

CURRITUCK COUNTY
NORTH CAROLINA
May 15, 2006

The Board of Commissioners met at 4:00 p.m. in a budget work session

The Board of Commissioners met on Monday, May 15, 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, Etheridge and Miller.

Invocation and Pledge of Allegiance

The Reverend Ben Baum was present to give the invocation and pledge of allegiance.

Approval of Agenda

Commissioner Etheridge moved to amend the agenda by deleting Item 9 and add to consent agenda local legislation and CDBG release of deed. Commissioner Martin seconded the motion. Motion carried.

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| 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 | Recognition of Ralph Webster, Whalehead Board of Trustee member. |
| Item 4 | Public Hearing and Action PB 05-38 BRIGHT MINE: Special Use Permit for a 29 acre mine on property located on the east side of Marsh Causeway adjacent to the Virginia border. Tax Map 55, Lots 1, 2, and 3 Fruitville – Knotts Island Township |
| Item 5 | Public Hearing and Action PB 04-05 Shingle Landing Farm, formerly Miller's Way: Amended Sketch Plan for 10 residential lots on property located at the end of Fox Lane, approximately 800' from the intersection with Tulls Creek Rd. Tax Map 9, Parcel 37, Moyock Township. |
| Item 6 | Public Hearing and Action PB 06-06 KIOUSIS: Rezone 3.66 acres from Residential to General Business on property located on Holly Lane, Tax Map 132, Lot 106B, Poplar Branch Township. |
| Item 7 | Public Hearing and Action PB 05-41 THOMAS CHRISTOPHER POPE AND DAVID JACKSON: Rezone approximately 3.5 acres from Agriculture (A) to General Business (GB) on property located on the north side of Shortcut Rd. (US 158) approximately 1,480; west of the intersection with Gregory Rd. Tax Map 27, Lots 19A and 20A, Crawford Township |
| Item 8 | PB 06-04 PUBLIC HEARING AND ACTION F& W LAND CO, LLC: Create a Multi Family Overlay Zoning District on 21 acres of a parcel zoned General Business (GB). The parcel is located .5 miles south of the NC/VA line on Caratoke Highway, Tax Map 9, Parcel 75, Moyock Township. |
| Item 9 | PUBLIC HEARING AND ACTION PB 06-20 CURRITUCK COUNTY: Amendment to Sections 206 and Article 25 of the UDO to change the manner in which building height is calculated to reflect the definition in the NC Building Code |
| Item 10 | Public Hearing and Action on PB 04-63 CURRITUCK COUNTY amendment to allow family and church cemeteries in all zoning districts. |
| Item 11 | Consideration of awarding bid for kitchen addition at Law Enforcement Center |
| Item 12 | Appointment to Land Transfer Appeals Board |
| Item 13 | Appointment of Commissioner to JCP Council |
| Item 14 | Appointment to ABC Board |
| Item 15 | Appointment to Game Board |

- Item 16 Consent Agenda:
 Budget Amendments
 Consideration of job description Planning Technician
 Consideration of changing sewer operator to wastewater operator.
 Request DOT to add Currituck Commercial Drive to state system.
 Resolution to approve vendor as sole source provider.
 Approval of May 1 Minutes.
- Item 17 Commissioner's Report
- Item 18 County Manager's Report
- Item 19 Closed Session according to GS 143-318.11(5) to discuss land acquisition
 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. There being no comments, he closed the public comment period.

Recognition of Ralph Webster, Whalehead Board of Trustee member.

Chairman O'Neal recognized Ralph Webster for his dedicated service while serving on the Whalehead Board of Trustees.

Public Hearing and Action PB 05-38 BRIGHT MINE: Special Use Permit for a 29 acre mine on property located on the east side of Marsh Causeway adjacent to the Virginia border. Tax Map 55, Lots 1, 2, and 3 Fruitville – Knotts Island Township

Sworn testimony was given prior to making comments.

Sarah Keifer, Planning Director, reviewed the request.

**STAFF ANALYSIS FOR THE BOARD OF COMMISSIONERS
 MEETING DATE: MAY 15, 2006
 BRIGHT MINE SPECIAL USE PERMIT**

- ITEM:** PB 05-38 SPECIAL USE PERMIT FOR MINING OPERATIONS AT THE BRIGHT MINE
- LOCATION:** East side of Marsh Causeway adjacent to the Virginia State border; Fruitville - Knotts Island Township
- ZONING DISTRICT:** Agricultural (A)
- TAX ID:** Map 55 Parcels 1, 2 and 3

OWNER/MINE MANAGER:

Bonney G. Bright
5513 Buzzard Neck Road
Virginia Beach, VA 23457

APPLICANT

Bissell Professional Group
PO Box 1068
Kitty Hawk, NC 27949

LAND USE/ZONING OF SURROUNDING PROPERTY:

NORTH: Farmland/ Virginia state line
SOUTH: Farmland & Woodland / Agricultural
EAST: Wetlands & Woodland / Agricultural
WEST: Campgrounds, Residential & Farmland/ Residential-
Recreational & Agricultural

PURPOSE OF REQUEST:

The applicant is requesting approval for sand mining operations which is a permitted use within an Agricultural zoning district with a Special Use Permit. The request is to mine 28.9 acres on parcels having a combined acreage of approximately 102 acres which amounts to 28.4% of the 30% maximum area allowed.

The property is located on the east side of Marsh Causeway, adjacent to the Virginia state line and approximately 2,000' away from the existing Bonney Bright Sand Mine in Virginia. The approximate distances from the pit to the brackish waters of North Landing River and Back Bay is 2,000' and 3,000'. Typical land surface is relatively level with an existing elevation of approximately five feet above Mean Sea Level (MSL). The borrow pit is planned to have a maximum depth of 25' with an average depth of 20'. This equates to an average depth of -15' below MSL and a maximum of -20 MSL.

There will be a 30' wide haul road looping the mine area and connecting to Marsh Causeway (NC Route 615). The first 200' of the haul road will be paved from Marsh Causeway. A 6 foot high earthen berm will be constructed between the haul road and the site perimeter, with the exception of the land to the north which is owned by the mine manager. Adjacent to the berm are a recharge ditch and an undisturbed buffer ranging from 100' to 200' along Marsh Causeway and over 500' to the east.

The estimated truck traffic will average about 100 trucks per day or one truck every six minutes. For the occasional large jobs, it is anticipated that there will be as many as 200 trucks a day to the mine site with one truck leaving the site every three minutes.

The mine manager will bear the responsibility for maintenance of the haul road. The haul road will be kept watered down to keep the amount of dust down to a minimum and will re-grade the road periodically as needed.

The application states that the hours of operation are to be established by the Board of Commissioners. In no case shall the hours of operations be beyond dawn to dusk and no mining is permitted on Sunday.

To lower the water table as the mining progresses, a dewatering pump will be used. The water will be discharged into the recharge ditch located on the outside of the 6' high earthen berms. To allow the pumped water to infiltrate back into the surrounding subsurface water supply, the recharge ditch will be connected to the existing on-site farm ditches. Since there is no off-site discharge of water, a state discharge permit is not required nor has been issued.

An 8'x16' trailer will be placed on the site for use as an office. Dump trucks entering the mining area will be required to stop at the office trailer to receive load tickets and instructions upon entering and exiting the mining area. Speed limits will be posted along the access road to the mining area and will be strictly enforced. All trucks exiting the site with mined materials will be covered with a tarpaulin.

Four monitoring wells will be placed on the site to assist in evaluating the mining operations effect on groundwater quantity and quality. Two wells will be placed along the western portion of the site, one at the southern portion and one on the eastern side.

On February 13, 2006 the state issued a draft mining permit. The state is also requiring that monitoring wells be installed at the site to monitor the water and chloride levels.

The owner anticipates expanding the operations at a later date to a include washing and screening masonry sand plant. It should be noted that if this operation were to be sited at the mine, it will require a modified state mine permit and an amended Special Use Permit.

After reclamation, the site will be a recreational pond and final slopes will be 3 to 1 to the water level and then 2 to 1 from the water level to the bottom of the pit. The water will be approximately 25' deep. No sewage will be generated during the reclamation process.

EXISTING CONDITIONS:

The site currently contains farmland and woodlands. Approximately 4 acres of the site is contained in wetlands located along the northeastern property line. The mining operations will be located at least 130' away from the wetland area. A wetland delineation map was prepared for the site. County Soil Maps indicate predominately two types of soils contained within the mine site area: **To** (Tomotley fine sandy loam) which consists of poorly drained soils that have moderate to moderately slow permeability; and **OuB** (Ousley fine sand) which consists of moderately well drained soils which have a rapid permeability. County Flood Maps indicate this property to be within the 100 year floodplain.

QUESTION(S) BEFORE THE BOARD:

- (1) Does the proposal comply with the general standards found in Section 1402(2) for a *Special Use Permit*?

The applicant's proposal will be required to maintain compliance with all UDO requirements and any additional requirements of the Board of Commissioners. The proposal meets the UDO standards for mine sites.

The proposed mining area for the site meets the required setbacks, (100' from property lines; 300' from nearest residence, industrial building, or public road). The proposed site has over a minimum setback of 100' setback from the western, northern and southern property lines. Setbacks to the mining activities along the boundaries range from a minimum of 100' to in excess of 250' with a 6' high earthen berm surrounding the mining operations. The nearest residences are located approximately 400' west of the proposed mine site, according to county Tax Maps and aerial photos.

- (a) *Will the proposed use materially endanger the public health or safety?*

The applicant proposes to have up to 200 trucks per day at the site. The majority of the truck traffic will be traveling to the north into Virginia. NCDOT has determined that a left turn lane will be necessary since the majority of the truck traffic will be coming from Virginia. A 3' x 3' sign that says "Trucks Entering Highway" shall be posted 500' in advance of the mine entrance from both directions of March Causeway (NC 615).

In regard to the water quantity and quality, staff has concerns about possible saltwater intrusion due to the mining at this site in conjunction with the mining approximately 2,000' away in Virginia.

With respect to noise levels at the site, the County Noise Ordinance permits manufacturing or industrial operations to generate a maximum of 70dB when measured at the property line. According to the engineer, the noise levels from the operation of the discharge pump are not anticipated to exceed 70dB at any property line. The closest possible point that the discharge pump can be located to a property line is approximately 300 to 350 feet away at the mine's southwest corner. According to the manufacturer, the pump and diesel engine produce a maximum noise level 89 dB at a distance of 30'. The pump will be located in the pit area and it is anticipated that the noise levels will be dampened by the 6' high

earthen berm located around the mine perimeter. The projected noise from the mine operation falls within the prescribed limits.

A hydrological study by Groundwater Management Associates, Inc. was performed in October 2005 to evaluate the impact that the mine might have on existing in-use wells within 2,000' of the mine site. There are two community water systems within this area which create the greatest water usage. One of the systems serves the Sandy Point Campground with 130 camp sites while the other system serves the Sandy Point Resort Mobile Home Park with 50 mobile homes. These systems are served by wells 70' deep and one at a 100' depth. The report did not address any potential impact upon these systems. Within the 2,000' radius of the mine site it was determined that there appears to be ten individual water supply wells. Four of the wells, which service four mobile homes, are located adjacent to the mining area which may be at depths of 30' or 60'. Within 1,300' of the site is a well approximately 45' deep. The depths of the other five wells within 2,000' of the excavation area are unknown.

The hydrological study found that the mining activities may impact the quantity and quality of water available to supply wells in the area. To quantify the impact upon the surrounding wells, the study looked into the effects that the existing Bright Mine, located approximately 2,000' away in Virginia, has had on surrounding wells. The report states that with the available information and the scope of the study, it was difficult to accurately quantify the potential impacts. However, it was determined that the four wells located on the mine tract are at the greatest risk. A well of unknown depth located about 700' away from the excavation site may also be impacted. The conclusion of the study was that the dewatering will have an expected drawdown of approximately 23'. The dewatering will affect groundwater levels and groundwater flow paths. Mr. Bright has indicated that he will provide these residences with new wells providing equal quality and quantity of water as necessary.

To mitigate the potential impact on the water quantity and quality, the hydrological report suggests using ditch systems to recharge the groundwater and the use of monitoring wells. Four monitoring wells are proposed to be installed at the site. Prior to, and during the construction, the water levels at the monitoring well should be recorded weekly. An on-site recharge ditch system will be installed in conjunction with the mining activities. The recharge system will connect to the existing farm ditch system and no discharge water will be leaving the site. The recharge of water pumped from the mine site to surface ditches will lessen the impact to the groundwater flow system.

Access to the site will be limited by a 6' gate placed at the mine entrance. "No Trespassing" signs will be posted at a minimum distance of 250' apart around the site to indicate a mining operation is being conducted on the property.

There will be no bulk waste, hazardous waste, commercial waste, garbage, and construction or demolition waste placed on the site.

The Board of Commissioners shall establish the hours of operation for all mining activities on the site and may require additional buffers and screens in order to minimize negative impacts on adjoining properties and street right-of-ways. Staff recommends that the hours of operation be from dawn until dusk with no operations beginning earlier than 7 am or later than 7 pm Monday through Saturday.

It does not appear that the proposed use will materially impact the public health and safety.

- (b) *Will the proposed use substantially injure the value of adjoining or abutting property?*

The adjacent property is farmland and wetlands. Staff does not anticipate the mining operation to injure the value of the adjoining property.

- (c) *Will the proposed use be in harmony with the particular neighborhood or area in which it is to be located?*

The property is surrounded by farmland, campgrounds, wetlands and a mine located in Virginia. Staff's opinion is that the mine operation would be in harmony with the agricultural area.

- (d) *Will the proposed use be in general conformity with the Land Use Plan, Thoroughfare Plan or other plans officially adopted by the board?*

The 1990 Land Use Plan classifies this land as "Rural". The purpose of the rural classification is to provide for agriculture, forestry, mineral extraction and other allied uses traditionally associated with an agrarian region. Areas meeting the intent of this classification are appropriate for, or presently used for, agriculture, forestry, mineral extraction, and other uses, that due to their hazardous or noxious nature, should be located in a relatively isolated and undeveloped area. Therefore this proposal is consistent with the Land Use 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?*

Based on the proposed mining use, it will not exceed the county's ability to provide adequate public facilities.

STAFF RECOMMENDATION:

Staff recommends **approval** with the following conditions:

1. If at any time the State permit issued for this mining operation is suspended or revoked, the suspension or revocation shall cause this Special Use Permit to become void;
2. Any modifications to the State permits shall be filed within 10 working days of issuance or submittal in the Planning/inspections Department of Currituck County;
3. This Special Use Permit shall be valid for a period of 10 years from the date it is granted;
4. That no more than 28.9 acres (28.4%) of the total tract shall be excavated for the purposes of mining under this permit;
5. The maximum mining depth shall be 30' below natural ground or an elevation of -26 below MSL;
6. That 3' x 3' warning signs noting "Truck Entering Highway" be posted on Marsh Causeway (NC 615) 500' in advance of the entrance in both directions;
7. That a left turn lane meeting NCDOT design and construction standards shall be installed on Marsh Causeway (NC 615);
8. A benchmark shall be set proximate to the mining area to establish the elevation of the natural ground. The benchmark location shall be shown on the mining site plan;
9. No encroachment into natural drainageways and channels shall be allowed;
10. No off-site discharging of water or sediment from the mine site is allowed under this permit;
11. A minimum of once every six months, there shall be maintenance performed on the recharge/sediment ditch;
12. Drainage patterns shall not be altered so as to cause flooding off-site while the permit is valid and after reclamation;
13. All trucks and equipment used in conjunction with the mine shall be stored, within the mine site and not the adjacent farmland. The on-site storage of commercial dump trucks shall not be permitted.
14. The hours of operation of all mining related activities on this site, as determined by the Currituck County Board of Commissioners, shall be Monday through Friday from 7 a.m. to 7 p.m., Saturday from 7 a.m. to 7 p.m. and no mining activity shall occur on Sunday.

15. The proposed mine entrance shall be gated;
16. At least 200' of continuous pavement shall be required onsite starting at the point the access road intersects with a public street and shall be completed prior to the excavation of any fill material;
17. All roads utilized to access the mining site shall be maintained free of dust and sediment and shall be properly graded and drained in order to minimize potholes and standing water;
18. All trucks hauling mined materials shall be covered with a tarpaulin;
19. Mined materials shall not be stored in excess of 25' in height;
20. Stockpile areas and overburden (i.e.: excess material) to be used for future reclamation shall be placed where it will not be disturbed by normal mining activities and shall be stabilized to reduce wind and water erosion;
21. No bulk waste, hazardous waste, commercial waste, garbage, construction or demolition waste shall be placed on the site;
22. "No Trespassing" signs shall be posted around the site being mined at a minimum distance of 250 feet apart indicating that a mining operation is being conducted on the property;
23. Reclamation shall be conducted simultaneously with mining operations. Annual reclamation reports shall be submitted to the Planning/Inspections Department of Currituck County within 10 days of being filed with the State;
24. All provisions of State and local permits issued for the operation shall be met;
25. No mining activities shall adversely affect surrounding in use wells. Any person owning or operating a mining site in a manner that adversely affects an in use well through contamination or diminution of groundwater shall provide the well owner with a replacement water supply or equal quantity and quality;
26. A minimum of four monitoring wells shall be located on the site. During the installation of the wells, the stratigraphy of the subsurface at each well shall be accurately logged by a qualified geologist. At all monitoring well locations, separate wells shall be screened at shallow and deep depths, both above and below any clay layers identified;
27. The wells shall be secured against unauthorized entry with a lockable cap. The necessary permits or approvals to construct these wells shall be obtained from the N.C. Division of Water Quality;
28. The owner/operator shall establish a benchmark for the water quality and quantity as it exists prior to the mining operation and establish a monthly monitoring program during the excavation activity. The wells shall be monitored at least 90 days prior to initiating any excavation of the initial pit area or recharge swale to allow for the determination of pre-existing

(static) groundwater levels. Copies of the monitoring reports shall be submitted monthly to the Planning Department;

29. Water levels in all monitoring wells shall be measured and recorded weekly for the first 90 days prior to any dewatering activities at the site and weekly for the following 90 days upon initiation of dewatering activities. Following this initial period, the wells shall be measured monthly on the same day and approximate time of day. The static water levels shall be measured with an accuracy of plus or minus 0.1 foot and shall be referenced to a datum point and a record of the water levels maintained. The monthly precipitation and the volume of pit water discharge shall also be recorded. Copies of these records shall be provided to the State and the County Planning Department on or about the end of each quarter. Static water level monitoring frequency may be increased or decreased as deemed appropriate by the Department.

30. An initial chloride sample shall be collected, analyzed, and recorded from each monitoring well prior to dewatering activities to create base line data level for the site. Furthermore, chloride samples shall be collected, analyzed, and recorded on a monthly basis from all monitoring wells and from the 12-inch discharge pipe prior to the water entering the outlet apron. As noted above, monthly pumping withdrawals and rainfall amounts shall be measured and recorded at the site and reported to the Land Quality Section, along with the required monitoring well water level data and chloride data, on a quarterly basis.

31. A reserve fund shall be established, to be held by the property owner, to finance the initial capital expenses of establishing the anticipated future lake use of the property. At a minimum, the estimated capital expense shall be an amount equal to \$1,000 times the number of acres in the total site. The reserve fund shall include an assumed inflationary rate of 5% per year for the expected life of the mining site. Any funds held by the State of North Carolina pursuant to G.S. 74-54 will be credited towards the required amount.

32. The owner shall place funds in the reserve annually in amounts equal to the capital cost estimates provided above divided by the number of years the mining site will be open.

a. The annual amount shall be calculated as follows:

$$102 \text{ acres} \times \$1,000 = \$102,000 - \$52,100 \text{ State Bond} = \$49,900$$

$$\$49,900 / 10 \text{ years} = \$4,990;$$

Year + 5% Inflationary Rate:

Year 1	\$4,990.00
Year 2	\$5,239.50
Year 3	\$5,501.48
Year 4	\$5,776.55
Year 5	\$6,065.38
Year 6	\$6,368.64

Year 7	\$6,687.08
Year 8	\$7,021.43
Year 9	\$7,372.50
Year 10	\$7,741.13

33. The first payment shall be made prior to commencement of excavation activities and evidence of such payment, in the form of a notarized statement by the property owner, must be presented to the administrator. Such evidence shall be submitted annually, along with the total balance of reserve funds, to the administrator on or before the anniversary of the initial notarized statement. In the event the mining operation permanently discontinues before the expected timetable submitted, the owner shall pay all remaining amounts to the reserve fund as evidenced by a notarized statement to the administrator;
34. The reclamation shall be in accordance with the state approved reclamation plan; and
35. Should any conditions within this permit conflict with any other permit issued for this activity, then the more restrictive condition shall prevail.

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

Mr. Bobby Outten (Attorney for the Applicant) stated that the State permits are in hand. The area is zoned for this purpose, and it complies with the Land Use Plan, so the Planning Board should have no reason to deny the request.

Mr. Outten also stated that they were in agreement with all the conditions except two. The conditions that were objectionable were #14, and #27. He said that the operator needs to store his trucks on his property at the end of the day.

Ms. Keifer stated that there were no objections to the mines' trucks being there in the evening, the condition was meant more for other businesses commercial vehicles.

Ms. Keifer clarified #27 the condition came as a result of the hydrological report.

Barbara Humphries 115 Martin Lane stated her opposition to the proposed mine site. Ms Humphries wishes for the County to withhold the permit until the mine is closed on the Virginia side of the site. She also stated her concern with the impact on traffic in the area.

John Purnell, adjoining property owner brought a deed from 1904 showing a right of way to his property through the proposed mine site and stated his opposition to the project. He owns 95 + 9.6 acres in this area and owns the property with the deeded access. He also presented the Board an Army Corp. of Engineers map showing the right of way in 1916.

Roy Donathan, Jr. adjoining property owner, spoke about the traffic in the area since he bought his property in 2001. His concern is with his well, the wetlands, and the property values in the area.

Deborah Donathan spoke in opposition to the project and stated that the mine was not a 'good neighbor'.

Mr. Outten stated that the conditions are the mechanism the board should use to protect the public and should monitor the site and revoke the permit if it fails to comply. These conditions are stringent; and water quality is monitored by DWQ.

Mr. Bissell said that the state permit indicates the conditions made by Division of Water Quality. He described the test/monitoring wells. They test water quality and quantity and they are tested as required by DWQ. There is no salt water intrusion on the Virginia side of the mining operation after 15 years of operation.

Mr. Outten stated that he did not personally do the title work for this property so he is not sure where this easement is coming from that Mr. Purnell described. Mr. Bright said that his own attorney indicates that there is no easement. This is not an issue for the Planning Board to decide, Mr. Purnell would have to try this issue in a court of law.

Mr. Keel asked who is required to monitor the wells.

Mr. Webb stated that the applicant would have to submit reports to DWQ.

Mr. Outten said that there cannot be any water removed for 90 days so as to have an accurate comparison.

Mr. Kovacs asked what the size of the mine is in Virginia.

Mr. Bissell said he thinks it's about twice the size of the mine that is proposed.

Mr. Outten said that DWQ looks at water quality in the entire area, not just on the NC side.

Mr. Kovacs stated that he assumes that the mine in VA is twice the size with no issues; he would assume this one would have no water problems as well.

Mr. Bissell and Mr. Outten agreed.

Mr. West asked about the mine restrictions in VA.

Mr. Bissell stated that they are less stringent, he doesn't know about the permitting processes.

PLANNING BOARD ACTION

Mr. Keel motioned to approve the request with item #14 removed (Storage of Dump Trucks on site, NOTE: This item number has been changed to #13) and make the county monitoring consistent with State requirements. Mr. West seconded the motion. **Motion passed unanimously.**

The applicants are requesting that this item go to the second Commissioners meeting in May because of a scheduling conflict.

Chairman O'Neal opened the public hearing.

Barbara Humphries, Martin Lane, opposes the request.

Walter Humphries, expressed his concerns with traffic and drainage.

Robert Halstead, presented a written statement for the record. He opposes the request and expressed concern with the impact on property values.

Alvin Keel, Knotts Island, supports the request.

Wyatt Booth, Attorney for adjacent property owner, expressed his concerns with water quality and requested Board to table until a study had been completed on water.

Debra Donnavan, Martin Lane, opposes request due to concerns with traffic.

Lloyd Donavan, Martin Lane, opposes request.

Bobby Outten, Attorney for owner, reviewed the questions and concerns of the adjacent property owners. He also stated that a hydro study had been done.

Commissioner Martin moved to deny. Chairman O'Neal seconded the motion. Motion failed with Commissioners Bowen, Etheridge and Miller voting no.

Commissioner Bowden moved to approve with recommended conditions of a 10 ft. berm with vegetation and hours from 7 a.m. to 7 p.m. Monday – Saturday. Commissioner Miller seconded the motion. Motion carried with Commissioner Martin voting no.

Public Hearing and Action PB 04-05 Shingle Landing Farm, formerly Miller's Way: Amended Sketch Plan for 10 residential lots on property located at the end of Fox Lane, approximately 800' from the intersection with Tulls Creek Rd. Tax Map 9, Parcel 37, Moyock Township.

Commissioner Miller requested to be recused. Commissioner Etheridge moved to approve. Commissioner Martin seconded the motion. Motion carried.

Sworn statement was given prior to making comments.

Sarah Keifer, Planning Director reviewed the request.

LOCATION: At the end of Fox Lane, approximately 800' from its intersection with Tulls Creek Road, Moyock Township.

TAX ID: 0009-000-0037-0000

ZONING DISTRICT: Agricultural

PRESENT USE: Agriculture

OWNER:

E.L. Miller, Jr.
P.O. Box 127
Moyock, NC 27958

APPLICANT:

EKMS, Inc.
PO Box 353
Moyock, NC 27958

ENGINEER:

Quible & Associates, P.C., David A. Deel
P.O. Drawer 870
Kitty Hawk, NC 27949

LAND USE/ZONING OF SURROUNDING PROPERTY:

NORTH: Vacant (proposed Winslow Farms Subdivision) - zoned A&R
SOUTH: Residential - zoned A
EAST: Farmland - zoned A
WEST: Commercial - zoned GB

SCHOOL DISTRICT: Moyock

FIRE DISTRICT: Moyock V.F.D.

SIZE OF SITE: 21.08 Acres

NUMBER OF LOTS: 10

- DENSITY:** 0.47 units / acre
- MINIMUM LOT SIZE:** First 5 at 40,000 SF and Remaining 5 at 3 Acres
- STREETS:** The proposed streets 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 will be located within the jurisdiction of the Moyock Volunteer Fire Department.
- WASTEWATER:** Individual, on-site septic systems are proposed.
- SOILS:** The Currituck County Soil Suitability Map classifies this site as both provisionally suitable and un-suitable in the wetland areas.
- SCHOOL CAPACITIES:** The School Capacity for this development was approved when the Special Use Permit was granted August 2, 2004.
- OPEN SPACE:** No open space is required or provided.
- DRAINAGE:** Roadside and property line swales/ditches will be used to address drainage for this property.
- FLOOD ZONES:** A portion of the property along the south property line is located within of the 100 year floodplain, Zone AE (5).
- CAMA CLASS:** The property is classified as "Rural with Services" in the 1990 Land Use Plan. Low intensity residential uses with a gross density of approximately one unit per acre, where lots sizes are large and where the provision of services will not disrupt the primary rural character of the landscape are consistent with the intent of the rural with services class. Proposed density for the total 10 lot subdivision is 0.47 units per gross acre which is consistent with the Land Use Plan.

NARRATIVE OF REQUEST:

A Sketch Plan for this 10 lot development was originally approved on August 2, 2004 showing a road connection to the eastern property line (Hound Lane). The applicant is now seeking approval of an Amended Sketch Plan approval to delete the road connection and realign the road slightly. The deletion of the road connection is considered a significant design modification as defined by Section 2021 of the Unified Development Ordinance requiring Board approval.

STAFF RECOMMENDATION:

The Currituck UDO Section 914(b), Streets, states that “[a]ll streets shall provide for the continuation or appropriate extension of principal streets in surrounding areas and provide reasonable means of ingress and egress for surrounding acreage tracts where the County deems appropriate”. The original street configuration provided access to a vacant and developable parcel to the east. Connectivity between and among subdivisions is desirable because it:

1. helps reduce the volume of traffic and traffic delays on major streets (arterials and major collectors);
2. provides a choice of access points to the adjacent arterial street thus reducing congestion at a single intersection;
3. provides increased access for emergency service vehicles; and
4. provides a secondary transportation network for pedestrian and bicycle traffic.

In order to remain consistent with the provisions of the UDO as well as provide the benefits of street connectivity, staff recommends that the Board of Commissioners allow the original approval of Shingle Landing Farm stand rather than the proposed revision.

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.

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

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

Public Hearing and Action PB 06-06 KIOUSIS: Rezone 3.66 acres from Residential to General Business on property located on Holly Lane, Tax Map 132, Lot 106B, Poplar Branch Township.

Sarah Keifer, Planning Director, reviewed the request.

TYPE OF REQUEST: Rezone approximately 1.75 Acres from Residential to General Business

LOCATION: Corner of Holly Lane and Caratoke Highway, 600 feet north of the Wright Memorial Bridge

TAX ID: Map 132, Parcel 106B

OWNER: Nick Kiouisis
PO Box 35
Point Harbor, NC 27964

ZONING:	<u>Current Zoning</u> Residential/ General Business	<u>Proposed Zoning</u> General Business
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ZONING HISTORY: This property was split zoned GB and R on the April 2, 1989 zoning atlas. From US 158 to 450 feet from the highway is General Business (GB), approximately 1.91 acres. The remaining 1.75 acres is zoned Residential (R) The total property is 3.66 Acres.

SURROUNDING PROPERTY:

	Land Use	Zoning
NORTH:	Woodland/ Vacant	R
SOUTH	Residential and Retail Across Highway	GB
EAST:	Residential and a Restaurant	R and GB
WEST:	Woodland/ Vacant	GB

EXISTING LAND USE: Vacant

PROPOSED LAND USE: Uses available to the General Business Zoning District. There are over 100 uses allowed in the General Business zoning district. The General Business zoning district contains the following sample of uses:

Single Family residence	Automotive Repair
Multi-Family residences	Banks
Convenience Stores	Motor Vehicle and Boat Sales
High Volume Retail sales	Restaurants
Outdoor or Indoor Mini Storage	Hotels

LAND USE PLAN

CLASSIFICATION: The 1990 Land Use Plan Classifies this property as **Limited Transition**. The purpose of the limited transition class is to provide for development in areas that will have some services, but are suitable for lower densities than those associated with the urban transition class, and/or are geographically remote. Areas classified limited transition will provide controlled development with services. This class can contain nonresidential areas along major transportation routes.

The General Business (GB) zoning district is consistent with the Limited Transition Land Classification.

PUBLIC SERVICES AND UTILITIES: Lower Currituck Volunteer Fire Department provides fire protection for this area. Electric, telephone, County water and cable are currently available.

TRANSPORTATION: The property has 60 feet of road frontage on US 168 and approximately 1000 feet of frontage on Holly Lane. Holly Lane is a NC DOT maintained road, Route 1187.

FLOOD ZONE: This property is located outside of the 100-year flood plain (Zone X)

SOILS: The Currituck County Soil Suitability map indicates this property contains soil that are Suitable.

STAFF COMMENTS:

- This rezoning request would be an extension of an existing General Business zoning district on Caratoke Highway and Holly Lane.
- With the available access to Holly Lane and soils suitable for on-site wastewater treatment, a large number of uses would be possible at this location.

STAFF

RECOMMENDATION: Staff recommends approval of the request, because the property is currently split zoned GB and R, is surrounded by existing GB zoning and the reclassification of the property is consistent with the land use plan.

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

Nick Kiouis appeared before the board and stated that this parcel is split zoned and that only 2.21 acres is being rezoned, not the total 3.66 acres

Mr. Kiouis showed a conceptual plan for the area.

Mr. West asked if it would be office space.

Mr. Kiouis described a professional office space to enhance the look of the corridor in this area.

Mr. Kovacs asked how many buildings there would be.

Mr. Kiouis further described his idea for the development and stated there would be three to four buildings.

Mr. Bell asked about the entrance.

Mr. Kiouisis said that he would like the entrance to come into the development off of Holly Lane and the driveway going on the property instead of adding traffic to the highway or Holly Lane.

Mr. Getz, adjoining property owner, stated his opposition to the rezoning and said that the staff report is in error, in his opinion.

Nancy Jeanette, adjoining property owner, stated her opposition to the rezoning.

Herman Mueller, adjoining property owner, stated his opposition to the rezoning.

Dawn Powers, adjoining property owner and the applicant's fiancé, said that it is their desire to make this a nice development and keep the integrity of the area.

Mr. Kiouisis said that he is not planning to develop immediately, but wants to rezone now in case the opportunity comes in the future. He is not interested in making the property values drop in the neighborhood. He wants to be able to control what is developed on the property.

PLANNING BOARD ACTION

Mr. Keel motioned to approve the request as presented. Mr. Kovacs seconded the motion. Motion passed unanimously.

Chairman O'Neal opened the public hearing.

Earl Griggs, presented a letter for the record with reasons to oppose this request.

Mary Griggs, opposes the request.

Katherine Gotz, Holley Lane, opposes the request.

Igasaio Gotz, opposes the request.

Nancy Jeannette, opposes the request.

Nick Kiouisis, owner, stated that he has lived here all his life and supports the request.

Armand Muller, opposes the request.

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

Commissioner Miller moved to deny request. Commissioner Martin seconded the motion. Motion carried.

Public Hearing and Action PB 05-41 THOMAS CHRISTOPHER POPE AND DAVID JACKSON: Rezone approximately 3.5 acres from Agriculture (A) to General Business (GB) on property located on the north side of Shortcut

**Rd. (US 158) approximately 1,480; west of the intersection with Gregory Rd.
Tax Map 27, Lots 19A and 20A, Crawford Township**

Sarah Keifer, Planning Director, reviewed the request.

**Board of Commissioners Case Analysis
Zoning Map Amendment: PB 05-41
Thomas Pope & David Jackson Rezoning**

TYPE OF REQUEST: Request for rezoning of two adjacent parcels with a total area of 3.5 acres from Agricultural (A) to General Business (GB). The applicants would like to open a commercial nursery at the site selling plants, landscaping materials and garden supplies.

LOCATION: This site is located in Shawboro along the north side of Shortcut Road, Crawford Township.

TAX ID: Tax Map 27; Parcels 19A & 20A

OWNERS: Thomas Pope
139 Coinjock Development Road
Coinjock, NC 27923
(252) 453-0263

David Jackson
1818 Shortcut Road
Shawboro, NC 27973
(252) 335-2231

ZONING: Current Zoning Agricultural Proposed Zoning General Business

ZONING HISTORY: Both properties have been zoned Agricultural (A) since the adoption of the 1989 Zoning Map. However, since the 1950's (the effective year the building was constructed) the building on the Pope property has been used for a variety of commercial uses including Comito's nursery. To the best of staff's knowledge, this property, and the adjacent property to the west, were overlooked as being existing commercial sites when the zoning maps were being created.

In May of 2004, a rezoning request for only the Pope property from Agricultural to Commercial was denied.

LAND USE/ZONING OF SURROUNDING PROPERTY:

NORTH: Woodlands – zoned A
SOUTH: Residential & Cropland - zoned A
EAST: Croplands – zoned A

WEST: Auto Repair & Woodlands - zoned C & A

EXISTING LAND USE: Existing wood frame retail structure formerly used as Comito's Nursery and a single family home.

PROPOSED LAND USE: Commercial nursery business offering the sale of plants, landscape materials and garden supplies.

LAND USE PLAN

CLASSIFICATION: According to the 1990 Land Use Plan this area appears to be located at the boundary of the Rural with Services and Conservation land classifications. "Rural with Services" is to provide low density residential uses where development should be low intensity to maintain the primary rural character of the landscape. The purpose of the Conservation class is "to provide for the effective long-term management and protection of significant, limited or irreplaceable areas." This rezoning is not consistent with the Conservation classification and consistency with the Rural with Services class is questionable.

PUBLIC SERVICES AND UTILITIES: Crawford Volunteer Fire Department provides fire protection for this area. Electric, telephone, County water and cable are currently available.

TRANSPORTATION: The properties have a combined frontage of approximately 364' on Shortcut Road (US 158), classified as a Minor Arterial in the 1988 NCDOT Thoroughfare Plan.

FLOOD ZONE: The properties are located in Flood Zone C (outside of the 100 year flood plain).

SOILS: The soils found at the sites are not favorable for septic systems. Both properties have existing septic systems on them.

STAFF COMMENTS:

- The staff originally received an application for a rezoning to Commercial (C). After the pre-application conference, the application was changed to General Business because a residence was on the property and this would make the house non-conforming.
- A nursery is a permitted use in the Agricultural Zone and a zoning permit could be issued to re-open the nursery or to build additional greenhouses.
- The properties are surrounded on 3 sides by Agricultural (A). There is an adjacent parcel to the west zoned Commercial (C) of these properties and a parcel zoned General Business (GB) approximately 500' southwest of the sites.
- The adjacent 0.72 acre commercial site was rezoned in April 2000. The GB parcel where a warehouse is located was noticed as a commercial site in 1989 when the zoning maps were developed.

- The Pope site was previously utilized for a commercial nursery (Comito's). The proposed use as a nursery would blend in with the agricultural flavor of the area.
 - A similar rezoning request for the Pope property was reviewed and recommended for approval by the Planning Board in April 1998. The application was withdrawn prior to consideration by the Board of Commissioners.
 - In April 2004, the Planning Board heard a request to have the Pope property rezoned from A to Commercial (C). The Planning Board recommended approval of the request at that time.
 - The Board of Commissioners denied the request on May 3, 2004.
-

STAFF**RECOMMENDATION:**

These properties are contiguous with the Commercial zoning district and spot zoning may be of concern given the size of the properties. However, because the site has previously been utilized for commercial purposes (i.e. Comito's Nursery), and the properties are contiguous with commercial zoned property, staff recommends approval if the Board wishes this to be a commercial area.

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, January 10, 2006

Mr. Kovacs asked about the change in request from Commercial to General Business.

Mr. Pope said that he was directed by staff to ask for General Business.

Mr. David Jackson, adjoining property owner, will be joining Mr. Pope in rezoning to plan for possible future uses for his property.

Mrs. Pauline Jewell, adjoining property owner, spoke against the rezoning.

Mr. Jim Lee, adjoining property, owner stated his concern with the rezoning.

Mr. David Messina, owner of Shawboro Auto Repair, stated his concern with the rezoning due to traffic issues.

There was discussion about the widening of the road and the concerns with the speed limits in that area.

PLANNING BOARD RECOMMENDATION

Mr. Kovacs motioned to approve the request as presented with a recommendation for a deceleration lane and reduction in speed limit in that area. Mr. Keel seconded the request. The motion passed unanimously.

Chairman O'Neal opened the public hearing.

Jim Lee, expressed concerns with traffic and opposes this request.

David Messina, expressed concerns with traffic.

Thomas Pope, stated he has no intention of storing things on this property.

David Jackson, supports request.

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

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

The Board requested a letter to DOT requesting a turn lane and lower speed limit.

PB 06-04 PUBLIC HEARING AND ACTION F& W LAND CO, LLC: Create a Multi Family Overlay Zoning District on 21 acres of a parcel zoned General Business (GB). The parcel is located .5 miles south of the NC/VA line on Caratoke Highway, Tax Map 9, Parcel 75, Moyock Township.

Sarah Keifer, Planning Director, reviewed the request.

**Board of Commissioners Case Analysis
May 15, 2006
Zoning Map Amendment: PB 06-04
F&W Land Company, LLC**

TYPE OF REQUEST:	Create a 21 acre Residential Multi-Family Overlay District
LOCATION:	220 Caratoke Highway, 1/2 mile south of the NC-VA line on the west side of the highway.
TAX ID:	Map 9, Parcel 75 0009-000-00075-0000

OWNERS: Currituck F&W Land Company, Inc.
 3500 Virginia Beach Blvd.
 Suite 528
 Virginia Beach, VA 23452
 (Chip Friedman and Frank Williams)

ZONING:	<u>Current Zoning</u> General Business	<u>Proposed Zoning</u> Residential Multi-Family Overlay Zone
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ZONING HISTORY: This property was split zoned GB and A on the April 2, 1989 zoning atlas.

From 1989 to March, 2006 there were approximately 9 acres of General Business and 46 acres zoned Agricultural (A). The property is over 3,500 feet deep.

The Board of Commissioners rezoned the entire property to General Business (GB) on March 6, 2006.

NARRATIVE:

- The applicant is requesting a Residential Multi-Family Overlay Zone (RMF) be created on property zoned General Business.
- The amendment for the Residential Multi-family Overlay District was passed by the Commissioners on October 3, 2005.
- A RMF development will require a Special Use Permit with a site specific development plan. The development is not vested until a SUP is granted.
- The plans would go through Technical Review before being heard by the Commissioners.
- The applicant has submitted a conceptual site plan that indicates 90 apartment units could be built on the 21 acre site.
- A 50 foot right of way would be created that has direct access to NC 168.
- The RMF zone requires connection to County Water, which is available in Moyock.
- A preliminary review of the site indicates it is possible to meet the requirements to obtain a Special Use Permit for a RMF overlay on this property.
- The North Point single family residential subdivision is 1000 feet north of the proposed apartment site, with woodlands separating the property.
- A RMF zone can have up to 90 residential housing units. A preliminary estimate of 90 units on the schools capacities indicates the development would produce: 35 Elementary Students, 29 Middle School Students and 11 High School Students.
- Other issues for the Board to consider are:
 - Is this a desirable location for a 90 unit apartment building?
 - Will this rezoning have a significant impact on the single-family residential development in the area? North Point subdivision is 1000 feet to the north.
 - Does the request meet the stated intent of this zoning district to provide medium density residential development with some associated non-residential uses in close proximity to major thoroughfares and commercial zones on the Currituck County mainland?

SURROUNDING PROPERTY:
 Land Use

Zoning

NORTH: Vacant Commercial (dog track) and Woodlands A and GB
SOUTH Farmland and Moyock Memorial Cemetery LM and GB
EAST: Bed and Breakfast, Residential GB
 Vacant Commercial, Woodlands across highway

WEST: Farmland A

EXISTING LAND USE: Residential and Farmland

PROPOSED LAND USE: Multi-Family Apartments/ Residential Multi-Family Overlay Zone

LAND USE PLAN CLASSIFICATION:

According to the 1990 Land use Plan this property is primarily designated "Rural" with some "Urban Transition" area bordering NC 168. However, it is difficult to determine the exact lines of the classifications because the land use map is a generalized map.

The purpose of the Urban Transition classification is to provide for future intensive urban development on lands that are suitable and that will be provided with the necessary urban services to support intense urban development. The purpose of the Rural classification is to "provide for agricultural, forestry, mineral extraction and other allied uses traditionally associated with an agrarian region." The Rural areas are designated for low density dispersed single family housing at a density of one unit per acre. The General Business zone allows multi-family residential housing that would exceed one unit per acre.

The proposed rezoning would be consistent with the Urban Transition classification, but not the Rural classification class.

PUBLIC SERVICES AND UTILITIES:

Moyock Volunteer Fire Department provides fire protection for this area. Electric, telephone, County water and cable are currently available.

TRANSPORTATION:

The property has a road frontage of 557 feet on NC 168 which is classified as a Minor Arterial in the NCDOT Thoroughfare Plan.

FLOOD ZONE:

This property is located outside of the 100-year flood plain (Zone X)

SOILS:

The Currituck County Soil Suitability map indicates this property contains soil that are Marginally Suitable from Caratoke Highway, to 600 feet west. The remainder of the property is classified Not Suitable.

STAFF

RECOMMENDATION:

Staff recommends approval. This site appears to meet all of the criteria required to designate a parcel as Residential Multi-family Overlay Zone.

A Special Use Permit will be required before the development is vested and the adequate public facilities ordinance will be considered at that time.

PLANNING BOARD DISCUSSION, February 14, 2006

Mr. Kovacs asked how many units were being proposed.

Mr. Bissell said that they were looking at building 8 buildings which could house approximately 90 condos and described the style of housing as uncluttered and attractive with a lot of open space. There would be a centralized wastewater treatment system with individual units per building.

There was discussion on the proposed price of these units and the County's need for affordable housing.

Mr. Bissell stated that his guesstimate for these units would be in the \$150,000 range. There would also be amenities such as a club house, game room, etc. There would be a Home Owner's Association or an onsite manager.

Shelley Myer spoke about garages in a big house concept and FHA mortgage lending. About half of the units in the prototype have garages and the homes will be in the area of 12-1300 sq ft.

Mr. Kovacs made a statement in favor of this type of development and this project will set a precedent for future developments of this type.

PLANNING BOARD ACTION

Mr. Kovacs motioned to approve the request as presented. Ms. Turner seconded the motion. Motion passed unanimously.

Chairman O'Neal opened the public hearing.

Arlene Vaughan, expressed concerns with traffic and drainage.

Ron Rose, supports the request.

Bob Beerwirth, North Point, opposes the request.

Brian Wilson, North Point, opposes the request.

Mark Bissell, Engineer, was present to answer questions.

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

Commissioner Miller moved to table until developer meets with residents and reviewed the drainage issues. Commissioner Martin seconded the motion. Motion carried.

**PUBLIC HEARING AND ACTION PB 06-20 CURRITUCK COUNTY:
Amendment to Sections 206 and Article 25 of the UDO to change the
manner in which building height is calculated to reflect the definition in the
NC Building Code**

Deleted

**Public Hearing and Action on PB 04-63 CURRITUCK COUNTY amendment to
allow family and church cemeteries in all zoning districts.**

Sarah Keifer, Planning Director, reviewed the request.

At the March 20, 2006 Board of Commissioners meeting, the members expressed a concern that family and church related cemeteries are currently identified in the Unified Development Ordinance as conditional uses requiring approval by the Board of Adjustment rather than as a use permitted by right. Currently the Unified Development Ordinance permits cemeteries located on the same property as a church (use classification 21.200) in all zoning districts. However, cemeteries that are not on a lot with a church, including a family cemetery, are permitted in the Agricultural (A) and Mixed Residential (RA) zoning districts with a conditional use permit and in the Light and Heavy Manufacturing (LM) (HM) zoning districts by right. In response to the request of the Board, please find attached Ordinance PB-04-63, an amendment to permit family and church cemeteries in all zoning districts as a matter of right.

The proposed amendment permits family and church related cemeteries in all zoning districts as a matter of right with conditions. The conditions proposed by the ordinance primarily address setbacks from property lines, potable water sources, and water bodies for grave sites as well as access. As a by right use, only a zoning permit issued by the planning staff would be required as opposed to a public hearing with the Board of Adjustment. As with most zoning permits, a site plan of the property showing the proposed location of the cemetery will be required, however the site plan need not be prepared by a surveyor or engineer. The proposed conditions and site plan requirements were developed after researching similar regulations from other jurisdictions.

The amendment also provides separate definitions of cemeteries created for commercial purposes and those created for church or family use. The definitions are in keeping with those included in the North Carolina Cemetery Act which regulates only those cemeteries operated for profit and exempts those created for non profit use.

This amendment was originally considered by the Planning Board at their October 12, 2004 meeting and was forwarded to the Board of Commissioners with a recommendation for denial. It was scheduled for consideration by the Board of Commissioners at their December 6, 2004 meeting but was pulled from the agenda.

Should the Board choose to adopt the amendment, staff also encourages the Board to consider adding a provision requiring these cemeteries to be recorded with the Register of Deeds as an addendum to the deed for the subject property. Staff is concerned that family cemeteries created with no record other than a zoning permit, are at risk of being overlooked should the property be sold and ultimately developed. Such has been the case with farms that include older family cemeteries in which monuments have been damaged and lost and no records filed. Staff suggests language be added to Item 1 as another condition of approval to further require that the site plan approved by the Planning and Inspections Department showing the road or path to the cemetery and the location of the cemetery shall be recorded with the Register of Deeds as an addendum to the deed for the subject property.

Chairman O'Neal opened the public hearing.

Commissioner Bowden questioned location to roads.

Commissioner Etheridge moved to continue until further information was gathered. Commissioner Bowden seconded the motion. Motion carried.

Consideration of awarding bid for kitchen addition at Law Enforcement Center

Commissioner Martin moved to award the bid to A.R. Chesson in the amount of \$1,468,764.00. Commissioner Etheridge seconded the motion. Motion carried with Commissioner Bowden voting no.

Appointment to Land Transfer Appeals Board

Chairman O'Neal requested the Board to honor their policy on term limits. No member of any Advisory Board shall serve more than two terms.

Commissioner Bowden moved to re-appoint John Barnes for his second term. Commissioner Martin seconded the motion. Motion carried.

Commissioner Martin moved to table other appointments. Commissioner Etheridge seconded the motion. Motion carried.

Appointment of Commissioner to JCP Council

Commissioner Martin moved to appoint Assistant to the County Manager, Greg Schwarga. Commissioner Etheridge seconded the motion. Motion carried.

Appointment to ABC Board

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

Appointment to Game Board

Commissioner Bowden moved to reappoint Mike Cason and Janet Ross. Commissioner Etheridge seconded the motion. Motion carried.

Consent Agenda:

Budget Amendments

Consideration of job description Planning Technician

Consideration of changing sewer operator to wastewater operator.

Request DOT to add Currituck Commercial Drive to state system.

Resolution to approve vendor as sole source provider.

Local Legislation

Release Deed of Trust CDBG

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

<u>Account Number</u>	<u>Account Description</u>	Debit Decrease Revenue or Increase Expense	Credit Increase Revenue or Decrease Expense
10460-592000	Courthouse Projects	\$ 5,404	
10460-532000	Supplies	\$ 1,396	
10460-531000	Gas & Oil	\$ 3,000	
10460-590000	Capital Outlay		\$ 9,800
		\$ 9,800	\$ 9,800

Explanation: Public Works (460) - Transfer funds to cover shortfall in Courthouse Projects, provide for supplies and vehicle fuel through June 30, 2006. Note: Commencing June 1, PW personnel will be servicing the Corolla public beach accesses seven days per week.

Net Budget

Effect: Operating Fund (10) - No change.

<u>Account Number</u>	<u>Account Description</u>	Debit		Credit	
			Decrease Revenue or Increase Expense		Increase Revenue or Decrease Expense
10980-502100	Salaries - OT	\$	5,240		
10980-505000	FICA	\$	389		
10980-506000	Insurance Expense	\$	1,191		
10980-507000	Retirement Expense	\$	508		
10980-508000	Supplemental Retirement	\$	4		
10980-532000	Supplies FEMA - Public	\$	6,356		
10330-445100	Assistance			\$	13,688
		\$	13,688	\$	13,688

Explanation: Disaster Recovery (980) - To record costs incurred and FEMA reimbursement for Hurricane Ophelia in September 2005.

Net Budget Effect: Operating Fund (10) - Increased by \$13,688.

<u>Account Number</u>	<u>Account Description</u>	Debit		Credit	
			Decrease Revenue or Increase Expense		Increase Revenue or Decrease Expense
10490-516003	Maintenance - Court Fac	\$	6,500		
10490-545000	Contracted Svcs - Other	\$	3,000		
10490-545003	Contracted Svcs - Court Fac	\$	3,300		
10330-422000	Court Facility Fees			\$	12,800
		\$	12,800	\$	12,800

Explanation: Court Facility Fees (490) - Increase budgeted line items due to increase in landscaping contract at the judicial building and increase in trash collection fees.

Net Budget Effect: Operating Fund (10) - Increased by \$12,800

<u>Account Number</u>	<u>Account Description</u>	Debit		Credit	
			Decrease Revenue or Increase Expense		Increase Revenue or Decrease Expense
63838-521000	Rent	\$	2,400		
63838-545001	Contract Services Collection Contract Services	\$	160,000		
63838-545002	Disposal	\$	500,000		
63838-545600	Site work	\$	200		
63838-545900	Tire Disposal	\$	3,000		
63838-571500	Recycling	\$	16,000		
63310-400005	Ad Valorem Taxes - 2005			\$	250,000

	Levy		
63340-462000	Tipping Fees	\$	412,400
63838-545800	White Goods Disposal	\$	10,200
63838-590000	Capital Outlay	\$	9,000
		<u>\$</u>	<u>681,600</u>
		<u>\$</u>	<u>681,600</u>

Explanation: Solid Waste (838) - To transfer and increase budgeted line items due to increases in operating costs and increased revenues generated since January 1, 2006.

Net Budget Effect: Solid Waste Fund (63) - Increased by \$662,400.

<u>Account Number</u>	<u>Account Description</u>	Debit	Credit
		Decrease Revenue or Increase Expense	Increase Revenue or Decrease Expense
10790-514000	Travel	\$ 500	
10790-514500	Training and Education		\$ 500
		<u>\$ 500</u>	<u>\$ 500</u>

Explanation: Library (790) - Additional funds are needed to provide courier service in Corolla twice a week. The regional courier began a twice weekly service in January.

Net Budget Effect: Operating Fund (10) - No change.

<u>Account Number</u>	<u>Account Description</u>	Debit	Credit
		Decrease Revenue or Increase Expense	Increase Revenue or Decrease Expense
10510-502100	Salaries - Overtime	\$ 12,000	
10510-503500	Temporary Services	\$ 4,000	
10510-505000	FICA	\$ 306	
10510-507000	Retirement Expense	\$ 575	
10510-508000	Supplemental Retirement	\$ 600	
10510-553000	Dues & Subscriptions	\$ 150	
10510-513000	Utilities		\$ 3,500
10510-516000	Maintenance & Repairs		\$ 14,131
		<u>\$ 17,631</u>	<u>\$ 17,631</u>

Explanation: Sheriff (510) - Transfer budgeted funds to cover shift for injured employees or workman's compensation, to pay overtime for ATV duty on the outer banks and for increase in dues.

Net Budget Effect: Operating Fund (10) - No change.

<u>Account Number</u>	<u>Account Description</u>	Debit		Credit	
		Decrease Revenue or Increase Expense		Increase Revenue or Decrease Expense	
10511-531000	Gas,Oil,etc.	\$	2,500		
10511-554000	Insurance/Bonds	\$	54		
10511-536000	Uniforms	\$	2,000		
10511-513000	Utilities			\$	2,500
10511-561000	Professional Services			\$	54
10511-547000	Meals			\$	2,000
		\$	4,554	\$	4,554

Explanation: Jail (511) - Transfer of budgeted funds is necessary in order to operate the detention center for the remainder of the year.

Net Budget Effect: Operating Fund (10) - No change.

<u>Account Number</u>	<u>Account Description</u>	Debit		Credit	
		Decrease Revenue or Increase Expense		Increase Revenue or Decrease Expense	
10510-590000	Capital Outlay	\$	12,000		
10511-513000	Utilities			\$	7,000
10511-561000	Professional Services			\$	2,000
10511-547000	Meals			\$	3,000
		\$	12,000	\$	12,000

Explanation: Sheriff (510); Jail (511) - Transfer budgeted funds to replace fingerprint machine.

Net Budget Effect: Operating Fund (10) - No change.

<u>Account Number</u>	<u>Account Description</u>	Debit		Credit	
		Decrease Revenue or Increase Expense		Increase Revenue or Decrease Expense	
12548-532115	Fire Supplies	\$	6,370		
12548-590015	Capital Outlay	\$	11,800		
12548-511015	Telephone & Postage			\$	670
12548-513015	Utilities			\$	3,300
12548-516015	Repairs & Maintenance			\$	2,000

12548-531015	Gas, Oil, etc		\$	1,800
12548-532015	Supplies		\$	2,400
12548-553015	Dues & Subscriptions		\$	4,000
12548-554015	Insurance		\$	4,000
			\$	18,170
			\$	18,170

Explanation: Knotts Island VFD (12548) - Transfer budgeted funds for operations per request of Knotts Island Volunteer Fire Department. The capital outlay request is to purchase a thermal imager.

Net Budget Effect: Fire Services Fund (12) - No change.

<u>Account Number</u>	<u>Account Description</u>	Debit		Credit	
			Decrease Revenue or Increase Expense		Increase Revenue or Decrease Expense
10750-519500	Domestic Violence Funds	\$	1,650		
10330-431000	DSS Administration - Rev			\$	1,650
			\$	1,650	\$
					1,650

Explanation: Social Services Administration (750) - To adjust budgeted line items to State Funding Authorizations.

Net Budget Effect: Operating Fund (10) - Increased by \$1,650.

<u>Account Number</u>	<u>Account Description</u>	Debit		Credit	
			Decrease Revenue or Increase Expense		Increase Revenue or Decrease Expense
15780-516002	OB Beach Ramp Repair	\$	10,000		
15781-516001	Signs	\$	6,000		
	Fund Balance				
15390-499900	Appropriated			\$	16,000
			\$	16,000	\$
					16,000

Explanation: Occupancy Tax (15780) & (15781) -Recent storms with northeast winds have blown sand into Albacore, Herring and Pine Island access ramps and are impassable for emergency vehicles; North Beach Ramp needs shell added to keep it passable. No wake signs in the Coinjock Canal need replacing.

Net Budget Effect: Occupancy Tax Fund (15) - Increased by \$16,000.

<u>Account Number</u>	<u>Account Description</u>	Debit		Credit	
		Decrease Revenue or Increase Expense		Increase Revenue or Decrease Expense	
15446-514500	Training & Education	\$	1,500		
15446-526000	Advertising	\$	1,000		
15446-553000	Dues & Subscriptions	\$	175		
15446-514000	Travel			\$	1,500
15320-415000	Occupancy Tax			\$	1,175
		<u>\$ 2,675</u>		<u>\$ 2,675</u>	

Explanation: Tourism (15446) - Increase budgeted line items for advertising for temporary services at the Visitor's Center and for membership to the Outer Banks Chamber of Commerce and transfer funds for increased cost of staff development.

Net Budget Effect: Occupancy Tax Fund (15) - Increased by \$1,175.

<u>Account Number</u>	<u>Account Description</u>	Debit		Credit	
		Decrease Revenue or Increase Expense		Increase Revenue or Decrease Expense	
10446-511000	Telephone & Postage	\$	2,900		
10446-526200	Promotional efforts	\$	1,800		
10380-482000	Miscellaneous revenue			\$	4,700
		<u>\$ 4,700</u>		<u>\$ 4,700</u>	

Explanation: Public information (446) - Increase budgeted line items for increase in costs for Homegrown/Handmade, Senior Center Volunteer Banquet and Countywide Volunteer Banquet.

Net Budget Effect: Operating Fund (10) - Increased by \$4,700.

<u>Account Number</u>	<u>Account Description</u>	Debit		Credit	
		Decrease Revenue or Increase Expense		Increase Revenue or Decrease Expense	
23690-545000	Fire & Rescue Contract	\$	25,000		
23390-499900	Fund Balance Appropriated			\$	25,000
		<u>\$ 25,000</u>		<u>\$ 25,000</u>	

Explanation: Moyock Fire District (23690) - To appropriate funds for Moyock Fire Department to purchase a new rapid response vehicle, radio, lighting package, and stripping. Moyock's current vehicle has several mechanical issues and only gets 12 miles per gallon. Their primary goal is to save on fuel and provide a modern means of transportation for members. This will be funded from fund balance of fire district tax held by the County.

Net Budget Effect: Moyock Fire District Fund (23) - Increased by \$25,000.

<u>Account Number</u>	<u>Account Description</u>	Debit	Credit
		Decrease Revenue or Increase Expense	Increase Revenue or Decrease Expense
10660-561000	Professional Services	\$ 600	
10660-526000	Advertising	\$ 5,000	
10660-532000	Supplies	\$ 3,000	
10660-511000	Telephone/Postage	\$ 1,500	
10660-514000	Travel	\$ 200	
10660-502000	Salaries		\$ 6,600
10660-514800	Fees Paid to Officials		\$ 3,700
		\$ 10,300	\$ 10,300

Explanation: Planning (660) - Transfer budgeted funds for additional costs associated with the planning studies conducted this year; increase in advertising due to position vacancies; increase in supplies for furniture for additional Planning Technician; increase in telephone and postage due to price increase and quantity of certified items mailed and increase in travel for operations for the remainder of the year. These will be funded through funds remaining in salaries and Fees to Officials.

Net Budget Effect: Operating Fund (10) - No change.

<u>Account Number</u>	<u>Account Description</u>	Debit	Credit
		Decrease Revenue or Increase Expense	Increase Revenue or Decrease Expense
10511-502100	Salaries/Overtime	\$ 5,000	
10511-502000	Salaries		\$ 5,000
		\$ 5,000	\$ 5,000

Explanation: Jail (511) - Transfer of budgeted funds is necessary in order to provide for the overtime required to transport mental health commitments for the remainder of the year. The position in the Sheriff's Department that handled this is now vacant and the Jail will fill some of these duties until a replacement is hired.

Net Budget Effect: Operating Fund (10) - No change.

<u>Account Number</u>	<u>Account Description</u>	Debit		Credit	
		Decrease Revenue or Increase Expense		Increase Revenue or Decrease Expense	
10490-590003	Capital Outlay - Ct Fac Fees	\$	7,439		
10330-422000	Court Facility Fees			\$	7,439
		\$	7,439	\$	7,439

Explanation: Court Facility Fees (490) - Increase budgeted line item for installation of security cameras in the Courtrooms. This will be funded through Court Facility Fees.

Net Budget Effect: Operating Fund (10) - Increased by \$7,439.

<u>Account Number</u>	<u>Account Description</u>	Debit		Credit	
		Decrease Revenue or Increase Expense		Increase Revenue or Decrease Expense	
10450-531000	Gas, Oil Etc	\$	600		
10450-511000	Telephone & Postage			\$	600
		\$	600	\$	600

Explanation: Tax (450) - Increase budgeted line items due to increased fuel prices and unexpectedly had to replace 2 tires on 2 vehicles

Net Budget Effect: Operating Fund (10) - No change.

<u>Account Number</u>	<u>Account Description</u>	Debit		Credit	
		Decrease Revenue or Increase Expense		Increase Revenue or Decrease Expense	
10440-511000	Telephone & Postage	\$	400		
10440-535000	Safekeeping Fees	\$	300		
10440-561000	Professional Services	\$	4,600		
10440-516000	Repairs & Maintenance			\$	200
10440-526000	Advertising			\$	348
10440-545100	Credit Card Fees			\$	4,000
10440-554000	Insurance & Bonds			\$	45
	Fund Balance				
10390-499900	Appropriated			\$	707
		\$	5,300	\$	5,300

Explanation: Finance (440) - To transfer funds due to increase in postage and safekeeping fees

and increase appropriation for the compliance portion of the audit for the year ending June 30, 2006 that will be billed prior to June 30, 2006.

Net Budget Effect:

Operating Fund (10) - Increased by \$707.

<u>Account Number</u>	<u>Account Description</u>	Debit	Credit
		Decrease Revenue or Increase Expense	Increase Revenue or Decrease Expense
10795-516001	Repairs/Maintenance/Maple	\$ 2,800	
10795-531000	Gas, Oil, Etc.	\$ 500	
10795-536000	Uniforms	\$ 12	
10795-576003	Youth Flag Football	\$ 277	
10795-576002	Youth Basketball	\$ 103	
10795-576011	Adult Volleyball		\$ 1,000
10795-576007	Youth Wrestling		\$ 800
10795-576009	Youth Soccer		\$ 1,892
		\$ 3,692	\$ 3,692

Explanation:

Recreation (795) - Increase expense line items for Youth Flag and Youth Basketball due to increased participation and uniform costs and increase Repairs/Maintenance Maple Park account and Gas, Oil, etc due to the additional costs incurred with the Maintenance at Maple Park.

Net Budget Effect:

Operating Fund (10) - No change.

<u>Account Number</u>	<u>Account Description</u>	Debit	Credit
		Decrease Revenue or Increase Expense	Increase Revenue or Decrease Expense
10445-534000	Wellness Program Fund Balance	\$ 900	
10390-499900	Appropriated		\$ 900
		\$ 900	\$ 900

Explanation:

Human Resources (445) -Increase budgeted line items for increase in flu shots this year.

Net Budget Effect:

Operating Fund (10) - Increased by \$900.

<u>Account Number</u>	<u>Account Description</u>	Debit	Credit
		Decrease Revenue or Increase Expense	Increase Revenue or Decrease Expense
50511-594500	Contract Services - Jail Kitchen	\$ 1,068,764	
50511-596100	Professional Services	\$ 15,000	
50380-481000	Investment Earnings		\$ 1,083,764
		\$ 1,083,764	\$ 1,083,764

Explanation: Jail Kitchen (50511) - Increase budgeted line items to record A R Chesson Construction Company contract to construct the Jail Kitchen.

Net Budget

Effect: Governmental Construction Fund (50) - Increased by \$1,083,764.

**COUNTY OF CURRITUCK
CAPITAL PROJECT ORDINANCE**

BE IT ORDAINED by the Currituck County Board of Commissioners, North Carolina that pursuant to Section 13.2 of Chapter 159 of the General Statutes of North Carolina, the following capital project ordinance is hereby adopted:

SECTION 1. The project authorized is the design and environmental assessment for Knotts Island Fire Department located at Knotts Island to be financed through existing transfer tax funds.

SECTION 2. The following amounts are appropriated for the project:

Professional Services	\$	52,500

	\$	52,500

SECTION 3. The following resources are available to complete this project:

Transfer from Transfer Tax	\$	52,500

	\$	52,500

SECTION 4. The Finance Director is hereby directed to report, on a quarterly basis, on the financial status of each project element delineated in Section 2 above.

SECTION 5. SPECIAL APPROPRIATIONS AND RESTRICTIONS

The Budget Officer is hereby authorized to transfer appropriations within the fund as contained herein under the following conditions:

- a. He may transfer amounts between object line items within the fund up to One Thousand dollars (\$1,000).

SECTION 6. CONTRACTUAL OBLIGATIONS

The County Manager is hereby authorized to execute contractual documents under the following conditions:

- a. He may execute contracts for construction or repair projects which do not require formal competitive bid procedures.
- b. He may execute contracts for (1) purchases of apparatus, supplies, and materials, or equipment which are within the budgeted departmental appropriations; (2) leases of personal property for a duration of one year or less and within budgeted departmental appropriations; and (3) services which are within budgeted departmental appropriations.
- c. He may execute contracts, as the lessor or lessee of real property, which are of a duration of one year or less which are within the budgeted departmental appropriations.

SECTION 7. USE OF BUDGET ORDINANCE

The Budget Officer and the Finance Director shall use this capital project ordinance for administration of the budget and for the accounting system.

Commissioner's Report

Commissioner Miller requested that state funding surplus be used for secondary roads.

Chairman O'Neal requested the County Attorney to request information from DOT on study done for Martin Point traffic light.

Commissioner Etheridge commended Tourism staff on work and explained the increase in the budget.

County Manager's Report

Dan Scanlon, County Manager, stated that the "no wake" signs have been posted in the Coinjock waterway.

Closed Session according to GS 143-318.11(5) to discuss land acquisition

Commissioner Martin moved to go into closed session. Commissioner Miller seconded the motion. Motion carried.

Adjourn

After reconvening from closed session, no action was taken.

There being no further business, the meeting adjourned.