

CURRITUCK COUNTY
NORTH CAROLINA
July 20, 2009

The Board of Commissioners met at 6:00 p.m. as the Board of Equalization and Review.

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 Walter Gallop was present to give the invocation.

Approval of Agenda

Commissioner O'Neal moved to approve the agenda with the following amendments: Delete Item 4 and Item 4 on the consent agenda; add budget amendments and letter to DOT requesting lowering of speed limit in front of Jarvisburg School and Knotts Island School. Commissioner Aydlett seconded the motion. Motion carried.

Invocation

Pledge of Allegiance

- 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 **Presentation of Meritorious Award to Deputy Brian Dudley and Deputy Garland Akers**
- Item 4 **Presentation on Interfaith Community Outreach (ICO) Inaugural Festival - Ginger Candelora**
- Item 5 **Presentation by Mitch Hall, Army Corps, on the "Currituck Sound Study"**
- Item 6 **Public Hearing and Action** Maple-Barco Small Area Plan: Consideration and discussion of the Maple-Barco Small Area Plan.
- Item 7 **Public Hearing and Action** PB 09-21 Currituck County: Request to amend the Unified Development Ordinance, Chapter 1: General Provisions, to incorporate the Maple-Barco Small Area Plan by reference.
- Item 8 **Public Hearing and Action** PB 09-17 Lannie Belangia: Request to amend the Unified Development Ordinance, Chapters 2, 3, and 10, to separate boat storage for commercial fisherman from that of privately owned recreation facilities.
- Item 9 **Public Hearing and Action** PB 87-56 Monteray Shores, Section III, PUD (Corolla Shores): Request for an extension of a special use

permit for a proposed grocery store located on the west side of NC 12, west of the Whalehead Subdivision, and south of the Corolla Light PUD, Tax Map 115, Parcel 3S, Poplar Branch Township.

- Item 10 **Public Hearing and Action on Proposed Rural Operating Assistance Program (ROAP) Application**
- Item 11 **Discussion and Consideration** Ordinance providing for licensing of Solid Waste Collectors
- Item 12 **Discussion and Consideration of Expansion of Fire and EMS Advisory Board**
- Item 13 **Designation of Voting Delegate to NCACC Annual Conference**
- Item 14 **Appointment to Board of Directors of Greater Albemarle Area Chapter-American Red Cross**
- Item 15 **Appointment to Northeastern Workforce Development Board**
- Item 16 **Appointment to Senior Citizen Advisory Board**
- Item 17 **Appointment to Library Board of Trustees**
- Item 18 **Consent Agenda:**
 - 1. Budget Amendments
 - 2. Ratification of License Agreement for Currituck Utilities to install temporary wastewater service on Whalehead Club property
 - 3. Resolution to Declare County Property as Surplus and Authorize Sale by Upset Bid Process
 - 4. Moyock Library, CO-004, McKenzie Construction Corporation
 - 5. Approval of July 6, 2009, Minutes
 - 6. Petition to NCDOT for Addition to State System of New Colony Drive
- Item 19 Commissioner's Report
- Item 20 County Manager's Report
- Item 21 **Closed Session:**
 - 1. According to GS 143-318.11.(6) to discuss personnel

Adjourn

Public Comment

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

Earl and Edith Brickhouse, Representatives of Senior Tar Heel Legislature, reviewed the proposed legislation for seniors.

Wayne Taylor, Taylors Road, thanked the Board and staff for helping with CAMA.

Chris Curdes and Carl Walker presented a certificate of appreciation to Commissioner Taylor.

Chairman Etheridge commended the Currituck All Star team (13 years old) for winning the championship.

Dan Scanlon, County Manager, gave the Board an update on the lightning strike over the weekend.

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

Presentation of Meritorious Award to Deputy Brian Dudley and Deputy Garland Akers

Sheriff Johnson and Chairman Etheridge presented the Meritorious Award to Deputy Dudley and Deputy Akers.

Presentation on Interfaith Community Outreach (ICO) Inaugural Festival - Ginger Candelora

continued

Presentation by Mitch Hall, Army Corps, on the "Currituck Sound Study"

Mitch Hall, Army Corps, presented a slide presentation outlining the project and restoration efforts.

Public Hearing and Action Maple-Barco Small Area Plan: Consideration and discussion of the Maple-Barco Small Area Plan.

Holly White, Planner, outlined the plan. The purpose of the Maple-Barco Small Area Plan is to balance growth and economic expansion with the integrity and character of the existing community. This includes taking into account the growth of the airport facility, protecting county resources such as drinking water, preserving the agrarian heritage of the area, and maintaining a high quality of life for current and future residents.

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.

Public Hearing and Action PB 09-21 Currituck County: Request to amend the Unified Development Ordinance, Chapter 1: General Provisions, to incorporate the Maple-Barco Small Area Plan by reference.

Ben Woody, Planning Director, reviewed the amendment.

PLANNING BOARD DISCUSSION- June 9, 2009

Ms. White stated staff will bring the Maple-Barco Small Area Plan along with a text amendment so it can be incorporated into the Unified Development Ordinance to the Board of Commissioners.

Mr. Woody stated the map shows how the area can grow, but keep in mind that the policies will help staff make recommendations, and the Planning

Board and Board of Commissioners will base their decision making process on the Plan. The idea is to balance growth around the airport area.

Mr. West stated that you have to plan so you know what direction to go in, but you need to be careful. Where the extension building is located there is a lot of potential growth, if the YMCA is in that area then that is where people have a tendency to build around and yet we are building around the airport. He does not want it to become a Virginia Beach, Oceana scenario where people don't want to be near the airport. You need to be careful where the citizens' oriented services will be going.

Mr. Woody stated you need to be careful where you mix institutional uses with industrial uses. They are already identifying alternative access points to the industrial park to avoid mixing traffic.

Ms. White stated she is presently working with the Department of Aviation and will incorporate into the plan an outline showing what type of planes will be able to land at the airport under the existing conditions now and what will be possible under future expansion.

The board discussed increased traffic and local residents being able to get to these facilities.

Mr. Deaton stated the real issue is what your vision for this area is and what does the general public want. Mr. Deaton referred to Hilton Head, South Carolina as a good example of a well planned development. Mr. Deaton stated if you grow keep multi-paths available. When planning this plan take into consideration what it will look like twenty years down the road.

Mr. Kovacs stated that Nicholson's Point is a PUD that has been very well planned and will be outstanding once it has been developed. This standard should be followed throughout the area.

Mr. Woody stated the county is scheduled to receive a revised Comprehensive Transportation Plan.

ACTION

Mr. West motioned to recommend approval of the "Draft" Maple-Barco Small Area Plan as presented. Ms. Robbins seconded the motion. Motion carried unanimously.

Currituck County
PB 09-21
UDO AMENDMENT REQUEST

An amendment to Chapter 1: General Provisions, Section 1.15 Incorporation of Planning Documents, to incorporate the Maple-Barco Small Area Plan into the Unified Development Ordinance by reference.

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

Item 1: That Section 1.15 is amended to add the following underlined language:

1.15 Incorporation of Planning Documents

The following manuals or plans have been adopted by resolution of the Board of Commissioners and are incorporated herein by reference. While the Board of Commissioners affirms its commitment that this ordinance be in conformity with any adopted manual or plan, the board hereby expresses its intent that neither this ordinance nor any amendment to it, or any future action taken by the board, may be challenged on the basis of any alleged nonconformity or inconsistency with any planning document referenced in this section

A. Development Review Process Manual

B. Maple-Barco Small Area Plan

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

Chairman 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.

**Public Hearing and Action PB 09-17 Lannie Belangia:
Request to amend the Unified Development Ordinance, Chapters 2, 3, and 10, to separate boat storage for commercial fisherman from that of privately owned recreation facilities.**

Ben Woody, Planning Director, reviewed the request.

The enclosed text amendment submitted by Mr. Lannie Belangia is intended to address wet boat storage. Currently the Currituck County Unified Development Ordinance (UDO) defines that, "Marinas for ten boats or less shall be classified as privately owned outdoor recreation facilities" requiring a Special Use Permit in all zoning districts. In other words, the docking or wet storage of ten or less boats requires approval from the Board of Commissioners. Staff would interpret this current provision to not include the docking of boats belonging to any persons that reside on the property.

Mr. Belangia's request specifies that wet boat storage for commercial fishermen be treated differently than that of a recreation facility as outlined above. The request proposes to allow the mooring of ten or less commercial fishing boats in all zoning districts with an administrative approval (again, this regulation refers only to boats not belonging to any persons residing on the property). The amendment also includes special requirements for residential zoning districts that prohibit the use of the property for equipment and bait storage, fueling, and repair. Additional screening is required if a vehicle parking area is adjacent to an existing single family dwelling.

Also, according to Frank Jennings, CAMA District Manager, a CAMA permit is not required for the mooring of commercial fishing vessels along existing docks or piers. Vessels may tie off at existing docks or piers without a CAMA permit if no new development is involved.

Staff feels this request highlights the very real challenge of balancing compatibility between residential properties and commercial fishing activities. Currituck County is in the precarious position of experiencing rapid residential growth rates while maintaining its cultural identity. As part of researching this text amendment request, staff also contacted surrounding governmental jurisdictions to determine how they regulated the mooring of commercial fishing boats in residential areas (enclosed). The answers varied from no regulation at all, to not allowing commercial fishing boats to dock in residential areas.

Throughout the county there are existing piers used to dock commercial fishing boats. Despite the fact many of the piers have historically docked boats not belonging to the property owner, this request highlights that none of these properties have been granted a special use permit as required by ordinance. This means any property docking commercial fishing boats not belonging to a person residing at the property should apply for and receive a special use permit. The request submitted by Mr. Belangia attempts to clarify this ordinance provision by allowing any property to dock up to ten commercial fishing boats with an administrative approval (again, this refers to boats not owned by a resident of the property).

While allowing the docking of ten commercial fishing boats with an administrative approval clarifies the current ordinance, it warrants a cautious approach when viewed county wide. There are circumstances when the secondary impacts associated with the docking of ten commercial fishing boats would create compatibility issues with adjacent properties and have a negative impact on a surrounding residential neighborhood. This includes increased traffic levels through residential streets, which often results in the degradation of road conditions, and may even increase long-term maintenance costs for people residing on private streets.

As an alternative, the Board may want to consider requiring a Special Use Permit (SUP) for the docking of commercial fishing boats not belonging to the owner of a residentially zoned property. A more balanced ordinance could allow the docking of two or three commercial fishing boats with an administrative approval, while requiring an SUP for additional boats. The special use permit process allows the Board to approve a use taking into consideration the unique features of an individual situation. This means the docking of commercial fishing boats not belonging to the owner of a property could be handled on a case by case basis.

The Planning Board considered Mr. Belangia's request at their June 9 meeting and unanimously recommended approval. Attached please find the Planning Board meeting minutes, a spreadsheet of questionnaire responses from surrounding jurisdictions, and the text amendment request submitted by Mr. Belangia.

Should you have any questions, do not hesitate to contact Ben Woody at 232-6029

PLANNING BOARD DISCUSSION (June 9, 2009)

Mr. Belangia stated that there are 242 commercially registered boats in Currituck County. Mr. Belangia would like to see in a residential area that they are allowed to dock. With this text amendment they are asking for a facility to put their boat overnight.

Mr. West asked how many boats you would anticipate being docked at any one given time.

Mr. Belangia stated 10 or less at any given time.

Mr. Tranquillo stated he has been a commercial fisherman since 1973 in the county. A lot of fishermen can be arrested because they are illegally docking so they are having to use more fuel to find a place to dock. Mr. Tranquillo is in favor of the text amendment.

ACTION

Mr. Clark motioned to recommend approval of PB 09-17 Lannie Belangia Boat Storage text amendment as presented. Ms. Robbins seconded the motion. Motion carried unanimously.

SURVEY RESPONSES

Jurisdiction	Is docking of commercial fishing boats regulated in a residential area?	Comments/Interpretation
Dare County	No	Docking would be permitted; however, commercial activity must occur elsewhere (i.e., unloading or selling)
Kitty Hawk	Yes	Only property owners are allowed to conduct commercial fishing activities. Seafood shall not be sold, processed, or distributed from the premises. No more than 4 people shall be involved in the operation on the property at any one time.
Kill Devil Hills	No	Does not regulate the docking of boats
Nags Head	Yes	Considered an accessory use if the occupant of the principle residence is docking boats. Considered an unpermitted commercial use if docking of boats occurs by anyone not living at the residence.
Pasquotank County	No	No regulations in place. Issue would not be docking of boats, but rather associated vehicular traffic, noise, storage, etc.
Perquimans County	No	Ordinance does not address the situation.

**Lannie Belangia
PB 09-17
UDO AMENDMENT REQUEST**

An amendment to Chapter 17: Definitions, Chapter 3: Special Requirements and Section 2.5 Permitted Uses Table to separate boat storage for commercial fisherman from that of privately owned recreation facilities.

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

Item 1: That Section 17.2 is amended by adding the following underlined language:

Marinas

Any publicly or privately owned dock, basin or wet boat storage facility constructed to accommodate more than ten boats and providing any of the following services: permanent or transient docking spaces, dry storage, fueling facilities, haul out facilities and repair service. Excluded from this definition are boat ramp facilities allowing access only, temporary docking and none of the preceding services. Marinas for ten recreational boats or less shall be classified as privately owned outdoor recreation facilities.

Boat Storage, Wet

Any public or privately owned facility for the docking of ten or less unoccupied commercial fishing vessels in the water. This shall not include marinas, boat ramp facilities allowing access only, or the accessory docking of personal boats of the property owner. However, the total number of boats maintained in wet storage shall not exceed ten.

Item 2: That Section 3.5 is amended by adding the following underlined language and renumbering that section numerically:

3.5.5 Boat Storage, Wet.

- A. The facility shall not contain the following uses when located in a residential zoning district as defined by Chapter 2 of this ordinance: fueling facilities, dry storage, repair services, equipment storage, bait storage, or on-site sales.
- B. Parking of vehicles shall not occur within any public or private right-of-way and shall be screened from any existing single family dwelling located within 100 feet of the proposed parking area. The screening shall at minimum meet the requirements of a Type C bufferyard.
- C. The total number of boats allowed for this use shall not exceed ten.

Item 3: That Section 2.5 is amended by adding the following underlined language and renumbering the Special Requirements column numerically:

Use	LUC	Zoning Districts											Special Requirements	
		A	RA	R	RO1	RO2	RR	GB	C	LBH	LM	HM		
<u>Boat Storage, Wet</u>	<u>III</u>	<u>Z</u>	<u>Z</u>	<u>Z</u>	<u>Z</u>	<u>Z</u>	<u>Z</u>	<u>Z</u>	<u>Z</u>	<u>Z</u>	<u>Z</u>	<u>Z</u>	<u>Z</u>	<u>3.5.5</u>

Item 4: The provisions of this ordinance are severable and if any of its provisions or any sentence, clause, or paragraph or the application thereof to any person or circumstance shall be held unconstitutional or violative of the Laws of the State of North Carolina by any court of competent jurisdiction, the decision of such court shall not affect or impair any of the remaining provisions which can be given effect without the invalid provision or application.

Chairman Etheridge opened the public hearing.

James Waterfield, Knotts Island, was concerned with regulations.

Bob Hartis, Harbinger, county should reverse old ordinance this should not be an issue.

Gary Tranquilla, was not aware of a docking issue.

Lannie Belangia, Pt. Harbor, cannot understand why this issue was even suggested.

Clyde Sanders, Harbinger, opposes this regulation.

Tommy Bowden, stated that this should be deleted from ordinance.

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

Commissioner Nelms moved to direct staff and the stake holders to meet and come up with a reasonable ordinance. Commissioner O'Neal seconded the motion. Motion carried.

Public Hearing and Action PB 87-56 Monterey Shores, Section III, PUD (Corolla Shores): Request for an extension of a special use permit for a proposed grocery store located on the west side of NC 12, west of the Whalehead Subdivision, and south of the Corolla Light PUD, Tax Map 115, Parcel 3S, Poplar Branch Township.

Ben Woody, Planning Director, reviewed the request.

On December 3, 2007, the Board of Commissioners voted to approve an amended sketch plan/special use permit for the development of a grocery store on Parcel V of Corolla Shores. The special use permit is due to expire on December 3, 2009. Quible and Associates, on behalf of Food Lion, LLC has submitted the attached letter (Attachment 1) requesting a one year extension of the approved special use permit.

According to Section 11.10.2 of the UDO:

11.10.2 Special Use and Conditional Use Permits

- B. The permit issuing authority may extend one time for a period up to two years the date when a permit would otherwise expire, if it concludes that:
1. The permit has not yet expired, *(Applicant submitted extension request prior to SUP expiration.)*
 2. The permit recipient has proceeded with due diligence and in good faith; and, *(Applicant states in letter dated June 12, 2009 that clearing and filling activities have occurred. The letter also references economic conditions and delays in wastewater permitting.)*
 3. Conditions have not changed so substantially as to warrant a new application. Successive extensions shall not be granted. All such extensions may be granted without resort to the formal processes and fees required for a new permit. *(There have been no substantial changes in the application.)*

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

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

Public Hearing and Action on Proposed Rural Operating Assistance Program (ROAP) Application

Dan Scanlon, County Manager, reviewed the proposed ROAP application.

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

Commissioner Gregory moved to approve. Commissioner Taylor seconded the motion. Motion carried.

Discussion and Consideration Ordinance providing for licensing of Solid Waste Collectors

Ike McRee, County Attorney, reviewed the ordinance.

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

AN ORDINANCE OF THE CURRITUCK COUNTY BOARD OF COMMISSIONERS AMENDING THE CURRITUCK COUNTY CODE OF ORDINANCES TO AUTHORIZE THE BILLING OF FEES FOR ANNUAL INSPECTION OF PROVISIONAL SEPTIC TANKS OR OTHER INNOVATIVE SEPTIC SYSTEMS AS PROPERTY TAXES

WHEREAS, pursuant to Session Law 1995-577 the County of Currituck is authorized to adopt an ordinance providing that any fees for the annual inspection of provisional septic tanks or other innovative septic systems may be billed, paid and collected in the same manner as property taxes and that delinquent fees are a lien on the real property described on the bill that includes the fee.

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

PART I. That the Code of Ordinances, Currituck County, North Carolina is amended by adding a article and section to Chapter 13 to read as follows:

ARTICLE IV. PROVISIONAL AND INNOVATIVE WASTE WATER COLLECTION AND TREATMENT SYSTEMS

Section 13-243. Billing and Collection of Annual Inspection Fees.

The fee imposed by the health department or management entity having jurisdiction within the county for the annual inspection of provisional septic tanks or other innovative septic systems may be billed and is payable in the same manner as property taxes and, in the case of nonpayment, may be collected in any manner by which real or personal property taxes can be collected. The annual inspection fee is due and payable upon invoice of the health department or management entity having jurisdiction in the county and at that time becomes a lien on the land described in the invoice that includes the annual inspection fee.

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

Discussion and Consideration of Expansion of Fire and EMS Advisory Board

continued

Designation of Voting Delegate to NCACC Annual Conference

Commissioner Gregory moved to appoint Chairman Etheridge.
 Commissioner Aydlett seconded the motion. Motion carried.

Appointment to Board of Directors of Greater Albemarle Area Chapter-American Red Cross

continued

Appointment to Northeastern Workforce Development Board

Commissioner O'Neal moved to appoint Wanda Beasley.
 Commissioner Aydlett seconded the motion. Motion carried.

Appointment to Senior Citizen Advisory Board

Chairman Etheridge moved to appoint Grace Yingling.
 Commissioner Nelms seconded the motion. Motion carried.

Appointment to Library Board of Trustees

Commissioner Nelms appointed Cindy Brodersen and Joann Dibello. Chairman Etheridge seconded the motion. Motion carried.

Consent Agenda:

1. Budget Amendments
2. Ratification of License Agreement for Currituck Utilities to install temporary wastewater service on Whalehead Club property
3. Resolution to Declare County Property as Surplus and Authorize Sale by Upset Bid Process
4. Moyock Library, CO-004, McKenzie Construction Corporation-~~Deleted~~
5. Approval of July 6, 2009, Minutes
6. Petition to NCDOT for Addition to State System of New Colony Drive
7. Request DOT to lower speed limit in front of Jarvisburg and Knotts Island Schools.

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

<u>Account Number</u>	<u>Account Description</u>	Debit	Credit
		Decrease Revenue or Increase Expense	Increase Revenue or Decrease Expense
10640-532004	Supplies - Home Economics Fund Balance	\$ 636	
10390-499900	Appropriated		\$ 636
		\$ 636	\$ 636

Explanation: Cooperative Extension (10640) - To carry-forward SHIIP grant funds from FY 2009.

Net Budget Effect: Operating Fund (10) - Increased by \$636.

<u>Account Number</u>	<u>Account Description</u>	Debit	Credit
		Decrease Revenue or Increase Expense	Increase Revenue or Decrease Expense
10793-511500	Printing & Binding		\$ 720
10793-514000	Travel		\$ 2,500
10793-514500	Training & Education		\$ 500
10793-532000	Supplies		\$ 1,000
10793-545000	Contract Services		\$ 4,750
10330-447700	Smart Start	\$ 9,470	
		\$ 9,470	\$ 9,470

Explanation: Smart Start; Eat Smart, Move More (10793) - To remove Smart Start grant funds. This grant was not renewed for FY 2010.

Net Budget Effect: Operating Fund (10) - Reduced by \$9,470.

<u>Account Number</u>	<u>Account Description</u>	Debit	Credit
		Decrease Revenue or Increase Expense	Increase Revenue or Decrease Expense
50790-594500	Contract Services	\$ 2,000	
50790-570000	Reimbursable Expenses		\$ 2,000
		\$ 2,000	\$ 2,000

Explanation: Moyock Library Construction (50790) - To transfer funds for McKenzie Construction Corp. change order #4 to add sump pump, Heritage room flooring, wood base, faucet and cabinet changes; and temporary generator at the Moyock Library.

Net Budget Effect: County Governmental Construction (50) - No change.

**RESOLUTION DECLARING CERTAIN REAL PROPERTY SURPLUS AND
AUTHORIZING SALE BY UPSET BID PURSUANT TO N.C. GEN. STAT.
SECTION 160A-269**

WHEREAS, the County of Currituck owns certain property located at 112 Milburn Sawyer Road and 323 N. Spot Road, Powells Point, N.C., with a residential structure located on each parcel; and

WHEREAS, North Carolina General Statute 160A-269 permits a county to solicit an offer to purchase property and advertise it for upset bids; and

WHEREAS, the Property is not used by the County and is deemed surplus; and

WHEREAS, the Board of Commissioners for Currituck County has determined that as surplus property, the Property should be sold through an upset bid process and that the County should solicit an offer to purchase the Property in an amount not less than \$69,090.00 for the residential structure located at 112 Milburn Sawyer Road and \$87,992.00 for the residential structure located at 323 N. Spot Road.

NOW, THEREFORE, BE IT RESOLVED by the Board of Commissioners for Currituck County that:

1. The Property is declared surplus and the County of Currituck shall solicit an offer to purchase the residential structure at 112 Milburn Sawyer Road in an amount not less than \$69,090.00 and the residential structure at 323 N. Spot Road in an amount not less than \$87,992.00, which offers shall be subject to the upset bid procedure set forth in N.C. Gen. Stat. Section 160A-269.
2. The Clerk to the Board of Commissioners shall cause publication of a notice of the solicitation of an offer to purchase each residential structure, subject to the upset bid procedure. The notice shall describe each residential structure and the amount of the offer solicited, and shall state the terms under which the offer may be upset.
3. Persons wishing to submit an offer to purchase the residential structures shall submit an offer in an amount not less than \$69,090.00 for the structure located at 112 Milburn Sawyer Road and \$87,992.00 for the structure located at 323 N. Spot Road with each offer accompanied by a deposit made in cash, cashier's check or certified check in the amount of five percent (5%) of the offer to purchase.
4. Upon receipt of an offer to purchase one of the residential structures and deposit, the Clerk to the Board of Commissioners shall cause publication of a notice of the offer to purchase. Persons wishing to upset the offer that has been received shall submit a sealed bid with their offer to the office of the Clerk to the Board of Commissioners within 10 days after the notice is published. At the conclusion of the 10-day period, the Clerk to the Board of Commissioners shall open the bids, if any, and the highest such bid will become the new offer. If there is more than one bid in the highest amount, the first such bid received will become the new offer.

5. If a qualifying higher bid is received, the Clerk to the Board of Commissioners shall cause a new notice of upset bid to be published, and shall continue to do so until a 10-day period has passed without any qualifying upset bid having been received.
6. A qualifying higher bid is one that raises the existing offer by not less than 10 percent (10%) of the first \$1,000 of that offer and 5 percent (5%) of the remainder of that offer.
7. A qualifying higher bid must also be accompanied by a deposit in the amount of 5 percent (5%) of the bid; the deposit may be made in cash, cashier's check, or certified check. The County will return without interest the deposit on any bid not accepted, and will return without interest the deposit on an offer subject to upset if a qualifying higher bid is received. The County will return the deposit of the final high bidder without interest at closing
8. The terms of the final sale are that the buyer must pay for purchase the residential structure with cash, cashier's check or certified check at the time of closing and that each residential structure is sold AS IS and must be removed from the sites by the final high bidder.
9. The County reserves the right to withdraw one or both residential structures from sale at any time and the right to reject any and all offers at any time.

Commissioner's Report

Commissioner Aydlett directed staff to begin the process to form the Carova Beach Service District. Commissioner O'Neal seconded the motion. Motion carried.

Commissioner O'Neal reported on the meeting with the Turnpike Authority on the Mid County Bridge. They will be looking at changing the plan at Waterlily.

County Manager's Report

No comment

Closed Session:

According to GS 143-318.11.(6) to discuss personnel and (3) to consult with an attorney and preserve the attorney-client privilege.

Commissioner Gregory moved to go into closed session as stated. Commissioner Aydlett seconded the motion. Motion carried.

Adjourn

After reconvening from closed session the Board agreed to approve the Moyock Library Change Order and deny the budget amendment for \$33,000.

There being no further business, the meeting adjourned.