

CURRITUCK COUNTY
NORTH CAROLINA
August 3, 2009

At 5:15 p.m. the Board of Commissioners convened the recessed meeting from July 20, 2009 of the Board of Equalization and Review. Commissioner Taylor moved to adjourn the meeting. Commissioner Gregory seconded the motion. Motion carried.

The Board met at 5:30 to discuss Currituck goes green and update on the UDO.

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, Rorer, Nelms, Aydlett, Gregory, and Taylor.

Invocation and Pledge of Allegiance

The Reverend Dan Bergey, New Life Church, was present for the invocation.

Approval of Agenda

Commissioner O'Neal moved to amend the agenda by deleting Item 12. Commissioner Gregory seconded the motion. Motion carried.

- Item 1 Approval of Agenda
- Item 2 Public Comment
Please limit comments to items not appearing on the regular agenda, please limit comments to 3 minutes.
- Item 3 **Penni Gallop, Presentation** on Interfaith Community Outreach (IOC) Inaugural Festival
- Item 4 **Bert Banks, Director, Albemarle Commission** update on projects the Commission is working on in Currituck County
- Item 5 **Public Hearing and Action** PB 87-19 Buck Island: Preliminary Plat/Special Use Permit for a 1 lot commercial subdivision and a Site Plan/Special Use Permit for a retail store within an existing Planned Unit Development. The property is located approximately 400 feet north of the intersection of Ocean Trail and Sunset Blvd., Tax Map 116D, Parcel Z of lot 3, Poplar Branch Township.
- Item 6 **Consideration** of Ordinance providing for licensing of Solid waste Collectors
- Item 7 **Discussion** of Expansion of Fire and EMS Advisory Board
- Item 8 **Appointments to Joint Nursing-Domiciliary Community Advisory Committee**
- Item 9 **Consent Agenda:**
 - 1. Approval of Buy Local Policy
 - 2. Budget Amendments

3. Contract between Currituck County and Camden County for Water Purchase
4. Approval of July 20, 2009, Minutes
5. Resolution Declaring Surplus Property-AFIS Fingerprint Machine

Item 10 Commissioner's Report

Item 11 County Manager's Report

Item 12 **Closed Session:**

6. According to GS 143-318.11 (3) to discuss personnel

Public Comment

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

Chairman Etheridge opened the public comment period.

Sarah Alford, expressed concerns with cost and change of the sewer system construction.

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

Walter Gallop, Presentation on Interfaith Community Outreach (IOC) Inaugural Festival

Walter Gallop, stated that they have provided \$71,000 for direct service to families in the community. He invited the Board to participate in the Family Fall Festival on September 12.

Bert Banks, Director, Albemarle Commission update on projects the Commission is working on in Currituck County

Bert Banks, Albemarle Commission, stated that they have prepared meals for about 10,000 elderly each year in the county. He thanked the Board for their continued support of the Albemarle Commission.

Public Hearing and Action PB 87-19 Buck Island: Preliminary Plat/Special Use Permit for a 1 lot commercial subdivision and a Site Plan/Special Use Permit for a retail store within an existing Planned Unit Development. The property is located approximately 400 feet north of the intersection of Ocean Trail and Sunset Blvd., Tax Map 116D, Parcel Z of lot 3, Poplar Branch Township.

Sworn testimony was given prior to making comments.

Ben Woody, Planning Director, reviewed the request.

LOCATION: Approximately 400 feet north of the intersection of Ocean Trail and Sunset Blvd.

TAX ID: Tax Map 116D, Parcel Z of lot 3

ZONING General Business - PUD

PRESENT USE: Vacant

OWNERS: Buck Island Inc.
 111 Settlers Lane
 Kitty Hawk, NC 27949

ENGINEER: Albemarle & Associates, Ltd.
 115 West Saint Clair Street
 P.O. Box 3989
 Kill Devil Hills, NC 27948

**LAND USE/ZONING OF SURROUNDING PROPERTY:
 SURROUNDING PROPERTY:**

	Land Use	Zoning
NORTH:	Future Corolla Worship Center Site	RO1
SOUTH	Farm Market	RO1
EAST:	Vacant	RO1
WEST:	Vacant	RO1

LAND USE PLAN

CLASSIFICATION: The 2006 Land Use Plan classifies the site as a **Full Service Area** within the **Corolla** subarea.

SIZE OF SITE: Proposed Parcel Z of lot 3 - 1.14 acres plus off site access improvements. Total area of disturbance = 1.33 acres

PROJECT DENSITY: N/A

STREETS: There are no streets proposed. Access road construction requires a NCDOT driveway permit.

UTILITIES: Carolina Water Service, Inc. will accommodate the water and sanitary sewer needs of the proposed retail store up to 800 gallons per day.

OPEN SPACE: No Change

I. NARRATIVE OF REQUEST:

- The applicant is seeking preliminary plat/SUP approval for a single lot commercial subdivision within Buck Island planned unit development, and a site plan/SUP for a retail store. Development of the retail store will require construction of an access road/driveway extending from the subject property to Ocean Trail. The property is located south of the Corolla Worship Center Site and north of the Grandy farm market.
- The Army Corp of Engineers has indicated the site is free of any 404 wetlands.

II. UNRESOLVED TRC COMMENTS:

- Architectural details for the retail building shall be submitted with construction plans prior to project initiation.
- DWQ wastewater capacity approval shall be submitted to and approved by Albemarle Regional Health prior to final plat approval.
- An erosion and sedimentation plan must be submitted to and approved by the Washington Regional Office of NCDENR prior to final plat approval.

III. QUESTION(S) BEFORE THE BOARD:

Special Use Permit Criteria and Staff Findings:

Special use permits (SUP) are intended to allow the Board of Commissioners flexibility in the administration of the UDO. Through the SUP procedure, property uses which would otherwise be considered undesirable in certain districts can be developed subject to conditions of approval to minimize any negative effects they might have on surrounding properties.

In order to approve the SUP, certain criteria must be satisfied. The criteria and suggested findings of fact are outlined as follows:

1. COMPLETENESS OF THE APPLICATION

Suggested Findings:

The application is complete.

2. THE PROPOSED USE IS AMONG THOSE LISTED IN THE TABLE OF PERMISSIBLE USES AS A SPECIAL USE INDICATED WITH AN "S"

Suggested Findings:

a. The proposed use is permissible with a Special Use Permit

3. THE CONDITIONS PROPOSED MEET OR EXCEED THE MINIMUM REQUIREMENTS OF THIS ORDINANCE.

Suggested Findings:

a. The conditions proposed meet the minimum requirements of this ordinance.

4. THE SPECIAL USE WILL NOT ENDANGER THE PUBLIC HEALTH OR SAFETY:

Suggested Findings:

a. The proposed subdivision should have little to no impact on public health or safety. Adequate water and sewer infrastructure has been proposed.

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

Suggested Findings:

- a. The subdivision is proposed within a General Business area of an existing PUD and is allowed by the UDO with a special use permit.
- b. The parcel is currently within an existing Planned Unit Development and should be in harmony with the surrounding area.

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

Suggested Findings:

- a. The 2006 Land Use Plan classifies this site as a full service area within the Corolla subarea and the proposed use is in keeping with the policies of the plan, some of which are:
 - i. Policy OB2 states "So as to minimize Commercial Strip Development and maximize the traffic moving capability of NC12, Currituck County shall encourage commercial development to cluster in appropriate locations rather than dispersing along NC12."
 - ii. Policy OB1 states "Currituck County supports the provision of infrastructure and services adequate to meet basic quality of life and public health and safety requirements of residents of the Outer Banks" The proposed subdivision has been designed with adequate water and sewer extensions.

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).

Suggested Findings:

- a. The county should have adequate public facilities to service this subdivision.

IV. STAFF RECOMMENDATION:

Since the submittal appears to meet all of the requirements for preliminary plat/site plan/special use permit approval, staff **recommends approval** with the following conditions.

- Architectural details for the retail building shall be submitted with construction plans prior to project initiation.
- DWQ wastewater capacity approval shall be submitted to and approved by Albemarle Regional Health prior to final plat approval.
- An erosion and sedimentation plan must be submitted to and approved by the Washington Regional Office of NCDENR prior to final plat approval.

V. PLANNING BOARD RECOMMENDATION:

The Planning Board **recommended approval** of the preliminary plat/site plan/special use permit with the staff recommendations.

PLANNING BOARD DISCUSSION

Mr. West asked if the applicant will have to cross Department of Transportation (DOT) property to put the driveway in.

Mr. Delucia stated it is a DOT right-a-way.

Mr. Woody stated when the owner sold the right-a-way to create parcels Z and Y, both these parcels have the ability to be deeded, but the county has never recognized them as a official subdivision so technically the county views parcels Z and Y as one lot. What is happening now is the subdivision of these lots.

The board discussed the location of the driveway and it having good visibility.

Mr. Kovacs asked if the building will be single-use or multi-use.

Mr. Delucia stated his client would like to know they have a preliminary plat status and would like to know he has the right to do an 8,000 sq. ft. retail building, so it will be a single-use building. Parking would have to comply with the County's ordinance. The building will be one story and not on pilings.

Mr. Clark asked if the body of water is a pond.

Mr. Delucia stated yes.

Mr. Clark asked how far it is from the dumpster pad to the pond.

Mr. Delucia stated 30 to 40 feet.

Mr. Midgette asked Mr. Delucia if he was in agreement with staff recommendations.

Mr. Delucia stated the only thing he is not in agreement with is the last statement which states an erosion and sedimentation plan must be submitted prior to final plat approval.

Mr. Woody stated this is an ordinance requirement.

Mr. West talked about not receiving comments from some of the Technical Review Committee members. Mr. West asked for clarification if a "No Response" meant they are okay with the project or they did not respond.

Mr. Woody stated staff is working on getting more members engaged.

ACTION

Mr. Kovacs motioned to recommend approval with staff recommendations of a preliminary plat/special use permit for a 1 lot commercial subdivision and a site plan/special use permit for a retail store within an existing Planned Unit Development as presented. Ms. Robbins seconded the motion. Motion carried unanimously.

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

Commissioner Aydlett moved to approve. Commissioner Nelms seconded the motion. Motion carried.

Consideration of Ordinance providing for licensing of Solid Waste Collectors

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

**AN ORDINANCE OF THE CURRITUCK COUNTY BOARD OF COMMISSIONERS
AMENDING CHAPTER 11 OF THE CURRITUCK COUNTY CODE OF
ORDINANCES TO PROVIDE FOR THE LICENSING OF SOLID WASTE
COLLECTORS**

WHEREAS, pursuant to N.C. Gen. Stat. §153A-121 a county may by ordinance define, regulate, prohibit, or abate acts, omissions or conditions detrimental to the health, safety or welfare of its citizens and the peace and dignity of the county; and

WHEREAS, pursuant to N.C. Gen. Stat. §153A-134 a county may by ordinance regulate and license occupations, businesses, trades, and professions; and

WHEREAS, pursuant to N.C. Gen. Stat. §153A-136 a county may by ordinance regulate the storage, collection, transportation, use, disposal and other disposition of solid wastes.

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 Article to Chapter 11 to read as follows:

ARTICLE VII. LICENSING OF SOLID WASTE COLLECTORS

Sec. 11-104. Definitions.

The following words, terms and phrases, shall have the meanings ascribed to them in this section, in the interpretation and enforcement of this article:

Board means the Currituck County Board of Commissioners.

Collection means the act of removing solid waste to the Transfer Stations or the Facility.

Facility means the East Carolina Environmental Landfill in Bertie County, North Carolina.

Person means any individual, corporation, company, association, partnership, unit of local government, state agency, federal agency or other legal entity.

Solid waste means any solid wastes that may be disposed of in sanitary landfills, including, without limitation, garbage, refuse, trash and other discarded material, whether from residential, commercial, industrial or institutional sources, which wastes are typically found in household, commercial or municipal refuse.

Solid waste collector means any person who collects, transports or disposes of solid wastes for compensation, other than one who removes solid waste from his own premises.

Solid waste license or license means a license for the collection, transportation and disposal of solid waste pursuant to Section 2 of this article.

Transfer Stations means the following three transfer stations: Chowan/Gates/Perquimans Counties Transfer Station, Currituck County Transfer Station and Dare County Transfer Station.

Sec. 11-105. Solid waste license required.

It shall be unlawful for any person to engage in business as a solid waste collector within any area of the county, without first having procured a solid waste license from the Board. All solid waste collectors within the county shall dispose of all solid waste generated within any area of the county at the Facility or the Transfer Stations.

Sec. 11-106. Application, issuance, revocation of license.

(a) Application. All applicants for solid waste licenses shall file a written application with the Board's authorized representative and shall furnish the following information:

1. The name and address of the applicant, and whether the applicant is a sole proprietorship, corporation, partnership or other entity;

2. A list of the collection vehicles the applicant plans to use in the county; and

3. Any other information the Board's authorized representative may reasonably request.

(b) Five-year license. Solid waste licenses shall be issued for five-year periods. Licenses may be renewed with the information designated in subsection (a) of this section being presented to the Board's authorized representative at least thirty (30) days prior to the expiration of the existing and valid license.

(c) Selection of applicants; granting of licenses. The Board's authorized representative shall review applications for solid waste licenses and license renewals, and shall issue licenses and renewals to applicants meeting the requirements of this article.

(d) Investigation of solid waste collectors prior to license issuance. Before issuing a license pursuant to this article, the Board's authorized representative may inspect the facilities, equipment and solid waste collection vehicles the applicant plans to use in the solid waste collection business.

1. The Board's authorized representative shall issue the applicant a license when the Board's authorized representative determines that the application is complete and the applicant is in compliance with this article.

2. When a license is issued to a solid waste collector, the solid waste collector shall affix a sticker indicating that the solid waste collector has a valid license to all of its solid waste collection vehicles that are to be operated in the county. The Board's authorized representative shall issue stickers to the solid waste collector at the time the license is issued. Licensees may obtain additional stickers from the Board's authorized representative.

3. If the Board's authorized representative denies an applicant a license, the applicant may request a hearing before the Board by giving written notice of appeal to the county manager within (5) five working days of receipt of the Board's authorized representative's decision denying the license. After a hearing on the appeal, the Board shall either affirm the denial or direct the Board's authorized representative to issue the license.

(e) Revocation. When the Board's authorized representative finds that a licensee has violated this article or the conditions of the license, the licensee shall receive written notice of the violation and be informed that if another violation occurs within (30)

thirty-working days, or in the case of continuing violation if it is not corrected within (10) ten-working days, the license will be revoked. If another violation occurs within the (30) thirty-working day period, or if the continuing violation is not corrected within (10) ten-working days, the Board's authorized representative shall give the licensee written notice that the license is revoked. Upon receipt of the revocation, the licensee shall cease collecting, transporting or disposing of solid wastes in any area of the county immediately. The Board's authorized representative may reinstate a revoked license after the revocation has been in effect for (30) thirty working days if the Board's authorized representative finds that the conditions causing the violation have been corrected. A licensee whose license has been revoked may appeal the revocation to the Board by giving written notice of the appeal to the Board's authorized representative within (5) five working days of receiving notice of revocation from the Board's authorized representative. After a hearing on the appeal, the Board shall either affirm the revocation or direct the Board's authorized representative to reinstate the license.

Sec. 11-107. License fee.

The licensee shall pay to the county or its authorized representative, the sum set by the designated representative, not to exceed fifty dollars (\$50.00), for the issuance of the license, and the sum of one dollar (\$1.00) for each sticker to be affixed to each solid waste collection vehicle.

Sec. 11-108. Non-transferability of licenses.

Solid waste licenses are non-transferable and non-assignable.

Sec. 11-109. Responsibilities of licensee.

(a) The licensee shall serve every person who contracts with it for solid waste collection in such a manner that the licensee does not cause the person to be in violation of this article.

(b) The licensee shall dispose of all solid waste generated within any area of the county at the Facility or the Transfer Stations.

(c) A licensee shall submit an annual report to the Board's authorized representative containing the following information:

1. A list of the collection vehicles the licensee used in the county during the reporting year;

2. The total amount of solid waste collected in the county and the locations where the solid waste was disposed of during the reporting year;

3. A certification that all solid waste the license collected in the county was disposed of at the Facility or the Transfer Stations; and

4. Any other information the Board's authorized representative may reasonably request.

Sec. 11-110. Enforcement.

(a) Penalty. Any person who is found in violation of this article shall be subject to a civil penalty of not to exceed \$500.00 as provided in N.C.G.S. § 153-123. Each day's violation shall be treated as a separate offense.

(b) Remedies. This article may be enforced by equitable remedies, and any unlawful condition existing or in violation of this article may be enforced by injunction and order of abatement in accordance with N.C.G.S. § 153A-123.

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

Discussion of Expansion of Fire and EMS Advisory Board

Commissioner O'Neal moved to appoint Commissioner Rorer, Commissioner Aydlett and Chairman Etheridge; County Manager; Chief or President of each fire department, and the Chairman and Vice Chairman of the EMS Advisory Board. Commissioner Aydlett seconded the motion. Motion carried.

Appointments to Joint Nursing-Domiciliary Community Advisory Committee

Commissioner O'Neal moved to re-appoint James Haynes, Barbara Courtney, Florence Scaff, and Rosalie Rose and appoint Bobbi O'Hara. Commissioner Aydlett seconded the motion. Motion carried.

Consent Agenda:

1. Approval of Buy Local Policy
2. Budget Amendments
3. Contract between Currituck County and Camden County for Water Purchase
4. Approval of July 20, 2009, Minutes
5. Resolution Declaring Surplus Property-AFIS Fingerprint Machine

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

RESOLUTION TO SUPPORT COUNTY PURCHASING AND SOURCING OF GOODS AND SERVICES WITH CURRITUCK-BASED FIRMS WHEN AVAILABLE

WHEREAS, it is the legislated responsibility of the Currituck County Economic Development Advisory Board to provide sound advice for the Board of Commissioners related to economic growth of the county; and,

WHEREAS, there is a growing concern for the vitality, longevity, and sustainability of those businesses located or operating in Currituck County; and,

WHEREAS, it should be duly recognized that there is a legal responsibility for county officials to operate within the confines of local, state, and Federal laws concerning competitive bid processes; and,

NOW, THEREFORE BE IT RESOLVED that this Advisory Board assembled in regular meeting this 23rd day of March, 2009 in Corolla, North Carolina recommends that all efforts should be undertaken to support those businesses located or operating within Currituck County; and,

BE IT FURTHER RESOLVED for non-bid required services or goods, Currituck County should make all efforts to consider local businesses for the purchase of same; and,

BE IT FURTHER RESOLVED that any efforts in this supportive endeavor should be broadcast to the general public with great strength; and,

BE IT FINALLY RESOLVED that this resolution shall be distributed appropriately and with efficacy to the Currituck County Board of Commissioners for their consideration of same.

<u>Account Number</u>	<u>Account Description</u>	<u>Debit</u> Decrease Revenue or Increase Expense	<u>Credit</u> Increase Revenue or Decrease Expense
10797-514000	Travel	\$ 2,370	
10797-534000	Wellness program	\$ 3,598	
10797-590000	Capital Outlay	\$ 36,110	
10330-448600	Fit Communities Grant		\$ 42,078
		<u>\$ 42,078</u>	<u>\$ 42,078</u>

Explanation: Fit Communities Grant (10797) - To record Fit Communities grant awarded to

Currituck County. This will include wellness incentives, travel for attendance at monthly meetings and construction of a 6ft wide walking trail from Courthouse Road to the Judicial complex, signage, tents, tables and chairs for a farmers market. This will be funded through \$42,078 grant funds and \$8,550 County in-kind matching funds. This is a two year grant.

Net Budget Effect: Operating Fund (10) - Increased by \$42,078.

<u>Account Number</u>	<u>Account Description</u>	Debit	Credit
		Decrease Revenue or Increase Expense	Increase Revenue or Decrease Expense
10531-545000	Contract Services	\$ 8,000	
10531-590000	Capital Outlay	\$ 11,388	
10390-499900	Fund Balance Appropriated		\$ 19,388
		\$ 19,388	\$ 19,388

Explanation: Emergency Management (10531) - To carry-forward Emergency Planning Grant funds from FY 2009. This grant must be used by September 30, 2009.

Net Budget Effect: Operating Fund (10) - Increased by \$19,388.

RESOLUTION

WHEREAS, there are certain items of personal property owned by the County that no longer have value to the County for public purposes, to-wit:

AFIS Fingerprint Machine – Touch Print model, serial #1606-00284, manufactured by Identix, listed in County Records as Asset # 6176

WHEREAS, it is the opinion that this certain item of personal property should not be sold to the public, they are of no use to other law enforcement agencies and the Currituck Sheriff’s Office recommends this item be disposed of by destruction and disposal of the resulting debris; and

WHEREAS, the Board of Commissioners are in agreement with the Currituck Sheriff’s Office assessment of said property and declares this item of personal property listed above as surplus property and authorizes the Currituck Sheriff’s Office to dispose of said items by destruction and disposal of the resulting debris.

NOW, THEREFORE, BE IT RESOLVED that the Board of Commissioners declares the AFIS Fingerprint Machines listed above as surplus property and authorizes the Currituck Sheriff’s Office to dispose of these items by destruction and removal of the resulting debris.

Commissioner's Report

Commissioner Gregory requested a letter be sent to the NC Utilities Commission to withdraw the fuel charge from Dominion Power bills.

Commissioner Taylor requested another letter to the railroad concerning the crossings and clean up of the area.

Commissioner O'Neal requested the letter be copied to Senator Basnight and Representative Owens.

Commissioner Aydlett congratulated the Babe Ruth team of 13 year olds for their accomplishments.

Commissioner Nelms commended the Water staff for the improvement in the water system.

Commissioner Rorer, stated that the Airport would like to request the financial records at the airport, for fuel sales and credit card use.

Chairman Etheridge, stated that Senator Burr would be in town on August 12 and hopefully would be available for the ribbon cutting at the new water facility.

County Manager's Report

Dan Scanlon, County Manager, stated that the comprehensive transportation plan has been approved and will take approximately 18 months to complete.

Trash cans will be placed at the Bridge on NC 615, Knotts Island.

Closed Session:

1. According to GS 143-318.11 (3) to discuss personnel

Deleted

Adjourn

There being no further business, the meeting adjourned.