

CURRITUCK COUNTY
NORTH CAROLINA
JULY 5, 2005

The Currituck County Board of Commissioners met on Tuesday, July 5, 2005, at 7:00 p.m. for their regularly scheduled meeting at the Historic Courthouse in the Commissioners Meeting Room with the following members present: Chairman Martin, and Commissioners Bowden, Etheridge, Miller and O'Neal.

Invocation and Pledge of Allegiance

Mr. Bob Henley, was present to give the invocation and lead the pledge of allegiance.

Approval of Agenda

Chairman Martin amended the agenda by deleting Item 4; adding a closed session and recognition of Terry Perkins. Commissioner Etheridge seconded the motion. Motion carried.

- Item 3 Presentation on Historic Preservation Survey
- Item 4 Public Hearing and Action PB 05-14 Whispering Pines Sketch Plan to create 10 lots on the east side of Narrow Shores Rd. approximately 200' north of Soundview Dr. Tax Map 91, Lots 11E, Poplar Branch Township.
- Item 5 Public Hearing and Action PB 05-15 Dodson Mathias and David Palmer rezone 54.16 acres from Residential (R) to General Business (GB) on property located in Barco on the east side of Caratoke Highway across the street from the intersection with Barco Rd. Tax Map 60, Lots 53A, 53B, and 53D, Crawford Township.
- Item 6 Public Hearing and Action PB 05-16 Robert Halstead rezone .5 acres from Agricultural (A) to General Business (GB) on property located on the east side of Caratoke Highway approximately 250' south of Freedom Ave. Tax Map 124, Lot 36A, Poplar Branch Township.
- Item 7 Public Hearing and Action on a request to rename Simpson Lane to Eldon Lane which is located on the eastern side of Caratoke Highway (US 158); and, across from the intersection of Caratoke Highway and Swain's Lane, Crawford Township.
- Item 8 Consideration of Resolution S951 Public-Private Solid Waste Collection Contracts
- Item 9 Designation of voting delegate to NCACC Annual Conference.
- Item 10 Consent Agenda:
 - Approval of June 6th & 20th Minutes
 - Change order for SOBW treatment plant.
 - Resolution for ABC Board
 - Resolution Requesting Federal Review of Proposal of Black Bear Disposal, L.L.C., to Operate a 490-Acre Municipal Waste Landfill in Camden County, North Carolina, and Currituck County, North Carolina, in Close Proximity to the Water Sources Located in Currituck County.
- Item 11 Commissioner's Report
- Item 12 County Manager's Report
- Adjourn

Public Comment

Please limit comments to items not appearing on the regular agenda, please limit comments to 3 minutes.

Chairman Martin opened the public comment period.

Barbara Snowden, stated that the sound survey had been completed and the book would be in the Library for anyone interested in knowing what the survey found in the Sound.

Mitch Copeland, Lower Currituck Fire Dept., stated they were not treated with respect and that they felt that the County did not trust them.

Commissioner Miller reminded everyone to honor the American flag.

Commissioner Etheridge moved to develop a policy not to allow condemnation of property for economic development. Commissioner O'Neal seconded the motion. Motion carried.

There being no further comments, Chairman Martin closed the public comment period.

Special recognition of Terry Perkins

Chairman Martin recognized Terry Perkins, Currituck County High School student, for winning four world records in power lifting.

Presentation on Historic Preservation Survey

Rodney Sawyer, Extension Director, stated that, through the efforts of a pilot outreach program from NC State University entitled, "Gateway," the local Cooperative Extension Center is able to access university resources from all the 10 colleges on campus. Currituck County was one of 12 counties selected to participate in the pilot. Each of the participating counties had to submit their top ten needs and issues that would then be prioritized for inclusion in a project to be developed. Thus, the origination of the Historic Structure Inventory for Currituck County.

Mr. Sawyer, introduced the committee that was formed to establish the goals and implement the project.

David Stein, Planning Specialist, NCSU School of Design, introduced Marshall Dunlap and Juliana Strieff, Graduate Assistant NSCU to review the project goals.

Public Hearing and Action PB 05-14 Whispering Pines Sketch Plan to create 10 lots on the east side of Narrow Shores Rd. approximately 200' north of Soundview Dr. Tax Map 91, Lots 11E, Poplar Branch Township.

Deleted

Public Hearing and Action PB 05-15 Dodson Mathias and David Palmer rezone 54.16 acres from Residential (R) to General

Business (GB) on property located in Barco on the east side of Caratoke Highway across the street from the intersection with Barco Rd. Tax Map 60, Lots 53A, 53B, and 53D, Crawford Township.

Gary Ferguson, Planning Director, reviewed the request.

**PB 05-15 Dodson Mathias and David Palmer
REZONING REQUEST**

NARRATIVE

Dodson Mathias and David Palmer have made a request to rezone 54.16 acres from R (Residential) to GB (General Business). The property is located in Barco on the east side of Caratoke Highway being the Palmer Inn Bed and Breakfast lot and the lot immediately to the north and the lot immediately to the south of this lot, Tax Map 60, Lots 53A, 53B, and 53D, Crawford Township. Mr. Mathias wishes to rezone this property for a future business use and Mr. Palmer agreed to rezoning his parcel to make a contiguous rezoning. The property contains Flood Zone C, A3(5), A5(5), and A5(6). The property contains State Fine Sandy Loam (StA) soils (well drained - closest to the highway), Tomotley Fine Sandy Loam (To) soils, (poorly drained), and Currituck Mucky Peat (Cu) soils (very poorly drained - at the water's edge). These soil types are according to the Currituck County Soil Survey.

PROPERTY DETAIL

PIN	Size	Current Land Use
0060-000-053B-0000	29.45 ac	Active Farm Land
0060-000-053D-0000	16.66 ac	Active Farm Land
0060-000-053A-0000	8.05 ac	Bed and Breakfast

SURROUNDING ZONING/LAND USE

<u>Zoning</u>	<u>Land Use</u>
North:R (Residential)	David Majors Private Access Subdivision (PAS), Joseph Robertson PAS/Single Family Dwelling
South:GB (General Business)	Moneymusk PAS/Single Family Dwelling
East: Coinjock Bay	Coinjock Bay
West: GB (General Business)	Billboard/Single Family Dwelling

LAND USE PLAN

The 1990 Land Use Plan shows this property as "Limited Transition". This class is to provide for development in areas that will have some services, but are suitable for lower densities than those associated with the urban transition class, and/or are geographically remote from existing towns and municipalities. This class also contains nonresidential areas along major transportation routes. This rezoning is consistent with the Land Use Plan.

PUBLIC SERVICES AND UTILITIES

Crawford Currituck Volunteer Fire Department provides fire

protection for this area. County water, electric, telephone, and cable are available at this location.

STAFF COMMENTS

These lots are directly across the highway from lots currently zoned General Business (GB) and approximately 150' north of property currently zoned GB.

There are approximately 3,100 acres of vacant GB zoned land countywide and approximately 370 acres of that is in the Barco zip code.

Side note: In 2002 a zoning mapping error occurred on PIN 0060-000-053D-000 of this request. The correct rezoning (Highland Properties) was approved by the board in 2002; however, when the zoning map was updated to reflect the board's action, this parcel as well as two adjoining parcels were mapped in error showing the properties mistakingly zoned as General Business (GB). These parcels were not part of the Highland Properties rezoning request and should have remained Residential (R). The maps have recently been corrected and the accurate Residential (R) zone is now shown for the lots.

STAFF RECOMMENDATION

Staff recommends approval of this application for the following reasons:

1. Proposed rezoning is compatible with surrounding land use.
2. The proposed rezoning is consistent with the Land Use Plan.

PLANNING BOARD DISCUSSION

Mr. Hawley asked how many residences would be allowed on this property.

Ms. Eggar said the most is 3 per acre if it is used as multi family.

Mr. Hawley asked if General Business is a problem next to Residential.

Ms. Eggar said that existing residence across the street is already zoned General Business.

Mr. Palmer said that he intends to put in vineyards and would need to rezone to either Agriculture or General Business to put in a winery.

Mr. Mathias said he doesn't have any plans to do anything with the property at this point except to continue to farm it.

Ed Matkins stated that there is a home on Fyvie Dr.

Brian Innes said that he was concerned about the rezoning

until he found out that there was a vineyard going in. He has no objections to the rezoning for that purpose.

PLANNING BOARD RECOMMENDATION

On June 14, 2005 the Planning Board reviewed this request recommended approval with an unanimous vote.

Chairman Martin opened the public hearing.

David Palmer, stated that he had plans for a winery and vineyard.

There being no further comments, Chairman Martin closed the public hearing.

Commissioner Etheridge moved to approve. Commissioner Miller seconded the motion. Motion carried.

Public Hearing and Action PB 05-16 Robert Halstead rezone .5 acres from Agricultural (A) to General Business (GB) on property located on the east side of Caratoke Highway approximately 250' south of Freedom Ave. Tax Map 124, Lot 36A, Poplar Branch Township.

Gary Ferguson, Planning Director, reviewed the request.

**Zoning Staff Report: PB 05-16
Robert W. Halstead
Rezoning**

TYPE OF REQUEST: Request for rezoning from A (Agricultural) to GB (General Business). The lot is "split zoned" and contains a total area of approximately one acre of which slightly less than one half of the site is zoned GB.

LOCATION: This site is located in Poplar Branch along the east side of Caratoke Highway (US 158) approximately 250' south of the Freedom Avenue, the entrance to the Freedom Business Park, and approximately 850' north of South Spot Road.

TAX ID: 0124-000-036A-0000

PROPERTY OWNER & APPLICANT: Robert W. Halstead
P.O. Box 946
Kitty Hawk, NC 27949

SOILS: The northern half of the site is marginally suitable for septic systems while the southern portion of the site is favorable for septic systems. Soils inadequate for septic systems are located along at the rear of the property. On-site septic system permits are being issued for the surrounding new commercial and home construction.

STAFF COMMENTS:

- In March 2005, this case was presented to the Planning Board and the Planning board recommended denial of the request.
 - At that time the rezone request was for two properties, the Halstead property, and the Parker property. The Parker property is accessed via a 20' ingress/egress easement which is not an adequate access for commercial uses. At the April 4th meeting the BOC declined the request due to the access to the property (Parker) being non-conforming.
- When the General Business zoning district was created along Caratoke Highway numerous lots ended up with split zoning.
- The UDO has an allowance for split zoned lots. When a lot two acres in size or smaller is located in more than one zoning district, the zoning regulations applicable to the larger portion shall be applied to the whole lot.
- It appears that approximately 40% of the site is zoned General Business while the remaining portion is 60%. Under the above criteria, the property falls under the regulations for the Agricultural zoning district which would prohibit many commercial ventures.

STAFF RECOMMENDATION:

Staff recommends approval of this application for the following reasons:

- This property is surrounded by properties that are zoned General business and this would be an extension of the existing General Business zoning district.
- The rezoning is consistent with the 1990 Land Use Plan and is compatible with surrounding land uses.

PLANNING BOARD RECOMMENDATION:

Since this case was heard at the March 2005 meeting, there was no discussion with the Board Members.

PLANNING BOARD RECOMMENDATION:

On June 14, 2005, the Planning Board reviewed this request recommended approval with a unanimous vote.

Chairman Martin opened the public hearing.

Robert Halstead, owner, requested approval.

There being no further comments, Chairman Martin closed the public hearing.

Commissioner O'Neal moved to approve. Commissioner Miller seconded the motion. Motion carried.

Public Hearing and Action on a request to rename Simpson Lane to Eldon Lane which is located on the eastern side of Caratoke Highway (US 158); and, across from the intersection of Caratoke Highway and Swain's Lane, Crawford Township.

Gary Ferguson, Planning Director, reviewed the request.

Chairman Martin opened the public hearing.

Scott Bailey, withdrew his signature voting yes.

Chuck Atkins, withdrew his signature voting yes.

Barbara Snowden, requested the Board to have a policy that when a road name has changed to record the original road name.

There being no further comments, Chairman Martin closed the public hearing.

The Board took no action because the petition was not signed by 50% plus one, which would be a majority.

Consideration of Resolution S951 Public-Private Solid Waste Collection Contracts

Commissioner Etheridge moved to approve resolution. Commissioner O'Neal seconded the motion. Motion carried.

Resolution to request voting against
NC Senate Bill 951, Public-Private Solid Waste Collection

WHEREAS, County and Local governments have been granted by the NC

General Statutes the authority to enter into service contracts with the private sector; and,

WHEREAS, County and Local governments are responsible for delivery of basic services to their citizens; and,

WHEREAS, County and local governments do enter into contracts with the private sector to provide solid waste and recycling services; and,

WHEREAS, County and local governments continually strive to provide solid waste and recycling services in an efficient and cost-effective manner; and

WHEREAS, Senate Bill 951 would make it difficult or in some cases cost-prohibitive for County and local governments with private contracts to investigate different methods of service delivery that would make a contract more efficient and cost-effective; and,

WHEREAS, Senate Bill 951 rewards the private sector and penalizes County and local governments in their attempts to make changes in their solid waste service delivery that would have the potential to reduce the cost to the general public;

Now, THEREFORE BE IT RESOLVED that Currituck County is in opposition to S951 in word and in spirit.

Designation of voting delegate to NCACC Annual Conference.

Chairman Martin moved to designate Commissioner Etheridge. Commissioner O'Neal seconded the motion. Motion carried.

Consent Agenda:

Approval of June 6th & 20th Minutes

Change order for SOBW treatment plant.

Resolution for ABC Board

Resolution Requesting Federal Review of Proposal of Black Bear Disposal, L.L.C., to Operate a 490-Acre Municipal Waste Landfill in Camden County, North Carolina, and Currituck County, North Carolina, in Close Proximity to the Water Sources Located in Currituck County.

Commissioner Etheridge moved to approve. Commissioner Bowden seconded the motion. Motion carried.

RESOLUTION
ABC BOARD
PROPOSED CAPITAL IMPROVEMENT

WHEREAS, The Currituck County ABC Board has requested to retain 85% of their profit distribution made to the County for a proposed new ABC store.

NOW, THEREFORE BE IT RESOLVED, that the Currituck County Board of Commissioners authorize the Currituck County ABC Board to retain the 85% of their profit distribution normally made to the County for a new building.

FURTHER BE IT RESOLVED, that it is estimated it will take 3 to 4 years of retaining these profits to sufficiently pay for this improvement project. The other statutory profit distributions to Law Enforcement and Education will take place as usual.

This resolution becomes effective on date of adoption.

RESOLUTION REQUESTING FEDERAL REVIEW OF PROPOSAL OF BLACK BEAR DISPOSAL, L.L.C., TO OPERATE A 490-ACRE MUNICIPAL WASTE LANDFILL IN CAMDEN COUNTY, NORTH CAROLINA, AND CURRITUCK COUNTY, NORTH CAROLINA, IN CLOSE PROXIMITY TO THE WATER SOURCES LOCATED IN CURRITUCK COUNTY

WHEREAS, on November 4, 2002, Camden County, North Carolina, granted a franchise agreement to Black Bear Disposal, L.L.C. ("Black Bear"), a wholly owned subsidiary of Waste Industries USA, Inc., for a 490-acres municipal waste landfill on a 1,060 acre parcel, located approximately 3,000 feet from the center line of U.S. Route 17; and

WHEREAS, the proposed landfill is to be constructed near Currituck County and near the headwaters of the Northwest River, which drains into Tulls Bay located in Currituck County; and

WHEREAS, preliminary information indicates that the surface water run-off from the landfill will be discharged to the Great Dismal Swamp Canal, a navigable waterway and historic site; and

WHEREAS, in addition to concerns regarding the potential for contaminated surface run-off to the Northwest River and the Great Dismal Swamp Canal, the County of Currituck also fears contamination of ground water and knows of no infallible system that will offer citizens complete protection against degradation of ground water quality; and

WHEREAS, because parts of Currituck County are not served with public water, the residents and businesses in the area depend on wells as their sole source of drinking water and would be put at serious risk if ground water quality is degraded by leachate, hog waste or any other unhealthy substance; and

WHEREAS, the potential for contaminated sheet flow into Tulls Bay is a serious endangerment of the public health, safety, and welfare;

NOW, THEREFORE, BE IT RESOLVED that the Board of Commissioners of the County of Currituck:

1. Assert standing as an interested and affected party to the permit proceedings for the landfill being conducted by Camden County and the North Carolina Department of Environment and Natural Resources (“DENR”).

2. Seek an environmental impact statement for the landfill project under the National Environmental Policy Act to determine the likelihood and extent of adverse impact on federal lands; discharge of contaminated run-off into federal waters; contaminated surface and sheet water flow into the Northwest River, which drains into Tulls Bay in Currituck County; degradation of potable ground water serving as a source of drinking water for residents; and negative impact on the public use of federally funded projects.

3. Seek the support and aid of the U.S. Congress in protecting and promoting Currituck County’s vital interests in the location of the proposed Black Bear landfill, as well as important federal interests.

Seek the support, aid and intervention of the Governor of North the North Carolina General Assembly and the Secretary of Natural Resources in protecting Currituck County and the State from potential adverse impact from the landfill and promoting the health, safety and welfare of the residents of North Carolina.

4. Challenge adverse decisions of Camden County and DENR to the extent allowed by law and supported by fact.

5. Require Black Bear to demonstrate to DENR, Camden County and the County of Currituck that it will construct and operate and infallible system for the absolute protection of ground water aquifers serving Currituck County residents and surface water flows into the Northwest River.

6. Consider whether public emergency services are adequate to respond in case of an emergency generated by the landfill, such as spill or fire.

7. Take any other action that will promote the best interests of the County of Currituck and its citizens.

Commissioner’s Report

Commissioner Bowden stated that management of the wild horses needed to be reviewed.

Commissioner Etheridge commended the Chamber for work done at the Whalehead Club for the July 4th celebration.

Commissioner O’Neal, commented on Unified Government and opposes incorporation of Corolla. Commissioner O’Neal stated many reasons why incorporation of Corolla would not benefit the citizens of Currituck County.

Commissioner Miller stated he has been working with DOT on Shingle Landing Bridge and with residents of Gibbs Woods on Long Lane.

Chairman Martin, commended the Finance Department on their award of excellence.

County Manager's Report

Dan Scanlon, County Manager, stated that he met with the Army Corps and WRC regarding the pier at the Whalehead Club for the Corolla Ferry and a permit should be issued in 60-90 days.

Closed Session to discuss legal issues.

Chairman Martin moved to go into closed session to discuss legal issues. Commissioner Bowden seconded the motion. Motion carried.

Adjourn

After reconvening from closed session, no action was taken.

There being no further business, the meeting adjourned.