

Minutes

**Board of County Commissioners  
Hyde County**

October 1, 2007

Chairman Charles Spencer called the Regular meeting of the Hyde County Board of Commissioners to order at 7:00 PM on Monday, October 1, 2007 in the Gymnasium of the Ocracoke School, Ocracoke. The following members were present: Gene Ballance, Tom Davis, Barry Swindell, and Chairman Spencer. Also present were Interim County Manager Carl Classen, County Attorney Sid Hassell, various staff members, and members of the public.

Following a pledge of allegiance to the flag by Chairman Spencer, Mr. Hassell offered a prayer.

Mr. Classen reported that Commissioner Armstrong was absent due to a family emergency. Mr. Swindell moved to excuse Ms. Armstrong from the meeting. Mr. Davis seconded the motion. The motion passed on the following vote: Ayes -Ballance, Davis, Swindell and Chairman Spencer; Nays – none; Absent or Not Voting – Armstrong.

Agenda: Chairman Spencer asked for any changes to the October 1, 2007 meeting Agenda as prepared by the Clerk. Mr. Classen requested adding three items under County Manager's Report: Agreement with Embarq for Leasing County Phone System; Emergency Medical Service Contract with Ocracoke Health Center; Swan Quarter Radio Tower. Mr. Davis moved to approve the October 1, 2007 meeting Agenda as suggested by Mr. Classen. Mr. Ballance seconded the motion. The motion passed on the following vote: Ayes - Armstrong, Ballance, Davis, Swindell and Chairman Spencer; Nays – none; Absent or Not Voting – Armstrong (excused).

Minutes: Chairman Spencer asked for any amendments to the September 4, 2007 minutes as prepared by the Clerk. Referring to page 1, Mr. Davis asked that Mr. Spencer's name be listed as one of the meeting attendees in addition to calling the meeting to order. Hearing no further requests for changes, Mr. Davis moved to approve the September 4, 2007 minutes as amended. Mr. Ballance seconded the motion. The motion passed on the following vote: Ayes - Balance, Davis, Swindell and Chairman Spencer; Nays – none; Absent or Not Voting – Armstrong (excused).

Chairman Spencer asked for any amendments to the September 17, 2007 minutes as prepared by the Clerk. Referring to page 1, Mr. Davis asked that Mr. Spencer's name be listed as one of the meeting attendees in addition to calling the meeting to order and noted a correction in the date. Hearing no further requests for changes, Mr. Davis moved to approve the September 4, 2007 minutes as amended. Mr. Ballance seconded the motion. The motion passed on the following vote: Ayes - Balance, Davis, Swindell and Chairman Spencer; Nays – none; Absent or Not Voting – Armstrong (excused).

Public Comments: Chairman Spencer asked for comments to the Board from the public.

Ms. Jane Gibbs, Fairfield, stated the July 16 minutes were in error regarding comments about the judge's bench in the Government Center.

No additional comments were offered and Chairman Spencer continued with the meeting agenda.

Public Hearing - Ocracoke Development Ordinance – Lot Area Calculation

Mr. Davis moved to open a public hearing on “An Ordinance Amending Ordinance #137 Ocracoke Development Ordinance.” Mr. Swindell seconded the motion. The motion passed on the following vote: Ayes - Balance, Davis, Swindell and Chairman Spencer; Nays – none; Absent or Not Voting – Armstrong (excused).

Chairman Spencer called upon Mr. Classen who reviewed the provisions of the Ordinance and the 3-2 recommendation of the Ocracoke Development Ordinance Planning Advisory Board in support of the Ordinance and the subsequent request by Planning Advisory Board that the required Public Hearing be held when information from the County's new geographic information system (GIS) was available to provide additional information about the number, location and other attributes of lots affected by the proposed Ordinance. Mr. Classen called upon Larry Kirkpatrick of Atlas Geographic, the firm contracted with that who is establishing Hyde County GIS. Mr. Kirkpatrick reviewed the work completed to date and discussed work needed to be completed. He showed examples of how various could be affected by the proposed Ordinance.

Chairman Spencer called upon comments from the public.

Mr. Classen stated that the Commissioners had received in their agenda packet a petition in support of the Ordinance and written public comments from the following people: Leonard Meeker, Ocracoke (opposed); Wayne Clark, Ocracoke (delay action pending further information); Leonard Meeker, BJ Oelschlagel, and Susse Wright, all of Ocracoke (opposed); and Ellen Gaskill, Ocracoke (opposed).

Bill Gilbert, Ocracoke, stated he owned twenty properties on Ocracoke and he supported the Ordinance.

Gerald Sigal, Ocracoke, stated he did not support or oppose the Ordinance but wanted the language to be clear.

BJ Oelschlegel, Ocracoke, asked for a second public hearing after completion of the data requested by the Planning Advisory Board. She expressed concern that not all the ramifications of the Ordinance had been explored.

Jerry Midgett, Ocracoke, stated he had submitted the petition of 160 names in support of the Ordinance.

Van O'Neal, Ocracoke, stated he opposed taking people's property and that the County needs to compensate people if the County takes their property.

Commissioner Ballance stated that there was a mix-up on the timing of the Public Hearing and that it had been hoped all the GIS material could have been available. He further stated he hoped there could be a peaceful solution.

Steve Wilson, Ocracoke, stated he supported the Ordinance and that it is a fundamental issue of property rights.

Mr. Hassel, County Attorney, stated he drafted the Ordinance as directed but that he has questions about the policy issues of the Ordinance, especially the higher density allowed by the Ordinance and the impact on waste water on higher density development when the community does not have a sewer system.

BJ Oelschlagel, Ocracoke, asked whether there could be different tax rates for different types of properties affected.

Fred Westervelt, Ocracoke, stated there were three types of properties affected: properties so big the Ordinance would not affect them; properties so small the Ordinance would not affect them; and properties that will be affected by the Ordinance. He further stated that the GIS data should identify those properties.

Leslie Lanier, Ocracoke, asked whether people in Hyde County outside Ocracoke pay taxes on property they cannot use.

Anne Tiernan, Ocracoke, asked how the other 97 counties with GIS do their mapping.

Hearing no further public comments, Chairman Spencer called upon Mr. Classen who answered several of the questions posed by the public comments.

Mr. Ballance moved to recess the public hearing to the Regular meeting of the County Commissioners beginning at 7:00 PM on Monday, December 3, 2007, which he further moved be held on Ocracoke and that a further presentation be made with the GIS data. Mr. Swindell seconded the motion. After discussion, the motion passed on the following vote: Ayes -Ballance, Swindell and Chairman Spencer; Nays – Davis; Absent or Not Voting – Armstrong (excused).

Public Hearing – Community Development Block Grant – Small Business Entrepreneurial Assistance (CDBG-SBEA) Grant Application

Mr. Davis moved to open a public hearing on Hyde County submitting a Community Development Block Grant – Small Business Entrepreneurial Assistance (CDBG-SBEA)

Grant Application. Mr. Ballance seconded the motion. The motion passed on the following vote: Ayes - Ballance, Davis, Swindell and Chairman Spencer; Nays – none; Absent or Not Voting – Armstrong (excused).

Chairman Spencer called upon Mr. Classen for a review of the application and Mr. Classen introduced Alice Keeney, County Planner, who stated the purpose of the public hearing was to discuss an application for a \$241,000 CDBG Small Business Entrepreneurial Assistance grant. The proposed project would assist the following small business projects: 1) renovate hardware store building, purchase backup generator and pave parking lot at Chris's Grocery, 13221 US 264, Swan Quarter, NC; 2) expansion of warehouse at Alligator River Growers, 3278 Airport Road, Engelhard, NC; and 3) facility upgrades, computer hardware/ software for Community Home Care & Hospice, 33460 US 264 Suite 3, Engelhard, NC. The total cost of the three project activities is \$756,000, of which 31.9 % would be financed with CDBG funds. The three projects would create ten permanent full time jobs.

Mr. Spencer asked for comments from the public. No comments were offered.

Hearing no comments from the public, Mr. Davis moved to close the public hearing. Mr. Ballance seconded the motion. The motion passed on the following vote: Ayes - Ballance, Davis, Swindell and Chairman Spencer; Nays – none; Absent or Not Voting – Armstrong (excused).

#### Resolution - Community Development Block Grant – Small Business Entrepreneurial Assistance (CDBG-SBEA) Grant Application

Mr. Davis moved to approve a “Resolution to Make Application for Community Development Block Grant Funding for the Small Business Entrepreneurial Assistance Project. “ Mr. Ballance seconded the motion. The motion passed on the following vote: Ayes - Ballance, Davis, Swindell and Chairman Spencer; Nays – none; Absent or Not Voting – Armstrong (excused).

CLERK’S NOTE: A COPY OF “RESOLUTION TO MAKE APPLICATION FOR COMMUNITY DEVELOPMENT BLOCK GRANT FUNDING FOR THE SMALL BUSINESS ENTREPRENEURIAL ASSISTANCE PROJECT“ IS ATTACHED TO THESE MINUTES AS EXHIBIT A AND MADE A PART HEREOF.

#### Unified Government

Chairman Spencer called upon Mr. Classen, who stated the staff was still developing public information regarding the unified government proposal as per the Commissioners request. Additionally, the Commissioners had requested possible dates and locations of public information meetings on the unified government proposal, which Mr. Classen gave the Commissioners.

Chairman Spencer asked Mr. Classen to explain the pros and cons of the unified government proposal, which Mr. Classen did. Chairman Spencer asked people attending

the public if they had questions of the Commissioners about the unified government proposal. One question was asked about the impact of the unified development proposal, to which Mr. Classen responded.

Hearing no objection, Chairman Spencer directed that the Commissioners would delay action on selecting the dates and locations of the public information meetings until the Commissioners had received the draft public information materials but that the item should remain on future agendas to help answer questions about the proposal.

#### Subdivision Application – South Oak Subdivision

Chairman Spencer called upon Mr. Classen who introduced Alice Keeney, County Planner, who reviewed a Subdivision Application from Mr. Woody Whichard for a 32-lot subdivision in Currituck Township, which Mr. Whichard has named “South Oak Subdivision.” Ms. Keeney reviewed the application, including a discussion that the matter had been approved by the Commissioners in 2006 but the plat had not been recorded in the required timeframe. She reviewed the Preliminary Plat, noting the few changes from the previously-approved application, and stated it generally was in conformity with the Hyde County Subdivision Ordinance. Mr. Davis moved to approve a Subdivision Application from Mr. Woody Whichard for a 32-lot subdivision in Currituck Township, titled “South Oak Subdivision” conditioned upon (a) further review by the Planner and possible subsequent amendment, (b) the application meeting all other requirements of the Hyde County Subdivision Ordinance, and (c) upon appropriate signatures being applied to the final plat. Mr. Swindell seconded the motion. The motion passed on the following vote: Ayes - Ballance, Davis, Swindell and Chairman Spencer; Nays – none; Absent or Not Voting – Armstrong (excused).

#### Finance Officer Appointment

Mr. Classen stated that, at the October 1 Commissioners meeting, the Commissioners had introduced a change to have the Commissioners appoint the Finance Officer and not the County Manager. After discussion, Mr. Davis moved to have the County Commissioners appoint the Finance Officer rather than the County Manager. Mr. Swindell seconded the motion. The motion passed on the following vote: Ayes - Davis, Swindell and Chairman Spencer; Nays – Ballance; Absent or Not Voting – Armstrong (excused).

Mr. Classen asked about implementation of the change and supervision of the Finance Office until the change takes effect. After discussion, Mr. Davis moved that the Commissioners form a subcommittee of the Chairman (Spencer) and Vice Chairman (Davis) to propose to the Commissioners a method for selection of the Finance Officer and priorities for the type of person desired as a Finance Officer and he further moved that supervision of the Finance Office not change until the new Finance Officer is hired. Mr. Ballance seconded the motion. The motion passed on the following vote: Ayes – Ballance, Davis, Swindell and Chairman Spencer; Nays – none; Absent or Not Voting – Armstrong (excused).

### Emergency Medical Service Contract with Ocracoke Health Center:

Mr. Ballance stated he had a conflict of interest and asked to be excused from deliberations on this matter. Mr. Swindell moved to excuse Mr. Balance from deliberations on the emergency medical service management contract with Ocracoke Medical Center. Mr. Davis seconded the motion. The motion passed on the following vote: Ayes - Davis, Swindell and Chairman Spencer; Nays – none. Absent or Not Voting – Armstrong (excused), Ballance.

Mr. Classen stated that the interim management contract with Ocracoke Medical Center for emergency medical services on Ocracoke expires on October 15, 2007. Re-writing of the contract was not completed in time but the points of issue have been discussed and agreed upon by both boards as reflected in the letter of agreement dated July 17, 2007. The new agreement would closely follow previous three-year agreements and Mr. Classen outlined the changes. After discussion, Mr. Davis moved to approve the points in new agreement as outlined by the County Manager; to authorize Chairman and County Manager to extend existing letter of agreement through November 20, 2007; to direct the County Manager to work with the County Attorney in drafting a new Agreement; and to authorize Chairman and County Manager to execute new agreement substantially similar to points approved by County Commissioners. Mr. Swindell seconded the motion. The motion passed on the following vote: Ayes - Davis, Swindell and Chairman Spencer; Nays – none. Absent or Not Voting – Armstrong (excused), Balance (excused).

### Board and Committee Reports

Solid Waste Advisory Committee: Mr. Davis and Mr. Swindell reported on the activities of the Solid Waste Advisory Committee describing the various options being discussed for the mainland and Ocracoke, plus they called upon Rudy Austin and Al Scarborough, Ocracoke representatives to the Committee, for any additional comments. Mr. Scarborough reported on an informal survey of waste generated by several households on Ocracoke.

Berkley Manor Steering Committee: Linda Scarborough reported on activities of the Berkley Manor Steering Committee saying the property had not sold as previously reported was imminent and that the Committee was investigating opportunities.

Ocracoke Development Ordinance Board of Adjustment: Mr. Classen reported on an appeal pending before the Ocracoke Development Ordinance Board of Adjustment and the request by the Board of Adjustment for legal counsel and a court reporter. After discussion, Mr. Swindell moved that the County Manager be authorized to provide competent legal counsel for the Board of Adjustment in the appeal proceeding and that he further be authorized to secure services of a court reporter as needed for the appeal proceeding. Commissioner Ballance seconded the motion. The motion passed on the

following vote: Ayes – Ballance, Davis, Swindell and Chairman Spencer; Nays – none; Absent or Not Voting – Armstrong (excused).

### Commissioner Reports

Commissioner Swindell stated that he would like to see public hearings held on the mainland and Ocracoke in November regarding the collection and disposal options developed by the Solid Waste Advisory Committee.

Commissioner Ballance commented on the need for the County Manager to continue working with him on the need for a regular availability of gasoline and diesel vehicle fuel on Ocracoke, especially for public safety and emergency vehicles from all agencies.

### County Manager Report

Project Updates: Mr. Classen reported on various projects under way in the County: Government Center; Public Safety Center; Far Creek Dredging Spoils Site Project; Hyde County Airports – Engelhard and Ocracoke; and the Swan Quarter Dike Project. He also reported on animal control services and tax collections.

Phone System Agreements: Mr. Classen stated that the County Attorney had requested action by the Commissioners in support of the agreements agreed to earlier in the year with Embarq for installation of the new phone system for all County offices in Swan Quarter. Mr. Classen explained that the County was purchasing the wiring in the buildings (Government Center, Public Safety Center) and the fiber optic wiring between the buildings (Government Center; Public Safety Center; Health Department; Water Department; Social Services/O.A. Peay) but was entering into separate leases for the equipment to connect the phone system and for the desktop phone equipment. Mr. Classen reviewed the terms of the leases and explained that the funding for the equipment purchases and wiring installation was coming from the Health Department/Troy Mayo settlement that was released to the County in spring 2007. Mr. Davis moved to ratify approval of the plan outlined by Mr. Classen and previously approved by the Board and to specifically approve the lease agreements outlined by Mr. Classen and reviewed by the County Attorney. Mr. Ballance seconded the motion. The motion passed on the following vote: Ayes – Ballance, Davis, Swindell and Chairman Spencer; Nays – none; Absent or Not Voting – Armstrong (excused).

Swan Quarter Radio Tower: Mr. Classen reviewed construction and ownership of the Swan Quarter radio tower, which was constructed by the County on behalf of the Navy but under direction of the then-Sheriff. A tower contractor had been leasing space on the County tower to Embarq and Embarq had been paying the contractor lease payments but not to the County. After discussion, Mr. Davis moved to direct the County Manager to work with the County Attorney in drafting a lease with Embarq and to, the extent practicable, seek reimbursement of lease payments made to the tower contractor. Mr. Swindell seconded the motion. The motion passed on the following vote: Ayes –

Ballance, Davis, Swindell and Chairman Spencer; Nays –none; Absent or Not Voting – Armstrong (excused).

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

Chairman Spencer adjourned the meeting at 8:59 PM.

Respectfully submitted:

---

Carl Classen, County Manager (Interim)  
Interim Clerk to the Board of Commissioners

Minutes approved on October 15, 2007

---

Charles Spencer, Chairman

ATTACHMENTS:

*Exhibit A – Resolution to Make Application for Community  
Development Block Grant Funding for the Small Business  
Entrepreneurial Assistance Project*