

CURRITUCK COUNTY
NORTH CAROLINA
AUGUST 21, 2006

The Board of Commissioners met at 5:00 p.m. with the Knotts Island Fire Department and at 6:00 p.m. with the Economic Development Board.

The Board of Commissioners met on Monday, August 21, 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: Vice-Chair Martin, Commissioners Bowden, Miller and Etheridge. Chairman O'Neal was absent.

Call to Order
Invocation and Pledge of Allegiance

Vice-Chairman Martin called the meeting to order.

The Reverend David Blackman with Mt. Zion Baptist Church was present to give the invocation.

Approval of Agenda

Commissioner Etheridge moved to delete Item 6 and 7 and add to consent agenda approval of Education Leave Agreement. Commissioner Miller seconded the motion.

Commissioner Bowden requested that the Board also delete Item 8 and the Closed Session. Motion failed for lack of a second.

Commissioner Etheridge amended his motion to delete Item 8. Commissioner Miller seconded the motion. Motion carried with Commissioner Bowden voting no.

- | | |
|--------|--|
| Item 1 | Approval of Agenda |
| Item 2 | Public Comment
<i>Please limit comments to items not appearing on the regular agenda, please limit comments to 3 minutes.</i> |
| Item 3 | Sharon Tanner, Albemarle Hospital , update on hospital |
| Item 4 | Update of the Spring/Summer County Recreational programs. Jason Weeks will appear before the Board to present an update on the Parks and Recreation Department's Spring and Summer activities. |
| Item 5 | Public Hearing and Action on PB 06-36 RAY-D-O BIZ TOWERS, INC Amendment to Section 204 of the Unified Development Ordinance to eliminate the setback requirements for accessory structures associated with communication towers. |
| Item 6 | Public Hearing and Action on PB 06-35 CHRISTIE/ MOORE Rezone approximately 58 acres from Agricultural (A) to Residential (R). The property is located on Tulls Creek Road., 50 feet north of the intersection with Shingle Landing Road, Tax Map 9, Parcel 41, Moyock Township. |
| Item 7 | Public Hearing and Action on PB 06-24 Laurel Woods Estates Sketch Plan/ Special Use Permit For 160 Residential Lots, Conservation Subdivision located on the west side of Caratoke Highway, ½ miles north of the intersection with Bells Island Rd. Tax Map 50, Lots 70A, 70B, Crawford Township. |
| Item 8 | Approval of bid for removal of debris, Ferebee Land Project |

- Item 9 Appointment to Walnut Island Sanitary District
- Item 10 **Consent Agenda:**
 - Budget Amendments
 - Approval of July 17- August 7, minutes
 - Approval of Site License Agreement
- Item 11 Commissioner's Report
- Item 12 County Manager's Report
- Item 13 Closed session to discuss land acquisition
- Item 14 Adjourn

Public Comment

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

Vice-Chairman Martin opened the public comment period.

Bob Henley, Coinjock, invited the Board and citizens to the Wildlife Festival, September 9, 2006.

John Snowden, Maple Road, commented on all the illegal signs up and down the corridor.

Commissioner Etheridge commented on the Cooperative Extension groundbreaking and the ribbon cutting for the new Waterlily Fire Station.

Commissioner Bowden expressed his concerns with the proposed land purchase that will be discussed in closed session. He also stated that he would not purchase this property for himself or the county.

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

Sharon Tanner, Albemarle Hospital, update on hospital

Sharon Tanner, President, Albemarle Hospital, provided the Board with an update on Albemarle Hospital and future expansion of the hospital.

Commissioner Etheridge commended Ms. Tanner for her work and the service Albemarle Hospital provides the community.

Update of the Spring/Summer County Recreational programs.

Jason Weeks, Parks & Recreation Director, presented the Board with an update of the Department's spring and summer activities.

Public Hearing and Action on PB 06-36 RAY-D-O BIZ TOWERS, INC Amendment to Section 204 of the Unified Development Ordinance to eliminate the setback requirements for accessory structures associated with communication towers.

Sarah Keifer, Planning & Inspections Director, reviewed the request.

MEMORANDUM

TO: Board of Commissioners

FROM: Sarah E. Keifer, AICP, Director

DATE: August 14, 2006

SUBJECT: PB 06-36 Ray-D-O Biz Towers, Inc. Ordinance Amendment

Attached please find a proposed text amendment submitted by Ray-D-O Biz Towers, Inc. designed to eliminate the setback requirements for structures accessory to communication towers in the Agricultural Zoning District. Please also see the enclosed Attachment B provided by the applicant for a detailed explanation of the request.

As you know, Section 2406 of the Unified Development Ordinance provides the criteria that should be used in evaluating proposed changes to the Ordinance. Specifically the UDO provides:

Section 2406 Ultimate Issue Before Board on Amendments.

1. In deciding whether to adopt a proposed amendment to this Ordinance, the central issue before the board is whether the proposed amendment advances the public health, safety or welfare. All other issues are irrelevant, and all information related to other issues at the public hearing may be declared irrelevant by the Chairman and excluded. In particular, when considering proposed atlas amendments:

(a) the board shall not rely upon any representations made by the petitioner that, if the change is granted, the rezoned property will be used for only one (1) of the possible range of uses permitted in the requested classification. Rather, the Board shall consider whether the entire range of permitted uses in the requested classification is more appropriate than the range of uses in the existing classification; and,

(b) the Board shall not regard as controlling any advantages or disadvantages to the individual requesting the change, but shall consider the impact of the proposed change on the public at large.

The Planning Board reviewed this item at their August 8, 2006 meeting and determined that the proposed amendment does not meet the criteria of the Ordinance and therefore unanimously recommended denial. Following are the minutes of the Planning Board meeting related to this application.

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

Thank you.

PLANNING BOARD DISCUSSION – August 8, 2006

Mr. Robert Hobbs, Hornthal, Riley, Ellis, and Maland appeared before the board.

Mr. Hobbs addressed the staff comments concerning the public health, safety, and welfare. He indicated that he feels that this amendment would be limited in application for the county as a whole, but would apply primarily to the property he represents. The owner of the tower has told the applicant that a sufficient security fence cannot be built because the property line is five feet from the structure. The owner of the tower has indicated that there is not enough room to maintain the tower after the fence is erected unless the property line is moved. This would affect the safety of the public.

Mr. West asked how this situation occurred and how a tower was built within five feet of the property line.

Mr. Hobbs described the business venture that the owner of the property and the owner of the tower were involved in previously. The county allowed the owner to record a shifting of the lot lines and setbacks were affected and therefore, created problems for both parties. The line was created too close to the tower to place a fence around the structure.

Mr. Keel asked why this wasn't taken to the Board of Adjustment.

Mr. Hobbs said that they felt that a variance would have been difficult because it was a self imposed hardship.

Ms. Turner said that she has been to this site and the building is at the base of the tower and that this problem was self created.

Mr. Hobbs stated that the owner of the tower leases the transmitter building and surrounding property from the applicant.

Mr. West stated his agreement with Ms. Turner, and feels that this application should have been taken to the Board of Adjustment. A single issue should not change the entire UDO.

Mr. Hobbs restated that they did not feel that a variance would be successful and that although it would be a county wide application, this seems to be a rare instance elsewhere in the county. Concerns about widespread application may not be as big a concern; the application was tailored to be narrow as possible. There may not be any other with these extenuating circumstances.

Mr. Keel stated that the tower would not have been constructed had the setbacks not been met and there was discussion about the 1:1 fall zone and whether this tower would have been grandfathered.

Mr. Hobbs stated that if new towers were created throughout the county, this amendment wouldn't affect them because they would have to meet the current standards.

Mr. Keel stated that property could not be leased for a tower unless it was long term, so it is his opinion that this property should still be under contract and shouldn't be divided.

Mr. Hobbs said that under the current position, lot lines are not permitted in the fall zone, so there should never be an instance in the future where this situation would reoccur.

Mr. West asked if this property was on a 99 year lease, why it couldn't be treated as one lot.

Mr. Hobbs said that the idea is to eliminate the lease and convey the lot to the tower owner, who would then fence the lot but the lot line is so close to the tower that it is a safety problem because of the proximity of the fence to the property line and the tower. The parties in question wish to terminate the lease and adjust the property line to allow the fencing.

Mr. Webb summarized the history of this situation and described how the property lines were adjusted.

PLANNING BOARD ACTION

Mr. Kovacs motioned to deny the request and recommended the applicant go to the Board of Adjustment. Mr. Etheridge seconded the motion. Motion passed unanimously.

**RAY-D-O BIZ TOWERS, INC.
PB 06-36
UDO AMENDMENT REQUEST**

RAY-D-O BIZ TOWERS, INC. requests an amendment to Section 204 of the Unified Development Ordinance to eliminate the setback requirements for accessory structures associated with communication towers by adding a new Item 15.

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: That Article 2, Density and Dimensional Regulations, Section 204, Setback Requirements be amended by adding the following underlined language:

Section 204 Setback Requirements.

- 15. The structure setbacks contained in this Section 204 shall not apply to structures located in an Agricultural "A" Zone, if:
 - (a) The structure is an accessory use to a tower or antenna; and
 - (b) The use of the tower or antenna complies with Section 1403, Subsection 19 of this Ordinance.

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.

Vice-Chairman Martin opened the public hearing.

Norm Shearin, Attorney for Max Media, was present to answer questions.

Steve Test, Attorney for Max Media, was present.

Robert Hobbs, Attorney for applicant, was present to answer questions.

Bill Ray, applicant, supported request.

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

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

**Public Hearing and Action on PB 06-35 CHRISTIE/ MOORE
Rezone approximately 58 acres from Agricultural (A) to
Residential (R). The property is located on Tulls Creek Road.,
50 feet north of the intersection with Shingle Landing Road,
Tax Map 9, Parcel 41, Moyock Township.**

Continued

**Public Hearing and Action on PB 06-24 Laurel Woods Estates
Sketch Plan/ Special Use Permit For 160 Residential Lots,
Conservation Subdivision located on the west side of Caratoke
Highway, ½ miles north of the intersection with Bells Island
Rd. Tax Map 50, Lots 70A, 70B, Crawford Township.**

Deleted

Approval of bid for removal of debris, Ferebee Land Project

Deleted

Appointment to Walnut Island Sanitary District

Vice-Chairman Martin moved to appoint Gail Norris. Commissioner Etheridge seconded the motion. Motion carried.

Consent Agenda:

Budget Amendments

Approval of July 17 and August 7, minutes

Approval of Site License Agreement

Approval of Education Leave Agreement

Commissioner Etheridge moved to approve. Commissioner Miller 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
10790-532000	Supplies	\$ 6,000	
10790-532001	Library Materials	\$ 70,000	
10790-545000	Contract Services	\$ 10,440	
10790-590000	Capital Outlay	\$ 36,700	
	Fund Balance		
10390-499900	Appropriated		\$ 123,140
15446-532000	Supplies	\$ 3,640	
15446-545000	Contract Services	\$ 164,560	
15446-590000	Capital Outlay	\$ 24,228	
	Fund Balance		
15390-499900	Appropriated		\$ 192,428
		<u>\$ 315,568</u>	<u>\$ 315,568</u>

Explanation: Library (10790); Tourism (15446) - To carry-forward funds from FY 2006 and appropriated additional \$94,831 funding for renovation and start up supplies for the Library/Visitor's Center in Moyock.

Net Budget Effect: Operating Fund (10) - Increased by \$123,140.
Occupancy Tax (15) - Increased by \$192,428.

<u>Account Number</u>	<u>Account Description</u>	Debit	Credit
		Decrease Revenue or Increase Expense	Increase Revenue or Decrease Expense
10531-511000	Telephone & Postage	\$ 1,800	
10531-532000	Supplies	\$ 1,492	
10531-590000	Capital Outlay	\$ 8,000	
10330-445000	Emergency Management		\$ 11,292
		<u>\$ 11,292</u>	<u>\$ 11,292</u>

Explanation: Emergency Management (531) - Increase budgeted line items to record Emergency Management Planning Grant. The postage will be used for mailing the Hurricane Preparedness brochures and the capital outlay will purchase a weather station and a camera.

Net Budget Effect: Operating Fund (10) - Increased by \$11,292.

<u>Account Number</u>	<u>Account Description</u>	Debit	Credit
		Decrease Revenue or Increase Expense	Increase Revenue or Decrease Expense
23690-545000	Contract Services	\$ 7,000	
	Fund Balance		
23390-499900	Appropriated		\$ 7,000
		\$ 7,000	\$ 7,000

Explanation: Moyock Fire District (23690) - To appropriate accumulated fire district tax funds to purchase three automatic external defibrilators for use in Moyock Fire Department vehicles.

Net Budget Effect: Moyock Fire District Fund (23) - Increased by \$7,000.

<u>Account Number</u>	<u>Account Description</u>	Debit	Credit
		Decrease Revenue or Increase Expense	Increase Revenue or Decrease Expense
21690-545002	Contract Services	\$ 50,000	
	Fund Balance		
21390-499900	Appropriated		\$ 50,000
		\$ 50,000	\$ 50,000

Explanation: Poplar Branch Fire District (21690) - To appropriate \$25,000 to rebuild a fire pump and \$25,000 for shelving, safety equipment and an anode system for the two new engines per request from Lower Currituck Fire Chief.

Net Budget Effect: Poplar Branch Fire District Fund (23) - Increased by \$50,000.

Commissioner's Report

Commissioner Bowden requested an update on the DOT proposal for improvements to the beach road.

Commissioner Etheridge requested staff send a letter to legislators concerning the funding for keeping the grass mowed on the highways in the county.

Commissioner Miller discussed storm water. He further requested that DOT place a stop light at Snowden Road, widen or install a turn lane at North Point and rumble strips from the state line to the Coinjock Bridge.

County Manager's Report

Dan Scanlon, County Manager, reminded the Board of the meeting on the 23rd with FEMA Representative. He also stated that the DOT agreement for improvements to the beach road would be at the next meeting.

Closed session to discuss land acquisition

Commissioner Etheridge moved to go into closed session. Commissioner Miller seconded the motion. Motion carried with Commissioner Bowden voting no.

Adjourn

After reconvening from closed session, Commissioner Martin moved to close on the property owned by Bob DeGabrielle on Spot Road. Commissioner Etheridge seconded the motion. Motion carried with Commissioner Bowden voting no. The Manager distributed the following draft prospectus to the Board for review and consideration at a later date:

Prospectus for Operation of a County Owned Horse Park

Justification

Based on a summary of income estimates from the 2005 Cash Farm Income Report, there are approximately 1,127 horses in Currituck County. The value of stock attributed to these horses equaled \$4,936,000. The total sales for horses in Currituck was \$588,200 in 2005. In addition, based on minimal requirements and the most economical rations this number of horses would consume over \$2000 per day in feed and hay. Other returns to the economy are not reported but based on industry standards provide a significant amount to agriculture through jobs, production income, retail, land use, recreation and tourism.

Facilities that provide recreational space and event sponsorship are an enhancement to the local economy. Martin County reports a return of \$500 for every horse trailer that enters the Senator Bob Martin Ag Complex. This is based on events hosted over a 3 day period and through retail sales figures for food, consumables, transportation, and lodging.

With the large number of horse enthusiasts and the growing interest, the demand for public facilities that provide horse owners access to events and recreational activities is staggering. A publicly owned facility provides the solution to the needs and interests of the horse community. Passive park properties do not generate income. However, a horse park has the potential to be user fee based and provide some return for the investment and operating budget. The park will also become an attraction for the county as a service, recreational opportunity, and tourist attraction. Currituck is already listed among the leading counties for potential equine tourism development.

ORGANIZATIONS & ENTERPRISES

- 3 community 4-H horse clubs
- 1 Horse Lovers for Christ Club
- 1 Pony Club
- 9 commercial horse farms
- Approximately 15 residential horse farms
- Individual horse owners (no accurate count)
- 1 feed & tack store operation
- 3 hay producers
- 2 hay brokers

Proposed Operation and Management

The Parks and Recreation Department and the North Carolina Cooperative Extension Service will work jointly to provide a comprehensive recreational and educational horse program for the citizens of Currituck County and the visiting public. Parks and Recreation will assume physical and fiscal responsibility for the operation of the park. Cooperative Extension will assume responsibility for programming, event management, and educational activities. Clear separation of duties will be established by respective job descriptions and include a Park Manager, Agriculture Program Assistant and Park Attendant. The proposed system of operation will be a user fee system to supplement and supplant budget support by the County of Currituck. Contingency fund will be established from user fee collection to offset the cost of park operation, equipment, and supplies as possible.

Services and Activities to be offered

Show Grounds for user Groups	Three Day Eventing
Clinics for Education	Dressage Ring
On site demonstration and exhibits	Overnight Boarding for Visiting Public
Outreach Center for Horse Education	Practice Rings
Equine Tourism	Rodeos
Kayak and Canoe Trails	Trails for public use
Multi-purpose events	Cross Country Course

There being no further business, the meeting adjourned.