

CURRITUCK COUNTY
NORTH CAROLINA
AUGUST 7, 2006

The Board of Commissioners met at 6:00 with Tracy Sample, Tax Administrator, for the Board of Equalization and Review meeting.

The Board of Commissioners met on Monday, August 7, 2006, at 7:00 p.m. for its regularly scheduled meeting at the Historic Courthouse in the Commissioners Meeting Room with the following members present: Chairman O'Neal, Vice Chair Martin, Commissioners Bowden, Miller and Etheridge.

Invocation and Pledge of Allegiance

Approval of Agenda

Commissioner Bowden moved to amend the agenda by deleting Item 10. Commissioner Martin seconded the motion. Motion carried.

Public Comment

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

Item 3 Recognition of Wallace Davis, ABC Board Member

Item 4 Recognition of Paul Farr, Economic Development Board Member

Old Business

Item 5 Discussion on Land Use Plan

Item 6 Discussion and possible action on Traffic Survey for Hwy 168

New Business

Item 7 Public Hearing and Action on Animal Control Ordinance Amendments to Chapter 3 of the Currituck County Code of Ordinances (Animals), Article III, Animal Control Ordinance

Item 8 Public Hearing and Action on Junk Car Ordinance Amendment to Chapter 9 of the Currituck County Code of Ordinances (Offenses and Miscellaneous Provisions) to codify Article IV, Junk Car Ordinance.

Item 9 Public Hearing and Action on Amendment to Solid Waste Ordinance Amendment to Chapter 11 of the Currituck County Code of Ordinances (Solid Waste), Article II, Storage and Disposal, to require additional solid waste containers and recycling containers for rental units in the RO1 and RO2 districts based on number of bedrooms.

Item 10 Public Hearing and Action on PB 06-07 HYMAN & ROBEY amendment to UDO Sections 204(3)(b) and 1616 to allow a sidewalk and fill within 10 feet of a property line.

Item 11 Public Hearing and Action on PB 94-08 THE CAROLINA CLUB Amended Special Use Permit to allow landscaping in common areas in lieu of street trees in The Carolina Club Phases 2, 3 and 4A. The property is located on Carolina Club Drive and along Grandy Road, Tax Map 94, all the parcels of the Carolina Club, Poplar Branch Township.

- Item 12 Public Hearing and Action on PB 03-46 OWENS BEACH ESTATES, PHASE II, Sketch Plan/Special Use Permit for eight (8) single-family lots in Harbinger, 400 feet north of the intersection of Owens Beach Road and Owens Beach Road Extended, connecting to Rose Owens Drive. Tax Map 125, Parcel 35D
- Item 13 Public Hearing and action on PB 97-27 SWAN ACRES Sketch Plan/Special Use Permit for eight (8) single family lots on Knotts Island, located on the west side of NC 615 (Marsh Causeway) approximately .8 mile south of the NC/VA State Line. Tax Map 56, Parcel 6
- Item 14 Public Hearing and Action on PB 06-30 Currituck County Text Amendment to UDO Article 6 to clarify the exemption for discharge from reverse osmosis water systems performed by any unit of government.
- Item 15 Public Hearing and Action on County Park Rules and Regulations
- Item 16 Update on County-wide drainage plan. Mike Doxey will provide the Board with a status report on the County-wide drainage plan project.
- Item 17 Action on Resolution calling for a referendum altering structure of Board of Commissioners from 5 to 7 members.
- Item 18 Designation of Voting Delegate to NCACC Annual conference
- Item 19 Consent Agenda:
 - Budget Amendment
 - Request to transfer unspent portion of Currituck County's Work First funding allocation to Inter County Public Transit Authority
 - Request DOT to add Spring Leaf Court to State System
 - Request DOT to add Windy Hill Court to State system
 - Albemarle Mental Health quarterly fiscal monitoring report
 - Approval of CDBG Project for housing rehabilitation program
- Item 20 Commissioner's Report
- Item 21 County Manager's Report
- Item 22 Closed Session to discuss litigation
- Item 23 Adjourn

Public Comment

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

Chairman O'Neal opened the public comment period.

Bob Henley, Waterlily, expressed his concerns with nudity on the beaches and requested the Board to adopt an ordinance to prohibit this. The Board requested the County Attorney to check into this.

LaRee Lynn, Spot Road, expressed his concerns that the County did not do enough to get Blackwater in Currituck and feels that they were misled by the Planning Board. He also expressed concerns with growth and number of wells in county.

Dan Scanlon, County Manager, gave a brief update on water.

Barry Nelms, commented on the two restaurants that have closed recently and expressed concerns they had with the county. He also commented on affordable housing in Currituck and the need for more infrastructure.

Chairman O'Neal commented on a recent newspaper article concerning county water and that no permit has been turned down.

Commissioner Etheridge stated that he would like to see more editorials based on facts such as the article on closing beach access and public roads.

There being no further comments, Chairman O'Neal closed the public comment period.

Recognition of Wallace Davis, ABC Board Member

The Board recognized Wallace Davis for his many years serving on the ABC Board.

Recognition of Paul Farr, Economic Development Board Member

The Board recognized Paul Farr for serving on the Economic Development Board.

Old Business

Discussion on Land Use Plan

Sarah Keifer, Planning Director reviewed the Land Use Plan and the map adopted.

Discussion and possible action on Traffic Survey for Hwy 168

Commissioner Miller requested staff to prepare a traffic study on Hwy 168.

Dan Scanlon, County Manager, stated that staff does not have time to conduct the study until the fall.

Chairman O'Neal stated that traffic lights are needed in the lower part of county and a solution is needed for traffic problems.

Commissioner Martin stated that an overpass was needed for NC 12 and a four lane road in Southern Shores along with a Mid County Bridge.

New Business

Public Hearing and Action on Animal Control Ordinance Amendments to Chapter 3 of the Currituck County Code of Ordinances (Animals), Article III, Animal Control Ordinance

Kate McKenzie, County Attorney, reviewed the amendment to ordinance.

Chairman O'Neal opened the public hearing.

Ginger Sikes, ALAL, stated that it would be more practical to change from the 7 days to 5 days and a phone recording would be useful at the shelter.

Rhonda Eason, Shelter Manager, expressed concerns with needing more room for animals.

There being no further comments, Chairman O'Neal closed the public hearing.

Commissioner Bowden moved to adopt the ordinance. Commissioner Martin seconded the motion. Motion carried.

ARTICLE III.

ANIMAL CONTROL ORDINANCE*

* **Editors Note:** Ord. No. 92-3, adopted Sept. 8, 1992, enacted provisions which have been codified herein at the discretion of the editor as Art. III, §§ 3-61--3-91.

Sec. 3-61. Title.

This article should be known, cited and referred to as the "Animal Control Ordinance."

(Ord. No. 92-3, § 1, 9-8-92)

Sec. 3-62. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings described to them in this section, except where the context clearly indicates a different meaning:

Adequate feed. A quantity of wholesome foodstuff suitable for the species and age, to each animal, sufficient to maintain a reasonable level of nutrition provided at reasonable intervals, not to exceed 24 hours. Such foodstuff shall be served in a sanitized receptacle, dish or container.

Adequate water. A constant access to a supply of clean, fresh, potable water provided in a sanitary manner or provided at suitable intervals for the species and not to exceed 24 hours at any interval.

Animal. Every living creature, domestic or nondomestic, but does not include humans.

Animal shelter. Any premises designated by the Board of Commissioners of the County of Currituck for the purpose of impounding and caring for animals.

Board of commissioners. Board of Commissioners of the County of Currituck, North Carolina.

Commercial animal establishment. Any pet shop, grooming shop, auction, riding school or stable, zoological park, circus, animal exhibition, or kennel.

Health department. Currituck County Department of Health.

Health director. Health Director of the Currituck County Department of Health.

Exposed to rabies. An animal shall be deemed to have been exposed to rabies if it has been bitten by, or been in the presence of, any animal known or suspected to have been infected with rabies.

Grooming shop. Any establishment, whether operated separately or in connection with another business enterprise which provides hair and nail clipping, bathing, and other cosmetic services for animals.

Impoundment. Any animal in custody of a person or animal shelter duly authorized by the board of commissioners.

Keeper. A person having custody of an animal or who keeps or harbors an animal or who knowingly permits an animal to remain on or about any premises occupied or controlled by such person.

Kennel. Any premises wherein a person boards, lets for hire, trains for a fee, breeds, buys or sells dogs or cats. This shall not include the ownership of dogs which are part of the household or which are maintained adjoining a private residence for hunting, tracking practice, exhibition, or the guarding or protection of the owners' property when no more than five dogs over six months of age per year are sold by such owner.

Nuisance. An animal or group of animals shall be considered a nuisance if it:

- (1) Damages, soils, or defiles private or public property;
- (2) Interferes with, molests, or attacks persons or other animals;
- (3) Causes unsanitary, dangerous or offensive conditions including fouling of the air by odors;
- (4) Chases, snaps at, harasses, or impedes pedestrians, bicyclists, or vehicles;

- (5) By virtue of number or type is offensive or dangerous to the public health, safety, or welfare;
- (6) Habitually or repeatedly makes noises or other sounds that tend to annoy, disturb or frighten citizens of the county.
- (7) Allowing a female dog to run at large when in heat.

Owner. A person having the right of property in an animal.

Person. Any individual, corporation, partnership, organization, or institution commonly recognized by law as a unit.

Pet. Any animal kept for pleasure rather than utility.

Pet shop. Any commercial establishment whether operated separately or in connection with another business enterprise, except for a licensed kennel, that buys, sells or boards any species of animal.

Proper Shelter. A sufficient shelter that does not unnecessarily expose any animal to hot, stormy, cold or inclement weather.

Restraint. An animal is under restraint if it is controlled by means of a chain, leash or other like device, or is sufficiently near the owner or handler, to be under his/her direct control and is obedient to that person's commands or is within a secured enclosure.

Riding school or stable. Any place which has available for hire, boarding and/or riding instruction any horses, pony, donkey, or burro.

Stray. Any domestic animal without identification tag, not under restraint and found off the property of its owner or keeper.

Suspected of having rabies. An animal which is unvaccinated against rabies or has bitten a person.

Veterinary hospital. Any establishment maintained and operated by a licensed veterinarian for surgery, diagnosis and treatment of diseases and injuries of animals.

Vicious animal. Any animal that has made an unprovoked attack on a human by biting or in any manner causing abrasions or cuts of the skin; or one which habitually or repeatedly attacks other pets and farm stock.

(Ord. No. 92-3, § 2, 9-8-92; Ord. of 10-19-98; Ord. of 4-21-03)

Sec. 3-63. Agency authority and responsibility.

(a) There is hereby established by the board of commissioners, a county dog warden and deputy dog warden, along with a department of animal control, for which shall be employed animal control officers and such other employees as shall be determined necessary by the board of commissioners.

(b) There is hereby established by the board of commissioners, a department of animal control, for which shall be employed animal control officers and such other employees as shall be determined necessary by the board of commissioners.

(c) The county dog warden and deputy dog warden shall:

- (1) Serve at the pleasure and under the supervision of the Sheriff of Currituck County.
- (2) Be appointed by the County Manager of Currituck County at the recommendation of the Sheriff of Currituck County.
- (3) Have the authority to write citations for violations of all laws of North Carolina and all ordinances of Currituck County pertaining to dogs pursuant to N.C.G.S. 67-31 and 15A.
- (4) Not exercise any authority of physical custody for any person found in violation of the laws of North Carolina or the ordinances of Currituck County pertaining to dogs unless duly certified by the North Carolina Sheriffs Commission as a law enforcement officer or as permitted under N.C.G.S. 15A-404.
- (5) Be authorized to store at the animal shelter or carry in division vehicles firearms approved for use by the Sheriff of Currituck County and use such firearms when necessary to enforce sections of this chapter or other applicable law for the control of wild, vicious or diseased animals.

(d) The county dog warden, deputy dog warden and department of animal control shall:

- (1) Have the responsibility along with law enforcement agencies to enforce all laws of North Carolina and all ordinances of Currituck County pertaining to animals and shall cooperate with all law enforcement officers within Currituck County in fulfilling this duty.
- (2) Enforce and carry out all laws of North Carolina and all ordinances of Currituck County pertaining to rabies control.
- (3) Organize and conduct, in conjunction with the health department, semi-annual rabies vaccination clinics for which shall be charged a nominal fee as established by the board of commissioners.
- (4) Be responsible for the investigation of all reported animal bites, for the quarantine of any dog or cat involved and suspected of having rabies, for a period of not less than ten days, and for reporting to the health director as soon as practicable the occurrence of any such animal bite and the condition of any quarantined animal.

- (5) Be responsible for the operation of the animal quarantine shelter.
 - (6) Be responsible for the seizure and impoundment, where deemed necessary, of any dog or other animal in Currituck County involved in violation of this or any other county ordinance or state law.
 - (7) Investigate cruelty or abuse with regard to animals.
 - (8) Make such canvasses of the county, including the homes in the county, as necessary for the purpose of ascertaining compliance with this article or state statute.
 - (9) Keep, or cause to be kept, accurate and detailed records of:
 - a. Seizure, impoundment, and disposition of all animals coming into the custody of the animal control program.
 - b. Bite cases, violations and complaints, and investigation of same.
 - c. All monies belonging to the county which were derived from fees, penalties, license tags, sales of animals, or other sources.
 - d. Any other matters deemed necessary by the health director and county manager.
 - (10) Be empowered to issue notices of violation of this article in such form as the county manager may prescribe.
- (Ord. No. 92-3, § 3, 9-8-92; Ord. of 4-21-03)

Sec. 3-64. Cruelty to animals.

(a) It shall be unlawful for any person to molest, torture, torment, deprive of necessary sustenance, cruelly beat, needlessly mutilate or kill, wound, injure, poison, abandon or subject to conditions detrimental to its health or general welfare any animal, or to cause or procure such action. The words "torture" and "torment" shall be held to include every act, omission or neglect whereby unjustifiable physical pain, suffering or death is caused or permitted; but such terms shall not be construed to prohibit lawful taking of animals under the jurisdiction and regulation of the Wildlife Resources Commission; nor to prohibit the animal control officer or persons duly authorized by the county manager or veterinarians from destroying dangerous, unwanted or injured animals in a humane manner; nor to prohibit the lawful use of animals in scientific research. Nothing in this article shall be construed to allow the sale or donation of animals from the county animal shelter for use in scientific research.

(b) It shall be unlawful for any owner or keeper to fail to provide his animal or animals with proper shelter and protection from the weather, adequate and wholesome food and water to keep his animal or animals in good health and comfort, the opportunity for vigorous daily exercise, veterinary care when needed to prevent suffering, and humane care and treatment.

(c) It shall be unlawful for any person to sell or offer for sale, barter or give away within the county baby chickens, baby ducklings or other fowl under six weeks of age or rabbits under eight weeks of age as pets, toys, premiums or novelties; provided, however, that this section shall not be construed to prohibit the sale or display of such baby chickens, ducklings other fowl or such rabbits in proper facilities by breeders or stores engaged in the business of selling for purposes other than for pet or novelties.

(d) It shall be unlawful to color, dye, stain or otherwise change the natural color of baby chickens or other fowl or rabbits.

(e) It shall be unlawful for any person to tether any fowl.
(Ord. No. 92-3, § 4, 9-8-92; Ord. of 4-21-03)

Sec. 3-65. Confinement, muzzling and control of vicious or dangerous domestic animals.

It shall be unlawful for any person to keep any vicious or dangerous domestic animal within the county, unless it is confined within a secure building or enclosure or unless it is securely muzzled and under restraint by a competent adult who, by means of a leash, chain, or other like device, has such animal firmly under control at all times.
(Ord. No. 92-3, § 5, 9-8-92; Ord. of 10-19-98)

Sec. 3-66. Person to determine when dog potentially dangerous; appeal board.

Pursuant to G.S. 67-4.1(c), the animal control officer shall be responsible for determining when a dog is a "potentially dangerous dog" as provided by that statute. The Currituck County Board of Health shall be the appellate board to which an owner or keeper of a dog determined as being a "potentially dangerous dog" may appeal such determination.
(Ord. No. 92-3, § 6, 9-8-92)

Sec. 3-67. Animals creating nuisance prohibited.

(a) It shall be unlawful for an owner or keeper to permit an animal or animals to create a nuisance, or to maintain a nuisance created by an animal or animals.

(b) Compliance shall be required as follows:

(1) When an animal control officer, law enforcement officer, or person duly authorized by the county manager observes a violation, the owner or keeper will be provided written notification of such violation and be given 48 hours from time of notification to abate the nuisance.

(2) Upon receipt of a written detailed and signed complaint being made to the animal control officer or by any person over the age of 18 years, that any other person is maintaining a nuisance as defined in this article, the animal control officer shall cause the owner or keeper of the animal or animals in question to be notified that a complaint has been received, and shall cause

the situation complained of to be investigated and a report and findings thereon to be reduced to writing.

- (3) If the written findings indicated that the complaint is justified, then the animal control officer or person duly authorized by the county manager shall cause the owner or keeper of the animal or animals in question to be so notified in writing, and ordered to abate such nuisance within 48 hours, unless the animal is determined to be dangerous to persons or property, by whatever means may be necessary. In the event the owner or keeper of the animal or animals is unknown and cannot be ascertained, the notice and order, along with a general description of the animal or animals shall be posted for 48 hours at the animal shelter and the county courthouse.
- (4) In the event the owner or keeper of the animal or animals is unknown and cannot be ascertained, the notice and order, along with a general description of the animal or animals shall be posted for seven days at the animal shelter. If after seven days the owner or keeper of the animal or animals remains unknown, the animals may be impounded or humanely destroyed.

(c) It shall be unlawful for a person to fail or refuse to abate the nuisance as required by this article.

(Ord. No. 92-3, § 7, 9-8-92; Ord. of 10-16-95; Ord. of 4-21-03)

Sec. 3-68. Luring, enticing, seizing, molesting or teasing an animal.

It shall be unlawful of any person, other than an animal control official acting in his capacity as such, to entice or lure any animal out of an enclosure or off the property of its owner or keeper, or to seize, molest or tease any animal while the animal is held or controlled by its owner or keeper or while the animal is on the property of its owner or keeper.

(Ord. No. 92-3, § 8, 9-8-92; Ord. of 4-21-03)

Sec. 3-69. Compliance with state rabies laws; supplemental to state rabies laws.

(a) It shall be unlawful for any animal owner or other person to fail to comply with the state laws relating to the control of rabies.

(b) It is the purpose of this article to supplement the state laws by providing a procedure for the enforcement of state laws relating to rabies control, in addition to the criminal penalties provided by state law.

(Ord. No. 92-3, § 9, 9-8-92)

Sec. 3-70. Vaccination of dogs, cats, and other pets.

(a) It shall be unlawful for an owner or keeper to fail to provide current vaccination against rabies for any dog or cat four months of age or older. Should it be deemed necessary by the health director or the board of county commissioners that other pets be vaccinated in order to prevent a threatened epidemic or to control an existing

epidemic, it shall be unlawful for an owner or keeper to fail to provide current vaccination against rabies for that pet.

(b) A rabies vaccination shall be deemed "current" for a dog or cat if two vaccinations have been given one year apart and booster doses of rabies vaccine administered every three years thereafter.

(c) All antirabic vaccine shall be administered by a licensed veterinarian or certified rabies vaccinator.

(Ord. No. 92-3, § 10, 9-8-92)

Sec. 3-71. Vaccination tag and certificate.

(a) Upon complying with the provisions of this section, there shall be issued to the owner or keeper of the dog or cat vaccinated, a rabies vaccination certificate and a rabies tag, stamped with a number and the year for which issued.

(b) It shall be unlawful for any dog owner or keeper to fail to provide the dog with a collar or harness to which a current rabies tag issued under this section is securely attached. The collar or harness, with attached tag, must be worn at all times. Cats shall not be required to wear a collar or harness with attached tag.

(c) In addition to all other penalties as prescribed by law, a dog is subject to impoundment in accordance with the provisions of this article if the dog is found not to be wearing a currently valid rabies tag. A cat is subject to impoundment in accordance with the provisions of this article if the rabies vaccination certificate is not current.

(d) It shall be unlawful for any person to use for any animal a rabies vaccination tag issued for an animal other than the one using the tag.

(e) All dogs or cats shipped or otherwise brought into this county, except for exhibition purposes where the dogs or cats are confined and not permitted to run at large, shall be securely confined and vaccinated within one week after entry, and shall remain confined for two additional weeks after vaccination unless accompanied by a certificate issued by a licensed veterinarian showing that said dog or cat is apparently free from rabies and has not been exposed to same and that said dog or cat has received a proper dose of rabies vaccine that is current as provided in subsection (b) of this section.

(Ord. No. 92-3, § 11, 9-8-92)

Cross References: Cats exempt from wearing rabies vaccination tag, § 3-2.

Sec. 3-72. Notice to health director when person bitten; confinement of animal.

(a) When a person has been bitten by an animal having rabies or suspected of having rabies, it shall be the duty of such person, or his parent or guardian if such person is a minor, and the person owning such animal or having the same in his possession or under his control, to notify the sheriff or a person duly authorized by the sheriff immediately and give their names and addresses; and the owner or person having such animal in his possession or under his control shall immediately relinquish custody of the animal for quarantine in the Currituck County Quarantine Shelter for a period of ten days.

It shall be the duty of every physician, after his first professional attendance upon a person bitten by any animal having rabies or suspected of having rabies, to report to the health director the name, age and sex of the person so bitten, and precise location of the bite wound, within 24 hours after first having knowledge that the person was bitten. If the owner of or a person who has in his possession or under his control an animal having rabies or suspected of having rabies refuses to confine the animal as required by this article or by G.S. 106-378, the health director may order seizure of the animal and its confinement for ten days in such place as the health director designates.

(b) Law enforcement agencies investigating animal bites, shall report such bites immediately to the health director or animal control officer and give the names and addresses of persons bitten and owner of animal.

(c) Animals confined per subsection (a) above shall not be released from confinement except by permission from the health director.

(d) Animals confined per subsection (a) above shall be confined at the expense of the owner or keeper.

(e) In the case of an animal whose owner or keeper is not known, the animal shall be kept for the supervised confinement period required by this article at the animal quarantine shelter.

(f) Badly wounded, diseased or suffering animals which are suspected of having rabies may be humanely destroyed immediately and tested for rabies as appropriate.

(g) Quarantine fees paid to the County will be set by Animal Control and approved by the Board of Commissioners, as necessary.
(Ord. No. 92-3, § 12, 9-8-92; Ord. of 4-21-03)

Sec. 3-73. Destruction or confinement of animal bitten by a known rabid animal.

Animals not vaccinated against rabies which are bitten by a known rabid animal shall be immediately destroyed, unless the owner or keeper agrees to strict isolation of the animal at a veterinary hospital for a period of six months at the owner's or keeper's expense. If the animal has a current rabies vaccination, it shall be revaccinated and returned to the owner or keeper.

(Ord. No. 92-3, § 13, 9-8-92)

Sec. 3-74. Area-wide emergency quarantine.

(a) When reports indicate a positive diagnosis of rabies to the extent that lives of persons are endangered, the health director may declare an area-wide quarantine for such period as he deems necessary. Upon invoking of such emergency quarantine, no dog or cat may be taken or shipped from the county without written permission of the health director, during such quarantine, the health director, law enforcement officers, animal control officer or persons duly authorized by the health director may seize and impound any dog or cat found running at large in the county. During the quarantine period the

health director shall be empowered to provide for a program of mass immunization by the establishment of temporary emergency rabies vaccination facilities strategically located throughout the county.

(b) In the event there are additional positive cases of rabies occurring during the period of quarantine, such period of quarantine may be extended at the discretion of the health director.

(Ord. No. 92-3, § 14, 9-8-92)

Sec. 3-75. Postmortem diagnosis.

(a) If an animal dies while under observation for rabies, the head of such animal shall be submitted to the health director for shipment to the laboratory section of the North Carolina Division of Health Services for rabies diagnosis.

(b) The carcass of any animal suspected of dying of rabies shall be surrendered to the health director. The head of such animal shall be shipped to the laboratory section of the North Carolina Division of Health Services for rabies diagnosis.

(Ord. No. 92-3, § 15, 9-8-92)

Sec. 3-76. Unlawful killing or releasing of certain animals.

It shall be unlawful for any person to kill or release any animal under observation for rabies, or any animal under observation for biting a human, or to remove such animal from the county without written permission from the health director, provided that a licensed veterinarian, or the animal control officer, or persons duly authorized by the health director, may authorized any animal to be killed for rabies diagnosis.

(Ord. No. 92-3, § 16, 9-8-92)

Sec. 3-77. Failure to surrender animal for confinement or destruction.

It shall be unlawful for any person to fail or refuse to surrender any animal for confinement or destruction as required in this article, when demand is made therefore by the health director or animal control officer.

(Ord. No. 92-3, § 17, 9-8-92)

Sec. 3-78. Impoundment.

(a) Any animal which appears to be lost, stray or unwanted, or a dog not wearing a currently valid rabies tag as required by state law or this article, or not under restraint in violation of this article, may be seized, impounded, and confined in a humane manner in an animal shelter.

(b) Impoundment of such an animal shall not relieve the owner or keeper thereof from any penalty which may be imposed for violation of this article.

Sec. 3-79. Redemption, adoption.

(a) When any dog or cat has been impounded at the animal shelter, notice

thereof shall be given to the owner if he/she is known. If the owner is unknown, a recording will be placed on the animal shelter phone listing a description of any animal impounded that day. The contact number will be posted at the animal shelter for after-hours information and should be listed in the phone directory. The time for redemption of the animal, as herein above provided, shall begin to run at the time the animal is impounded at the shelter. A notice shall also be posted by Animal Control at a location where the animal is picked up, if possible. If an impounded animal is not redeemed by the owner within five days, it may be destroyed in a humane manner or shall become the property of the animal shelter and its operators and may be offered for adoption or fostering to any responsible adult who is willing to comply with this ordinance and qualifies according to the requirements set forth in the animal shelter operators' Adoption Contract. Exceptions to the five-day holding period may be made at the discretion of the Animal Shelter Manager for extremely aggressive animals and for very sick or injured animals who appear to be suffering.

(b) The owner shall be entitled, after the expiration of any quarantine, to resume possession of the animal, and the payment of a shelter fee and the payment of the boarding expenses. The fees for reclaiming an animal shall be set by the operator of the animal shelter. Adoption fees charged by the animal shelter shall not exceed \$50.00 for a cat/kitten and \$100.00 for a dog/puppy. The operator of the animal shelter shall receive approval from the Board of Commissioners for any fee that exceeds said amounts except when adopting at events held outside of Currituck County, fees may be comparable to those charged by other similar humane organizations in that area.
(Ord. No. 92-3, § 19, 9-8-92; Ord. of 10-19-98; Ord. of 4-21-03)

Sec. 3-80. Destruction or adoption of unredeemed animal generally.

(a) If an impounded animal is not redeemed by the owner or keeper within the period prescribed in this section, it may be destroyed in a humane manner or shall become the property of the animal shelter and its operators or if this is not possible, an organization duly chartered by the Society for the Prevention of Cruelty to Animals or the Humane Society of the United States. It may be offered for adoption to a responsible adult who is willing to comply with this article, with policies promulgated by the Board of Commissioners, and qualifies according to the requirements set forth in the animal shelter operators' Adoption Contract.

(b) No animal which has been impounded by reason of its being a stray, unclaimed by its owner or keeper, shall be allowed to be adopted from the animal shelter during a period of emergency rabies quarantine invoked pursuant to this article, except by special authorization of the health director.
(Ord. No. 92-3, § 20, 9-8-92)

Sec. 3-81. Procedure with respect to redemption or adoption of unvaccinated dog or cat.

(a) Unless proof of a current rabies vaccination can be furnished, every person who either adopts or redeems a dog or cat at the animal shelter will be given a "Proof of Rabies Vaccination Notice" at the time of the redemption or adoption. This notice will be stamped with a date stating the maximum time limit allowed to take the dog or cat to the

veterinarian of such person's choice for rabies vaccination. The time limit for dogs and cats four months and older will be 72 hours, with Sundays and holidays excluded. For puppies and kittens under four months, the time limit will vary according to their age.

(b) The "Proof of Rabies Vaccination Notice" will be completed by the veterinarian and returned to the animal control by the animal owner or keeper.

(c) Payment for rabies vaccination provided for in this section will be the responsibility of the person redeeming or adopting the animal.
(Ord. No. 92-3, § 21, 9-8-92; Ord. of 4-21-03)

Sec. 3-82. Procedure with respect to adoption of unspayed or unneutered dog or cat.

(a) All unspayed or unneutered dogs and cats over six months of age adopted from the animal shelter shall be spayed or neutered within 30 days of the adoption. Animals adopted under six months of age shall be spayed and neutered at six months of age.

(b) At the time of adoption of an unspayed or unneutered dog or cat, the person adopting such dog or cat shall be provided with a "Certificate of Spay/Neuter" to be completed by a veterinarian spaying or neutering the dog or cat and a copy of such certificate shall be returned to the animal shelter.

(c) Any person, having adopted from the animal shelter an unspayed or unneutered dog or cat, and who fails to comply with the provisions of this section will be subject to seizure of the adopted dog or adopted cat in addition to other penalty provisions of this article.

(d) Payment for spaying or neutering provided for in this section shall be the responsibility of the person adopting the animal.
(Ord. No. 92-3, § 22, 9-8-92; Ord. of 10-19-98)

Sec. 3-83. Immediate placement for adoption of owner surrendered animals.

(a) Any animal surrendered by its owner to the animal control officer or to the animal shelter operators may be immediately placed for adoption by the operator of the animal shelter when:

(1) The owner directs in writing that the animal be placed for adoption; and

(2) The owner affirmatively represents in writing that he or she is in fact the legal owner of the animal and produces an identification, a valid drivers license, military identification or some other form of identification satisfactory to the animal control officer; and

(3) The owner agrees that he or she will indemnify and hold the county, its officers and employees, and the animal shelter operators harmless from any loss or damage it may sustain, including attorneys' fees, by reason of placement for adoption of the animal; and

- (4) The owner transfers ownership of the animal to the county and releases the county and the animal shelter operators from any and all future claims with respect to the animal.

(b) Upon receiving assurances as provided in subsection (a) of this section, the humane society may rely on those assurances and place the animal for adoption. The waiting periods provided in sections 3-79 through 3-81 shall not apply to immediate adoption or destruction as provided for in this section.

(Ord. No. 92-3, § 23, 9-8-92; Ord. of 4-21-03)

Sec. 3-84. Destruction of wounded, diseased, or unweaned animals.

(a) No animal shall be left at the animal shelter before or after the posted hours of operation of the animal shelter, unless authorized by the Sheriff of Currituck County or a person duly authorized thereby.

(b) No owner or custodian of any animal shall willfully abandon such animal on any street, road, highway, public place or private property when not in the care of another person.

(Ord. No. 92-3, § 24, 9-8-92; Ord. of 4-21-03)

Sec. 3-85. Destruction of animals which cannot be seized by reasonable means.

Notwithstanding any other provision of this article, an animal which cannot be seized by reasonable means may be humanely destroyed by order of the county manager or person duly authorized by the county manager.

(Ord. No. 92-3, § 25, 9-8-92)

Sec. 3-86. Injuring animals, notice required.

It shall be unlawful for any person injuring an animal to fail to notify immediately the owner or keeper of the animal, or an animal control agency, or a local humane society.

(Ord. No. 92-3, § 26, 9-8-92)

Sec. 3-87. Keeping stray animals: requirements, failure to surrender.

(a) It shall be unlawful for any person in the county knowingly and intentionally to harbor, feed, keep in possession by confinement, or otherwise allow to remain on his property any animal which does not belong to him, unless he has, within 72 hours from the time such animal came into his possession, notified the animal control officer. Upon receiving such notice, the animal control officer or person duly authorized by the board of commissioners may take such animal and place it in the animal shelter or the animal may remain with the reporting person and be dealt with as provided by this article.

(b) It shall be unlawful for any person to refuse to surrender any such stray animal to the animal control officer or person duly authorized by the county manager upon demand, if the owner of the stray animal has been located and requests return of the stray animal.

(Ord. No. 92-3, § 27, 9-8-92)

Sec. 3-88. Nondomestic animals; prohibited.

No person shall possess or harbor any nondomestic animal or animals which are dangerous to persons or property or which have the potential of being dangerous to persons or property. This section shall not apply to bonafide circuses, petting zoos, and other traveling commercial animal exhibitions of limited duration.

(Ord. No. 92-3, § 28, 9-8-92)

Cross References: Wild horses, § 3-26 et seq.

Sec. 3-89. Collecting dogs and cats for resale permit required.

(a) It shall be unlawful for any person to collect any dog or cat for the purpose of resale unless a permit for the same shall have been obtained from the county in accordance with the provisions of this section and unless such permit shall remain unsuspended and unrevoked.

(b) The board of commissioners shall promulgate regulations and applicable fee schedule for the issuance of permits and shall include requirements for humane care and transportation of all cats and dogs for the compliance with the provisions of this article and applicable laws. The board of commissioners may amend such regulations from time to time as deemed desirable for public health and welfare and for the protection of collected dogs and cats.

(c) The animal control officer may revoke any permit if the person holding the permit refuses or fails to comply with this article, the regulations promulgated by the board of commissioners, or any law governing the protection and keeping of animals.

(Ord. No. 92-3, § 29, 9-8-92)

Sec. 3-90. Interference with enforcement.

It shall be unlawful for any person to interfere with, hinder or molest the employees of the county, Currituck County Health Department, animal control officers or persons duly authorized by this article, or to seek to release any animal in the custody of such persons, except as otherwise specifically provided.

(Ord. No. 92-3, § 30, 9-8-92)

Sec. 3-91. Penalty for violation.

(a) The violation of any provision of this article shall be a misdemeanor punishable by a fine not to exceed \$500.00, or imprisonment for not more than 30 days, or both. Each day's violation of this article is a separate offense. Payment of a fine imposed in criminal proceedings pursuant to this subsection does not relieve a person of his liability for taxes or fees imposed under this article.

(b) In addition, enforcement of this article may be by appropriate equitable remedy, injunction or order of abatement issuing from a court of competent jurisdiction pursuant to G. S. 153A-123(d) and (e).

(c) In addition to and not in lieu of the criminal penalties and other sanctions provided in this article, a violation of this article may also subject the offender to the civil penalties set forth below.

- (1) Civil penalties may be recovered by Currituck County in a civil action in the nature of debt or may be collected in such other amounts as prescribed in this section within the prescribed time following the issuance of notice for such violation.
- (2) Notice of violation shall, among other things:
 - a. State upon its face the amount of the penalty if the penalty be paid within 72 hours from and after the issuance of the notice and the late fee \$1.00 if paid more than 72 hours after its issuance.
 - b. Notify the offender that a failure to pay the penalties within the prescribed time shall subject the offender to a civil action in the nature of debt for the stated penalty plus an additional penalty in the amount of \$25.00, together with the cost of the action to be taxed by the court.
 - c. Further provide that the offender may answer the notice of violation by mailing the notice, and stated penalty to the animal control officer or county finance office at its mailing address, or by making payment to the animal control officer or county finance office at the appropriate address, and that upon payment the case or claim and right of action by the county will be deemed compromised and settled.
 - d. State that penalties must be paid within 72 hours from issuance of notice of violation. The notice shall further state that if the notice of violation is not paid within the 72-hour period, court action by the filing of a civil complaint for collection of the penalty may be taken.
- (3) The county finance officer is authorized to accept payments in full and final settlement of the claim or claims, right or rights of action which Currituck County may have to enforce the penalty by civil action in the nature of debt. Acceptance of the penalty shall be deemed a full and final release of any and all such claims, or rights of action arising release of any and all such claims, or rights of action arising out of the contended violation or violations.

- (4) The civil penalty for violation of this article is \$50.00. The penalty shall be paid within 72 hours from and after the issuance of the notice referred to above.
 - (5) The notice of violation referred to in this section may be delivered to the person violating the provisions of this article in person, or may be mailed to the person at his last known address.
 - (6) In addition to the penalty prescribed in the subsection (4) above, a \$1.00 penalty shall be imposed in all those cases in which the above penalty has not been paid within the authorized 72 hour period. Should it become necessary to institute a civil action to collect any penalty pursuant to this ordinance, then the violation shall also be subject to an additional penalty of \$25.00.
 - (7) All penalties paid to the county finance officer or as may be recovered in a civil action in the nature of debt as provided in this article shall be paid into the general fund of Currituck County.
- (Ord. No. 92-3, § 31, 9-8-92)

Secs. 3-92--3-200. Reserved.

Public Hearing and Action on Junk Car Ordinance Amendment to Chapter 9 of the Currituck County Code of Ordinances (Offenses and Miscellaneous Provisions) to codify Article IV, Junk Car Ordinance.

Kate McKenzie, County Attorney, reviewed the ordinance.

Chairman O'Neal opened the public hearing.

Stacey Smith, Code Enforcement, stated that the county would benefit by having an impound area by expanding the Maple landfill.

David Roark, Byrd Auto, expressed concerns with people picking up vehicles illegally and operating illegal junkyards.

There being no further comments, Chairman O'Neal closed the public hearing.

Commissioner Bowden moved to approve with starting date January 1, 2007. Commissioner Etheridge seconded the motion. Motion carried.

ARTICLE IV. ABANDONED, NUISANCE, AND JUNKED MOTOR VEHICLES

WHEREAS, the protection of the public welfare includes "aesthetic" and "appearance" values and protection of derivative human values related to the visual environment; and

WHEREAS, certain aesthetic regulations are necessary and in the public interest in order to prevent land uses which are inharmonious or incongruent with the existing visual character of areas within the jurisdiction of the County of Currituck; and

WHEREAS, a public hearing was noticed and duly held on August 7, 2006 wherein public comment was received; and

WHEREAS, based upon the public input and comments received at the public hearing and based upon the considerable study of this matter by the Board of County Commissioners and planning staff, The County of Currituck has determined that the aesthetic and appearance regulations set forth herein are necessary and beneficial to The County of Currituck and its citizens in that such regulations will protect property values, promote tourism, at least indirectly protect public health and safety, preserve the character and integrity of neighborhoods and the general community, and promote the comfort, happiness, and emotional stability and general welfare of all citizens; and

WHEREAS, the authority to enact such regulations is granted to the County of Currituck pursuant to North Carolina General State Statutes 153A-132 and 153-132.2,

NOW, THEREFORE, BE IT ORDAINED by the Board of Commissioners of Currituck that:

CHAPTER 9 – OFFENSES AND MISCELLANEOUS PROVISIONS

ARTICLE IV. JUNK CAR ORDINANCE

Sec. 9-75. Administration

- a) The Currituck County code enforcement officer shall be responsible for the administration and enforcement of this article. Said officer shall be responsible for administering the removal and disposition of “abandoned,” “nuisance,” or “junked” vehicles located on private property. The sheriff’s department shall be responsible for administering the removal and disposition of vehicles determined to be “abandoned” on the public streets and highways of the county, and on property owned by the county.
- b) The county may, on an annual basis, contract with private tow truck operators or towing businesses to remove, store, and dispose of abandoned vehicles, nuisance vehicles, and junked vehicles in compliance with this article and applicable state laws.
- c) Nothing in this article shall be construed to limit the legal authority and/or powers of officers of the county in enforcing other laws and/or in otherwise carrying out their duties.

Sec. 9-76. Definitions

The following words, terms, and phrases, when used in this article, shall have the meanings ascribed to them in this article, except where the context clearly indicates a different meaning:

- a) Abandoned vehicle means a motor vehicle, as authorized and defined in G.S. 153A-132 and G.S. 153A-132.2, and one that:
 - 1) is left upon the right-of-way of a public street or highway in violation of a law or ordinance prohibiting parking; or
 - 2) is left on the right of way of a public street or highway for longer than seven (7) days; or

- 3) is left on property owned or operated by the county for longer than twenty-four (24) hours; or
- 4) is left on private property without the written consent of the owner occupant or lessee thereof, for longer than two (2) hours.

b) A junked motor vehicle means a vehicle that does not display a current license plate lawfully upon that vehicle, as authorized and defined in G.S. 153A-132 and G.S. 153A-132.2, and that:

- 1) is partially damaged or wrecked; or
- 2) cannot be self-propelled or moved in the manner in which it originally was intended to move; or
- 3) is more than five (5) years old and appears to be worth less than one hundred dollars (\$100).

c) A nuisance vehicle means a motor vehicle on public or private property that is determined and declared to be a health or safety hazard, a public nuisance, and unlawful, including a vehicle found to be:

- 1) A breeding ground or harbor for mosquitoes, other insects, rats, or other pests; or
- 2) A point of heavy growth of weeds or other noxious vegetation over eight (8) inches in height; or
- 3) A point of collection of pools or ponds of water; or
- 4) A point of concentration of quantities of gasoline, oil, or other flammable or explosive materials as evidenced by odor; or
- 5) A source of danger for children through entrapment in areas of confinement that cannot be opened from the inside or from exposed surfaces of metal, glass, or other rigid materials; or
- 6) So situated or located that there is a danger of it falling or turning over; or
- 7) One which is a point of collection of garbage, food waste, animal waste, or any other rotten or putrefied matter of any kind; or
- 8) One which has sharp parts thereof which are jagged or contain sharp edges of metal or glass; or
- 9) Any other vehicle specifically declared a health and/or safety hazard by the Board of County Commissioners.

d) Open places mean areas of properties or portions thereof that are open to the exterior, including building openings, such as carports, or porches, and any other exterior portions of properties ordinarily exposed to the outside and/or public view, including front, side, and rear yards.

Sec. 9-77. Abandoned vehicles unlawful; removal authorized.

- a) It shall be unlawful for the registered owner or person(s) entitled to possession of a vehicle to cause or allow such a vehicle to be abandoned;
- b) Upon investigation, the Currituck County code enforcement officer may determine that a vehicle is abandoned and order the vehicle removed.
- c) A written assessment must be provided the County Manager itemizing the findings prior to any action being taken.

Sec. 9-78. Nuisance and junked vehicles regulated; removal authorized.

- a) It shall be unlawful for the registered owner or person(s) entitled to the possession of a nuisance or junked vehicle, or for the owner, lessee, or occupant of the real property upon which a nuisance or junked vehicle is located to leave or allow the vehicle to remain on the property after which the vehicle has been ordered to be removed.
- b) Upon investigation, the county code enforcement officer may order the removal of a junked vehicle as defined in this article after finding in writing that the aesthetic benefits of removing the vehicle outweigh the financial burdens imposed on the private property owner. Such finding shall be based on a balancing of the monetary loss of the apparent owner against the corresponding gain to the public by promoting or enhancing community, neighborhood, or area appearance. The following among other relevant factors may be considered:
 - 1) Protection of property values;
 - 2) Promotion of tourism and other economic development opportunities;
 - 3) Indirect protection of public health and safety;
 - 4) Preservation of the character and integrity of the community; and
 - 5) Promotion of the comfort, happiness, and emotional stability of area residents.

Sec. 9-79. Pre-towing notice requirements for removal of abandoned, nuisance, or junked vehicles.

- a) Except as set forth in Section 9-80 below, an abandoned, nuisance, or junked vehicle that is to be removed shall be towed only after notice to the registered owner or person(s) entitled to possession of the vehicle. Notice shall be given by affixing a notice on the windshield or some other conspicuous place on the vehicle. The notice shall state that the county will remove the vehicle on a specified date, no sooner than seven (7) days after the notice is affixed or mailed, unless the owner or legal possessor moves the vehicle prior to that time. In the case of a nuisance vehicle or a junked vehicle, if the names and mailing addresses of the registered owner or person entitled to the possession of the vehicle, or the owner, lessee, or occupant of the real property upon which the vehicle is located can be ascertained in the exercise of reasonable diligence, the notice shall be given by first class mail. The person who mails the notice(s) shall retain a written record to show the name(s) and address (es) to which mailed and the date mailed.
- b) With respect to abandoned vehicles on private property, nuisance vehicles and junked vehicles to which notice is required to be given, if the registered owner or person entitled to possession does not remove the vehicle but chooses to appeal the determination that the vehicle is abandoned, a nuisance vehicle or in the case of a junked vehicle that the aesthetic benefits of removing the vehicle outweigh the burdens, such appeal shall be made to the Board of Adjustment in writing prior to the applicable date of abatement and heard at the earliest regularly scheduled meeting of the Board of Adjustment.

Sec. 9-80. Exception to prior notice requirement.

The requirement that written notice be given prior to removal of an abandoned, nuisance, or junked vehicle may, as determined by the Currituck County code

enforcement officer, be omitted in those circumstances where there is a special need for prompt action to eliminate traffic obstruction or to otherwise maintain and protect the public safety and welfare. Such findings shall, in all cases, be entered by the Currituck County code enforcement officer in the appropriate daily records. Circumstances justifying the removal of vehicles without prior notice include:

- a) Vehicles abandoned on streets or highways. For vehicles left on the public streets and highways, the Board of County Commissioners hereby determines that immediate removal of such vehicles may be warranted when they are obstructing traffic.
- b) Other abandoned or nuisance vehicles. With respect to abandoned or nuisance vehicles left on county-owned property other than the streets and highways, and on private property, such vehicles may be removed without giving prior notice only in those circumstances where the authorizing official finds a special need for prompt action to protect and maintain the public health, safety, and welfare. By way of illustration and not of limitation, such circumstances include vehicles blocking or obstructing ingress or egress to businesses or residences, vehicles parked in such a location or manner as to pose a traffic hazard, and vehicles causing damage to public or private property.

Sec. 9-81. Removal of vehicles post-towing notice requirements.

- a) Any abandoned, nuisance, or junked vehicle which has been ordered and removed may, as directed by the county, be removed to a storage garage or any other designated storage area by the tow truck operator or towing business contracting to perform such services for the county. Whenever such a vehicle is removed, the authorizing county official shall immediately notify the last known registered owner of the vehicle in writing, such notice to include the following:
 - 1) The description of the removed vehicle;
 - 2) The location where the vehicle is stored;
 - 3) The violation with which the owner is charged, if any;
 - 4) The procedure the owner shall follow to redeem the vehicle; and
 - 5) The procedure the owner shall follow to request a probable cause hearing on the removal.
- b) The county shall attempt to give notice to the vehicle owner by telephone; however, whether or not the owner is reached by telephone, written notice, including the information set forth in Section 9-81(a)(1-5) above, shall also be mailed to the registered owner's last known address, unless this notice is waived in writing by the vehicle owner or his agent.
- c) If the vehicle is registered in North Carolina, notice shall be given within twenty-four (24) hours. If the vehicle is not registered in North Carolina, notice shall be given to the registered owner within seventy-two (72) hours from the removal of the vehicle.
- d) Whenever an abandoned, nuisance, or junked vehicle is removed, and such vehicle has no valid registration or registration plates, the Currituck County code enforcement officer shall make reasonable efforts, including checking the vehicle identification number to determine the last known registered owner of the vehicle and to notify the owner of the information set forth in Section 9-81(a)(1-5).

Sec. 9-82. Owner's responsibility for cost.

If an abandoned, nuisance, or junked vehicle is removed by or at the direction of the Currituck County code enforcement officer, the owner shall pay all reasonable costs incurred as a result of the removal and storage of such vehicle.

Sec. 9-83. Right to probable cause hearing before sale or final disposition of vehicle.

After the removal of an abandoned vehicle, nuisance vehicle, or junked vehicle, the owner or any other person entitled to possession is entitled to a hearing for the purpose of determining if probable cause existed for removing the vehicle. A request for hearing shall be filed in writing within thirty (30) days of the post-towing notification. Such request for hearing shall be filed with the Currituck County Manager's Office and county magistrate designated by the chief district court judge to receive such hearing requests. The magistrate shall set the hearing within seventy-two (72) hours of receipt of the request, and the hearing will be conducted in accordance with the provisions of G.S. 219.11.

Sec. 9-84. Redemption of vehicle during proceedings.

- a) At any stage in the proceedings, including before the probable cause hearing, the owner(s) may obtain possession of the removed vehicle by paying the towing fee, including any storage charges and administrative fees, or by posting a bond for double the amount of such fees and charges due as a result of the abatement. Upon regaining possession of a vehicle, the owner(s) or person(s) entitled to the possession of a vehicle shall not allow or engage in further violations of this ordinance.
- b) In the event that the vehicle has been declared a violation of Sections 9-77 and 9-78, the owner(s) of the vehicle or person(s) entitled to possession, prior to regaining possession, shall submit in writing his or her plan to insure the violation is not repeated and obtain the approval of the appropriate official of the county, who shall examine the plan for compliance with this article.

Sec. 9-85. Sale and disposition of unclaimed vehicle.

Any abandoned, nuisance, or junked vehicle which is not claimed by the owner or other party entitled to possession within thirty (30) days of official post-towing notification will be disposed of by the tow truck operator, towing business, or county having custody of the vehicle. Disposition of such a vehicle shall be carried out in coordination with the county and in accordance with North Carolina General Statutes.

Sec. 9-86. Conditions on removal of vehicles from private property.

As a general policy, the county will not remove a vehicle from private property if the owner, occupant, or lessee of such property could have the vehicle removed under applicable state law procedures. In no case will a vehicle be removed by the county from private property without a written request by the owner, occupant, or lessee, except in those cases in which a vehicle is a nuisance vehicle or is a junked vehicle that has been ordered removed by the county manager or designee(s). The county may require any persons requesting the removal of an abandoned, nuisance, or junked vehicle from private property to indemnify the county against any loss, expense, or liability incurred due to the removal, storage, or sale.

Sec. 9-87. Protection against criminal or civil liability.

No person shall be held to answer in any civil or criminal action to any owner or other person legally entitled to the possession of an abandoned, nuisance, or junked vehicle, for disposing of such vehicle as provided in this article.

Sec. 9-88. Exceptions

Nothing in this article shall apply to any vehicle which:

- a) is located in a bona fide “automobile graveyard” or “junkyard” as defined in North Carolina General Statutes, in accordance with the “Junkyard Control Act.,” or
- b) is in an enclosed building; or
- c) is on the premise of a business enterprise being operated in a lawful place and manner if the vehicle is necessary to the operation of the enterprise; or
- d) is in an appropriate storage place or depository maintained in a lawful place and manner by the county.

Sec. 9-89. Unlawful removal of impounded vehicle.

It shall be unlawful for any person to remove or attempt to remove from any storage facility designated by the county any vehicle which has been impounded pursuant to the provisions of this article unless and until all towing, impoundment, and administrative fees have been paid, or bond in lieu of such fees, has been posted.

Sec. 9-90. Right of entry.

For the purpose of enforcing the provisions of this article, the Currituck County enforcement officer or his designee(s) may at all times during regular business hours, Saturdays, Sundays, and legal holidays excepted, enter upon any premises within the county’s jurisdiction, other than within any building actually occupied for a residence, for the purpose of determining whether or not the provisions of this article are being violated or for the purpose of determining whether or not any notice by the county requiring the abatement of the nuisance has been complied with.

Sec. 9-91. Article cumulative.

Procedures set forth in this article shall be in addition to any other remedies that may exist under law or ordinance to the abatement of public nuisances.

Sec. 9-92. Separability

Should any section or provision of this Ordinance be declared by the courts to be unconstitutional or invalid, such declaration shall not affect the validity of the Ordinance as a whole or part thereof other than the part so declared to be unconstitutional or invalid.

Sec. 9-93. Effective Date

This Ordinance shall take effect and be enforced as of January 1, 2007.

Public Hearing and Action on Amendment to Solid Waste Ordinance Amendment to Chapter 11 of the Currituck County Code of Ordinances (Solid Waste), Article II, Storage and Disposal, to require additional solid waste containers and recycling containers for rental units in the RO1 and RO2 districts based on number of bedrooms.

Kate McKenzie, County Attorney, reviewed the ordinance.

Chairman O'Neal opened the public hearing.

Commissioner Bowden was concerned with enforcement.

Chairman O'Neal stated that there are often extra trash bags left beside the containers.

There being no further comments, Chairman O'Neal closed the public hearing.

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

CHAPTER 11 SOLID WASTE

Section 11-30. Solid Waste Containers in the RO1 and RO2 Districts

Every residential unit in the RO1 and RO2 districts as defined in Section 120 of the Currituck County Unified Development Ordinance where solid waste exists shall provide a sufficient number of containers for each residential unit in which shall be deposited all solid waste existing or generated at such premises. All containers must meet the requirements of this ordinance and the requirements of the solid waste collection agency. Furthermore:

- (a) Each residential unit in said RO1 and RO2 districts must have a minimum of one (1) container.
- (b) Each residential vacation rental unit in said RO1 and RO2 districts must have a minimum of one (1) container for each two (2) bedrooms in the residential vacation rental unit. For purposes of this chapter, the required number of containers shall be based on the next interval of two (2) bedrooms (i.e., a residential vacation rental unit with three (3) bedrooms would require two (2) containers; a residential vacation rental unit with nine (9) bedrooms would require five (5) containers.
- (c) For purposes of this section, a bedroom is any room which provides a facility for sleeping, including, but not limited to, day beds (or other convertibles), sleeper sofas or couches, hide-a-beds, cots, roll-away beds or cribs.

Section 11-31. Recycling Containers

Every residential unit in the RO1 and RO2 districts as defined in Section 120 of the Currituck County Unified Development Ordinance shall provide a sufficient number of containers for each residential unit in which shall be deposited all recyclables existing or generated at such premises. All containers must meet the requirements of this ordinance and the requirements of the recycling collection agency. Furthermore:

- (a) All residential units in said RO1 and RO2 districts shall utilize a minimum of one (1) recycling container for curbside collection per residential unit.
- (b) All residential vacation rental units shall be required to utilize a minimum of one (1) recycling container for every three solid waste containers utilized by the unit in accordance with Section 11-30 of this Chapter.

Public Hearing and Action on PB 06-07 HYMAN & ROBEY amendment to UDO Sections 204(3)(b) and 1616 to allow a sidewalk and fill within 10 feet of a property line.

Deleted

Public Hearing and Action on PB 94-08 THE CAROLINA CLUB Amended Special Use Permit to allow landscaping in common areas in lieu of street trees in The Carolina Club Phases 2,3 and 4A. The property is located on Carolina Club Drive and along Grandy Road, Tax Map 94, all the parcels of the Carolina Club, Poplar Branch Township.

Sarah Keifer, Planning Director, reviewed the request.

MEMORANDUM

To: Board of Commissioners

From: Sarah E. Keifer, AICP, Director, Planning and Inspections

Date: July 12, 2006

Re: Carolina Club Amended Special Use Permit

The Carolina Club Property Owners Association has submitted a request to amend the Special Use Permit for the Carolina Club. The proposed amendment is to modify the design requirements for the street trees in Phases 2, 3 and 4A of the Carolina Club. The developer St. James LLC aka Carolina Club (Ryan Ritchie) failed to install the street trees prior to transferring the lots to individual property owners. The individual lot owners will not agree to allow trees to be planted on their property since no landscape easements were established prior to the sale of the lots. The County still holds a bond in the amount of \$15,837.00 for the street tree improvements.

The Property Owners Association is requesting permission to landscape the common areas adjacent to the Carolina Club marina in lieu of planting street trees for Phases 2, 3 and 4A. Their request to the Board is to amend the Special Use Permit to allow this design change. Section 904, Item 8 of the Ordinance provides the Board of Commissioners the authority to modify or waive subdivision requirements where it is determined that an equal or better performance will result.

When the proposed landscaping is completed, the County would release the bond funds to the Carolina Club Property Owners Association. A copy of the proposed landscape plan and previous Special Use Permits is attached.

Staff recommends **approval** of this request with the following conditions:

1. The landscaping of the marina area shall be installed in lieu of street trees and inspected for compliance with the submitted landscaping plan.
2. This Special Use Permit Amendment shall remove the requirement that street trees be planted in Phases 2, 3 and 4A of the Carolina Club.
3. At the time the landscaping is approved by the Planning and Inspections Department, the bond shall be released to the Carolina Club Property Owners Association.
4. The County Attorney shall review and approve the terms of the agreement between the Carolina Club Property Owners Association and St. James LLC aka Carolina Club for this change in the entity that receives the bond funds, prior to release of the bond.
5. This amendment does not change any Final Plat approvals or convey any property to the Carolina Club Property Owners Association.
6. This amendment does not create or change any previously recorded lot lines in the Carolina Club.
7. An Amended Special Use Permit shall be recorded in the Currituck County Register of Deeds and reference the Special Use Permit (Book 375, Page 739) and the Amended Special Use Permit (Book 427, Page 749).

Should you have any questions regarding the proposed amendment, please do not hesitate to contact me directly.

Chairman O'Neal opened the public hearing.

Marge Lipinski, Charleston Dr., Grandy, would rather see money put towards landscaping instead off planting trees 30 ft. apart.

There being no further comments, Chairman O'Neal closed the public hearing.

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

Public Hearing and Action on PB 03-46 OWENS BEACH ESTATES, PHASE II Sketch Plan/Special Use Permit for eight (8) single-family lots in Harbinger, 400 feet north of the intersection of Owens Beach Road and Owens Beach Road Extended, connecting to Rose Owens Drive. Tax Map 125, Parcel 35D

Sarah Keifer, Planning Director, reviewed the request.

LOCATION: In Harbinger, 400 feet north of the intersection of Owens Beach Road and Owens Beach Road Extended, connecting to Rose Owens Drive

TAX ID: Tax Map 125, Parcel 35D (0125000035D0000)

ZONING DISTRICT: Residential

OWNER:
Rupert Owens
659 West Fox Grove Ct.
Virginia Beach, VA 23464

APPLICANT:
James Ward
North Beach Development, LLC
4826 North Croatan Highway
Kitty Hawk, NC 27949

ENGINEER:
Bissell Professional Group
PO Box 1068
Kitty Hawk, NC 27949

LAND USE PLAN DESIGNATION:

The property being proposed for development is located in the "Rural" classification area in the county's 1990 Land Use Plan. The "Rural" area described in the LUP calls for "low density dispersed single-family residential uses at a gross density of approximately 1 unit per acre are appropriate." The proposed development complies with the Rural classification.

PRESENT USE: Residential

LAND USE/ZONING OF SURROUNDING PROPERTY:

NORTH:	Residential	Zoned R
SOUTH:	Residential	Zoned R
EAST:	Residential, vacant	Zoned R
WEST:	Residential	Zoned R

SCHOOL DISTRICT: Poplar Branch (Griggs)

FIRE DISTRICT: Lower Currituck V.F.D.

SIZE OF SITE: 9.97 acres

NUMBER OF LOTS: 8

DENSITY: 0.802 unit/ acre

MINIMUM LOT SIZE: 40,000 square feet

STREETS: The street will be built to NCDOT Design and Construction standards. The developer expects the street will be dedicated to NCDOT for maintenance.

WATER: This development will be served by county water.

FIRE: This development is located within the jurisdiction of the Lower Currituck Volunteer Fire Department. Fire hydrants or fire ponds are not required for developments less than 20 lots.

WASTEWATER: Individual, on-site septic systems are proposed.

SOILS: The Currituck County Soils Map indicates the property contains suitable soils for on-site septic systems.

OPEN SPACE: No open space is required or provided.

DRAINAGE: The applicant is proposing roadside and property line swales to drain into the Owens Beach Road ditch system.

SCHOOL CAPACITIES: Using national averages for school age student generation, one can expect .4243 elementary students, .084 middle school students and .1568 high school students per dwelling unit. Based on these pupil generation figures, from this development Currituck can expect:

2 elementary school students; 1 middle school student; and 1 high school student.

Projected School Capacities

School Level	Projected Capacity for 2008/09	Total Students- Previous Sketch Plans	Remaining Capacity if Owens Beach Estates PH II is approved
K- 5	865 (Poplar Branch)	701	162
Middle	1,142	1064	77
High	1,456	1409	46

NARRATIVE OF REQUEST:

North Beach Development is seeking Sketch Plan/Special Use Permit approval for 7 single family lots off of Owens Beach Road. Owens Beach Estates Phase I received Sketch Plan approval for 10 lots on December 1, 2003. The Planning Board approved the Final Plat for Owens Beach Estates Phase I on September 13, 2005. Owens Beach Estates Phase II is a 9.97 acre tract adjoining the existing 10-lot Owens Beach Estates subdivision. The owner will retain a 2.5 acre lot that contains an existing residence. The surrounding area includes the newer neighborhoods of Cypress Point to the north and Albemarle Estates to the south, along with the mature homes on Owens Beach Road Extension located directly on the Albemarle Sound.

The existing Rose Owens drive from Phase I will be extended to connect to Owens Beach Road, providing access for 6 lots. Lot 7 will have an access to Owens Beach Road Extended. The existing residence on the “residual” parcel will continue to access Owens Beach Road.

The UDO does not require subdivisions of 20 lots or less to provide open space and no open space has been provided. Lots within this development are proposed to range from 40,000 square feet to 110,836 square feet (2.54 acres).

The Development Impact Statement dated May 26, 2006 states:

- The developer anticipates selling individual lots to buyers or builders.
- Six of the seven lot values are expected to approximate \$135,000 each, with the lot fronting Owens Beach Road Extension having a value of \$215,000.
- At build-out, the total estimated valuation will be \$3.5 million, with home and land packages estimated to cost \$500,000 to \$575,000 each.
- The total estimated annual tax revenue is \$11,893.

WAIVER REQUEST:

The owner is requesting the water impact fee required by Section 915, Item 2(e) of the UDO be waived for lot 8 which contains an existing residence. The residence is currently served by a private well and the owner does not wish to connect to county water. Section 904, Item 8 of the Ordinance provides the Board of Commissioners the authority to modify or waive subdivision requirements where it is determined that an equal or better performance will result.

TECHNICAL REVIEW STAFF:

On June 21, 2006, Technical Review staff reviewed this application with the following comments:

1. **Currituck County Public Works** – Approved with the following comment: Please identify existing ditches throughout site.
2. **Currituck Soil & Water Conservation** - Approved with the following comment: Please identify existing ditches throughout site.
3. **Currituck County Fire Services**– Approved with no comment.
4. **Currituck County Water Department**- I'm unable to commit to any new water services until peak demand data is collected and availability of supply is determined.
5. **Currituck County Planning and Inspections, Inspections Section**- Approved as is.
6. **Albemarle Regional Health Services** – No comments received.
7. **Currituck County GIS** - Approved with no comment (Rose Owens Drive is an existing street)
8. **County Parks & Recreation Department** - No comments received.
9. **Currituck County Emergency Management** – No comments received.
10. **NC Department of Transportation**: Approved with the following comment: At Preliminary Plat provide drainage plans and apply for a driveway permit.
11. **US Army Corps of Engineers**: No comments received.
12. **NC Department of Natural Resources, Division of Coastal Management** – Approved with the following comment: Wetlands are not indicated on the sketch plan, however if wetlands are located on the site, DCM jurisdiction may apply.
13. **NC Department of Natural Resources, Division of Water Quality**–No comments received.
14. **NC Department of Natural Resources, Division of Land Resources** – No comments received.
15. **Currituck County Superintendent of Schools**- Reviewed with no comments.
16. **N C Dominion Power** - No comments received.
17. **Sprint Telephone** – Approved as is.

SPECIAL USE PERMIT CRITERIA:

Special Use Permits are intended to allow the Board of Commissioners flexibility in the administration of the UDO. It is recognized that some land uses have a particular impact on the surrounding land that cannot be determined and controlled by general zoning regulation. Through the Special Use Permit procedure, property uses which would otherwise be considered undesirable in certain districts can be developed subject to conditions of approval to minimize any negative effects they might have on surrounding properties. In order to approve a Special Use Permit, certain criteria must be satisfied. The criteria are outlined as follows:

1. *Is the application complete?*

Based on staff review all required information has been submitted for review.

2. *Does the proposal comply with the provisions in the UDO for Sketch Plan approval?*

The plan generally complies with the provisions of the UDO.

3. *Does the proposal comply with the general standards found in Section 1402(2) for a Special Use Permit/Sketch Plan?*

(a) *Will not endanger the public health or safety.*

Public health and safety issues including stormwater management, wastewater disposal and access for emergency services have been adequately addressed within this proposal;

(b) *Will not injure the value of adjoining or abutting property.*

The proposed residential subdivision should have no negative impact on adjoining property. The adjoining uses are low density, dispersed single family dwellings.

(c) *Will be in harmony with the area in which it is located.*

The proposed subdivision will consist of residential properties that would be in harmony with the surrounding area.

(d) *Will be in conformity with the Land Use Plan, Thoroughfare Plan or other plans officially adopted by the Board.*

The proposal will be consistent with the CAMA Land Use Plan Rural classification and with the Thoroughfare Plan.

(e) *Will not exceed the county's ability to provide adequate public facilities, including, but not limited to, schools, fire and rescue, law enforcement, and other county facilities. Applicable state standards and guidelines shall be followed for determining when public facilities are adequate. Such facilities must be in place or programmed to be in place within 2 years after the initial approval of the sketch plan. In the case of subdivision and multifamily development at the sketch plan/special use, preliminary plat or final plat stage, the Board of Commissioners may establish time limits on the number of lots/units available for development to assure adequate public facilities are available in accordance with Section 2015.*

The Commissioners will need to determine if adequate public facilities, including schools and county water, exist or will exist to meet the demands generated by this subdivision.

STAFF RECOMMENDATION:

Because it appears the application has satisfied the criteria for granting a Special Use Permit as outlined above, staff recommends **conditional approval** of the application subject to a finding that adequate public facilities exist and the following conditions:

Code Requirements:

1. At the Preliminary Plat stage, the applicant will be required to submit septic evaluations, a North Carolina Stormwater Management Permit and a North Carolina Sedimentation and Erosion Control Permit along with the plans required by the UDO.
2. The Preliminary Plat shall indicate the exact locations of existing structures and improvements.
3. A 5' non-access easement shall be indicated on the Final Plat for lots 2 and 6 along Owens Beach Road.
4. The applicant shall complete the development strictly in accordance with the plans submitted to and approved by the Board of Commissioners.

This staff recommendation was made without the benefit of public testimony and is based on the information presented when the application was received by the Department of Planning and Inspections. The Board of Commissioners shall give considerable weight to public testimony received during public hearing in considering its decision in this matter.

PLANNING BOARD DISCUSSION – July 11, 2006

Members Present - Forrest Midgette, Chairman, Alvin Keel, Joe Kovacs, Arthur Winter, Bobby Bell, Manly West, Pat Riley and Liz Turner

Members Absent - William Etheridge

Mr. Bissell said that the purpose for the request for the waiver was to preserve a lot for Mr. Owens' home place.

Mr. Kovacs asked about access to lot 8 from Owens Beach Road rather than the proposed subdivision street.

Mr. Bissell said that lot is Mr. Owens' residence and he doesn't want to change it.

Mr. West said that according to his maps it looked as if a lot within lot 8 that said Staples property.

Mr. Bissell said that isn't included in the subdivision.

Mr. Lyn, S. Spot Rd., said that he opposes the interconnecting road, not the subdivision. He said that the road is unsafe and will go through the woods and described how the intersection would be constructed.

Judy Houska, 163 Owens Beach Rd., stated her opposition to the proposed road connecting to the existing Rose Owens Drive.

Joe Houska, 163 Owens Beach Rd., spoke in opposition to the proposed road connecting to the existing Rose Owens Drive.

Terry Lyn, 205 Owens Beach Rd., spoke in opposition to the proposed road connecting to the existing Rose Owens Drive and described a recent drive on this road and said that it is quicker for the residents of Cypress Point to use this road.

Ruth McMahon, area resident, spoke about the drag racing that occurs in this area.

Wilson Staples, area resident, spoke in opposition to the road interconnectivity.

Mr. West asked if a cul-de-sac could be installed between lots 1, 8, 4, 3. He also explained the reason for interconnectivity.

Mr. Bissell said that this plan met the objectives of the UDO. The plans could be redrawn to include a cul-de-sac.

Ms. Keifer said that with respect to safety, connectivity gives access to emergency vehicles and gives drivers a secondary road network to keep cars off the highway. She also said that the Board could make a recommendation to waive the connectivity requirement to the Commissioners if they'd like to, but staff does not support such a recommendation.

Bill McCarty, area resident, said that connectivity is already there.

Ms. Keifer restated that this is required by the ordinance and supported by the Land Use Plan. The board has the right to make a different recommendation.

Mr. McCarty said that there is still connectivity without this proposed road.

Ms. Keifer said that this is the Planning Board's decision.

Mr. Lyn said that the Commissioners stated that there would be no connection between Albemarle Estates to Owens Beach Rd. Since that time there have been more lots approved for the area.

Mr. Terry Lyn restated concern with trees in the line of sight for a driver.

Owens Turner, 151 Owens Beach Rd. Ext., stated that he is in opposition to the proposed road connection.

Ms. Turner, stated that she is a resident of this area and supports the connection. She thinks that another road may give people another option for access and may actually lessen the traffic problem.

Ms. Turner motioned to **approve** the request as presented with the requested waiver from a water impact fee for lot 8. Mr. Kovacs seconded the motion. Motion passed 6-2 with Mr. West and Mr. Bell voting no.

Chairman O'Neal opened the public hearing.

Cindy Staples, Owens Beach, opposes the request.

Wilson Staples, opposes the request.

Donnie Wood, representing the developer.

Bill McCarty, stated that his concerns were not addressed.

Bob Hartig, opposes the request.

Terry Lynn, opposes the request.

LeRee Lynn, opposes the request.

Larry Eldridge, not opposed to subdivision but opposes interconnectivity.

Laird Sager, opposes the request.

Mark Bissell, Engineer, stated that he has 3 designs.

Kris Bank, opposes the request.

Joe Houska, opposes the request.

There being no further comments, Chairman O'Neal closed the public hearing.

Commissioner Martin moved to approve with condition of Engineer making changes to plan to include cul-de-sac with exception to allow the cul-de-sac be over 1,000 ft. in length and to allow water connectivity to existing home. Commissioner Etheridge seconded the motion. Motion carried.

Public Hearing and action on PB 97-27 SWAN ACRES Sketch Plan/Special Use Permit for eight (8) single family lots on Knotts Island, located on the west side of NC 615 (Marsh Causeway) approximately .8 mile south of the NC/VA State Line. Tax Map 56, Parcel 6

Sarah Keifer, Planning Director, reviewed the request.

LOCATION: Knotts Island, located on the west side of NC 615 (Marsh Causeway) approximately .8 mile south of the NC/VA State Line.

TAX ID: Tax Map 56, Parcel 6 (005600000060000)

ZONING DISTRICT: Agricultural (A)

OWNER:

Allan W. Brock
 1762 Princess Anne Road
 Virginia Beach, VA 23456

APPLICANT/AGENT

Coastal Engineering & Surveying, Inc.
 PO Box 1129
 Kitty Hawk, NC 27949

LAND USE PLAN

DESIGNATION: The property being proposed for development is located in the "Rural" classification area in the county's 1990 Land Use Plan. The "Rural" area described in the LUP calls for "low density dispersed single-family residential uses at a gross density of approximately 1 unit per acre are appropriate." The proposed development complies with the Rural classification.

LAND USE/ZONING OF SURROUNDING PROPERTY:

NORTH:	Residential, Vacant wetlands	Zoned A
SOUTH:	Agricultural, Vacant wetlands	Zoned A
EAST:	Agricultural, Residential	Zoned A
WEST:	Currituck Sound	NA

SCHOOL DISTRICT: Knotts Island
FIRE DISTRICT: Knotts Island, V.F.D.

SIZE OF SITE: 37.09 Acres

NUMBER OF LOTS: 8

DENSITY: 0.2 units / acre

MINIMUM LOT SIZE: The first 5 lots at 40,000 SF, remaining lots at 3 AC. Lots 6, 7 and 8 contain wetlands, of which 65,340 SF must be uplands. These lots meet this requirement.

STREETS: A street will be built to NCDOT Design and Construction standards. The developer expects the street will be dedicated to NCDOT for maintenance.

WATER: This development will be served by private wells.

FIRE: This development is located within the jurisdiction of the Knotts Island Volunteer Fire Department. Fire hydrants or fire ponds are not required for developments less than 20 lots.

WASTEWATER: Individual, on-site septic systems are proposed.

SOILS: The Currituck County Soils Map indicates the portion of the property to be developed contains suitable soils. The wetlands on the property are not-suitable and are not proposed to be developed.

OPEN SPACE: No open space is required or provided for common ownership of the properties. The 22 acre wetland area to the west will remain in the ownership of the developer because it is unsuitable for development.

DRAINAGE: The applicant is proposing roadside and property line swales to drain into the NC 615 ditch system.

SCHOOL CAPACITIES: Using national averages for school age student generation, one can expect .4243 elementary school students, .084 middle school students and .1568 high school students per dwelling unit. Based on these pupil generation figures this development will generate:

3 elementary school students; 1 middle school student; and 1 high school student.

Projected School Capacities

School Level	Projected Capacity for 2008/09	Total Students- Sketch Plans	Projected Previous	Remaining Capacity if Swan Acres is approved
K- 5	219 (Knotts Is.)	157		59
Middle	1,142	1064		77
High	1,456	1409		46

NARRATIVE OF REQUEST:

The applicant is requesting Sketch Plan approval for 8 residential lots. This property received a Sketch Plan approval on December 1, 1997 for a

12 lot subdivision. The Special Use Permit/ Sketch Plan expired after 2 years because no Preliminary Plat was submitted for review.

The Development Impact Statement dated May 15, 2006 states "Swan Acres will be a development of well-coordinated affordable single-family primary homes. This project is anticipated to sell and build out over the next three years. This community will be marketed as an affordable three to four bedroom Currituck Development." The developer expects the lots to sell for between \$300,000 and \$400,000.

TECHNICAL REVIEW STAFF:

On June 21, 2006, Technical Review staff reviewed this application with the following comments:

1. **Currituck County Public Works** – Approved with the following comments: Please identify existing ditches throughout site.
2. **Currituck Soil & Water Conservation** - Approved with the following comments: Please identify existing ditches throughout site.
3. **Currituck County Fire Services**– Approved with the following comment: Cul de sacs should be 96' in diameter all weather driving surface capable of withstanding 75,000lbs.
4. **Currituck County Water Department**- There is no county water system on Knotts Island.
5. **Currituck County Planning and Inspections, Inspections Section**- Approved as is.
6. **Albemarle Regional Health Services** – No comments received
7. **Currituck County GIS** - Approved with the following comment: Applicant must submit the proposed street name form if it has not been submitted.
8. **County Parks & Recreation Department** - No comments received
9. **Currituck County Emergency Management** – No comments received.
10. **NC Department of Transportation**: Approved with the following comment: The street should be aligned with Martin Lane if possible. (Note: The actual location of Martin Lane was incorrect on the review copy and NCDOT has revised their comment to be "since the roads are over 450 feet apart the alignment is not necessary")
11. **US Army Corps of Engineers**: No comments received.
12. **NC Department of Natural Resources, Division of Coastal Management** – Approved with the following comments:
 - a. Wetlands shown on the sketch plan may be Coastal Marsh. A note indicating that there be "no expectation that wetlands can be filled" is recommended as a condition on the plat.
 - b. It is recommended that a consultant prepare a wetland jurisdictional determination; or contact DCM Field Representative Frank Jennings at the time a fill permit is requested for a wetland determination.
13. **NC Department of Natural Resources, Division of Water Quality**–No comments received.

- 14. NC Department of Natural Resources, Division of Land Resources –**
No comments received.
- 15. Currituck County Superintendent of Schools-** Reviewed with no comments.
- 16. N C Dominion Power -** Reviewed with no comments.
- 17. Sprint Telephone –** Approved as is.

SPECIAL USE PERMIT CRITERIA:

Special Use Permits are intended to allow the Board of Commissioners flexibility in the administration of the UDO. It is recognized that some land uses have a particular impact on the surrounding land that cannot be determined and controlled by general zoning regulation. Through the Special Use Permit procedure, property uses which would otherwise be considered undesirable in certain districts can be developed subject to conditions of approval to minimize any negative effects they might have on surrounding properties. In order to approve a Special Use Permit, certain criteria must be satisfied. The criteria are outlined as follows:

1. *Is the application complete?* Based on staff review all required information has been submitted for review.
2. *Does the proposal comply with the provisions in the UDO for Sketch Plan approval?*

The plan generally complies with the provisions of the UDO.

3. *Does the proposal comply with the general standards found in Section 1402(2) for a Special Use Permit/Sketch Plan?*
 - (a) *Will not endanger the public health or safety.*

Public health and safety issues including stormwater management, wastewater disposal and access for emergency services have been adequately addressed within this proposal;
 - (c) *Will not injure the value of adjoining or abutting property.*

The proposed residential subdivision should have no negative impact on adjoining property. The adjoining uses are agricultural and dispersed single family dwellings.
 - (d) *Will be in harmony with the area in which it is located.*

This low density residential subdivision will be in harmony with the rural character of Knotts Island.
 - (e) *Will be in conformity with the Land Use Plan, Thoroughfare Plan or other plans officially adopted by the Board.*

The 1990 Land Use Plan classifies this property as Rural. This development will be in conformity with the Land Use Plan.

- (f) *Will not exceed the county's ability to provide adequate public facilities, including, but not limited to, schools, fire and rescue, law enforcement, and other county facilities. Applicable state standards and guidelines shall be followed for determining when public facilities are adequate. Such facilities must be in place or programmed to be in place within 2 years after the initial approval of the sketch plan. In the case of subdivision and multifamily development at the sketch plan/special use, preliminary plat or final plat stage, the Board of Commissioners may establish time limits on the number of lots/units available for development to assure adequate public facilities are available in accordance with Section 2015.*

The Commissioners will need to determine if adequate school facilities exist or will exist to meet the demands generated by this subdivision.

STAFF RECOMMENDATION:

Because it appears the application has satisfied the criteria for granting a Special Use Permit as outlined above, staff recommends **approval** of the application subject to the following conditions:

Code Requirements:

1. At the Preliminary Plat stage, the applicant will be required to submit septic evaluations for each proposed lot, a North Carolina Stormwater Management Permit and, a North Carolina Sedimentation and Erosion Control Permit along with the plans required by the UDO.
2. A 5' non-access easement shall be placed on lots 1-5 along Marsh Causeway, NC 615.
 - a. This requirement is intended to improve the traffic flow by directing vehicles to a subdivision street for access and only allowing one access along NC 615, a major arterial street. Major arterials are intended to carry large volumes of traffic at higher speeds through the county.
 - b. Traffic service and land access are necessary but conflicting functions of a highway system. Although major arterial highways and minor collector streets must provide both traffic service and land access, access is a secondary function and should be controlled to avoid jeopardizing the primary traffic service function. (UDO Section 921, Lots and Article 3, Streets and Sidewalks).

3. That the applicant shall complete the development strictly in accordance with the plans submitted to and approved by the Board of Commissioners.

Recommendations:

1. A note should be placed on the Final Plat and including in Restrictive Covenants that indicates any development or filling of 404 wetlands will require a site specific plan approved by the US Army Corps of Engineers (COE). No grading or filling of wetlands may occur without a permit from the COE.

This staff recommendation was made without the benefit of public testimony and is based on the information presented when the application was received by the Planning Department. The Board of Commissioners shall give considerable weight to public testimony received during public hearing in considering its decision in this matter.

PLANNING BOARD DISCUSSION – July 11, 2006

Members Present - Forrest Midgette, Chairman, Alvin Keel, Joe Kovacs, Arthur Winter, Bobby Bell, Manly West, Pat Riley and Liz Turner

Members Absent - William Etheridge

Mr. Keel asked if there can be culverts installed in the ditch.

Mr. Halloran said that the ditch will be relocated between parcels 7 and 6, closer to the property line.

Mr. Keel asked if a retention pond is feasible to use as a fire pond.

Mr. Halloran said there is no plan for that. It is not required but they will look into it.

Mr. Keel stated that the speed limit could be lowered.

Mr. Kovacs commented that the plan said that these would be affordable lots, but noticed the price of the lots at \$300,000.

Mr. Halloran said that is affordable to some people for a three acre lot.

Mr. Keel motioned to **approve** the request as presented with the understanding that the applicant will consider installing a retention pond to aid in fire protection. Mr. West seconded the motion. Motion passed unanimously.

Chairman O'Neal opened the public hearing.

Barbara Humphries, adjoining property owner, does not oppose development, but has concerns over traffic, water, stormwater runoff, and safety concerns at the entrance road.

Mitch Halloran, Coastal Engineering, stated that this development will have no affect on Ms. Humphries property.

There being no further comments, Chairman O'Neal closed the public hearing.

Commissioner Bowden moved to approve requesting that the entrance road be moved far away from curve. Commissioner Martin seconded the motion. Motion carried.

Commissioner Bowden also directed staff to request DOT to lower the speed limit.

Public Hearing and Action on PB 06-30 Currituck County Text Amendment to UDO Article 6 to clarify the exemption for discharge from reverse osmosis water systems performed by any unit of government.

Sarah Keifer, Planning Director reviewed the request.

CURRITUCK COUNTY requests an amendment to Article 6, **Utilities**, Section 616, **Backwash or Discharge Into Water Bodies** of the UDO to clarify the exemption for discharge from reverse osmosis water systems performed by any unit of government

BE IT ORDAINED by the Board of Commissioners of the County of Currituck, North Carolina that the Unified Development Ordinance of the County of Currituck be amended as follows:

Item 1: Article 6, **Utilities**, Section 616, **Backwash or Discharge Into Water Bodies**, Item 1 be amended by deleting the following language indicated with strikethrough marks and adding the following underlined language:

Section 616 Backwash or Discharge Into Water Bodies.

1. No discharge of any nature (except discharges approved under a State Stormwater permit or as provided in #2 below) what so ever of water, chemicals, treated water, backwash from reverse osmosis systems, or other discharge shall be deposited directly or indirectly into the waters of Currituck Sound, Albemarle Sound, or their adjoining tributaries, rivers, streams, creeks, canals or other connecting water ways. This prohibition shall not apply to reverse osmosis system discharges into ~~Albemarle Sound~~ the North River performed by any unit of government (Federal, State, County) which has all the necessary Federal, State, and local permits for such discharges and having undertaken the necessary studies including but not limited to an "Environmental Assessment (E.A.); a "Draft Environmental Impact Statement" (DEIS) and/or "A Finding of No Significant Impact: (FONSI)" A developer intending to use reverse osmosis or other water purification system

shall comply in all respects to state requirements for the operation and maintenance of such systems but in no event shall such water system discharge any substance or water what so ever in to the waters of Currituck or Albemarle Sounds or adjacent waters.
(Amended 10-15-01, 06/6/05)

Item 2: The provisions of this Ordinance are severable and if any of its provisions or any sentence, clause, or paragraph or the application thereof to any person or circumstance shall be held unconstitutional or violative of the Laws of the State of North Carolina by any court of competent jurisdiction, the decision of such court shall not affect or impair any of the remaining provisions which can be given effect without the invalid provision or application.

Chairman O'Neal opened the public hearing. There being no comments, he closed the public hearing.

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

Public Hearing and Action on County Park Rules and Regulations

Kate McKenzie, County Attorney, reviewed the request. The ordinance was approved by the Recreation Advisory Board.

CHAPTER 10

Article III. County Park Rules and Regulations

Sec. 10-125. In General.

All parks owned or controlled by the county are public parks. Currituck County parks are for the enjoyment of residents and visitors of Currituck County.

Sec. 10-126. Hours of Operation.

County parks are open 7 days per week, year round. The parks open at sunrise and close at sunset, unless otherwise posted. Gates may be locked at closing. After park closings, any individuals remaining or coming into the parks will be considered trespassing and subject to criminal prosecution. Vehicles remaining in the parks after closing will be locked in and not available to owners until the next park opening. The County is not responsible for the safe keeping of such vehicles.

Sec. 10-127. Prohibited Activities.

No person using or occupying County parks shall drink, consume or possess any unsealed or opened container of alcoholic liquor or alcoholic beverage, nor shall any such person consume alcoholic liquor or any mixture thereof within the

boundaries of such recreation areas. Illegal drugs and abusive language/behavior is not allowed in County parks.

Sec. 10-128. Dogs.

Dogs are not permitted in County parks except service dogs for the disabled.

Sec. 10-129. Firearms.

Firearms and hunting are not allowed in County parks. Firearms used for hunting are permitted, provided they are kept in a locked case at all times while on park grounds.

Sec. 10-130. Hitting Golf Balls.

It shall be unlawful for any person to drive or hit a golf ball with any golf club in or upon any area in the county under the supervision and control of the department of recreation as a public park or public playground.

Sec. 10-131. Kite-flying.

Kite-flying at Maple Park only is not permitted. Kite-flying at all other County parks is permitted.

Sec. 10-132. Water-Related Activities.

Fishing is permitted at all County parks. Catch and release fishing only is permitted at Maple Park. Swimming and wading are prohibited in all County parks. Boating and motorized water activities are permitted in those County parks that have boating access ramps.

Sec. 10-133. Vehicles.

All vehicles including bicycles must be parked in parking spaces provided. Bicycles, roller skating, roller blading, and skateboards are allowed in designated areas only. Go-carts, motorized trail bikes, all-terrain vehicles, minibikes, etc., are prohibited at County parks. Remote-controlled cars, planes, and boats are prohibited at Maple Park only.

Sec. 10-134. Park Grills.

Park grills are designed for charcoal only. Charcoal should be left in the grills after cooking for disposal by County personnel. Personal cooking grills no larger than twenty-four (24) inches in diameter are allowed but may not be used under any shelters. It is unlawful to gather and burn wood.

Sec. 10-135. Picnic Shelters and Park Facilities.

All picnic shelters and park facilities are available on a first-come basis. The pavilions at each park are available on a first-come basis unless previously reserved.

Reservations of the pavilions for designated hours may be made by signing an agreement obtained from the Currituck County Parks and Recreation Department. Reservation agreements must be signed and on file in the Currituck County Parks and Recreation Department prior to use. Use of the pavilion is free but a twenty-five dollar (\$25.00) security deposit will be required, payable to Currituck County. The deposit will be returned if the pavilion has been left clean, free of grease, litter, etc. Any grease/charcoal on the ground or on grass will result in forfeiture of the security deposit. The person signing the Reservation Agreement is held liable for cleanup and any damages or maintenance fees incurred as a result of his/her group's activities. Facilities should be left as found.

Sec. 10-136. Cooking Trailers and Equipment.

Cooking trailers and equipment are allowed at the pavilions in County parks. However, the hauling vehicle must be disconnected and the vehicle parked in the parking lot. No other trailers will be allowed next to the shelters.

Sec. 10-137. Commercial Activity.

(a) Except as indicated in subsection (b) of this section, no person may engage in commercial activity, which includes but is not limited to the sale or attempted sale or advertisement for sale of any goods or services on recreational premises.

(b) The provisions of subsection (a) of this section shall not apply to county-sponsored activities or other events specifically authorized by the county manager.

Sec. 10-138. Amplified Music.

Amplified music is permitted in County parks, as long as it complies with the Currituck County Noise Control Ordinance, Chapter 9, Article II of the Currituck County Code of Ordinances.

Sec. 10-139. Decorations.

The nailing, stapling, and/or tacking of decorations to any park structures are not allowed. The taping of decorations to parks structures is permitted.

Sec. 10-140. Fees.

Fees may not be charged to enter or use the facilities of County parks. The County may charge such a fee for special events.

Sec. 10-141. Waterfowl and Wildlife.

Park patrons are encouraged to observe the parks' waterfowl and other wildlife. However, handling, feeding, harassment, and/or the capture of wildlife is prohibited on County parks.

Sec. 10-142. Recreational Facilities.

The softball fields, volleyball courts, horseshoe pits, and other recreational facilities are provided for and maintained by Currituck County. Park patrons are responsible for supplying their own athletic equipment such as softball gloves, bats and balls, Frisbees, volleyballs, horseshoes, etc.

Sec. 10-143. Violation of Park Rules and Regulations.

Violation of any of the park rules and regulations set forth in this Article may result in the expulsion of the park patron with the possible denial of future privileges to use the County parks. In addition, violation of any of the park rules and regulations shall be a Class 3 misdemeanor, punishable by a fine of not more than \$500.00 or by imprisonment for not more than 30 days for each separate violation. Each day any violation of this ordinance shall continue shall constitute a separate offense, unless otherwise specified.

Chairman O'Neal opened the public hearing.

Commissioner Miller moved to approve with eliminating dogs from the park. Commissioner Bowden seconded the motion. Motion carried.

Chairman O'Neal suggested a section of the Maple Park contain a dog park.

Update on County-wide drainage plan. Mike Doxey will provide the Board with a status report on the County-wide drainage plan project.

Mike Doxey, Soil Conservation Service, provided a presentation to the Board with slides of flooding and ditches that needed to be cleaned out. He explained how flooding is often not caused by development.

Action on Resolution calling for a referendum altering structure of Board of Commissioners from 5 to 7 members.

Commissioner Martin moved to approve with noted changes. Chairman O'Neal seconded the motion. Motion carried with Commissioner Bowden voting no.

RESOLUTION TO ALTER THE FORM OF COUNTY GOVERNMENT

WHEREAS, the County of Currituck currently has a Board of County Commissioners, the Board currently being comprised of five (5) members nominated and elected at large by all qualified voters of the County; and

WHEREAS, the Board of Commissioners, in response to constituents' requests, deems it necessary and desirable to allow the citizens of Currituck County to decide whether two additional members, one at-large and one additional district representative, should be added to the current Board; and

WHEREAS, in order to initiate an alteration in the structure of the Board of Commissioners for Currituck County, the Board is required to adopt a resolution in accordance with the North Carolina General Statute 153A-60 and to include one of several options as set forth in North Carolina General Statute 153A-58.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COMMISSIONERS OF CURRITUCK COUNTY THAT:

1) The Board of Elections for the County of Currituck shall call a special referendum on the question of adoption of the proposed alteration of the Currituck County Board of Commissioners by expanding the number of Commissioners from five to seven, with five of the Commissioners residing in a particular district and two that may reside anywhere in the County.

AND FURTHER BE IT RESOLVED THAT:

2) The county shall be divided into five electoral districts per G.S. 153A-20 and 153A-58, the electoral districts shall be divided as follows: there will now be five voting districts, divided by population as nearly equal as practicable. Reference attached map.

3) The qualified voters of the County shall nominate candidates who reside in the district for seats apportioned to that district. Said elected candidate must remain a resident of his/her respective district during the entire term. The qualified voters of the entire county shall elect all members of the board.

4) Any approved alteration of the structure of the current Board of Commissioners shall be the basis for nominating and electing members of the Board of Commissioners at the first succeeding primary and general election for County offices held after the approval of the alteration. The alteration shall take effect on the first Monday in December, following the General Election.

5) The special referendum shall be held at the same time as the State and County elections scheduled for November 2006.

6) Upon adoption, this resolution shall be published in full, and shall be filed and indexed in the Resolution Book as required by North Carolina General Statute 153A-48.

7) A proposition to approve or disapprove the alteration in the structure of the County government, as set forth above, shall be forwarded to the office of the County Board of Elections within ten (10) days of the date of the adoption of this Resolution.

Designation of Voting Delegate to NCACC Annual conference

Commissioner Martin moved to appoint Commissioner Etheridge. Commissioner Miller seconded the motion. Motion carried.

Consent Agenda:

Budget Amendment

Request to transfer unspent portion of Currituck County's Work First funding allocation to Inter County Public Transit Authority

Request DOT to add Spring Leaf Court to State System

Request DOT to add Windy Hill Court to State system

Albemarle Mental Health quarterly fiscal monitoring report

Approval of CDBG Project for housing rehabilitation program

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

<u>Account Number</u>	<u>Account Description</u>	Debit		Credit	
		Decrease Revenue or Increase Expense		Increase Revenue or Decrease Expense	
52661-545002	Relocation	\$	4,550		
52661-545001	Housing Rehabilitation	\$	38,218		
52390-495010	T F - Operating Fund			\$	42,768
10990-587052	T T - Multi-Year Grants Fund Balance	\$	42,768		
10390-499900	Appropriated			\$	42,768
		<u>\$</u>	<u>85,536</u>	<u>\$</u>	<u>85,536</u>

Explanation: 2002 CDBG Project (52661) - To appropriate additional funding to complete 2002 CDBG projects.

Net Budget Effect:

Operating Fund (10) - Increased by \$42,768.
Multi-year Grant Fund (52) - Increased by \$42,768.

<u>Account Number</u>	<u>Account Description</u>	Debit		Credit	
		Decrease Revenue or Increase Expense		Increase Revenue or Decrease Expense	
10446-526200	Promotional Efforts Fund Balance	\$	3,270		
10390-499900	Appropriated			\$	3,270
		<u>\$</u>	<u>3,270</u>	<u>\$</u>	<u>3,270</u>

Explanation: Public Information (446) - To increase appropriations for Hurricane guide that will be distributed to the public.

Net Budget Effect:

Operating Fund (10) - Increased by \$3,270.

Commissioner's Report

No comment

County Manager's Report

No comment

Closed Session to discuss litigation

Commissioner Bowden moved to go into closed session to discuss litigation and land acquisition. Commissioner Etheridge seconded the motion. Motion carried.

Adjourn

After reconvening from closed session, no action was taken.

There being no further business, the meeting adjourned.