

Minutes

Board of County Commissioners Hyde County

October 5, 2009

Chairman Tom Davis called the Regular meeting of the Hyde County Board of Commissioners to order at 7:00 PM on Monday, October 5, 2009 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 Anson Byrd, Tom Davis, Sharon Spencer, and Barry Swindell; County Manager Carl Classen; County Attorney Sid Hassell; Clerk to the Board Lois Stotesberry; and members of the public. The following members were present on Ocracoke: Commissioners Gene Ballance; Deputy Clerk Jamie Tunnell; and members of the public.

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

Agenda:

Chairman Davis asked for any changes to the October 5, 2009 meeting Agenda as presented by the Clerk. Commissioner Swindell moved to strike Item II.A. – Public Hearings, and to re-name Item III.C. – “A Resolution of the Hyde County Board of County Commissioners Supporting the Name “Swan Quarter” for the Next Sound Class Ferry Running Between Ocracoke and Swan Quarter With Base Station in Swan Quarter”. Ms. Spencer seconded the motion. The motion passed on the following vote: Ayes – Ballance, Byrd, Spencer, Swindell, and Chairman Davis; Nays – None; Absent or Not Voting – None.

Consideration of Minutes:

Chairman Davis asked for approval of meeting minutes.

Commissioner Byrd moved to approve the September 21, 2009 meeting minutes as presented by the Clerk. Mr. Swindell seconded the motion. The motion passed on the following vote: Ayes – Ballance, Byrd, Spencer, Swindell, and Chairman Davis; Nays – None; Absent or Not Voting – None.

Special Presentation:

Employee Honors – W. A. “Bill” Broadway Environmental Health Award to Hugh Watson

Health Director Wesley Smith presented the W. A. “Bill” Broadway Environmental Health Award to Environmental Health Specialist Hugh Watson. Mr. Smith and the Health Department Staff recommended Mr. Watson for this award noting his commitment, loyalty, and strong work ethic. Mr. Smith commended Mr. Watson for serving as an Environmental Health Specialist at the Hyde County Health Department for the past seventeen years.

Climate Changes Impact – Bill Holman of Duke University

Nicholas Institute for Environmental Policy Solutions – Duke University Director of State Policy Bill Holman presented “Local Government & Climate Change in Hyde County.” Mr. Holman discussed predicted climate change and its effect on the eastern coastal areas of North Carolina, and presented recommendations for future land use planning in Hyde County.

Albemarle Commission – Executive Director Burt Banks

Executive Director Burt Banks presented the Albemarle Commission 2007-2008 Annual Report. Mr. Banks reported the Home and Community Care Block Grants for Older Adults provides funding for in-home and community based services through the NC Division of Aging and Adult Services. The funding for this grant is a combination of state and federal funds with the

requirement of a 10% match of the entire grant from each county accepting their allocation through grant agreements with Boards of County Commissioners and community services providers.

Mr. Banks commended Hyde County volunteers (37) for time spent delivering home meals (672 hours).

Special Presentation – Kitty Creek Wetlands Mitigation Project – Ed Temple

Mr. Ed Temple of Fairfield presented the “Project Proposal” for the proposed Kitty Creek Wetlands Mitigation Project near Engelhard.

Following presentation by Mr. Temple, Commissioner Swindell moved to further amend the Agenda placing Item II. B. iv) Kitty Creek Wetlands Mitigation Project and Item III. B. Reimbursement Resolution – QSCB School Improvement Project to Item V. Other Matters - (E) and (F). Mr. Ballance seconded the motion. The motion passed on the following vote: Ayes – Ballance, Spencer, Swindell, and Chairman Davis; Nays – Byrd; Absent or Not Voting – None.

Commissioner Byrd moved to excuse Chairman Davis from hearing Item V. C. Revolving Loan Fund – Mattamuskeet Seafood, and Item V. D. Subdivision Variance Application – Edward Lee Howard. Mr. Ballance seconded the motion. The motion passed on the following vote: Ayes – Ballance, Byrd, Spencer, and Swindell; Nays – None; Absent or Not Voting – Davis.

Public Comments:

Chairman Davis called for comments from the public.

Franklin Swindell, Engelhard – asked for answers relative to the location of Mattamuskeet EMS Station; and, asked the Board to focus on local issues, not the Bonner Bridge Project.

David Fletcher, Engelhard – asked about the status of Mattamuskeet EMS Station and believes the public has a right to know; stated County Manager Carl Classen and County Attorney Sid Hassell should have known the property was owned by Community Developers of Beaufort/Hyde and recommends dismissal for both; and, believes citizens on Ocracoke are being allowed more than three minutes to speak during Public Comment time.

Rudy Austin, Ocracoke – supports the Kitty Creek Mitigation Project for completion of the Bonner Bridge Project; and, suggested the new ferry be named “The Hyde” to unify the County.

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

Ordinances and Resolutions:

Golf Cart Ordinance

At the September 21 Commissioners meeting, the Board tabled discussion of a proposed Golf Cart Ordinance for Hyde County to allow time for research and to include additional text about golf cart lights.

After discussion, Chairman Davis moved to delete Section 1 of the Ordinance and to approve “An Ordinance Authorizing Use of Golf Carts on Public Streets and Roads.” Mr. Ballance seconded the motion. The motion passed on the following vote: Ayes – Ballance, Byrd, Spencer, Swindell, and Chairman Davis; Nays – None; Absent or Not Voting – None.

CLERK’S NOTE: A copy of “An Ordinance Authorizing Use of Golf Carts on Public Streets and Roads” is attached herewith as Exhibit A and incorporated herein by reference.

Resolution Naming New Ferry “Swan Quarter” and Docking in Swan Quarter

After discussion Chairman Davis moved to adopt “A Resolution of the Hyde County Board of Commissioners Supporting the Name “Swan Quarter” for the Next Sound Class Ferry.” Mr. Swindell seconded the motion. The motion failed on the following vote: Ayes – Davis and Swindell; Nays – Ballance, Byrd, and Spencer; Absent or Not Voting – None.

After further discussion, Chairman Davis moved to re-name and adopt “A Resolution of the Hyde County Board of Commissioners Supporting the Name “Swan Quarter” for the Next Sound Class Ferry Running Between Ocracoke and Swan Quarter and Docking in Swan Quarter.” Ms. Spencer seconded the motion. The motion passed on the following vote: Ayes – Davis, Spencer, and Swindell; Nays – Ballance and Byrd; Absent or Not Voting – None.

CLERK'S NOTE: A copy of “A Resolution of the Hyde County Board of Commissioners Supporting the Name “Swan Quarter” for the Next Sound Class Ferry Running Between Ocracoke and Swan Quarter and Docking in Swan Quarter” is attached herewith as Exhibit A and incorporated herein by reference.” is attached herewith as Exhibit B and incorporated herein by reference.

Resolution – Alternative Energy Development

After discussion, Commissioner Spencer moved to adopt “A Resolution of The Hyde County Board of County Commissioners Relating to Alternative Energy Development.” Mr. Byrd Seconded the motion. The motion passed on the following vote: Ayes – Ballance, Byrd, Davis, Spencer, and Swindell; Nays – None; Absent or Not Voting – None.

CLERK'S NOTE: A copy of “A Resolution of the Hyde County Board of Commissioners Relating to Alternative Energy Development” is attached herewith as Exhibit A and incorporated herein by reference.” is attached herewith as Exhibit C and incorporated herein by reference.

Other Matters:

Budget Revisions and Transfers

County Manager Carl Classen 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:

A. Community Development Block Grant – Scattered Site Housing Project (CDBG-SS):

Replacement (“relocation”) of two dwellings came in less than originally budgeted and rehabilitation came in higher. The amendment does not increase the CDBG-SS Project Budget but transfers funds (\$366,649) unneeded in relocation and puts funds in rehabilitation where they are needed.

Tax Department Pick-Ups and Releases

Tax Administrator Linda Basnight presented a list of tax bills recommended for release.

<u>Year</u>	<u>Name</u>	<u>Amount</u>	<u>Reason</u>
2008	Collier, Roni	63.00	Moved out of county/state-plated turned in
2009	County of Hyde	152.52	County owned vehicle
2009	Spencer, Randy Wayne	32.04	Vehicle totaled in accident/plates turned in
2009	Loftus, Jr., Thomas William	27.47	Bill of sale
2006	Blount, Pernell	373.50	Should have only been billed for 1 solid waste fee
2007	Blount, Pernell	693.00	Should have only been billed for 1 solid waste fee
2004	Shelton, Nicey	172.50	Electricity turned off-should be no solid waste fee
2005	*****	201.96	*****
2006	*****	188.40	*****
2007	*****	348.50	*****
2009	Jarvis, Maria Olga Ahumada	58.44	Vehicle wrecked 2 weeks after plates purchased/turned in plates

2008	Eburn, Samuel	30.68	Mobile home destroyed in Isabel
2008	Narrow, Rebecca L.	19.83	Sold and moved out of county
2007	*****	21.51	*****
2006	*****	23.19	*****
2008	Cooper, Matthew Lee	44.52	Bill of sale
	TOTAL	\$2,451.06	

Commissioner Swindell moved to approve the tax bill releases as presented as listed above. Mr. Ballance seconded the motion. The motion passed on the following vote: Ayes – Ballance, Byrd, Spencer, Swindell, and Chairman Davis; Nays – None; Absent or Not Voting – None.

Commissioner Davis Excused

Commissioner Swindell moved to excuse Commissioner Davis due to conflict of interest with Revolving Loan Fund – Mattamuskeet Seafood; Subdivision Variance Application – Edward Lee Howard; Reimbursement Resolution – QSCB School Improvement Project; and, Kitty Creek Wetlands Mitigation Project. Mr. Byrd seconded the motion. The motion passed on the following vote: Ayes – Ballance, Byrd, Spencer, and Swindell. Nays – None; Absent or Not Voting – Davis.

Revolving Loan Fund – Mattamuskeet Seafood

County Planner Alice Keeney reported that the Revolving Loan Fund Committee met on September 29 and recommended that the Hyde County Board of Commissioners honor the request of Mrs. Patty Buck to relieve her of her responsibility to the present deed of trust by allowing her nephew Mr. Corey A. Carawan, who is purchasing her part of the business, to assume the existing loan and leave the existing loan on its current terms and conditions with a joint guaranty of the person(s) who share ownership of Mr. Corey A. Carawan’s assets and the existing guarantee of Charles A. Carawan and Sharon (“Sherrie”) Carawan, that all fiscal year end statements will be prepared by a CPA and that quarterly financial statements will be submitted for the next two years after the assumption of the existing loan.

Commissioner Byrd moved to approve recommendation of the Hyde County Revolving Loan Committee in regards to the loan for Mattamuskeet Seafood, subject to approval of all documents by the County Attorney, and authorize the Chairman, Clerk, County Manager, and other County officials, as applicable, to sign and execute all documents necessary in furtherance of this action. Ms. Spencer seconded the motion. The motion passed on the following vote: Ayes – Ballance, Byrd, Spencer, and Swindell; Nays – None; Absent or Not Voting – Davis.

Subdivision Variance Application – Edward Lee Howard

Edward Lee Howard is seeking to divide a parcel of property that he owns in Currituck Township, but the proposed division of land does not meet the subdivision requirements of the Hyde County Code. Mr. Howard’s variance request and the proposed plat are attached.

The Office of Planning and Economic Development has sent a copy of the attached plat to the necessary parties, as outlined in Section 36-71 of the Hyde County Code. According to Section 36-50, variances may be approved by the Board of Commissioners “Where, because of severe topographical or other conditions peculiar to the site, strict adherence to the provisions of this chapter would cause an unnecessary hardship, the board may authorize a variance to the terms of this chapter only to the extent that is absolutely necessary and not to an extent which would violate the intent of this chapter.”

Mr. Howard requested a variance from three (3) items: 1) Easement as described in Section 36-121; 2) Minimum Lot Width as described in Section 36-116; and, 3) Front and Rear Setbacks as outlined in Section 36 -116.

- 1) According to the Hyde County Code Section 36-121, Access to Backland Properties, a 50-foot easement is required to access the backland property. The property in front of this parcel (the Holloway property) has only a 25' easement. While the requirement is 50' for the easement, this property is long and thin and a 50' easement would not allow a home to be adequately placed on the lot being created.
- 2) According to the Hyde County Code Section 36-116, minimum lot width at the building line shall be 100 feet. The lot is approximately 25,667 square feet, which exceeds the requirements of the Code. However the width of the lot is only 66.37 feet. Thus, Mr. Howard is requesting a variance for the 100' minimum lot width at the building area.
- 3) According to Hyde County Code Section 36-116, the property line must be:
 - 35 feet from the front (66.37' less 35' = 31.37')
 - 25 feet from the rear (66.37' less 25' = 41.37')

The existing parcel is not wide enough to accommodate both the front and rear setbacks; thus, Mr. Howard requested a variance of the front and rear setbacks.

Commissioner Byrd moved to approve the subdivision variance requested by Edward Lee Howard conditioned upon the following all being met prior to recording the final plat in the Hyde County Registry: 1) No objections or concerns are expressed by the above referenced parties as outlined in Section 36-71 of the Hyde County Code; 2) The Subdivider Certification is properly executed and notarized; 3) The Hyde County Health Department has approved a wastewater certification; 4) Approval of this Subdivision Variance, including the date of approval by the Hyde County Board of Commissioners is included in the final plat; 5) The final plat carries the original signature and seal of the engineer or surveyor; and, 6) The final plat meets all other requirements, State law and the Hyde County Code. Ms. Spencer seconded the motion. The motion passed on the following vote: Ayes – Ballance, Byrd, Spencer, and Swindell; Nays – None; Absent or Not Voting – Davis.

Resolution - Reimbursement Resolution – 2009 QSCB School Improvement Project

County Manager Carl Classen reported the County's Bond Counsel, Mary Nash Rusher of Hunton & Williams has prepared a Resolution that provides refunding expenses incurred in regards to the \$3.0 Mattamuskeet/Ocracoke School Improvement Project from proceeds of the bonds, when sold.

Commissioner Spencer moved to approve the Reimbursement Resolution for 2009 QSCB School Improvement Project and the County Attorney will work with the School Board Attorney and Superintendent. Mr. Byrd seconded the motion. The motion passed on the following vote: Ayes – Ballance, Byrd, Spencer, and Swindell; Nays – None; Absent or Not Voting – Davis.

CLERK'S NOTE: A copy of "Resolution Authorizing The Filing of An Application for Approval of An Installment Financing Agreement Authorized by North Carolina General Statute 160A-20" is attached herewith as Exhibit D and incorporated herein by reference.

Kitty Creek Wetlands Mitigation Project

The Board re-opened discussion of the Kitty Creek Wetlands Mitigation Project.

After discussion, Commissioner Swindell moved amend the Hyde County Land Use Plan to allow review of each request for mitigation approval on an independent basis. Mr. Ballance

seconded the motion. The motion failed on the following vote: Ayes – Ballance and Swindell; Nays – Byrd and Spencer; Absent or Not Voting – Davis.

Hearing no objection, Mr. Swindell so ordered the County Manager to research ways to amend the Hyde County Land Use Plan (LUP) as noted by Commissioner Spencer.

Chairman Davis returned.

Mattamuskeet Lodge Sewer Project Update

County Manager Carl Classen gave update on the Mattamuskeet Lodge Sewer Project in regards to: 1) Project Funding – Golden Leaf Foundation, Rural Center, CDBG (Department of Commerce) and USDA, 2) Project Engineers – Hobbs Upchurch; and, 3) Project Staffing – Administration. No action required.

Public Information Services

County Manager Carl Classen presented a draft Request for Proposal (RFP) for public information services based upon the discussion at the August Commissioners meeting. The draft RFP also includes a Citizens Guide to County Government. Mr. Classen reported that to prepare a newsletter, maintain it weekly, provide it online plus mail out once monthly, and prepare/mail the Citizens Guide is estimated to cost \$44,375 annually or \$30,875 through the end of the current fiscal year (November 1 through June 30). Removing the Citizens Guide reduces the estimate by almost \$4,000. He also reported that to perform the same services online is estimated to cost \$6,000 annually or \$4,000 for the current fiscal year. Including the Citizens Guide is estimated to cost a total of \$7,600 and \$5,200, respectively, which includes the online newsletter.

Jane Gibbs, Engelhard, stated she wants the newsletter published and is willing to pay for it. County Attorney Sid Hassell stated the County cannot allow citizens to pay for the newsletter.

Barbara Gibbs, Engelhard, stated the newsletter will be informative to the citizens.

Commissioner Swindell moved to advertise for RFP for an online newsletter and to provide up to \$200 monthly in copying costs to provide a hard copy monthly to post offices, restaurants, and grocery stores where citizens are apt to pick up the newsletter. Ms. Spencer seconded the motion. The motion passed on the following vote: Ayes – Ballance, Byrd, Davis, Spencer, and Swindell; Nays – None; Absent or Not Voting – None.

County Parks and Facilities Use

County Manager Carl Classen reported that at the September 21 Commissioners Meeting, the Board voted to give authority to the County Manager to manage the Swan Quarter Park and adjoining County owned parking lot.

Hearing no objection, Chairman Davis so ordered the County Manager to work with the County Attorney to develop an Ordinance of enforceable rules for management of County owned property, and necessary resolutions to adopt rules to apply to use County owned parks.

Health Department - Request to Advertise for Full Time (Temporary) Social Worker II Position for Home Health

Health Director Wes Smith, reported that Hyde County Health Department has been allocated \$60,000 in additional State funds this fiscal year for planning and surveillance of H1N1, with possible continuation of funding for up to three years. The additional funds are to be used by Local Health Departments (LHDs) to support expedited revisions and expansion of pandemic influenza plans for activities that will enable the LHD to rapidly detect and respond to the outbreak of H1N1 expected to occur in the fall of 2009. To be in compliance with Division

of Public Health (DPH) Agreement Addendum requirements for additional H1N1 planning and surveillance, Hyde County Health Department needs to allocate 0.50 FTE in staff time. This 0.50 FTE for H1N1 planning and surveillance will be met by reallocating time for our Child Health Nurse. Currently, our Child Health Nurse is also responsible for our Health Promotion (Physical Activity and Nutrition) Program. The health department will receive \$21,667 from DPH this fiscal year for 0.50 FTE in staff time to provide Health Promotion. Using the additional State H1N1 funds, our Child Health Nurse will be relieved of responsibilities for Health Promotion so she can spend approximately ½ of her time focusing on H1N1 planning and surveillance. To continue receiving DPH funds for Health Promotion, the health department would develop a temporary Social Worker II position, allocating ½ of staff time on home health client assessment, counseling, treatment plan development and modification, documentation, community resource connections and overall public contacts roles. The other ½ of this Social Worker II staff time would be allocated to Health Promotion activities. In addition to the funds available from DPH for Health Promotion, funds will be transferred from the Contract Nurse line within the Home Health fund to allow the position to be full-time.

Commissioner Swindell moved to authorize the Hyde County Health Department to make the above requested staffing reallocations, and advertise for a full time (temporary) Social Worker II position for our Home Health Agency. Ms. Spencer seconded the motion. The motion passed on the following vote: Ayes – Ballance, Byrd, Davis, Spencer, and Swindell; Nays – None; Absent or Not Voting – None.

NCDOT Transportation Improvement Program (TIP) Projects

County Manager Carl Classen presented information from the Rural Transportation Planning Organization (RPO) (administered by the Albemarle Commission) for the next Transportation Improvement Plan (TIP). The RPO will be asked to rank the projects submitted; not just submit a list of projects important to the Albemarle region.

The County Commissioners have typically considered the following as the most important projects affecting Hyde County: 1) Repair/Replacement of the Oregon Inlet Bridge (NC12), and 2) Maintenance/Repair/Replacement of Ferries. No action is required by the Board, but comments and/or questions were solicited. Mr. Classen will attend the Albemarle RPO and RTAC Committee meeting on October 14.

County Commissioners Reports:

Commissioner Ballance reported he attended the Morehead Seafood Festival; and, stated that he believes the Oregon Inlet Bridge Project needs to move forward.

Commissioner Swindell commended County Planner Alice Keeney for a successful Engelhard Medical Center Dedication Ceremony. Mr. Swindell challenged the Board and other business to give priority to local citizens who return from college to Hyde County. He also challenged the Board to require future employees live within Hyde County.

Commissioner Spencer also attended the Engelhard Medical Center Dedication Ceremony and complimented Mrs. Keeney for her countywide effort to provide medical care to Hyde County citizens.

Commissioner Byrd announced the birth of a new granddaughter.

No other Board or Committee reports were offered so Mr. Davis continued with the Agenda.

County Manager's Report:

County Manager Carl Classen reported that tax bills will be mailed starting (October 6); discussion of request for a Board retreat and ongoing restructuring and consolidation of County departments and personnel will be discussed at the October 19 Board meeting; and, USDA

Water and Sewer Bonds for Engelhard Water Treatment Plant will be discussed at the October 6 Local Government Commission meeting, with Bid Tab announced on October 19.

Emergency Services – Mr. Classen reported that Emergency Services (ES) staffing is coming together. An ES Director will be hired soon and the Code Enforcement Administrator (Level2) position posting will close on the 16th.

Mr. Classen will research First Responder Liability and report back to the Board.

Closed Session

Commissioner Swindell moved to enter closed session in accordance with NCGS 143-318.11(a)(6) - Personnel Matters; NCGS 143-318.11(a)(3) – Consultation with Legal Counsel; and, with NCGS 143-318.11(a) Acquisition of Property. Mr. Byrd seconded the motion. The motion passed on the following vote: Ayes – Ballance, Byrd, Davis, Spencer, and Swindell; Nays – None; Absent or Not Voting – None.

The Commissioners entered closed session at 9:57 P.M.

Commissioner Davis moved to return from Closed Session. Ms. Spencer seconded the motion. The motion passed on the following vote: Ayes – Ballance, Byrd, Davis, and Swindell; Nays – None; Absent or Not Voting – None.

The Commissioners re-entered regular session at 10:45 P.M.

Commissioner Byrd moved to rescind raises except Merita L. Spencer and Pam Sawyer plus the Board will assume management of Personnel Policy issues. Ms. Spencer seconded the motion. The motion passed on the following vote: Ayes – Byrd, Spencer, and Swindell; Nays – Ballance and Davis; Absent or Not Voting – None.

There being no further matters to come before the Commissioners, Chairman Davis moved to adjourn the meeting. Mr. Byrd seconded the motion. The motion passed on the following vote: Ayes – Ballance, Byrd, Davis, Spencer, and Swindell; Nays – None; Absent or Not Voting – None.

The meeting adjourned at 10:55 PM.

Respectfully submitted:

Minutes approved on the 2nd day of November, 2009.

Lois Stotesberry
Lois Stotesberry, Clerk - Hyde County Board of Commissioners

Tom Davis
Tom Davis, Chairman - Hyde County Board of Commissioners

Attachments:

Exhibit A – “An Ordinance Authorizing Use of Golf Carts on Public Streets and Roads”

Exhibit B – “A Resolution of the Hyde County Board of Commissioners Supporting the Name “Swan Quarter” for the Next Sound Class Ferry Running Between Ocracoke and Swan Quarter and Docking in Swan Quarter”

Exhibit C – “A Resolution of the Hyde County Board of Commissioners Relating to Alternative Energy Development”

Exhibit D – “Resolution Authorizing The Filing of An Application for Approval of An Installment Financing Agreement Authorized by North Carolina General Statute 160A-20”