storage spaces.
- I receive phone calls daily from locals and homeowners that live elsewhere, my storage facility stays full.
- It is not a big money maker, I can only charge so much per month for these spaces.
- There is not a lot of space on the property, which has resulted in only asking to add six more.
- I started this project in August with the Planning Board and submitted a proposed survey and a detailed design plan showing proposed firewalls.
- I have asked for requirements from the county or the Fire Marshall to help get a handle on the cost.
- It does not make since that this small of a project requires me to hire architects or build a metal building in an extremely salty environment.
- I have tried to get specific answers to his fire code and zoning questions for months now.
- I have been told that I might have to repair or replace the road, it was built in the 70's and destroyed by garbage trucks.
- There have been dozens of roads around the county that have been repaved that do not meet the states requirements.
- There is Westerly Lane coming in past Brinkley and the road is totally destroyed and I have paid for repairs. I have patched the road with gravel because there have been no repairs since the road was originally built.
- Brinkley Lane and the end of Westerly Lane breaks off at a 25-foot right of way so I understand that does not even come close to meeting the states requirements.
- I am curious whether this so-called group development will affect my ability to operate the existing two storage buildings and the yard as it is has for the last 38 years and per existing Dare County zoning code.
- What I am being required to sign off on rules and regulations that are above and beyond the existing zoning code in this County.
- It is requiring me to agree to different rules than what was voted in by the Commissioners of Dare County.
- It does not allow me to put a rental office on the property but I have to abide by all the fire codes as if I am building and occupying an office.
- The fire hydrant, I do not have a problem with because it is just going to help the neighborhood.

- I am only a couple feet off from an adjacent fire hydrant, but because of the new 2018 fire code I am required to be under 500 feet.
- If you look in Avon, you can see office buildings where there is further fire hydrants than my storage building is.
- I have to abide by these rules about staging, I was trying to define whether that meant deliveries which I am assuming that it means deliveries.
- I am a builder and I have to work with all the neighbors, I own this property, I operate it, I work with all the neighbors. I do not want the neighbors mad at me and I have done nothing but help the neighborhood.
- When I bought the building it was rundown, and the road was totally busted up and I repaired both. I got it up to shape and I am improving the neighborhood.
- I do not even know whether I am required to patch in/pave the roads because it has been open-ended on my conditions.
- There are two building permits for two new constructions being built right in the neighborhood.
- I have concerns on Number 9 (staging), Number 11 (restrictions that are not even on the zoning code), and the fact that I have to submit a rental agreement. I should not have to provide the county my own business lease agreements. It seems a little bit of overreach by the county.
- Restriction of access by myself and renters from 10p.m. to 6a.m. that is not in the zoning code that is in the noise ordinance.
- Long as you stay under a noise ordinance I do not see why I have to restrict my tenants from getting in there especially if that's the only time they can get in.
- It is the additional wording and conditions that are beyond conditions in the Dare County Zoning Code that causes my concerns, I am not trying to create any controversy I am just concerned about the overreach of these conditions that I have to sign that is basically taking the free use away from my property and it is causing too much cost.

Questions and discussion between Mr. Albaugh, County Manager, Mr. Gillam, and the Board.

Mr. Outten: The right-of-way that is involved in number nine, is that a right of way used by someone other than you? Are there others that have access on that right of way?

Mr. Albaugh: Yes.

Mr. Outten: So, you are objecting that you can't stage your equipment in the right of way?

Mr. Albaugh: No, I am not. What I am saying is that I am a builder. If you have deliveries a lot of times the delivery truck comes in and you have to get a forklift or they sometimes have a Moffett on the back of the truck and they might tie up the road, we always try to leave a lane open.

Mr. Outten: What would you like that condition to say?

Mr. Albaugh: Why would that even be a condition?

Mr. Outten: To ensure the right of way is not blocked with staged equipment for public safety reasons.

Mr. Albaugh: Isn't that probably in Dare County Code?

Mr. Outten: If it is, then it is no harm being in this, correct?

Mr. Albaugh: Well, it's the change of the wording from existing Dare County Codes to my conditions.

Mr. Outten: What would you like number nine to say?

Mr. Albaugh: I was just trying to get clarification whether it meant deliveries because I have to have deliveries and sometimes the trucks can't get in there.

Mr. Outten: What that means is that you can not block the right-of-way, you cannot put your equipment and leave it on the right of way. If the guy puts his delivery truck there for an hour to get the forklift to move it to your staging area, that is not an issue. It is the idea that you would stage your equipment. Staging meaning you leave it there during construction.

Mr. Outten: My question then is, you agree that there should be no staging as I have just defined it of equipment on the right of way?

Mr. Albaugh: That is what I am trying to figure out.

Mr. Outten: When I am talking about staging, it is when you store your supplies for your building during the construction process.

Mr. Albaugh: Why did you not word it as such?

Mr. Outten: Because that is what staging means. Staging does not mean delivery.

Mr. Albaugh: I did not get that.

Mr. Outten: After I have defined staging, you do not have an issue with that, correct?

Mr. Albaugh: If that is the true meaning of it.

Mr. Outten: Well if based of that being the true meaning of staging, then you don't have an issue with that condition?

Mr. Albaugh: I don't have a problem with deliveries either because I try to accommodate all my neighbors.

Mr. Outten: Let's look at number 11, units shall not be occupied for commercial or residential purposes. You understand and agree that you can't use the storage facilities for residential and commercial purposes, correct?

Mr. Albaugh: Well it is a commercial property, why can't I put my own office there for the business. I mean you are restricting me and it says it cannot be used or occupied. I am not applying for a residential permit I understand that.

Mr. Gillam: Number 11 is addressing the use of the actual unit. A business can not come in to the unit, open up a unit, and have commercial activities. Nowhere does it say you can not have an office on the property. You can not take one of the storage units and make it an office space.

Mr. Outten: The storage units shall not be used or occupied for residential or commercial purposes.

Mr. Albaugh: I understand that but a lot of those spaces in there are by small businesses and they store their equipment and overflow materials and they go in there every so often to get their stuff, so it is being used by a business.

Mr. Gillam: But the commercial activity of their business isn't functioning on that site.

Mr. Albaugh: Well I know, but its vague warning on how that's worded.

Mr. Outten: You agree that they can't run their office out of the storage unit, correct?

Mr. Albaugh: Yes, I don't want them to.

Mr. Outten: We will fix that. The hour restriction with Number 12, Noah please tell us why there is an hour restriction.

Mr. Gillam: There is typical blanket language that's been added to any of the storage units that we've approved over the last several years addressing the time the tenants of the units can come there. Across the street there is residential property and the Planning Board thought it was necessary to have a time restriction so somebody was not outside at 11:00

p.m. or midnight in the storage unit. It was a protection of the residences around the property and it is reflective of the noise ordinances.

Mr. Albaugh: But that is not what it says in here. It says I just can't use it, so as you're reflecting on the noise ordinance why do I have to sign these additional agreements.

Mr. Outten: You do not have to sign anything, they are going to issue you a permit you do not necessarily have to sign it if you don't want to. Whatever permit they issue you will be the permit that you have to work with so I am trying to fetter through the issues.

Mr. Albaugh: It's one thing keeping the noise down during those time periods because of the noise ordinance. I build houses, I've got people sometimes that want to work on Saturdays and Sundays because they want to make more money. I tell them, I tell everybody, that they have to worry about the noise ordinance.

Mr. Outten: Do you have any idea what hours people use your current units?

Mr. Albaugh: No, its all hours. I mean as far as I can tell there are people that work at night or they can't get to it in the morning.

Mr. Outten: You do not know whether people are in there at midnight or one in the morning or anything like that?

Mr. Albaugh: No.

Mr. Outten: You mentioned the fire code, and the Board can not waive the fire code. I get that you and Steve do not agree on what it means, and you and I have had a conversation about that.

Mr. Albaugh: I understand that, but it was also in there that I could not have an office.

Mr. Gillam: There is nowhere in this Special Use Permit that says you cannot have an office.

Mr. Albaugh: We can go back to the discussion we had about the other section.

Mr. Outten: We are going to fix number 11. You mentioned paving the road, there is no condition in this special use permit that required you to pave the road, correct?

Mr. Albaugh: No, its in the cover letter. It basically comes down to I am supposed to abide by whatever Steve comes up with and his interpretation of the fire code. He has to make sure there is access for a 75,000-pound fire truck.

Mr. Outten: If you disagree then the insurance commission is the entity that will solve the dispute, not the Board. The Board can not waive the fire code. If Steve says the fire code requires you to have a fire hydrant or to do this or to do that, then that is what the fire code requires. If you and Steve have a disagreement about what that means then you can always go to the insurance commission and we will live by what they tell us. If their interpretation is different than Steve's then we'll go by theirs, if it is the same as Steve's then we will go by Steve's. There is an alternative to have that.

Mr. Albaugh: On the other hand, I have been told that those streets are all up to the owners to repair or for me to get this permit. That was part of the presentation letter.

Mr. Outten: That is not what is in the permit that is proposed before the Board now.

Mr. Albaugh: I will have to reread it to show you exactly where it is.

Mr. Outten: Is it in the permit? (Addressed to Mr. Gillam)

Mr. Gillam: No, the only thing referenced in the permit is all structures and improvements constructed after November 6th, 2023 shall be constructed in compliance with the requirements of the Dare County Fire Marshall and North Carolina Fire Code.

Mr. Albaugh: That tells me I have to abide by whatever he says or fight. My complaint about that is I don't think these roads have been addressed back there since (inaudible)

Mr. Outten: I will speak to the roads, there are three kinds of roads in North Carolina. There is a state road that is maintained by the state of North Carolina, there is a city road maintained by the cities and towns, and there are private roads. There is no such thing as a county road. Counties do not have the right to keep and maintain roads, so if that road is in disrepair then it is incumbent upon the private property owners who hold the right of way rights. That is the same thing that happens in all the private roads in Dare County including everything from something as large as Colington Harbor to Dean Avenue.

Mr. Albaugh: I understand that, but don't you send recommendations to the state?

Mr. Outten: It is not a state road; the state is not going to maintain it either. It is a private road so for whatever reason when you bought that land and when the people that bought on the other side, you bought knowing that it was a private road and therefore the maintenance requirements are incumbent upon you all. They are not the taxpayer's responsibility.

Mr. Albaugh: I understand what you are saying that the county does not maintain the roads. There has been a lot of instances where they have maintained.

Mr. Outten: No there has not been.

Commissioner Ross: Point to one, point to two.

Mr. Outten: I had a conversation last week with somebody about it a different road.

Mr. Albaugh: I know of a case where there was a County Commissioner a long time ago that had a road paved.

Mr. Outten and other Board Members: That hasn't happened in 16 years.

Mr. Outten: Those are the issues that we have addressed in the permit, we are going to fix the language in number 11 to make it clear that we are not stating a commercial enterprise can't store anything there, but that they can not operate their commercial business from the units and you acknowledged that wasn't appropriate either.

Mr. Albaugh: I can still operate an office there if I choose to?

Mr. Outten: Yes, if your site plan shows and designates an office and the office meets the code requirements then yes, you can. A commercial space allows offices, but it does not allow you to operate an office in a storage facility. If you want to turn one of the storage facilities into an office then it has to be up to code an office to be built as and you have to bring a site plan in to get a permit to do that.

The County Manager asked the applicant if he agrees to the findings of fact listed in the SUP, the supporting documents on file, and the testimony presented by the Planning Director. Mr. Albaugh indicated his agreement. The County Manager then asked the applicant if the language is changed to make it clear that the permit is not talking about commercial storage, but commercial operation; does he then consent to the order.

Mr. Albaugh indicated his agreement, but stated he is still weighing the options whether this is even cost justifiable.

The County Manager asked again, if the change is made then he will consent to the special use permit as presented today. Mr. Albaugh indicated his agreement.

Commissioner Ross: Just to confirm, the Board is to approve a special use permit with 15 attached conditions, one of which number 11 shall be modified to clarify the commercial use as an office.

Mr. Albaugh: I do not understand why you are spelling out all of this when basically all you have to say is that I have to follow the rules of the county that are existing.

Mr. Outten: There is two overlying things, one there are a code of ordinances and there's an enforcement mechanism. For those however, the code has set this up as a special use permit and therefore requires a special use permit. The difference is that if you violate the special use permit your permit to use it for that purpose is revoked and you do not have to go through the whole process of a code violation because you have violated the permit that allows you to use the permits. Whether you agree or disagree there are multiple types of development in the county that require special use permits. The purpose of those are that they allow the Board if they choose to, to add conditions that are not spelled out in the ordinance to protect the public safety and welfare. The Board has said if we are going to allow this use in this location then we want the ability to add conditions that are not necessarily in the ordinance somewhere else, that is why you have a special use permit. Now this Board did not do that, this ordinance was adopted whenever by a different Board but because it is in the special use permit category then they must follow this process in order to issue you a permit to try to help you get your project done.

Mr. Albaugh: I could keep on arguing about some of these provisions.

Mr. Gillam: I explained during the Planning Board review of the special use permit that a number of these conditions are written in the code, and he may be familiar with the code. A Special Use Permit goes with the land, not just the applicant, so if he were to sell the property this special use permit would transfer and it would spell out things that the average person would not be aware of if they purchased the property. It is also a protection for somebody else purchasing the property or if he were to rent the property somebody else to function as such, it lists all the rules and regulations.

Mr. Outten: Other than your disagreement with the Fire Marshall, there is nothing in here that you disagree with, we are going to fix the problem you had with number 11.

Commissioner Bateman: The time limit on the operation of being 6 a.m. to 10:00 p.m. that's in any storage unit in all of Dare County?

Mr. Gillam: Any of the ones that I have been a part of review since my ten years with the county there has typically been a time frame of the occupant or of the renter being able to go to the storage unit that reflective of the noise ordinance.

Commissioner House: I have a storage unit myself and it has that time restriction on it.

Commissioner Bateman: The ones in Kitty Hawk do too.

MOTION

Commissioner Couch motioned to approve SUP #6-2023 and associated site plan for the storage warehouse group development with the change in the definition of commercial in number 11 as discussed.

Commissioner Basnight seconded the motion.

VOTE: AYES unanimous

ITEM 12 – DARE COUNTY DRAFT 2022 LAND USE PLAN FINAL REVIEW (Att. #7)

Mr. Outten asked if there was a deadline for when this has to be completed? Mr. Gillam stated that a clock starts today if the Board agrees to schedule the public hearing for January 2nd because there are certain requirements that has to be abided by with the CRC notifications and items have to be sent to the District Planner.

Mr. Gillam stated that the current plan the County is operating under is the 2009 Dare County Land Use Plan and it was certified by the state in 2010. Every five to ten years counties are

required to update their Land Use Plan to reflect growth in their community and to ensure compliance with the Coastal Resources Commission. The Planning Board and Planning Staff began working on this plan in 2018.

MOTION

Vice Chairman motioned to move that a public hearing on the adoption of the 2022 Dare County Land Use Plan be scheduled for January 2nd, 2024.

Commissioner House seconded the motion.

VOTE: AYES unanimous

ITEM 13 – CAPITAL PROJECT ORDINANCE – EMS PHASE II

Mr. Peele addressed the Board and stated that Item 13 and 14 are one in the same as they are related to the need for additional Engineering Services for a traffic control light at EMS Station 9. He explained that the Finance Department has put together the Capital Project Ordinance that reflects that the debt proceeds and architectural service from the Series 2024A LOBs for Phase II will be increased by \$49,000.

MOTION

This Item was combined and motioned for approval with Item 14.

ITEM 14 – CONTRACT AMENDMENT TO THE PROFESSIONAL SERVICES AGREEMENT – EMS PHASE II

Mr. Peele explained that Item 14 is the actual proposal from the Architect Firm showing a line item list of the costs that equate to \$49,000.

MOTION

Commissioner House motioned to combine Items 13 and 14 and motioned to approve the Capital Project Ordinance and the Contract Amendment to the Professional Services Agreement.

Commissioner Couch seconded the motion.

VOTE: AYES unanimous

ITEM 15 – FIRST FLIGHT MIDDLE SCHOOL FIELD REPAIR OPTIONS

A full account of the Board's discussion and action on this item is archived on a video that is available for viewing on the Dare County website. Following is a brief synopsis –

Mr. Outten referenced the discussion during November Board meeting about repairing the field at First Flight Middle School. He then presented six different repair options to the Board for their consideration.

Commissioner Ross exited the room at 11:19 a.m., he returned at 11:21 a.m.

Chairman Woodard expressed that he has spoken to many key folks, coaches, Commissioner Ivy Ingram, etc. and they all want this project to be completed and they are willing to compromise.

Commissioner Bateman inquired if the county has a contract with a company to do maintenance on the fields? Mr. Outten responded by stating yes, Albemarle Landscaping Services, and if we add these fields to that maintenance contract it will be about a \$39,000 a year expense.

Commissioner Basnight asked what the life expectancy of the field would be? Mr. Outten responded that if we maintain it and close it to let the grass grow, it should last forever. She also confirmed with Mr. Outten that there are sprinklers on the field.

MOTION

Commissioner House motioned to proceed with Option Three – the Sod and Sprig Approach. Commissioner Basnight and Commissioner Bateman seconded the motion.

VOTE: AYES unanimous

Mr. Clawson noted that there is money available to complete this project.

ITEM 16 – 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:

- 1) Approval of Minutes (11.06.23) (**Att. # 8**)
- 2) Tax Collector's Report
- 3) Budget Amendment for the Closeout of the Colington Road Waterline Betterment
- 4) NC Governors Highway Safety Program (GHSP) Local Government Resolution (**Att. #9**)
- 5) Amendment to the Brightspeed Contract
- 6) Dare County Information Technology Sole Source Resolution (**Att. #10**)
- 7) Title VI Program Plan Update – Transportation

Commissioner Bateman seconded the motion.

VOTE: AYES unanimous

ITEM 17 – BOARD APPOINTMENTS

1) Stumpy Point Community Center Board

Commissioner Couch motioned to appoint Dabni Shelton.

Commissioner House and Overman seconded the motion.

VOTE: AYES unanimous

2) Juvenile Crime Prevention Council

Commissioner House motioned to appoint Spencer Gregory and Martin Dalton.

VC Overman seconded the motion.

VOTE: AYES unanimous

3) Transportation Advisory Board

Commissioner Couch motioned to reappoint George Carver.

Commissioner Bateman seconded the motion.

VOTE: AYES unanimous

4) Special Motor Vehicle Valuation Review Board

VC Overman motioned to reappoint Danny Couch, Dock Sawyer, and David Light.

Commissioner House seconded the motion.

VOTE: AYES unanimous

5) Board of Evaluation and Review

Commissioner House motioned to reappoint Nelson V. "Skip" Jones, Johnathan Waddill, Jeffrey Scott, Terry Gore, Charles Evans.

Commissioner Bateman seconded the motion.

VOTE: AYES unanimous

6) Parks and Recreation Advisory Council

Vice-Chairman motioned to reappoint Missy McPherson.

Commissioner Basnight seconded the motion.

VOTE: AYES unanimous

7) Older Adult Services Board

VC Overman motioned to appoint Sandra Burgee.

Commissioner House seconded the motion.

VOTE: AYES unanimous

8) Tourism Board

Dare County Restaurant Association

Commissioner Bateman motioned to reappoint Mark Ballog.

Commissioner House seconded the motion.

VOTE: AYES unanimous

Outer Banks Association of Realtors

Commissioner Ross motioned to appoint John Head.

Commissioner House seconded the motion.

VOTE: AYES unanimous

Town of Kitty Hawk

Commissioner Bateman motioned to reappoint David Hines.

VC Overman seconded the motion.

VOTE: AYES unanimous

Town of Kill Devil Hills

The representative for the Town of Kill Devil Hills has been tabled until January.

Town of Nags Head

Commissioner House motioned to reappoint Michael Siers.

Vice-Chairman seconded the motion.

VOTE: AYES unanimous

Dare County Board of Commissioners

Commissioner Bateman motioned to appoint Vice-Chairman Wally Overman.

Commissioner Couch seconded the motion.

VOTE: AYES unanimous

Member At-Large

Commissioner Bateman motioned to appoint Tess Judge.

Commissioner Basnight & Commissioner House seconded the motion.

VOTE: AYES unanimous

9) Upcoming Board Appointments

The upcoming Board appointments for January, February and March, 2024 were announced.

ITEM 18 – 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:

MANAGER’S/ATTORNEY’S BUSINESS

- Stated that there has been a lot of discussion about pickleball. He discussed the possible solution at the YMCA and stated that they would let the county build the courts but would only give the county a five-year commitment and there would be no reimbursement. He asked the Board if he could let the YMCA know that this is not an agreement that the county can proceed with, the Board agreed. There was then further discussion regarding possible pickleball solutions.

- Mr. Outten informed the Board that it was time to eliminate the COVID Leave Policy.

MOTION

Commissioner Couch motioned to eliminate the COVID Leave Policy.

Vice-Chairman Overman seconded the motion.

VOTE: AYES unanimous

- Mr. Outten announced that Woda Cooper had contacted him and informed him that they were moving on from their projects in Dare County. Commissioner Ross stated that he will meet with David Cooper over the holiday and will report back to the Board in January.

- Mr. Outten explained that on the back of the Health Center property in Hatteras Village there is an old helicopter pad that is no longer in use and is beginning to erode. He asked the Board for their authority to remove the helicopter pad and regrade/repair the property. Commissioner Bateman expressed that a bulkhead needed to be installed. Commissioner House asked if the FFA has been notified. Mr. Outten stated he will ensure that the FFA receives notification if they have not already.

MOTION

Vice-Chairman Overman motioned to give authority to remove the helicopter pad behind the Health Center in Hatteras Village.

Commissioner Bateman seconded the motion.

VOTE: AYES unanimous

Dorothy Hester

- Announced that the State of the County event will be taking place on January 23rd at Captain George’s with a max of 200 people.
- She stated that the theme will be teamwork and that she will be meeting with each Board Member individually to prepare.

Dave Clawson

- Stated that himself and Dustin Peele went to a Construction Meeting with Barnhill. He announced that the Southern Shores Station substantial completion is February 13th and Barnhill will probably beat that date. The Medflight station is ahead of schedule and the Kill Devil Hills Station is on schedule.

- Announced that the audit report has been completed and was sent to the Local Government Commission and he will present it to the Board at the January meeting.

Chairman Woodard exited the room at 11:44 p.m., he returned at 11:47 p.m.

COMMISSIONERS' BUSINESS

Chairman Woodard explained that due to the passing of Commissioner Tobin, the Board needed to appoint a new Chair to the Oregon Inlet Task Force.

MOTION

Chairman Woodard motioned to appoint Commissioner Steve House as the Chairman of the Oregon Inlet Task Force.

Seconded by Vice-Chairman Overman.

VOTE: AYES unanimous

Commissioner Ross

- Attended the Brian Culture Series concert at the St. Andrews by the Beach Church where the ECSU Choir and guests' vocalists of Handel's Messiah preformed. He expressed that it was a spectacular performance.
- He was pleased to announce that a report that was previously suspended due to COVID, "Roadmap of Need," has been reinstated. He explained that it considered a "Whole Child Assessment" of students K-12. He was also pleased to announce that Dare County finished ninth out of one-hundred North Carolina Counties, although prior to COVID Dare County was finishing in the 1st-4th spot.
- On November 14th at the animal shelter, the new veterinarian Dr. Newman, Shelter Director Bill Coleman, and the Chamber held a ribbon cutting for the new Surgical Room. Minor surgeries will now be preformed at the shelter opposed to using the local veterinarian services.
- Announced that the Audit Committee will meet on December 5th and he will share the results at the January Board meeting.
- On December 18th and 20th, the Virginia Tillett Community Center will be hosting their annual Toys for Kids Community Giveaway.

Commissioner House

- Thanked the fellow Commissioners for his appointment of Chairman of the Oregon Inlet Task Force.
- Stated that the NC Marine Fisheries finally released last year's statistics and he has found some inconsistencies. He will be holding a Working Waterman Commission meeting in January to dive deeper into the statistics and attempt to fight back.
- Discussed the Workboat seminar that was held in New Orleans in November and how Miss Katie was on one of the banners when you walked in to the grand hallway.
- Pet of the Week: Rupert, a four-and-a-half-year-old mixed breed, is available for adoption.
- Our Day in History: According to many scholars on December 4th, 1619 thirty colonist from Berkley, Paris disembarked in Virginia and gave thanks to God, which was considered by many as the first Thanksgiving in the America's.
- Wished everyone a Merry Christmas.

Vice-Chairman Overman

- Thanked service pin recipients and the Employee of the Month: Angela Grant
- A Wall that Heals Presentation thanking all of the sponsors and participants was shown. This presentation was created with the help of Katelin Kight.
- Wished everyone Merry Christmas and Happy New Year.

Commissioner Bateman

- Thanked Vice-Chairman Overman for his efforts to the Wall that Heals.
- Stated that he purposely did not visit the Wall when visiting Washington due to family, but when the Wall that Heals came to Nags Head it made him go. He feels that it was a great event for the people of Dare County.
- Welcomed Bea Basnight to the Board and stated that he looks forward to working with her.
- Wished everyone Merry Christmas & Happy New Year.

Commissioner Couch

- Welcomed Bea Basnight to the Board.
- Recognized the FFHS Men's Soccer Team for their State Championship Title.
- Recognized Good Guys Vs. Cancer and how the event has taken off.
- Expressed that Dare County does a great job supporting the children and athletics within the community.
- Wished Chairman Owens, Town of Manteo, the best with his health.
- Recognized the outstanding job Tim White did for the Parks and Recreation Department and for everyone to stand by him and his family during this difficult time.
- Thank Vice-Chairman Overman for his efforts with The Wall that Heals and took a moment to acknowledge the heroes and how the community all came together and made it happen.
- Told the story of the SSG Marshall Marshal Kipina, who's plane went missing during the Vietnam War when he encountered heavy thunderstorms.
- Acknowledged the life of Fountain Odom and Eugene Austin.
- Announced that he will not be running for a Commissioners seat in the upcoming 2024 General Election.
- Wished everyone a Merry Christmas and Happy Holidays.

Commissioner Basnight-

- Expressed that she is honored to serve the citizens of Dare County.
- Thanked the FFHS Chorus for their entertainment and congratulated FFHS Men's Soccer Team on their State Championship title.
- Thanked Vice-Chairman Overman for his efforts to the Wall that Heals.
- Congratulated service pin recipients and the employee of the month, Angela Grant.
- Expressed that Fountain Odom was a great asset to our state and to Dare County. She then said that he met her walking in Festival Park one morning and told her that he was trying to make the Scuppernong Grape the State Fruit. She then had her fifth-grade class do the research and send a Resolution to the General Assembly, which resulted in success.

- Inquired about the \$54.9 million appropriation for pathways, and stated that when the VTCC was built there was a potential pathway that went from the center over to the Tourism Bureau to CSI and asked if that was part of what the Board was looking into. Mr. Outten explained that they were looking to do some upgrades to the path.
- Wished everyone a Merry Christmas and Happy New Year.

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

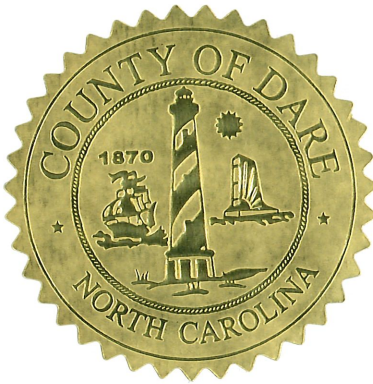
MOTION

Commissioner Couch motioned to adjourn the meeting.


Commissioner Bateman seconded the motion.

VOTE: AYES unanimous

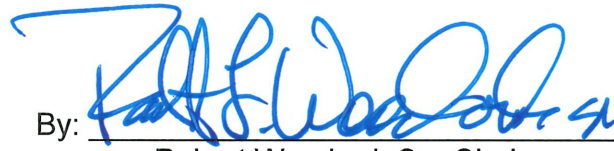
At 12:43 p.m., the Board of Commissioners adjourned until 9:00 a.m., January 2nd, 2024.



Respectfully submitted,

By: 
Skyler Foley, Clerk to the Board

APPROVED:

By: 
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 of Commissioners at this meeting are on file in the office of the Clerk. Attempts have been made to accurately spell each podium speaker.