

Meeting Minutes

Board of County Commissioners Hyde County

June 7, 2010

Chairman Tom Davis called the Regular meeting of the Hyde County Board of Commissioners to order at 7:00 PM on Monday, June 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 Ken Collier, Tom Davis, and Sharon Spencer; County Attorney Sid Hassell; Interim County Manager David Smitherman; Clerk to the Board Lois Stotesberry; and members of the public. The following members were present on Ocracoke: Commissioner Darlene Styron; Deputy Clerk to the Board Jamie Tunnell; and, members of the public. Commissioner Anson Byrd was absent.

Following the pledge of allegiance and opening prayer by Commissioner Collier the meeting was called to order.

Agenda:

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

Commissioner Spencer moved to approve the agenda as presented by the Clerk with Item V. Other Matters (C) AT&T Variance Request – Ocracoke Tower moved to follow Item II. A. Public Hearings. Mr. Collier seconded the motion. The motion passed on the following vote: Ayes – Collier, Davis, Spencer, and Styron; Nays – None; Absent or Not Voting – Byrd.

Consideration of Minutes:

Chairman Davis asked for approval of meeting minutes.

Commissioner Collier moved to approve the May 17, 2010 Commissioners Regular Meeting Minutes as presented by the Clerk. Ms. Spencer seconded the motion. The motion passed on the following vote: Ayes – Collier, Davis, Spencer, and Styron; Nays – None; Absent or Not Voting – Byrd.

Introduction – Commissioner Darlene Styron:

Chairman Davis introduced Ms. Darlene Styron. Commissioner Styron was appointed on May 25, 2010 to represent District 3 – Ocracoke Township. Ms. Styron will complete the term of former Commissioner Eugene S. Ballance who resigned on May 19, 2010.

Public Hearings:

Approval of Hyde County Economic Development Grant Program for ECSP, LLC

Commissioner Spencer moved to excuse Chairman Davis due to conflict of interest. Mr. Collier seconded the motion. The motion passed on the following vote: Ayes – Collier, Spencer, and Styron; Nays – None; Absent or Not Voting – Byrd and Davis.

Commissioner Spencer moved to open Public Hearing on Approval of Hyde County Economic Development Grant Program for East Carolina Soybean Producers, LLC (ECSP, LLC). Ms. Styron seconded the motion. The motion passed on the following vote: Ayes – Collier, Spencer, and Styron; Nays – None; Absent or Not Voting – Byrd and Davis.

On September 2, 2008, Mr. Buster Manning, Chairman of ECSP, LLC requested that the Hyde County Board of Commissioners consider East Carolina Soybean Producers, LLC as a candidate for the five-year Hyde County Economic Development Grant Program - Level III. On that date, the commissioners authorized County Attorney Sid Hassell to prepare a Grant Agreement. However, ECSP, LLC had to wait until they paid their 2009 taxes before the agreement could be drafted.

The Hyde County Economic Development Grant Program was begun in 1996 and was revised on August 1, 1998. Copy of the Hyde County Economic Development Grant Program Guidelines and copy of the Incentive Agreement that County Attorney Sid Hassell drafted for the 2009 – 2010 fiscal year were provided for Board review. As the guidelines state, the payment must be made before June 30, 2010.

Wilson Daughtry, ECSP, LLC Plant Manager Lee Clements, Ray Tooley and Tony Carawan asked that the County consider them as a candidate for the five-year Hyde County Economic Development Grant Program on the basis of a \$3.2 million dollar investment.

ECSP, LLC currently employs six persons. Hourly wages ranging from \$13.00 to \$17.00 per hour are well above the county average wage. Mr. Clements reported that ECSP, LLC hopes to reach a one-million bushel mark.

Commissioner Collier moved to close Public Hearing on Approval of Hyde County Economic Development Grant Program for ECSP, LLC. Ms. Styron seconded the motion. The motion passed on the following vote: Ayes – Collier, Spencer, and Styron; Nays – None; Absent or Not Voting – Byrd and Davis.

Commissioner Collier moved to approve ECSP, LLC for a Level III Hyde County Economic Development Grant; and, to authorize the County Commissioners and ECSP, LLC to sign an original of the Incentive Agreement for \$11,901.81 out of the FY2009-10 Budget to be paid prior to June 30, 2010. Ms. Styron seconded the motion. The motion passed on the following vote: Ayes – Collier, Spencer, and Styron; Nays – None; Absent or Not Voting – Byrd and Davis.

Chairman Davis returned.

Hyde County FY2010-2011 Budget

Commissioner Spencer moved to open Public Hearing on FY2010-2011 Hyde County Budget. Mr. Collier seconded the motion. The motion passed on the following vote: Ayes – Collier, Davis, Spencer, and Styron; Nays – None; Absent or Not Voting – Byrd.

Notice of Public Hearing was posted on June 2 and copy of FY2010-2011 Hyde County Budget is available for public inspection in the office of the Clerk to the Board at the County Manager's office.

Interim County Manger David Smitherman presented overview of the FY2010-2011 Budget. Mr. Smitherman reported that the proposed budget does not increase the \$.52 tax rate; does represent a 13.3% reduction in General Fund spending; and, does propose to reduce expenditures in general operations through employee Early Retirement Incentive Plan (ERIP) and Reduction In Force (RIF). Mr. Smitherman also reported that eventually Hyde County will have a tax increase, if not this year then next year.

Chairman Davis called for comments/questions from citizens.

Kathy Clayton, Ponzer – suggested the Board of Commissioners fees be cut.

Frank Faulkson, New Lake – advised the Board to not spend what they didn't have and recommended a Board of only three Commissioners for a savings of approximately \$10,000.

Thomas Whitaker, Director, NC Forestry Division in Fairfield – asked the Board to remember "Evans Road Fire". Mr. Whitaker asked the Board to re-visit the FY2010-2011 Forestry Division appropriation.

Tim Kinkaid, New Lake – reported that the Ponzer Volunteer Fire Department First Responders saved his girlfriends life stated that ending the First Responder Program would jeopardize lives. Mr. Kinkaid stated that asking citizens to bail out the County is unfair.

In response, Commissioner Collier stated that the Board is not dis-banning the First Responder Program; that the Program should be kept; and, that if the First Responder Program gets in trouble the County would be willing to help with funding.

Fred Westervelt, Ocracoke – asked the Board to reconsider purchase of the Hyde County Mainland ABC Store and liquor sales from Dare County.

Phyllis Wall, Ocracoke – stated that Ocracoke should see the Board members on the Island before the FY2010-2011 Hyde County Budget is passed; and recommends Hyde County regionalize services with other counties.

Wayne Pugh, Assistant Chief - Ponzer Volunteer Fire & Rescue – asked why the Board wants to cut the First Responder Program and why they purchased an ABC Store. Mr. Pugh informed the Board that Volunteer Fire Departments and First Responders are underfunded as it is; and, stated no one can respond without gas in the fire trucks.

Commissioner Spencer moved to close Public Hearing on Hyde County FY2010-2011 Budget. Mr. Collier seconded the motion. The motion passed on the following vote: Ayes – Collier, Davis, Spencer, and Styron; Nays – None; Absent or Not Voting – Byrd.

Variance Request from AT&T Mobility (“AT&T”) and Carolina Telegraph Company LLC d/b/a CenturyLink (“CenturyLink”)

At the May 17 Regular Commissioners Meeting the Board held over Request for approval of a Variance from Section 40-226 of the Hyde County Code of Ordinances on the grounds that a strict adherence to the ordinance would result in unnecessary hardship to AT&T and CenturyLink and would prevent AT&T from providing telecommunications services to the residents, workers, visitors, and fishermen of Ocracoke Island and Mainland Hyde County.

Excerpt from the May 17, 2010 Board of Commissioners Regular Meeting Minutes:

Karen Kemerait, North Carolina Zoning Counsel, presented request by AT&T and CenturyLink for variance from the strict adherence of Section 40-226 of the Hyde County Code of Ordinances (the “ordinance”) on the grounds that a strict adherence to the ordinance would result in unnecessary hardship to AT&T and CenturyLink and would prevent AT&T from providing telecommunications services to the residents, workers, visitors, and fishermen of Ocracoke and Hyde County.

CenturyLink is the owner of the existing 100-foot lattice tower located at 124 Cedar Road in Ocracoke. AT&T has filed an application to co-locate its antennas on the tower so that it may provide cellular coverage in Ocracoke and Hyde County without having to construct a new telecommunications tower in Ocracoke. Specifically, AT&T will be extending the tower by 15 feet to provide space for AT&T’s antennas, and AT&T will be mounting only three antennas on pipe mounts to ensure that the antennas will have no adverse visual effect. The North Carolina Department of Cultural Resources State Historic Preservation Office (“SHPO”) has approved AT&T’s request to extend the tower by 15 feet and place its antennas on the tower, and has determined that the proposed extension and placement of antennas will not adversely affect the Ocracoke Historic District.

In order for AT&T to co-locate its antennas on CenturyLink’s tower, a variance is required because the existing CenturyLink tower (which was legally constructed on or about 1974 and before the ordinance was adopted) does not meet the setback requirement contained in Section 40-226 of the ordinance. Section 40-226 of the ordinance provides the following setback requirement: Sufficient land shall be acquired for all tower sites to contain any ice or debris that happens to fall from the tower, antenna, or guy wires; and, for monopoles or lattice towers the minimum setback from the property line shall be one-half the tower and antenna’s overall height.

The variance application that has been submitted explains in detail the factors relevant to the issuance of a variance.

After discussion, the matter was held over to June 7 for consideration.

After discussion, Chairman Davis moved to approve the AT&T Variance Request. The motion died for want of a second.

After further discussion, Chairman Davis moved to approve the AT&T application and the variance request from AT&T Mobility (“AT&T”) and Carolina Telegraph Company LLC d/b/a

Century Link (“Century Link”) for placement of a 15 foot extension to provide space for AT&T’s antennas contingent upon: (1) AT&T to remove chain link fence and install wooden privacy fence; (2) AT&T to install a quiet generator (65 decibel); (3) AT&T to complete structural analysis report recommendations (5-issues) prior to installation; and (4) AT&T to obtain written documentation from NPS that co-location space is not available. Commissioner Spencer seconded the motion. The motion passed on the following vote: Ayes – Collier, Davis, Spencer, and Styron; Nays – None; Absent or Not Voting – Byrd.

Special Presentation:

Appreciation Plaque – Eugene S. Ballance

Chairman Davis presented former Commissioner Eugene S. Ballance a plaque of appreciation for his service to the County. Mr. Davis commended Mr. Ballance for being a faithful representative of Ocracoke and Mainland Hyde County; and, reported that he was instrumental in the simultaneous electronic meeting equipment project. Deputy Clerk to the Board Jamie Tunnell assisted with the presentation.

Mr. Ballance thanked former County Manager Carl Classen for his work for the County.

BHM Regional Library – Maryjane Carbo, Director

Interim County Manager David Smitherman reported that County appropriation to BHM Regional Library will be addressed in the FY2010-2011 Hyde County Budget.

Copier/Printer Service Agreement – Carraway Office Solutions, Inc.

Interim County Manager David Smitherman reported that the copier/printer service agreement with Carraway Office Solutions, Inc. will be addressed in the FY2010-2011 Hyde County Budget.

Engelhard Airport Study – Ben Cahoon, Architect

Ben Cahoon, Architect, Cahoon & Kasten Architects presented Hyde County Airport at Engelhard, NC Function and Benefit Study Draft Executive Summary with Meeting Minutes. Mr. Cahoon stated that currently Hyde County has Federal Grant funds (through the NCDOT Division of Aviation) totaling approximately \$150,000 per year for improvements to the airport at Engelhard with a 10% match of approximately \$16,670 per year. Mr. Cahoon also reported that the Division of Aviation requested this study to assure that future improvements would maximize the airport’s benefit to Hyde County.

Mr. Cahoon noted that concerns about the Engelhard Airport lights need to be addressed by Talbert & Bright and that he will contact Mr. Talbert about this matter.

Hyde County Public Arts Project – Alison Ellis, Project Manager

Allison Ellis presented update on the artwork to adorn the entrance of the Government Center. The project is funded by the Beaufort/Hyde Arts Council and is expected to be complete in July.

Storm Debris Management Contract – Lindsey Mooney, EM Technician

Emergency Management Technician Lindsey Mooney presented the 2010 Emergency Removal of Debris Memorandum of Agreement between NCDOT & Hyde County. The NCDOT Agreement is a debris management plan in the event of a federally declared disaster which covers the NCDOT State Highway System, which also includes our Primary System and Secondary Road System. Mr. Mooney reported that Section 7 – C was changed to include asking bidding contractors to use local contractors for debris removal. Mr. Mooney also stated that the MOA is an open-ended contract and the County does not need to re-visit this with the State.

Commissioner Spencer moved to approve the 2010 Emergency Removal of Debris Memorandum of Agreement between NCDOT & Hyde County as presented by Emergency Management Technician Lindsey Mooney; and, to authorize EM Technician Lindsey Mooney to send out RFP. Mr. Collier seconded the motion. The motion passed on the following vote: Ayes – Collier, Davis, Spencer, and Styron; Nays – None; Absent or Not Voting – Byrd.

Public Comments:

Chairman Davis called for comments from the public.

Fred Westervelt, Ocracoke – asked that citizens send comments on the Bonner Bridge Project to NCDOT by mid July. Three public hearings are scheduled with none scheduled for Ocracoke.

Rudy Austin, Ocracoke Civic & Business Association (OCBA) – reported that a proposed toll fee for the Hatteras Ferry could reduce tourism by 30% and requested that the Board send a letter of opposition to the proposed toll fee.

There being no further comment from the public, Chairman Davis continued the meeting.

Ordinances and Resolutions: (none)

Appointments:

Revolving Loan Fund Committee – Board Representative

Former Commissioner Eugene Ballance was the designated representative for the Revolving Loan Fund Committee. Effective May 19, 2010 Mr. Ballance resigned his position as County Commissioner.

Chairman Davis moved to appoint Commissioner Darlene Styron to represent Hyde County with the Revolving Loan Fund Committee. Mr. Collier seconded the motion. The motion passed on the following vote: Ayes – Collier, Davis, Spencer, and Styron; Nays – None; Absent or Not Voting – Byrd.

Albemarle Commission – At-Large Member

Former County Manager Carl Classen was the designated representative for Hyde County as the At-Large Member for The Albemarle Commission. The County seeks authority to appoint a staff person whose functional area is within the scope of the Commission (.e.g., Planning, Senior Center; Grants, etc.) to be the at-large appointee. The Albemarle Commission meets the third Thursday of each month.

Chairman Davis moved to appoint Utilities Director Clint Berry to represent Hyde County with The Albemarle Commission as At-Large Member. Mr. Collier seconded the motion. The motion passed on the following vote: Ayes – Collier, Davis, Spencer, and Styron; Nays – None; Absent or Not Voting – Byrd.

ARSWMA Board – Board Representative

Former County Manager Carl Classen was the designated representative for Hyde County with Albemarle Regional Solid Waste Management Authority (ARSWMA).

Per request from Anne Blindt, ARSWMA, the Solid Waste Authority will have its annual board meeting in June and will need for Hyde County to send a representative who will vote on behalf of the County. The meetings are usually held in Hertford in the late morning and include a lunch. The Authority Board meeting is scheduled for Thursday, June 10, 2010 @ 10:30 AM in Hertford.

Commissioner Spencer moved to appoint Commissioner Anson Byrd to represent Hyde County with the Albemarle Regional Solid Waste Management Authority (ARSWMA). Mr. Collier

seconded the motion. The motion passed on the following vote: Ayes – Collier, Davis, Spencer, and Styron; Nays – None; Absent or Not Voting – Byrd.

Interim County Manager David Smitherman will attend the Authority Board meeting on Thursday, June 10, 2010 @ 10:30 AM in Hertford in Commissioner Byrd's absence.

Other Matters:

Budget Amendments

Interim County Manager David Smitherman reported to the Board that in accordance with the FY2009-10 Budget Ordinance several budget transfers were made administratively and he requested approval of the following:

Health Promotions: \$1,000.00; Hyde County Health Department received \$1,000 in funds from the American Cancer Society's Rural Health Community Grant Program. The funds will be used exclusively for a Health Fair on Ocracoke on May 22, 2010.

Register of Deeds: \$5,345.00: funds transferred to cover additional responsibilities (website maintenance and establishment) and to cover lease payments.

Planning: \$1,093.49; funds transferred to cover cost of additional supplies needed before fiscal year end.

Elections: \$5450.00; funds transferred to cover anticipated salary and travel expenses for the rest of the fiscal year.

Administration: \$19,000.00; funds transferred to pay contract with Bear Strategies, Inc.

Administration: \$75,000.00; funds transferred to cover purchase of the Hyde County ABC Store per Board action on June 1, 2010. Commissioner Spencer asked the County Attorney if, in his opinion, the Board is authorized under the law to acquire the property and the County Attorney stated that in his opinion the Board is authorized under the law to acquire that property.

Home Health – CAP: \$19,194.00: funds transferred to cover expenses in the Community Alternative Program (CAP) through the end of the fiscal year.

Adult Health: \$2,700.00; funds transferred to increase the Adult Health budget to cover dental clinic expenses for the months of May and June, 2010.

Commissioner Spencer moved to approve all of the eight budget amendments as presented by Interim County Manager David Smitherman. Mr. Collier seconded the motion. The motion passed on the following vote: Ayes – Collier, Davis, Spencer, and Styron; Nays – None; Absent or Not Voting – Byrd.

Hyde County Personnel Policy – Amended

At the May 17 Board Meeting, Commissioners Byrd, Collier, and Spencer approved that the Employment of Relatives (Article V – Section 6 – pages 22-23) of the Hyde County Personnel Policy be changed.

Excerpt from the May 17, 2010 Board of Commissioners Regular Meeting Minutes:

Commissioner Collier moved to model Hyde County Personnel Policy – Article 5 – Section 6 after the Pasquotank County Personnel Policy nepotism clause. Ms. Spencer seconded the motion. The motion passed on the following vote: Ayes – Byrd, Collier, and Spencer; Nays – Ballance and Davis; Absent or Not Voting – None.

Commissioner Davis stated that he believes changing this policy will give the appearance of impropriety.

Commissioner Collier moved to approve the Amended Hyde County Personnel Policy. Ms. Spencer seconded the motion. The motion passed on the following vote: Ayes – Collier, Spencer, and Styron; Nays – Davis; Absent or Not Voting – Byrd.

Approval of Contract Award - Smith Septic - Install Septic Tank - CDBG-R Grant Recipient

The septic replacement at 12526 North Lake Road is funded by the FY09 CDBG-Recovery Project. The project has been bid out on two occasions and was advertised in the Coastland Times. Only one bid was received during the first request. Two bids were received during the second request.

<u>Occupant</u>	<u>Smith Septic</u>	<u>Bennie Moore</u>
Alma Gibbs 12526 N. Lake Rd. Engelhard, NC	\$5,800	\$8,100

Commissioner Spencer moved to award bid in the amount of \$5,800.00 to the low bidder, Smith Septic. Mr. Collier seconded the motion. The motion passed on the following vote: Ayes – Collier, Davis, Spencer, and Styron; Nays – None; Absent or Not Voting – Byrd.

Mattamuskeet Lodge Sewer Project Update

Grants Technician Kris Noble reported that at this time Hyde County must request a final exception to the 12 month to construction provision in the Clean Water Partners’ Infrastructure program’s legislation for the following three awarded grants:

- FY07-08 Clean Water Partners’ NCRC No. 2008-307-40101-112
- FY08-09 Clean Water Partners’ Infrastructure – NCRC No. 2009-180-40101-112
- FY08-09 Clean Water Partners’ Infrastructure – NCRC No. 2009-258-40101-112

In addition to the exception request, Hyde County must also request from the NC Rural Center a transfer of the grant funds in question to the Engelhard Sanitary District. After a detailed pre-application conference with representatives from the USDA-RD (Rural Development), Hyde County and the Engelhard Sanitary District (ESD) have made the decision to allow the ESD to be the applicant for the remaining project funds. The ESD has agreed to be both the applicant to USDA-RD and the recipient for the already awarded NC Rural Center funds.

Commissioner Spencer moved to authorize the Interim County Manager to send a letter to the NC Rural Center requesting an exception to the 12 month to construction provision; and, to request awarded grants to be transferred to the Engelhard Sanitary District. Mr. Collier seconded the motion. The motion passed on the following vote: Ayes – Collier, Davis, Spencer, and Styron; Nays – None; Absent or Not Voting – Byrd.

Swan Quarter Dike Maintenance Plan – Soil & Water Board

On Monday, May 3, 2010 the Board of Commissioners made a request to the Hyde Soil & Water Conservation District to work with Justin Gibbs, Interim Deputy Tax Administrator in preparing a flood control assessment plan for the Swan Quarter Watershed Project Phases VIII - XIII.

Commissioner Spencer moved to table the Swan Quarter Dike Maintenance Plan till June 21. Mr. Collier seconded the motion. The motion passed on the following vote: Ayes – Collier, Davis, Spencer, and Styron; Nays – None; Absent or Not Voting – Byrd.

County Commissioners Reports:

Commissioner Styron reported that the Ocracoke Volunteer Fire Department Annual Fundraiser and the Ocracoke Festival were successful.

Commissioner Collier and Commissioner Spencer discussed travel costs incurred by Board members.

County Manager’s Report:

Interim County Manager David Smitherman had no new projects to report on.

Department Monthly Reports

Monthly reports received from the Finance Office included the February, March, and April Revolving Fund Revenue Expense.

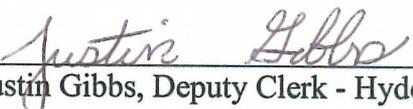
Closed Session: (none)

Commissioner Collier moved to adjourn the meeting. Mr. Davis seconded the motion. The motion passed on the following vote: Ayes – Collier, Davis, Spencer, and Styron; Nays – None; Absent or Not Voting – Byrd.

The meeting adjourned at 10:00 P.M.

Respectfully submitted:

Minutes approved on the 21st day of June, 2010.


Justin Gibbs, Deputy Clerk - Hyde County Board of Commissioners




Tom Davis, Chairman - Hyde County Board of Commissioners

Attachments: (none)