

CURRITUCK COUNTY
NORTH CAROLINA
December 15, 2008

The Board met at 6:30 p.m. prior to the regularly scheduled meeting with the Animal Lovers Assistance League to discuss a new shelter. The Board agreed to proceed with a master plan of the Lankford property just purchased.

The Board of Commissioners met 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 Etheridge, Commissioners O'Neal, Aydlett, Nelms, Rorer, Gregory and Taylor.

Invocation and Pledge of Allegiance

The Reverend Steve Castle, Moyock Methodist Church, was present to give the invocation.

Approval of Agenda

Commissioner O'Neal moved to amend the agenda by deleting Item 4 as well as Item 4 of the Consent Agenda. Commissioner Aydlett seconded the motion. Motion carried.

- Item 2 **Public Comment**
Please limit comments to items not appearing on the regular agenda, please limit comments to 3 minutes.
- Item 3 **Discussion of County Revenues**
- Item 4 **Public Hearing and Action** PB 08-55 Christopher J. Susko: Text amendment to the UDO to allow a limousine service as a permitted use in the Agricultural zoning district.
- Item 5 **Public Hearing and Action** PB 08-54 Edward T. Hyman, Jr.: Text amendment request to amend UDO Chapter 3 Special Requirements, Section 3.3.1 Security Training Operations and Services Facilities.
- Item 6 **Public Hearing and Action** PB 08-45 Carova Beach Business Blocks: Three Sketch Plans/Special Use Permits to re-plat 19 existing lots into 29 residential lots. The lots are located in Carova Beach as shown on Tax Map 87A, Parcels A-H, Block 1; Tax Map 87A, Parcels: A and B, Section 2; A and B, Section 3; and Tax Map 87A, Parcels: 1A, 2A, B, C, and D, Section 5; A-C, Section 9, Fruitville Township.
- Item 7 **Discussion and Consideration of Ordinance Establishing Method for Appointment to County Boards**
- Item 8 **Award Bid for Tulls Creek Road Booster Pump Station**
- Item 9 **Appointment to Currituck Outer Banks Wild Horse Advisory Board**
- Item 10 **Consent Agenda:**
1. Budget Amendments
 2. Consideration of Form for Corporate Hangar, Hangar and Tie-Down Leases at Currituck Regional Airport
 3. Resolution Canceling the Currituck County Board of Commissioners Meeting Scheduled for January 20, 2009

4. Resolution of the Board of Commissioners for Currituck County, NC Authorizing Exchange of Property
5. Charge Levy on Motor Vehicles for September Renewals
6. Easement agreement Dominion Power to Airport Property and authorize Manager to sign
7. Approval of Maple Commerce Park Covenants
8. Approval of December 1, 2008, Minutes

Item 11 Commissioner's Report

Item 12 County Manager's Report

Adjourn

Public Comment

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

Ginger Sikes, ALAL, reviewed the responsibility of a shelter and what would be needed.

Frances Walker, Treasurer ALAL, thanked the Board for consideration of property for new shelter

Jim Hornbrook, commented on the land designation for shelter.

Barbara Trainor, commented on need for new shelter and stated that 90% of all animals are adopted.

Steve Fentress, reminded the Board of a petition presented with 2,000 signatures for a new shelter.

Discussion of County Revenues

Dan Scanlon, County Manager, reviewed the revenue sources for county and tax base by county and that Currituck ranks 7 in lowest tax rate.

Commissioner O'Neal commented on the Occupancy Tax and what the legislation requires on how it can be used. He would like for this information to be in the next newsletter.

Commissioner Rorer questioned if more funds should be used for advertising. Mr. Scanlon commented that it would be more prudent to wait and see what the next tourist season would bring.

Chairman Etheridge commended the Tourism Staff on their efforts.

Public Hearing and Action PB 08-55 Christopher J. Susko: Text amendment to the UDO to allow a limousine service as a permitted use in the Agricultural zoning district.

deleted

**Public Hearing and Action PB 08-54 Edward T. Hyman, Jr.:
Text amendment request to amend UDO Chapter 3 Special
Requirements, Section 3.3.1 Security Training Operations and
Services Facilities.**

Ben Woody, Planning Director, reviewed the request.

Hyman and Robey, representing Blackwater U.S.A., are requesting a UDO Text Amendment to section 3.3.1, Security Training Operations and Services Facilities. The proposed amendment will make the following changes to this existing ordinance (OPTION A):

- Amend the hours of operations.
- Require that training areas and ranges be setback from any property line in Currituck County a minimum distance of 1 mile instead of 900 feet.
- Allow the downrange safety area for firing ranges to be dictated by the type and caliber of weapon instead of a fixed 4,800 meters (the downrange safety area requirements are proposed to reference and be consistent with the Military Handbook).
- Amend the driver training area setback from any property line in Currituck County from 150 feet to 1 mile.
- Add the allowance of "large expanses of densely vegetated areas" to replace the requirement for a fence.

Following the November 10 Planning Board meeting, staff was directed to meet with the applicant to further discuss concerns with enforcement of the proposed ordinance amendment. In a December 3 meeting with representatives from Blackwater U.S.A. and the Sheriff's office, the concerns addressed by staff were brought to a basic resolution. The following issues were discussed and agreed upon:

- The Sheriff's office is satisfied with the downrange safety zone requirements, which are proposed to be consistent with the Military Handbook.
- In order to ensure the appropriate caliber of weapons is used in training functions, Blackwater U.S.A. agreed to provide training records in a timely manner upon request by the County.
- The Currituck County Sheriff's office will continue to explore mutual aid arrangements with Camden County to ensure proper enforcement of all rules and regulations is occurring.

The Planning Board recommendation for unanimous **approval**, minutes from November 10, 2008 meeting, and proposed text amendment are attached. Should you have any questions, do not hesitate to contact me at 232-6029.

PLANNING BOARD DISCUSSION

Mr. Hyman stated that Blackwater never had any intentions to build the firing ranges in Currituck County. To resolve this problem they were asked to submit a Special Use Permit (SUP) and through the TRC review they realized that the UDO had some flaws in it. They realized they could not get a SUP without having a text amendment first. Mr. Hyman stated that a citizens group submitted a text amendment and they have met with the citizens group and worked out the differences. This text amendment before you is a result of these meetings. Mr. Hyman stated in the text amendment submitted by the applicant, #4 should remove "unless the applicant can provide noise or safety test evidence to show that a lesser distance may be acceptable." Also on the front page 4,800 feet should be changed to 4,800 meters.

Mr. West asked if the one mile range was approved would it keep it on Blackwater property.

Mr. Hyman stated yes.

Mr. Breathwaite thanked Mr. Hyman for coming out and speaking to them. Mr. Breathwaite stated they have come to a good understanding and they have no objections to the proposal as it stands now.

Ms. Krause stated that she wants to make sure the applicant can provide noise and safety tests. Ms. Krause stated they have a concern with who will enforce and monitor what guns will be used on the firing range. Ms. Krause stated she does not have an objection.

Ms. Motes stated she agrees with her neighbors but has a few more concerns. Ms. Motes is concerned with who will inspect the ranges from the county. She is concerned that she will be safe from the ranges.

Mr. Hyman stated that logs are kept and asked if the County Sheriff's Department to review the logs to ensure they are in compliance within the limit of the ranges.

Ms. McKenzie stated that with the government contracts and the military that they have coming out to train the government may come out to inspect the ranges. She will check to verify this.

Ms. Motes stated that the federal government does not regulate private firing ranges.

The Planning Board discussed the type of weapons that are used on these firing ranges. They also discussed the type of ranges and what weapons can be used.

Mr. Midgette asked Mr. Hyman if he would be in agreement to table this request so he (Blackwater), the county and the community members could meet to address these issues and Ms. McKenzie can check to see if the government will inspect private firing ranges.

Mr. Hyman stated he would like for it to move forward and they are willing to discuss these issues and they want to be able to guarantee the community safety.

Ms. McKenzie stated that enforcement of the firing ranges and Blackwater would be willing to bring in the language from Option B having the Currituck County Sheriff's Department inspect the ranges.

Mr. Breathwaite stated that the concerns they had for setbacks (1 mile) have been addressed in the text amendment and do not play a role in this amendment. The issue of enforcement of the firing ranges should be addressed during the SUP process.

Ms. Krause stated she is okay with the text amendment but does have a concern with who will enforce that the firing ranges are in compliance.

Mr. Woody stated that the County Sheriff's Department needs to be involved in this process.

Mr. West stated that the main concern is safety.

ACTION

Mr. West motioned to recommend approval of the Option A text amendment submitted by the applicant to amend UDO Chapter 3 Special Requirements, Section 3.3.1 Security Training Operations and Services Facilities as presented. Mr. Keel seconded the motion. Motion carried unanimously.

Chairman Etheridge opened the public hearing.

Eddie Hyman, Engineer, reviewed what had taken place on the survey and his request.

Kate McKenzie, Attorney, stated that they would not fire on Christmas Day.

Sheriff Johnson had no concerns.

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

Commissioner Gregory moved to approve with no firing on Christmas day. Commissioner Taylor seconded the motion. Motion carried.

Commissioner O'Neal requested that Blackwater help with getting volunteers for fire service in the area since they will be using this service.

Public Hearing and Action PB 08-45 Carova Beach Business Blocks: Three Sketch Plans/Special Use Permits to re-plat 19 existing lots into 29 residential lots. The lots are located in Carova Beach as shown on Tax Map 87A, Parcels A-H, Block 1; Tax Map 87A, Parcels: A and B, Section 2; A and B, Section 3; and Tax Map 87A, Parcels: 1A, 2A, B, C, and D, Section 5; A-C, Section 9, Fruitville Township.

Ben Woody, Planning Director, reviewed the request.

ITEM: PB 08-45 Carova Beach Business Blocks, Three Sketch Plans/ Special Use permits to re-plat 19 existing lots into 29 residential lots.

LOCATION: The lots are located in Carova Beach Sections:
-One (1) (Bass Lane), Tax Map 87A, Parcels: A-H, Block 1;
-Two (2) (Shad, Rock and Red Snapper Lane) Tax Map 87A, Parcels: A and B, Section 2; A and B, Section 3; and
-Five(5) (Shark Lane) of the exiting Carova Beach subdivision, Tax Map 87A, Parcels: 1A, 2A, B, C, and D, Section 5; A-C, Section 9, Fruitville Township.

NARRATIVE OF REQUEST:

Carova Corp., Ocean Sands Co. is requesting approval of three sketch plans for 19 existing parcels in three sections of Carova Beach to be re-platted into 29 lots. The proposed re-platting is being proposed as three different projects, but they are being review together since many of the issues are the same.

The larger parcels will be used to create a combination of 29 residential lots of 1.5 acres or larger each with open space. The lots will be accessed by existing sand roads, except for a new 180' road in Section 1. There are no proposed hard surface roads. The existing roads and oceanfront dune crossings will be re-graded and stabilized. A homeowners association will be created to provide funding for continued maintenance of the roads that access the new lots only.

The initial Carova Beach subdivision was approved in 1966 and 1967. At that time, Currituck County did not require the street to be improved.

This proposal is contingent upon the passing of the text amendments regarding subdivision standards in the RO2: Outer Banks Limited Access Residential District (PB 08-41 B)

TAX ID:	<u>Section One</u>	
087A-000-000A-0001	087A-000-000D-0001	087A-000-000G-0001

087A-000-000B-0001	087A-000-000E-0001	087A-000-000H-0001
087A-000-000C-0001	087A-000-000F-0001	

Section Two

087A-000-000A-0002	087A-000-000B-0002
087A-000-000A-0003	087A-000-000B-0003

Section Five

087A-000-001A-0005	087A-000-000C-0005	087A-000-000B-0009
087A-000-002A-0005	087A-000-000D-0005	087A-000-000C-0009
087A-000-000B-0005	087A-000-000A-0009	

ZONING DISTRICT: RO2: Outer Banks Limited Access Residential District

OWNERS: Carova Corp. and Ocean Sands Co.
 C/O Riggs Realty Co.
 P.O. Box 400
 Corolla, NC 27927

Ernest Bowden
 2155 Sandfiddler Road
 Corolla, NC 27927

ENGINEER: Mark Bissell
 Bissell Professional Group
 PO Box 1068
 Kitty Hawk, NC 27949
 252-261-3266

PRESENT USE: Vacant sand dunes and maritime forest

LAND USE/ZONING OF SURROUNDING PROPERTY:

NORTH:	Residential and Vacant	Zoned: RO2
SOUTH:	Residential and Vacant	Zoned: RO2
EAST:	Residential and Vacant	Zoned: RO2
WEST:	Residential and Vacant	Zoned: RO2

SCHOOL DISTRICT: Fruitville

SIZE OF SITE: Section 1: 31.42 acres
 Section 2: 22.01 acres
 Section 5: 18.78 acres
 Total: 72.21

NUMBER OF LOTS: 29 total

DENSITY: 0.39 unit/ acre

MINIMUM LOT SIZE: 120,000 SF (2.75 acres) - The required lot size may be reduced 1.5 acres in the case of RO2 if the lot size reduction is applied to the open space area.

STREETS: The streets are proposed to be graded sand and not to NCDOT standards

WATER: Individual private wells are proposed.

- FIRE:** This development is located within the jurisdiction of the Carova Volunteer Fire Department.
- WASTEWATER:** Individual, on-site septic systems are proposed.
- SOILS:** The Currituck County Soils Map indicates the following for each section: Section 1: not-suitable soils for on-site septic systems; Section 2 50% suitable and 50% not-suitable; Section 5- 60% suitable and 40% not-suitable.
- OPEN SPACE:** Open space is required in all three subdivisions because the lots are being reduced in size from the required 2.75 acres to 1.5 acres.
- The open space in Section Five needs to be increased to account for the Bowden lot having a reduced lot size.
- DRAINAGE:** The plan indicates lot line swales will drain to either adjacent wetlands or roadside ditches.

TECHNICAL REVIEW STAFF:

On September 17, 2008 Technical Review staff reviewed this application with the following comments:

1. **Currituck County Public Works** – No comment received.
2. **Currituck Soil & Water Conservation** - Approved as is.
3. **Currituck County Fire Services**–Disapproved, Resubmit with the following corrections: Where is the approved fire suppression water supply for this project?

This may be by certified fire hydrants or by an engineer approved static water supply capable of at least 1000gpm of water for at least two hours even during a 50 year drought condition. An approved access to the supply by the fire apparatus must be designated. Fire department apparatus access must be maintained at least 20' wide capable of withstanding the weight of their largest apparatus in all weather conditions.
Staff comment: after the TRC meeting the Planning Director determined this would be three separate subdivisions and would not be subject to providing any fire fighting improvements.
4. **Currituck County Water Department**- No Comment
5. **Currituck County Planning and Inspections, Inspections Division**-Approved as is.
6. **Carova Volunteer Fire Department:** Resubmit with the following changes:
 - a. There should be no Hatteras ramps installed. *Staff Note: This requirement will be removed from the UDO by the text amendment.*
 - b. The intersections should be truncated. *Staff Note: This is not a requirement of the UDO and the applicant has not agreed to make this change.*
7. **Albemarle Regional Health Services** – Well and Septic site evaluations will be needed before Preliminary Plat.
8. **Currituck County GIS** - Approved as is. Submit a street name approval form.
9. **N.C. Division of Coastal Resources:** Resubmit with the following information:

- a. A DCM Field Representative has previously met with the applicant to discuss the proposal. Proposed improvements will require a CAMA permit and may require a CAMA Major Permit.
- b. Note: Structures are required to be located landward of the crest of the primary dune regardless of the setback. This requirement may restrict development on proposed lots (for example, lots 101, 102, and 103 in Section 1).
- c. More detailed grading, drainage, and stabilization information will be needed for DCM review. More detailed information concerning excavation and fill will also be needed. Elevations and cross sections will be required in addition to drawings that indicate existing and post-development conditions.
- d. Include the Ocean Erodible Area of Environmental Concern (AEC) on the plans.
- e. The Development Impact Statement indicates that a "Hatteras ramp" will be installed in each of the three (3) sections, but the submitted plans only show a Hatteras ramp in Section 1. Clarify.
- f. Clarify the term "improved roadway" on the plans. What material/type of improvement is proposed? As indicated in the certified 2006 Currituck Land Use Plan (LUP), the Future Land Use Map description for the Carova Area indicates that "no hard surface road will be allowed." Policy OB6, Policy OB7, and Policy OB8 (Pages 9-21 and 9-22) also addresses desired limits on vehicular access and hard surface roads. Any conflicts with the LUP should be resolved prior to submittal of a CAMA permit application.

10. County Parks & Recreation Department - No comments received.

11. Currituck County Emergency Management – No comments received.

12. NC Department of Transportation: No Comment

13. N C Dominion Power - No comments received.

14. Sprint Telephone – Approved with no comment,

SPECIAL USE PERMIT CRITERIA:

Through the Special Use Permit procedure, property uses which would otherwise be considered undesirable in certain districts can be developed subject to conditions of approval. The criteria are outlined as follows:

1. *The application is complete.*
Based on staff review all required information has been submitted.
2. *The proposed use is among those listed in the Table of Permissible Uses as a special use indicated with an "S".*
A subdivision is allowed by the UDO
3. *The conditions proposed meet or exceed the minimum requirements of this ordinance and are agreed to by the applicant.*
The plans for Sections 1 and 2 meet the requirements if the UDO is amend as proposed.
The plan for section 5 needs to be amended to meet the UDO as proposed.
4. *The special use will not endanger the public health or safety.*
Public health and safety issues including stormwater management, wastewater disposal and access for emergency services have been adequately addressed for this development.
5. *The special use will not injure the value of adjoining or abutting property and will be in harmony with the area in which it is located.*
The proposed residential lots will be similar to existing adjacent lots.

6. *The special use will be in conformity with the Land Use Plan, Thoroughfare Plan, or other officially adopted plan.*

The 2006 Land Use Plan classifies the site as **Limited Service Area** within the **Carova Sub-Area**.

The purpose of the Limited Services Area class is to provide for primarily residential development at low densities. Despite the overall low density of these areas, efforts should be made to encourage clusters of residential uses to preserve open space and to provide for a sense of a "community". Base development density should be 1 unit per acre but could be increased to 1.5 units per acre through overlay zoning depending upon whether service facilities are in place or planned and the potential impact on the surrounding community.

The policy emphasis of this plan is to allow for very low to medium density residential development (see above) without infrastructure or service investments that could stimulate growth and development. In terms of infrastructure, this means that no centralized water and sewer services, public or private, will be approved and no hard surface roads will be allowed. Further, only services that protect the health, safety, and welfare (i.e. law enforcement, fire and rescue.) will be authorized. Commercial and other convenience services shall not be allowed.

The following Land Use Plan policies are also relevant to this request:

POLICY OB6: Concerning the OFF-ROAD AREAS OF THE OUTER BANKS, Currituck County shall not permit or encourage the provision of growth-inducing facilities and services to these areas, including for example, commercial services, centralized sewage treatment and hard surface roads.

POLICY OB7: VEHICULAR ACCESS TO THE NORTH BEACHES (off-road area) shall not compromise the environmental integrity of wildlife refuges, the estuarine research reserve, other ecologically sensitive areas, or habitat for wild horses. Structures or other man-made improvements not specifically serving the public interest shall not be permitted to block vehicular access along the beach.

POLICY OB8: In order to protect WILD HORSES, Currituck County shall not permit nor encourage the provision of hard surface roads in the off-road area of Carova.

POLICY OB9: LARGE HOMES ON OCEANFRONT LOTS IN THE OFF-ROAD AREA should be located as far west as possible. Structures should not be built forward of protective dunes, thereby impeding dune recovery. County minimum setbacks may exceed CAMA minimum setbacks in ocean erodible areas.

The proposed sketch plan/ special use permit is in **general compliance** with the policy emphasis of the Carova Sub-Area and policies OB 6-OB 9 of the 2006 Land Use Plan.

7. *The special use will not exceed the county's ability to provide adequate public facilities, including, but not limited to, schools, fire and rescue, law enforcement, and other county facilities. Applicable state standards and guidelines shall be followed for determining when public facilities are adequate. Such facilities must be in place or programmed to be in place within two years after the initial approval of the plan (sketch plan in the case of major subdivisions).*
1. School seats are no longer allocated for the Outer Banks areas because of the low year round occupancy rate.
 2. The Carova Beach Fire Department testified on September 17, 2007 that the roads in Carova are adequate for their department to respond.
 3. There have been no objections raised by county service providers to this request.

STAFF RECOMMENDATION (Requirements are Separate for Each Section, the Staff Recommendation on Maritime Forest Guidelines are the same and follow the requirements):

Section 1: Staff recommends **approval** with the following conditions:

1. All vegetation in open space shall be maintained in its current state.
2. Correct the required open space to 504,843 SF
3. Submit a report on how this project complies with the Maritime Forest Guidelines with the Preliminary Plat Submission
4. All applicable state and local permits to construct the infrastructure will be required at Preliminary Plat submission.
5. A 404 wetlands delineation map will be required with submission of the Preliminary Plat.

Section 2: Staff recommends **approval** with the following conditions:

1. All vegetation in open space shall be maintained in its current state.
2. Submit a report on how this project complies with the Maritime Forest Guidelines with the Preliminary Plat Submission
3. All applicable state and local permits to construct the infrastructure will be required at Preliminary Plat submission.
4. A 404 wetlands delineation map will be required with submission of the Preliminary Plat.

Section 5: Staff recommends **Conditional Approval** with the requirement that the following items be corrected prior to being submitted to the Board of Commissions (Resubmission by November 3, 2008):

1. The parcel that will be retained by Mr. Bowden (087A-000-002A-0005) needs to be included in the request with a minimum of 1.5 acres with a 100' wide width. This lot was not previously platted as a residential Lot of Record.
2. The resultant reduction in lot size for Lot 2A, Section 5 (Bowden) shall be added to open space, if it is below the minimum lot size of 120,000 SF.
3. The structures in the proposed right of way of Shark Lane and within 20 feet of the proposed street right of way shall be demolished prior to Final Plat approval. The plans on sheets 9 of 11 shall be corrected to indicate which structures "To Be Demolished" (Section 16.3 Extension or Enlargement of Nonconforming Situations)
4. All vegetation in open space shall be maintained in its current state.
5. Submit a report on how this project complies with the Maritime Forest Guidelines with the Preliminary Plat Submission
6. All applicable state and local permits to construct the infrastructure will be required at Preliminary Plat submission.
7. A 404 wetlands delineation map will be required with submission of the Preliminary Plat.

STAFF RECOMMENDED CONDITIONS FOR ALL SECTIONS:

Staff recommends the Maritime Forest Guidelines become a mandatory part of this permit as follows:

- A. **Applicability:** all development on the Outer Banks subject to the provisions of this ordinance shall comply with the maritime forest guide. For purposes of this guide, clearing of maritime forest is broken down into two stages; one for the developer and the other for the builder. The developer's stage is herein called "Overall Site Preparation and Development" and the builder's stage is referred to as "Individual Lot Design and Building Construction". Further, foresting of timber within a maritime forest shall be subject to the "Overall Site Preparation and Development" standards and shall require sketch plan approval in accordance with this guide.
- B. **Overall Site Preparation and Development:** before any land clearing or excavation of maritime forest can begin, agencies involved in the plat review process shall be provided sufficient information to assess how the development adheres to the requirements of this guide. The overriding concern shall be to minimize alterations of forest vegetation, topography, and ground water systems. Evaluation of site clearing will be subject to the following general principles:
 - i) Unforested land areas shall be considered the most suitable building sites unless such selection would threaten living vegetation by stimulating dune migration or cause extensive salt mist intrusion into the maritime forest or would involve alterations otherwise prohibited;
 - ii) The most suitable sites will necessitate the least disturbance of living trees and vegetation. The density, height and variety of the vegetation to be removed shall be considered so as to preserve those forest stands which will provide the most protection from storm and salt spray and maintain the natural diversity of plant species. Reforestation is required when deemed necessary;
 - iii) Site topography will be evaluated for overall development suitability so that, all proposed structures can be constructed in harmony with the existing tree cover while maintaining setback requirements. Dune stabilization is required;
 - iv) Clearing of forest undergrowth by "bush hogging", burning or any other method is not allowed except for an approved area for a house site.
 - v) Filling of a forest area where approved undergrowth clearing has been permitted is not allowed.
 - vi) The following is not allowed unless it can be shown to have no adverse effect on the specific site's maritime forest: dredging, filling or otherwise altering of wetlands and ponds from their natural state except as specifically allowed by the county. Minor road crossings over wetlands are not allowed except for the sole purpose of providing driveway access to individual lots. Impervious surfaces are prohibited within 20 feet of any pond, wetland or navigable waters. No ground absorption waste-water treatment is allowed within 50 feet of any pond or wetland.
- C. The developer shall leave the largest contiguous area of maritime forest intact, creating as few edges as possible, and to concentrate development in less sensitive areas away from sheer zones, wetlands, and other ecologically important vegetation. Preserved maritime forest shall be counted in the open space requirements. Evaluation of site suitability will use the following criteria:
 - i) Unforested land areas shall be considered the most suitable building sites unless such selection would threaten living vegetation by stimulating dune migration or cause extensive salt mist intrusion into the maritime forest or would involve alterations otherwise prohibited;
 - ii) The most suitable sites will necessitate the least disturbance of living trees and vegetation. The density, height and variety of the vegetation to be removed shall be considered so as to preserve those forest stands which will provide the most protection from storm and salt spray and maintain the natural diversity of plant species. Reforestation is required when deemed necessary;
 - iii) Site topography will be evaluated for overall development suitability so that, all proposed structures can be constructed in harmony with the existing tree cover while maintaining setback requirements. Dune stabilization is required;
 - iv) Clearing of forest undergrowth by "bush hogging", burning or any other method is not allowed except for an approved area for a house site.
 - v) Filling of a forest area where approved undergrowth clearing has been permitted is not allowed.
 - vi) The following is not allowed unless it can be shown to have no adverse effect on the specific site's maritime forest: dredging, filling or otherwise altering of wetlands and ponds from their natural state except as specifically allowed by the county. Minor road crossings over wetlands are not allowed except for the sole purpose of providing driveway access to individual lots. Impervious surfaces are prohibited within 20 feet of any pond, wetland or navigable waters. No ground absorption waste-water treatment is allowed within 50 feet of any pond or wetland.
- D. No more than 20 percent of the maritime forest can be cleared for infrastructure purposes such as roads and utilities. Development is required to be concentrated in such a way that the maximum amount of contiguous forested area remains undisturbed. If the clearing maximum cannot be met, a mitigation plan is required.
- E. Right-of-way widths within the maritime forest cannot exceed 45 feet including land cleared for shoulders and drainage, and should follow the natural contours of the land insofar as possible. Curb and gutters are not allowed
- F. **Individual Lot Design and Building Construction:** before any land clearing or excavation of maritime forest can begin, agencies involved in the building site plan approval process should be provided sufficient information to assess how the development adheres to the

requirements of this guide. As part of the site approval process and before a building site clearing permit is issued, the planning department shall apply the following criteria and limitations on clearing of maritime forest:

- G. Trees and undergrowth cannot be removed except as required for construction of structures, accessory use, parking area, driving access, individual or central septic systems and utility service. Likewise, soil disturbing activities and site alteration cannot exceed what is necessary to provide for the location of structures, accessory use improvements, driveway access and utility service improvements;
- H. Specific lot development and associated forest clearing is limited by the following maximum allowable clearing percentages based on individual building lot size:

i) Individual Lot Size Square Foot	ii) Permissible Forest Cleaning
iii) 59,999 or less	iv) 35%
v) 60,000 to 79,999	vi) 30%
vii) 80,000 or more	viii) 25%

- I. If these clearing maximums cannot be met, a mitigation plan should be prepared;
- J. The permanent drawdown of ground water, except for wells and alteration of natural drainage patterns, beyond an individual property line is not recommended;
- K. Removal of vegetation providing storm or salt mist protection or acting to stabilize soil or limit dune migration is required to be minimized; and,
- L. To the maximum extent feasible, utilities should be located to the edge of areas that have been cleared for access and building purposes.
- M. Mitigation Guide: in order to protect and re-establish natural vegetation during and after construction, the following actions are required:
- N. In any areas where vegetation removal will expose bare ground, a ground stabilization plan is required. Suitable native vegetation cover is required to be established as soon as possible. While re-forestation is required, the planting of undesirable or exotic vegetation which threatens the remaining native vegetation is not recommended ; and,
- O. To avoid pest and disease damage to remaining vegetation, any broken limbs and scraped or scarred bark occurring during construction should be promptly attended to using accepted horticultural practices.

Chairman Etheridge opened the public hearing.

Mark Bissell, Engineer, reviewed what was being requested and was available to answer any questions.

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

Commissioner Aydlett moved to approve Subdivision 1, 2 and 5 as presented by staff and to look at text amendment. Commissioner Gregory seconded the motion. Motion carried.

Discussion and Consideration of Ordinance Establishing Method for Appointment to County Boards

Ike McRee, County Attorney, reviewed the ordinance.

Commissioner O’Neal moved to approve. Commissioner Aydlett seconded the motion. Motion carried.

**AN ORDINANCE OF THE CURRITUCK COUNTY BOARD OF COMMISSIONERS
AMENDING CHAPTER 2, ARTICLE III OF THE CURRITUCK COUNTY CODE OF
ORDINANCES TO ESTABLISH THE APPOINTMENT PROCESS FOR
AUTHORITIES, BOARDS, COMMISSIONS**

WHEREAS, pursuant to N.C. Gen. Stat. §153A-76 a board of commissioners may change the composition and manner of selection of boards, commissions, and agencies, and may generally organize and reorganize the county government in order to promote orderly and efficient administration of county affairs; and

WHEREAS, pursuant to N.C. Gen. Stat. §153A-77 a board of commissioners may appoint advisory boards, committees, councils and agencies composed of qualified and interested county residents to study, interpret and develop community support and cooperation in activities conducted by or under the authority of the board of commissioners.

NOW, THEREFORE, BE IT ORDAINED by the Board of Commissioners for the County of Currituck, North Carolina as follows:

PART I. The Code of Ordinances, Currituck County, North Carolina is amended by adding new sections to Chapter 2, Article III, Division 1 to read as follows

Sec. 2-96. Method of Appointment To and Removal From Boards.

(a) One appointment to a board shall be nominated by each of the seven members of the board of commissioners which nominee shall become part of the slate of nominees to be acted on by the board of commissioners without amendment.

(b) The Clerk to the Board shall maintain a list of members for each county authority, board or commission. The list shall contain at least the following information in a manner similar to the following example:

<u>Incumbent</u>	<u>Nominated by _____</u>	<u>New Appointee</u>	<u>Nominated by _____</u>	<u>Date of Appointment</u>	<u>End of Term</u>
1. Name	Dist. 1	1. _____	_____	_____	_____
2. Name	Dist. 2	2. _____	_____	_____	_____
3. Name	Dist. 3	3. _____	_____	_____	_____
4. Name	Dist. 4	4. _____	_____	_____	_____
5. Name	Dist. 5	5. _____	_____	_____	_____
6. Name	At Large	6. _____	_____	_____	_____
7. Name	At Large	7. _____	_____	_____	_____

(c) New appointments to county authorities, boards and commissions shall be made in the following manner:

- (1) Incumbents remain in their current positions unless they are replaced by new appointees approved by the board of commissioners.
- (2) New appointees who replace incumbents are appointed to serve only during the unexpired portion of the incumbents’ terms.

- (3) New appointees who are appointed to new positions for which there are no previous incumbents shall be given an ending date for their term of office on the date of appointment
- (3) Before placing a new appointment on the board of commissioners' agenda, the county commissioner shall verify with the Clerk to the Board that a position is available and that an ending date for the term of office can be ascertained in accordance with the ordinance under which the board was established. At the same time, the county commissioner shall identify by name any person who is being replaced by the new appointment. The name of the person being replaced need not be disclosed on the board of commissioners' agenda, but must be identified in some written communication to the Clerk to the Board.
- (4) After the board of commissioners has approved any new appointment, the clerk to the board will notify the new appointee, and if any person has been removed from office by the new appointment, the clerk to the board will notify the person who has been removed.

Sec. 2-97. Consecutive Terms of Office.

(a) No person who has been appointed to two consecutive terms as a member of any authority, board or commission shall be eligible for reappointment to the same board for the next consecutive term.

(b) Appointees who are being appointed to completely new positions; unexpired terms from which incumbents are removed; or unexpired terms for which there are vacancies at the present time are deemed to be appointed to fill unexpired terms and shall be eligible to serve two full consecutive terms after the expiration of the unexpired term.

(c) If a person who has served one full term is reappointed to a second term, and then resigns during the second term, that person is not eligible for reappointment during the next consecutive term.

(d) If a person is nominated to a board by an at large county commissioner or county commissioner of one district, and serves two consecutive terms, the same person cannot be reappointed to the same board, even if he or she is nominated by a different county commissioner.

(e) If a board has certain criteria for membership, such as income guidelines, but also has different criteria for other members, such as educational, professional or income guidelines, a member who has served two consecutive terms in one capacity cannot be reappointed to the same board to serve in a different capacity.

PART II. All ordinances or parts of ordinances in conflict with this ordinance are hereby repealed.

PART III. This ordinance is effective on January 5, 2009

Award Bid for Tulls Creek Road Booster Pump Station

Commissioner Gregory moved to award bid to ELJ, Inc. in the amount of \$160,630. Commissioner Taylor seconded the motion. Motion carried.

Appointment to Currituck Outer Banks Wild Horse Advisory Board

Commissioner Aydlett moved to table. Commissioner Rorer seconded the motion. Motion carried.

Consent Agenda:

1. Budget Amendments
2. Consideration of Form for Corporate Hangar, Hangar and Tie-Down Leases at Currituck Regional Airport
3. Resolution Canceling the Currituck County Board of Commissioners Meeting Scheduled for January 20, 2009
- ~~4. Resolution of the Board of Commissioners for Currituck County, NC Authorizing Exchange of Property~~
5. Charge Levy on Motor Vehicles for September Renewals
6. Easement agreement Dominion Power to Airport Property and authorize Manager to sign
7. Approval of Maple Commerce Park Covenants
8. Approval of December 1, 2008, Minutes

Commissioner O’Neal moved to approve and delete #4. Commissioner Taylor 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
10960-539000	Unemployment Compensation	\$ 528	
10380-482000	Miscellaneous Revenue		\$ 528
		<u>\$ 528</u>	<u>\$ 528</u>

Explanation: Central Services (10960) - To increase appropriations for unemployment compensation.

Net Budget Effect: Operating Fund (10) - Increased by \$528.

<u>Account Number</u>	<u>Account Description</u>	Debit Decrease Revenue or Increase Expense	Credit Increase Revenue or Decrease Expense
10515-514000	Travel	\$ 84	
10515-514800	Fees Paid to Officials	\$ 120	
10390-499900	Fund Balance Appropriated		\$ 204
		<u>\$ 204</u>	<u>\$ 204</u>

Explanation: Jury Commission (10515) - To carry-forward funds for the jury commission that did not meet for FY 2008 until July 2008.

Net Budget Effect: Operating Fund (10) - Increased by \$204.

<u>Account Number</u>	<u>Account Description</u>	Debit	Credit
		Decrease Revenue or Increase Expense	Increase Revenue or Decrease Expense
10750-514000	Travel		\$ 10,000
10750-531000	Gas, Oil, Etc.	\$ 10,000	
		<u>\$ 10,000</u>	<u>\$ 10,000</u>

Explanation: Social Services Administration (10750) - Transfer funds due to the increased cost of fuel during the first quarter of the fiscal 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
65858-511000	Telephone & Postage	\$ 700	
65858-561000	Professional Services		\$ 700
		<u>\$ 700.00</u>	<u>\$ 700.00</u>

Explanation: Moyock Commons Sewer District (65858) - Transfer to increase telephone & postage because postage for mailing envelopes is higher than the post card system that we previously used.

Net Budget Effect: Moyock Commons Sewer District (65) - No change.

<u>Account Number</u>	<u>Account Description</u>	Debit	Credit
		Decrease Revenue or Increase Expense	Increase Revenue or Decrease Expense
10750-557700	Crisis Intervention	\$ 17,316	
10390-499900	Fund Appropriated Balance	\$ 2,686	
10330-431000	DSS Administration - Rev.		\$ 20,002
		<u>\$ 20,002</u>	<u>\$ 20,002</u>

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

Net Budget Effect: Operating Fund (10) - Increased by \$17,316.

<u>Account Number</u>	<u>Account Description</u>	Debit	Credit
		Decrease Revenue or Increase Expense	Increase Revenue or Decrease Expense
10660-531000	Gas, Oil, Etc	\$ 2,000	
10660-516000	Repairs and Maintenance		\$ 500
10660-532000	Supplies		\$ 1,500
		\$ 2,000	\$ 2,000

Explanation: Planning (10660) - To transfer budgeted funds for increased cost of fuel and to replace tires on Jeep.

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

Commissioner's Report

The Board wished all a Merry Christmas and Happy New Year.

County Manager's Report

Mr. Scanlon stated that the Board will have a joint meeting with the Camden Board on January 12 to discuss OLF.

Adjourn

There being no further business, the meeting adjourned.