



County of Dare

P.O. Box 1000 | Manteo, NC 27954

MINUTES

DARE COUNTY BOARD OF COMMISSIONERS MEETING

Dare County Fessenden Center, Buxton, NC

6:00 p.m., May 14th, 2024

Commissioners present: Chairman Robert Woodard, Sr., Vice Chairman Wally Overman
Rob Ross, Bea Basnight, Danny Couch

Commissioners absent: Commissioner Steve House and Ervin Bateman

Others present: County Manager/Attorney, Robert Outten
Master Public Information Officer, Dorothy Hester
Health and Human Services Director, Dr. Sheila Davies
Clerk, Skyler Foley
Colonel Ron Sturgeon, Commander U.S. Army Corps of
Engineers, Savannah District
Glenn Marks, Savannah District Reimbursable Branch Chief
Captain Tim List, Commander, Coast Guard Sector North
Carolina
National Park Service Superintendent, Dave Hallac

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 6:03 p.m. Chairman Woodard called to order the special meeting with appropriate prior public notice having been given, then he led the Pledge of Allegiance to the flag and he invited Commissioner Couch to share a prayer.

ITEM 1 – WELCOME

Following is a brief outline of the items mentioned by Chairman Woodard during his opening remarks:

- Recognized the Buxton Civic Association and announced that they held their first meeting on April 10th and they have been doing a great job advocating for full remediation at the Buxton Beach Site.
- He thanked Superintendent Hallac and the National Park Service staff for their hard work in collaboration with the federal government on the remediation efforts.
- Appreciation was extended to the Army Corps of Engineers for their efforts in traveling from Georgia to attend the meeting.
- Mentioned that on May 1st, the Leadership from the Corps of Engineers conducted a site visit and held discussions with himself, Vice-Chairman Overman, and the County Manager regarding issues related to the site. He reported that the meeting was positive and the Army Corps committed to improving communication with the community in the future.

ITEM 2 - INTRODUCTIONS

Chairman Woodard introduced Col. Ronald Sturgeon, who took command of the Army District on August 4, 2023. He explained that Col. Sturgeon is responsible for supervising all military and Civil Works Programs in the Savannah District, including the mission of cleaning up hazardous, toxic, and radioactive waste at formerly used defense sites (FUDS).

ITEM 3- PURPOSE OF THE MEETING

Colonel Sturgeon explained that he is responsible for managing the FUDS Program in six states within southeast region. He noted that the site at Buxton Beach, which was transferred to the National Park Service in the 1980s, is very complex. He stated that a significant erosion event in September 2023 raised concerns, which prompted him to send a team to the site for sampling in September, October, November, December, and February. Reports of sheen on the water and a strong odor from both the NPS and citizens have been noted. The ever-changing landscape of Buxton Beach, where sand can cover up features from one day to the next, poses a unique challenge. He stated that he met with Chairman Woodard and other officials in Dare County to address these concerns, assuring them that the Savannah District is fully committed to addressing any contamination found. The FUDS Program focuses on environmental remediation and has the authority to conduct additional sampling and remediate contaminated areas. Following the meeting with local officials, Col. Sturgeon stated that a contractor was swiftly hired to remove a suspected petroleum-containing pipe at the site. The contractor discovered petroleum residue in the pipe and is currently working on additional testing, results of these tests are still pending. He mentioned that a third-party independent review team will be arriving in the area to assess all remediation activities that have taken place at Buxton since the mid-80s. Their main objective is to evaluate to see if anything could have been done better and evaluate the areas that have been correctly addressed. Currently, they are in the process of conducting their investigation. It was noted that further sampling will be required in the area, and if any results indicate contamination, a request for additional funding will be made to headquarters in order to remediate the affected sections of the beach.

Col. Sturgeon then introduced Glen Marks, the Reimbursable Branch Chief at the Savannah District. The FUDS Program Manager works right underneath him and it was explained that Marks is very knowledgeable on Buxton Beach and has been to the site many times.

Marks detailed that the FUDS program was established and officially authorized by Congress in 1986 to address potentially contaminated properties that were previously used by the Department of Defense. He stated that they took a large collection of samples in Buxton and explained that data provides valuable information to their headquarters regarding potential pathways related to the site. He announced that the information obtained from the samples will be compiled into a report, which will undergo quality control and quality assurance before being released.

Captain Tim List, Commander of the U.S. Coast Guard in North Carolina, explained that the group assembled today is part of the federal unified command working to address the current situation. He explained that the area in question has been identified as a previously contaminated site, rather than an active spill. The primary goal is to prevent further harm and develop an effective plan for remediation. He further explained that the full extent of the contamination is not yet known, and the exact source remains unclear. However, it is evident

that the soils, sands, and peats on Buxton Beach are contaminated, he also mentioned that shifting sands are causing complications. Captain List announced that they are committed to staying for the duration of the cleanup efforts, and will continue to monitor the situation closely.

ITEM 5 NPS SPEAKERS

Superintendent Dave Hallac from the National Park Service expressed excitement for the upcoming remediation of the site. He thanked the U.S. Coast Guard for conducting a detailed study to better understand the contaminants present on the site from 1984 to 2010. He then emphasized his pride in the partnership between the Park Service, Army Corps of Engineers, and Coast Guard, and looks forward to ongoing communication with these entities.

ITEM 6 Q&A

At 6:28 p.m. the County Manager outlined the procedure for the Question and Answer segment. Following is a summary of all citizen remarks:

Summary of questions and remarks made from Buxton:

1. Aida Havel emphasized the importance of communication and how information exchange is critical. She raised a question about the Special Use Permit from 1956 between the Cape Hatteras National Seashore and the Navy, specifically referring to paragraph 11 which required the Navy to remove all structures, foundations, and pavements, as well as maintaining cleanliness on the premises. Havel pointed out that, to her knowledge, the permit has not been revoked and is still valid. She requested clarification on this matter. Marks stated that, although he believed the permit had ended before the Coast Guard took over the site, he was unsure of the exact date. Hallac added that, according to the National Park Service, the permit expired in 1982 when the Navy departed the site but there are expectations that the conditions of the permit would be upheld.
2. Heather Jennette inquired, "If not you, then who?" She acknowledged the complex and difficult-to-follow history regarding the management, usage, and ownership of the site. She expressed her understanding that there may be uncertainty surrounding the transfer of ownership of the buildings. Therefore, if it is determined that the site does not meet the criteria for removal, even though the FUDS guidelines mention both demolition and debris removal as well as environmental concerns, the question remains: who is responsible for removing the foundation and restoring the environment to its natural state. Col. Sturgeon clarified that the U.S. Army Corps of Engineers would not directly receive funding from Congress to address the issue at Buxton Beach because they are not the landowners. However, they would play a role in the cleanup efforts if funding becomes available for the landowners. He highlighted the need for a coordinated effort to address the hazards, mentioning that infrastructure cannot be removed through the FUDS Program unless it is contaminated. Hallac emphasized that the Park Service is committed to removing all debris from the beach and they are continuously working on it. He stated that it is interesting to note that removing one pipe has revealed several other hidden items in the ground, such as additional foundations and infrastructure. According to Hallac, from the Parks Service perspective, the Navy is

responsible for the debris removal, as the Army Corps of Engineers may not have the authority to do so unless there is a contamination concern. It is known that the U.S. Coast Guard did not use the buildings in question. Instead, other buildings were repurposed for the Coast Guards Group Cape Hatteras. Some of the structures installed by the Coast Guard, including wastewater systems, are situated on top of Building 19. We are collaborating with the Coast Guard to determine if they can remove some of this infrastructure after completing their sampling. Once this is done, we will focus on removing the remaining debris.

3. Al Adams, President of the Beach Buggy Association, emphasized the importance of resources, respect, and cleanliness within the organization. He expressed his shock and disbelief at the appearance of the Buxton site, condemning the irresponsible behavior of leaving it in such a state. Adams found it encouraging that the pipe provided a clear starting point for addressing the issue. He inquired about the amount and length of pipe that had been removed, to which Marks replied that 70-80 feet had been taken out. Adams also speculated that the pipe may have extended into a soil layer, such as peat moss, which could have absorbed a significant amount of petroleum.
4. Brent Liner expressed that this issue is important because the community is being polluted and the citizens are being poisoned. He referenced a document that was provided when the Park Service first began investigating the problem. The document revealed that the Navy had put out a bid for the demolition or removal of the site, with specific instructions for the underground storage tanks to be opened and filled appropriately. Liner inquired about the number of underground tanks present, and although Mark could not provide an exact count, he mentioned that 37 had already been removed. Liner also questioned when Buxton Beach was declared a FUD site, to which it was confirmed to have been for over a decade. Concerns were raised about potential contamination and the presence of underground pipes/tanks that would require remediation. Liner asked if constructed buildings that over these areas would impede the Corp's ability to access and remediate them, since removing such structures was not within their jurisdiction or budget. Mark explained that while they are not authorized to handle infrastructure, they can address any obstacles hindering their investigation.
5. Jason Forest expressed his confusion regarding the need for additional testing and the unknown answers to questions. At a previous meeting with the Park Service it was his understanding that the entire area was contaminated and now there are discussions regarding the removal of a pipe and additional testing. Hallac responded that at that meeting he provided information about groundwater wells and soil samples taken by various organizations, all of which tested positive for petroleum hydrocarbons. He also shared a map that may have given the impression that the entire site was contaminated, but that map was from the Coast Guard's Cleveland Civil Engineering Unit as part of a site investigation work plan for all of the sediment cores that they were taking. Hallac further explained that he believes that the Coast Guard took over 100 cores from that study and they have a report that is under review right now and those sediment cores are being analyzed

for a variety of non-petroleum contaminants like PCB's, pesticides, heavy metals, and other things. Hallac announced that they have to wait to get the final results from the Coast Guard study to make any characterizations about it. Forest then stressed the importance of full remediation and removal of the structures and debris. He also asked about the possibility of building jetties, to which Outten clarified that the NC Division of Coastal Management regulates jetties through the CAMA Act and building new jetties is not permitted under current laws in North Carolina.

6. Tripp Foreman provided background information on himself and his businesses. He stated that swift action to remediate is imperative for the tourism industry. He emphasized the need for positive press and media coverage to counter negative perceptions of the problem. Foreman also praised Hallac for his leadership in planning for the future of the Park Service, including strategies for repairing and redesigning structures to adapt to rising sea levels. Foreman mentioned the challenges posed by erosion and the threat of homes falling into the ocean if no action is taken. He advocated for a multi-faceted approach to beach preservation, combining stabilization and nourishment techniques. He then inquired about the hurdles that needed to be surmounted to implement jetties. Outten explained that the law currently reads that no hardened structures are allowed in the State of North Carolina for oceanside erosion. In order to explore other options, there would need to be a change in the law to allow for different approaches. He further explained that if that hurdle was crossed, the next hurdle that would have to be dealt with in this particular area is the Park Service because they have rules in place about natural processes and beach nourishment can only be done in places where public infrastructure is threatened. Chairman Woodard then encouraged the community to write their legislatures, that the Board of Commissioners cannot do it alone and they been down this road many of times. Foreman then asked Outten to share the results of the study on the current jetties, Outten responded that the result was that they went to DCM with the results and they did not meet the 50% rule criteria.
7. Michael Tripp explained that he owns the last house on Old Lighthouse Rd. before the base. Since his address was included in a public announcement stating that the area may be contaminated, he has not been able to rent out his property and has lost his rental income. This has caused financial difficulties for him and his wife, leading to possible foreclosure. He asked if there will be an avenue of declaration for homeowners in this area to stop making mortgage payments until the situation is resolved. He explained that he was told that until the sign comes down on the loop parking lot, no renters can go there, and he cannot live in the house. He elaborated that he and his wife purchased the house for retirement, only to have their dream shattered by circumstances beyond their control and this situation is seen as the beginning of a possible chain reaction. Hallac responded that the only section of the beach that is closed is from the first jetty, which is the southernmost jetty along Cape Hatteras Seashore, up until the beginning of that parking area, which he estimated to be 50-100 ft south of Tripp's property. When the first precautionary Public Health Advisory was issued, Hallac admitted that it initially

contained an address. However, he stated that his Public Information Officer collaborated with the DC Department of Health and Human Services to have the address removed. There are no intentions to close any more parts of the beach, and the only reason they would consider doing so is if the data indicated a risk to public health. Hallac explained at that point they would collaborate with Dr. Davies from the DCDHHS and the USPHS in order to make a well-informed decision. However, they currently lack data. In terms of programs that could assist homeowners who might be impacted, he is not familiar with any.

8. Julie Youngman expressed her frustration with the lengthy process of the Corps job that began in the 1980s. She pointed out that while the current laws may not consider the debris hazardous, the Corps had started removing it back in the 80s. She mentioned reading letters between the Corps, the Department of Defense, the Navy, and the Park Service regarding the site, including discussions about relinquishing the site and that the scope of work had been completed. Youngman then inquired about the current contract with the workers on site and whether it was solely for removing the pipe and testing for petroleum, rather than remediation. Marks responded yes and that further action would be taken if samples come back positive for hazardous materials. Youngman, citing the DERP Manual, suggested petitioning the Environmental Management Directorate for approval to address the debris concerns. She also mentioned the possibility of seeking authorization from Congress to clean up the site. Marks agreed to review the manual and consult with lawyers, and that no one is stopping community members from contacting Congress. Youngman then inquired about the possibility of future meetings. Marks replied that he is in support of a Restoration Advisory Board (RAB) and explained they have regular meetings to discuss their progress, thoughts, and allow individuals to share their opinions. He noted that the process to start a RAB is gradual and formal and must be followed step by step. Col. Sturgeon mentioned that there are presently 14 RABs nationwide, and acknowledged the importance of communication. Chairman Woodard assured Youngman that the Dare County Board of Commissioners is dedicated to seeing the project through and will ensure transparency throughout.
9. Luke Browning extended his best wishes to everyone working on this complex project. He shared his personal experience of being on the site during the demolition of the building, where he witnessed some questionable practices by the crew responsible for the removal. He also noted that it was interesting that the Navy allocated \$1.5 million for renovation of the kitchen and galley before decommissioning the site instead of utilizing that money for a thorough cleanup. He believes that addressing the red lead storage and pesticide areas located farther from the building could potentially lead to more unforeseen issues.
10. Susan Sigmon expressed her concerns about owning a rental property located 3/10ths of a mile from ground zero. She mentioned feeling scared and worried about potential contamination. She asked about the timeline for the next steps, the process for dealing with contamination, and the funding. Col. Sturgeon admitted that the response so far could have been faster but explained that following the

data does takes time and discussed the overall complexity of the project. He assured everyone that further sampling will be conducted, and any additional contaminants will be addressed promptly. In terms of funding, Col. Sturgeon explained there is an overall authorization that has money tied to it and has spoken to his headquarters about the need for additional sampling and has received assurance that they will be able to do the sampling. While he couldn't provide a specific timeline for the project, he emphasized the importance of urgency in resolving the issue.

11. Aida Havel expressed that she hopes for better communication from the Army Corps of Engineers and asked for them to keep the public informed.
12. Brent Liner emphasized the importance of improved communication between the Army Corps of Engineers and the Board of Commissioners. Marks mentioned that a website had been developed and will be shared through a news release. Hallac added that the Parks Service Public Affairs Officer created a website named go.nps.gov/buxtonbeach, where relevant information has been published.
13. Jason Hall emphasized the community's demand for full remediation of the entire site. He inquired if the Corps, Coast Guard, Park Service, and County Officials are dedicated to this goal. Col. Sturgeon clarified that multiple organizations are involved in the process, but confirmed a commitment to a FUDS remediation. He expressed limitations in funding and assured his dedication to his part. Hallac and List reiterated their determination for complete remediation. Chairman Woodard assured proactive efforts from the Board in engaging with legislators and various groups to achieve the desired outcome.
14. Hyatt Busby mentioned that he continuously comes across information stating that the Buxton Beach Access is closed, despite the fact that it is only a small section of Old Lighthouse Road. He conveyed his dissatisfaction with the portrayal of the situation, as it is not entirely closed, but just a short distance of a couple hundred feet. He hoped that the media could present this information in a more accurate manner.

Julie Youngman Letter

Outten informed the Board that Julie Youngman wanted to write a letter to Congress and Committee Members in regards to the Buxton site and requested that Dare County signs off on it.

MOTION

Vice-Chairman Overman motioned to approve the County Manager/Attorney to sign off on the letter after he and the Chairman review it.

Commissioner Basnight seconded the motion.

VOTE: Ayes unanimous

Opioid Litigation

Outten explained that the opioid settlement lawyers want to add more defendants, including pharmacy management companies like CVS, to get additional settlement money and he needed the Boards approval.

MOTION

Vice-Chairman Overman motion to approve the addition of pharmacy management companies to the list of defendants in the opioid settlement.

Commissioner Ross seconded the motion.

VOTE: Ayes unanimous

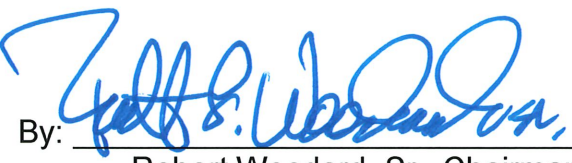
At 7:57 p.m., the Board of Commissioners adjourned until 9:00 a.m., June 3rd, 2024.



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.