

**Meeting Minutes**

**Board of County Commissioners  
Hyde County**

**July 7, 2010**

Chairman Tom Davis called the Special Meeting of the Hyde County Board of Commissioners to order at 6:30 PM on Wednesday, July 7, 2010 in the Hyde County Government Center, Multi-Use Room, and the Ocracoke School Commons area using electronic conferencing equipment. The following members were present on the mainland: Commissioners Tom Davis, Anson Byrd, and Ken Collier; County Attorney Sid Hassell; Interim County Manager/Clerk to the Board David Smitherman; Deputy Clerk to the Board Justin Gibbs; and members of the public. The following members were present on Ocracoke: Commissioners Sharon Spencer and Darlene Styron; Deputy Clerk to the Board Jamie Tunnell; and members of the public.

**Agenda:**

Chairman Davis asked for any changes to the July 7, 2010 meeting agenda as presented by the Clerk.

Commissioner Byrd moved to approve the agenda with the addition of Item IV. Reports (B) County Manager's Report. Commissioner Collier seconded the motion, the motion passed by the following vote:

Ayes – Commissioners Davis, Spencer, Byrd, Collier, and Styron

Nays – None

**Items for Consideration:**

**Removal of Former County Manager as Deputy Clerk to the Board**

Interim County Manager David Smitherman asked the Board to approve the resolution presented, which would remove the Former County Manager Carl Classen as Deputy Clerk to the Board.

Commissioner Collier moved to approve the resolution removing the Former County Manager as Deputy Clerk to the Board. Commissioner Byrd seconded the motion, the motion passed by the following vote:

Ayes – Commissioners Davis, Spencer, Byrd, Collier, Styron

Nays – None

*Clerk's Note: Please find a copy of the resolution attached to the minutes in the minute book located in the Administrative Office located at the Hyde County Government Center.*

### **9-1-1 Call Taking Equipment Financing**

Interim County Manager David Smitherman proposed that the Board approve moving forward with the BB&T quote to finance the 9-1-1 call taking equipment upgrade and allow the Chairman to execute the contract with CenturyLink. Mr. Smitherman reported that HB1691 – Use of 911 Funds had passed the Senate and had been placed on the House calendar to be voted on; the Interim County Manger stated that HB 1691 would allow the County to use up to fifty percent of the current balance within the Emergency Telephone System Fund on any public safety expense within a 24 month period. Mr. Smitherman told the Board that he was not suggesting any specific use of the funds and recommended conserving the public safety eligible funding until the very end of the 24 month period.

Commissioner Spencer asked how long the installation period would take, because the primary telephone in the Hyde County Dispatch Center had recently been struck by lightning. Mr. Smitherman reported that the equipment installation would take approximately 4-6 months. E9-1-1 Database Administrator Justin Gibbs reported that he was working with the Finance Officer to file an insurance claim and that CenturyLink was searching their inventory for a telephone to loan the County during the installation period.

Commissioner Styron asked why the County was financing the purchase of the 9-1-1 call taking equipment if the funds were available to purchase the equipment. Mr. Smitherman replied that purchasing the equipment outright would negate the new ability to use a portion of the Emergency Telephone System Fund on any public safety expense and that the financing of the equipment provided for a positive cash flow.

Commissioner Byrd moved for the County to secure financing through Branch Banking & Trust (BB&T) for the 9-1-1 Call Taking Equipment Upgrade and to allow the Chairman to execute the closing documents with BB&T. Commissioner Collier seconded the motion, the motion passed by the following vote:

Ayes – Commissioners Davis, Spencer, Byrd, Collier, Styron

Nays – None

### **Other Matters:**

#### **Ocracoke Golf Cart Ordinance Revisions (Commissioner Styron)**

Commissioner Styron asked that the Board consider revising the County's golf cart ordinance; because the people of Ocracoke felt that the operator of a golf cart should be required to be at least 16 years of age, that a golf cart should be required to have

taillights, and that in many cases there were too many people riding on the golf carts. The County Attorney informed the Board that G.S. 153A-245 (b) already requires that the operator of a golf cart must be at least 16 years of age. The County Attorney also proposed that the Board revise the ordinance to require that all passengers on the golf cart be seated and restrained in a seat that is fastened to the frame of the golf cart. The County Attorney stated that the County did not have the authority to regulate items that were already set out in state law. Chairman Davis recommended that Board consider a grace period, which would allow owners to have their golf carts up-fitted to meet the requirements of the ordinance. Commissioner Collier asked if it would be beneficial to require the golf carts to have turn signals and brake lights. Commissioner Styron replied that the golf cart operators on Ocracoke used hand signals which worked fairly well and that requiring taillights would cover requiring brake lights. Chairman Davis stated that he felt requiring turn signals would make the ordinance too complex. Commissioner Styron asked if a statement referring to G.S. 153A-245 (b) could be included in the ordinance, the County Attorney replied that in his opinion the addition of a statement referring to G.S. 153A-245 (b) would be fine. Commissioner Byrd stated that he felt that the proposed revisions would all be good requirements. Chairman Davis proposed that the grace period which would allow for the owners to have their golf carts up-fitted should be set to 60 days, but he felt that the Board should not adopt the revisions immediately because a draft ordinance should be prepared and reviewed at the July 19, 2010 Commissioners' Meeting. Chairman Davis moved to have a public hearing if necessary at the July 19, 2010 Hyde County Board of Commissioners' Meeting. Commissioner Spencer seconded the motion, the motion passed by the following vote:

Ayes – Commissioners Davis, Spencer, Byrd, Collier, and Styron

Nays – None

Commissioner Styron asked if the Board should change the speed limit on the strip of roadway between Howard's Pub and Creekside Café from 25 miles per hour to 20 miles per hour, as proposed by the Hyde County Sheriff's Office. The County Attorney stated that the County did not have the authority to reduce the speed limit, but the Board could request the Department of Transportation (DOT) to consider the matter. Chairman Davis requested that the Board discuss the speed limit reduction at a later time.

#### **Finance Committee – Creation (Commissioner Spencer)**

Commissioner Spencer asked that the Board to consider creating a Finance Committee to act as a liaison between the Board of Commissioners and the Finance Officer.

Commissioner Spencer stated that she felt it would be a good idea to allow the Finance Officer to connect directly with the Board, so the Commissioners were not left out of the loop and that it would give the Finance Officer an opportunity to voice any concerns related to the financial well being of the County. Chairman Davis asked if a policy should be enacted to protect the Finance Officer against any retaliation for good faith reports, instead of creating a committee. Commissioner Spencer proposed that the Finance Officer deliver a monthly report to the Board, so all the Commissioners could be involved. Commissioner Collier stated that he felt that a committee or reports delivered

to the Board would provide for checks and balances and increased oversight. Commissioner Byrd felt that both of the recent audits speak to a lack of control. Chairman Davis proposed that the Finance Officer deliver a report to the Board of Commissioners on the second meeting of each quarter. Chairman Davis moved that the Finance Officer deliver a quarterly report to the Board of Commissioners on the second meeting of the following months:

September  
December  
February  
May

Commissioner Spencer seconded the motion, the motion passed by the following vote:

Ayes – Commissioners Davis, Spencer, Byrd, Collier, and Styron  
Nays – None

**Mosquito Control Expenses (Commissioner Styron)**

Commissioner Styron requested a review of expenses incurred by the Ocracoke Mosquito Control District, she stated that she did not understand why Ocracoke was assessed a tax for mosquito control, while the mainland mosquito control was paid from the Hyde County General Fund. Commissioner Styron stated that she would like to see if someone could take over maintaining the mosquito control ditches on the island at a reduced cost.

The County Attorney informed the Board that he was not sure when the district was created, but that the mosquito control district is regulated by Article 12 of G.S. 130A. The County Attorney went on to state that the mosquito control district is a body politic and corporate and a political subdivision of the State; the mosquito control district has its own board of commissioners to govern the operations of the district. The Ocracoke Mosquito Control District is comprised of five members, of which one member is selected by the Secretary of Environment and Natural Resources, one member is selected by the Director of the Wildlife Resources Commission, and three members are selected by the Hyde County Board of Commissioners. The Ocracoke Mosquito Control District is regulated by the Secretary of Environmental and Natural Resources and the Secretary has the authority to approve, modify or take other appropriate action in regard to the operation plans developed by the Ocracoke Mosquito Control District Board of Commissioners.

The County Attorney informed the Board that the maximum amount of the special tax to be levied for mosquito control purposes was set at thirty-five cents per one hundred dollars of taxable value and that the Hyde County Tax Office is charged with collecting the special tax. The funds collected by the County are deposited into an account designated by the Mosquito Control Board of Commissioners and the County has no say regarding the operations of the district. The County Attorney stated that Former County Manager Don Davenport contacted the Secretary of Environment and Natural Resources

in 2005 and the Secretary stated that he had not been informed that a mosquito control district existed on Ocracoke.

Commissioner Styron stated that she had tried to acquire meeting minutes from the Ocracoke Mosquito Control Board and was told that the minutes were lost in a previous storm. The County Attorney stated that the Ocracoke Mosquito Control Board was subject to the open meeting laws and the laws governing public records. The County Attorney also stated that the Ocracoke Mosquito Control Board is required to have quarterly meetings.

The Interim County Manager informed the Board that the terms of the members selected by the Hyde County Board of Commissioners to serve on the Ocracoke Mosquito Control District Board had expired. The Board asked the Interim County Manager to place an agenda item on the July 19, 2010 Board of Commissioners' Meeting Agenda to appoint the three members of the Ocracoke Mosquito Control Board.

### **County Manager Position Resumes (Commissioner Spencer)**

Commissioner Spencer requested that the Board discuss the County Manager position resumes, Mrs. Spencer proposed that a letter be sent to the applicants informing them that the position will be filled after the second week in December. The County Attorney stated that he had received approximately 30 applications and that he was still receiving calls and applications. Commissioner Byrd inquired as to when the Board would start reviewing the applications; Chairman Davis recommended that a committee be established to review the applications and eliminate some of the unqualified candidates. The Board selected Commissioners Spencer and Collier and the Interim County Manager David Smitherman to comprise the committee to review the County Manager position applications. Chairman Davis recommended that the committee meet at the County Attorney's Office to review the applications and that the committee present their selected candidates at the second meeting in September.

### **Animal Control (Interim County Manager David Smitherman)**

The Interim County Manager reported that the contracted Animal Control Officer J.M. Eakes agreed to the thirty-one day contract extension for the animal shelter and animal control services, proposed by the Board. Mr. Smitherman stated that he met with the Sheriff's Office and Health Department regarding the issues surrounding the continuation of animal control in the County and was wondering how the Board wanted to proceed.

The Health Director Wesley Smith told the Commissioners that the duties provided by Mr. Eakes involved much more than just picking up animals. Mr. Smith stated that the Health Director has the authority to choose where animals are housed, but felt that reverting back to telling people to hold the animals at their homes would be a tremendous liability. Chairman Davis asked how many rabid animal cases are reported annually, the Environmental Health Specialist Hugh Watson reported that there are an average of 5 cases that required short-term housing and an average of 20-25 cases that required long-

term (10 days) housing. The Interim County Manager stated that the County has a contract with Beaufort County for long-term housing. Commissioner Styron asked Mr. Smitherman what the contract said, Mr. Smitherman stated that the contract allowed for up to 12 animals to be housed at the Beaufort County facility and that Hyde County paid for housing on a per case basis. Commissioner Byrd asked why the County transported animals to Beaufort County. The Interim County Manager told the Board that animals are transported to Beaufort County because the shelter being maintained by Mr. Eakes was not intended for long-term holding. Commissioner Byrd wanted to know how much the County spent annually on animal control services. The Interim County Manager stated that the County spent a bare minimum of \$45,000 annually for the provision of animal control services. Mr. Eakes stated that he spent \$7,000 of his own money on the shelter and that if his work did not speak for itself then he had nothing else to say.

Commissioner Collier asked Mr. Eakes what the minimum operating budget would be if the Board decided to continue the current level of service. Mr. Eakes informed the Board that he did not know what the minimum budget would be, because the budget was driven by the number of calls. Commissioner Collier asked Mr. Eakes if he would be willing to meet with the Interim County Manager to determine a minimum budget that would allow for the continuation of the current level of animal control services and Mr. Eakes agreed.

Commissioner Collier made a motion to table a decision on animal control services until the July 19, 2010 Commissioners' Meeting. Commissioner Byrd seconded the motion, the motion passed by the following vote:

Ayes – Commissioners Davis, Spencer, Byrd, Collier, and Styron

Nays – None

#### **ABC Board Operations Update (Commissioner Spencer)**

The ABC Board Operations Update was moved to the July 19, 2010 Commissioners' Meeting.

#### **County Manager's Report**

Interim County Manager David Smitherman informed the Board that there would be a public hearing conducted by Marine Fisheries concerning the Oyster Regulations on August 18, 2010 at 11:00 AM.

Mr. Smitherman informed the Commissioners that the Utilities Director Clint Berry was requesting the use of \$20,000 from contingency funds to permit a waterline that would service Swamp Road in Engelhard. Clint Berry reported that the \$20,000 was left over from an Engineering Contract for the Engelhard Water Treatment Plant and that the permitting process would take approximately two to three months.

Commissioner Byrd made a motion to allow the Utilities Department to use \$20,000 of contingency funds remaining from an engineering contract for the Engelhard Water

Treatment Plant, to permit a waterline that would service Swamp Road in Engelhard. Commissioner Collier seconded the motion, the motion passed by the following vote:

Ayes – Commissioners Davis, Spencer, Byrd, Collier, and Styron  
Nays – None

The Interim County Manager reported that the Utilities Director investigated the implications of exempting the residences in Riverside Campground in Ponzer and found that the County would lose approximately \$18,600 in revenue if these structures were exempted. Commissioner Collier stated that most of the dwellings were only occupied on a seasonal basis. Chairman Davis requested that the solid waste billing for Riverside Campground be placed on the July 19, 2010 Commissioners' Meeting Agenda.

Commissioner Collier made a motion to adjourn the July 7, 2010 Special Meeting of the Hyde County Board of Commissioners. Commissioner Davis seconded the motion, the motion passed by the following vote:

Ayes – Commissioners Davis, Spencer, Byrd, Collier, and Styron  
Nays – None

The July 7, 2010 Special Meeting of the Hyde County Board of Commissioners adjourned at 7:58 PM.

Respectfully submitted:

Minutes approved on the 2<sup>nd</sup> day of August, 2010.

  
Justin L. Gibbs, Deputy Clerk – Hyde County Board of Commissioners

  
Tom Davis, Chairman – Hyde County Board of Commissioners

Attachments:

*A – Resolution removing the Former County Manager as Deputy Clerk to the Board*

