

CURRITUCK COUNTY
NORTH CAROLINA
March 2, 2009

The Board of Commissioners met at 1:00 p.m. to discuss Utilities and at 5:00 p.m. for a reception and a report to the people by Cooperative Extension.

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 Van Keane, New Beginnings Assembly of God, was present to give the invocation

Approval of Agenda

Commissioner Taylor moved to approve agenda as amended to add to consent agenda, Public School Capital School Funding, and Ordinance for County Boards. Commissioner Rorer 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 **Aaron Gay, NC Forest Service, to Discuss Marsh Fires**
- Item 4 **Public Hearing and Action:** 08-42 Blackwater Training Center: Request for a Special Use Permit for a Security Training Operations and Services Facility on property located at the South end of Puddin Ridge Road, adjacent to the Camden County border, Tax Map 12, Lot 1, and Tax Map 17, Lot 1A, Moyock Township.
- Item 5 **Public Hearing and Action:** PB 09-07 Currituck County Schools: Request to amend the Currituck County Unified Development Ordinance to exempt public outdoor recreational facilities from the requirements of Section 9.4 Lighting Standards.
- Item 6 **Public Hearing and Action:** PB 09-08 Currituck County Board of Commissioners: Request to amend the Currituck County Unified Development Ordinance, Chapter 10: Subdivision Requirements, to exempt property divisions transferred to a government entity from the zoning and subdivision requirements of the Unified Development Ordinance.
- Item 7 **Public Hearing and Action:** PB 09-02 Currituck County Planning Department: Request to amend the Currituck County Unified Development Ordinance, Chapter 2: Zoning Districts, Chapter 3: Special Requirements, and Chapter 17: Definitions to revise the requirements for Adult Establishments and to permit Tattoo and Body Piercing Studios only in the HM zoning district.
- Item 8 **Consideration of Concession License Agreement for Airport**
- Item 9 **Consent Agenda:**

1. Budget amendments
2. Approval of Code Enforcement Violation Files Disposition
3. Resolution East Carolina HIV/AIDS Grant
4. Magette Well change order #1, Mainland Water Construction
5. Crowder Construction change order #3, Mainland Water construction
6. Hendrix-Barnhill CO1 & CO2, Mainland Water
7. McKenzie Construction change order #2, Moyock Library Construction
8. Amendment to The Design Collaborative agreement for Moyock Library
9. Resolution to Declare Surplus Property for Disposal
10. Resolution supporting the creation of an Insurance Commission
11. Approval of Grant for Mosquito Control and Resolution designating County Manager to sign
12. Approval of Job Descriptions in Tourism Department
13. Approval of Building Inspection Records Disposition
14. Approval of February 16, 2009, Minutes

Item 10 Commissioner's Report

Item 11 County Manager's Report

Adjourn

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.

Juanita Krause, Summit Farms, thanked the Board for their support with the OLF meeting.

Doris Flora, Moyock, thanked the Board and staff for support of the OLF meeting.

Commissioner Nelms, commented on the traffic congestion on NC 168 and the use of the Welcome Sign to advise public of these types of problems.

Commissioner Taylor thanked the citizens for their support of the OLF meeting.

Mr. Scanlon, County Manager, stated that there was no water line going into Blackwater.

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

Aaron Gay, NC Forest Service, to Discuss Marsh Fires

Aaron Gay, NC Forest Service, made a presentation on the reason for burning the marsh and process for burn permits.

Commissioner O'Neal stated that he had received calls from neighbors about fires being too close to their homes.

Mr. Gay, stated that all these fires have been monitored and are legal.

Public Hearing and Action: 08-42 Blackwater Training Center: Request for a Special Use Permit for a Security Training Operations and Services Facility on property located at the South end of Puddin Ridge Road, adjacent to the Camden County border, Tax Map 12, Lot 1, and Tax Map 17, Lot 1A, Moyock Township.

Sworn testimony was given prior to making comments.

Ben Woody, Planning Director, reviewed the request.

ITEM: SPECIAL USE PERMIT - SECURITY TRAINING OPERATIONS AND SERVICES FACILITY

LOCATION: 850 Pudding Ridge Road, Moyock

ZONING DISTRICT: Agricultural (A)

TAX ID: 0012-000-0001-0000, 0017-000-001A-0000

OWNER: E & J Holdings, LLC
PO Box 1029
Moyock, NC 27958

APPLICANT: Hyman & Robey, PC
PO Box 339
Camden, NC 27921

LAND USE/ZONING OF SURROUNDING PROPERTY:

	Land Use	Zoning
NORTH:	Undeveloped, Residential Single Family	A
SOUTH:	Undeveloped	A
EAST:	Undeveloped	A
WEST:	Undeveloped	A

LAND USE PLAN

CLASSIFICATION: The 2006 Land Use Plan classifies the site as **Limited Service** and **Conservation** within the **Moyock** sub-area.

NARRATIVE:

1. E & J Holdings is requesting a Special Use Permit for the Blackwater Training Facility in Currituck County to allow operation of existing firing ranges and a portion of a driver training facility.
2. The property consists of multiple parcels totaling 4,639 contiguous acres in Currituck County.
3. This property is zoned Agricultural and the Table of Permissible Uses allows Security Training Operations and

Services Facilities in this zoning district with a Special Use Permit.

4. The existing firing ranges shall only be used for small arms training. The downrange safety zones specified in the Military Handbook (ML-HDBK-1027/3B) will determine the allowable caliber of weapon.
5. The firing ranges are required to be 5280 feet from any adjacent property lines. As submitted, the existing ranges are located 6,500 feet from the nearest property line (Summit Farms subdivision).
6. Proof of minimum liability insurance in the amount of \$2,000,000 was provided to the Planning Department.
7. The facility must be operated in accordance with the requirements of Section 3.3.1 of the Unified Development Ordinance.
8. The site plan and special use permit submitted for this project were reviewed at the January 21, 2009 TRC meeting. A revised site plan and narrative addressing the TRC comments was received and approved (see attached). Recommended conditions of approval are included in the staff comments.

QUESTION(S) BEFORE THE BOARD:

Special Use Permit Criteria and Staff Findings:

Special Use Permits are intended to allow the Board of Commissioners flexibility in the administration of the UDO. 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 to minimize any negative effects they might have on surrounding properties.

In order to approve a Special Use Permit, certain criteria must be satisfied. The criteria and suggested findings of fact are outlined as follows:

1. COMPLETENESS OF THE APPLICATION
Suggested Findings:
 - a) The application is complete.
2. COMPLIANCE WITH ORDINANCE REQUIREMENTS
Suggested Findings:
 - a) The applicant's proposal will be required to maintain compliance with all UDO requirements and any additional requirements of the Board of Commissioners.

- i. The proposed use **will not** materially endanger the public health or safety for the following reasons:
Suggested Findings:
 - 1. The firing ranges will be over 6,500 feet from the nearest property not owned by E&J Holdings.
 - 2. The use will meet all of the safety requirements found in Section 3.3.1 of the Unified Development Ordinance.

- ii. The proposed use **will not** substantially injure the value of adjoining or abutting property for the following reasons:
Suggested Findings:
 - 1. The Table of Permitted Uses allows Security Training Operations and Services Facilities in this zoning district with a Special Use Permit.
 - 2. The surrounding land uses will be buffered by existing vegetation, drainage canals, and required setbacks of one mile for firing ranges.

- iii. The proposed use **will** be in harmony with the particular neighborhood or area in which it is to be located.
Suggested Findings:
 - 1. The facility shall not conduct firing range activities prior to 7 a.m. or after 10 p.m. EST daily Monday through Saturday and on Sundays prior to 9 a.m. or after 10 p.m. EST. No firing or explosive training activities shall occur on Christmas Day.
 - 2. There are no residential uses within 8,000 feet of the firing ranges.

- iv. The proposed use **will** be in general conformity with the Land Use Plan, and any other plan officially adopted by the Board of Commissioners.
Suggested Findings:
 - 1. The 2006 Land Use Plan classifies this site as Limited Service and Conservation within the Moyock Sub-Area and the proposed use is in keeping with the policies of the plan.
 - 2. The intensity and minimal built upon area of this development will not significantly impact any wetlands or natural features of the larger site.

- v. The proposed 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

applicable facilities are adequate. Such facilities must be in place or programmed to be in place within two years after the initial approval of the sketch plan. In the case of subdivision and multi-family development at the sketch plan/special use, preliminary plat or final plat stage, the Board of Commissioners may establish time limits on the number of lots/units available for development to assure adequate public facilities are available in.

Suggested Findings:

1. The proposed commercial use will not exceed the county's ability to provide adequate public facilities.

STAFF RECOMMENDATION

The proposal appears to meet the criteria for granting a Special Use Permit and staff recommends **APPROVAL** with the following conditions:

1. The revised plan dated 1-21-2009 shall be the approved site plan for this permit.
2. All required county, state, or federal permits shall be secured before the use resumes and be kept in good standing for the duration of the use.
3. The storage of munitions or explosives shall be prohibited in Currituck County.
4. The Special Use Permit is valid for one year from the date of approval, after which it must be renewed by the Currituck County Board of Commissioners.

PLANNING BOARD RECOMMENDATION

The Planning Board recommended **APPROVAL** with the staff recommendations and the following conditions:

1. Each firing range shall be posted indicating the allowable caliber of weapon allowed and any other applicable rules.
2. A copy of the Military Handbook (ML-HDBK-1027/3B) shall be available at each firing range.

PLANNING BOARD DISCUSSION

Mr. Hyman provided an overview of the request. Blackwater does not plan any new construction in Currituck.

Mr. Midgette asked Mr. Hyman if he was in agreement to the staff recommendations.

Mr. Hyman stated yes.

Ms. Motes stated she is the most adjacent property owner to the existing facility. Ms. Motes concern is the inspection and monitoring of these firing ranges. Ms. Motes stated Ms.

McKenzie has provided her with an email from the Navy stating they have inspected the firing ranges and found them in compliance. Ms. Motes has not been able to verify this information because it was blacked out where the email originated.

Ms. McKenzie stated that ATF monitors the storage of Blackwater's armory. The email that Blackwater received from the Navy stated the firing ranges were in compliance and she will need to contact the Navy to get permission to release a name. Ms. McKenzie stated if the county would give them a list of county employees, they would have them cleared at the gate so when they showed up with proper identification they could go in.

Ms. Robbins stated the email refers to ranges 30 through 32 as inspected and the ranges in question have not been inspected.

Ms. McKenzie stated yes, but they would have an inspection of the ranges before this goes to the Board of Commissioners meeting.

Mr. West asked if Blackwater falls under any organization for safety inspections.

Ms. McKenzie stated they fall under the Navy's requirements.

ACTION

Mr. Clark motioned to recommend approval with staff recommendations of a Special Use Permit for a Security Training Operations and Services Facility with added conditions to include that each firing range be posted indicating the maximum caliber weapon used and a copy of the military handbook be available. Mr. West seconded the motion. Motion passed unanimously.

Chairman Etheridge opened the public hearing.

Doris Flora, opposes the request.

Eddie Hyman, Engineer, was present to answer questions.

Kate McKenzie, Attorney, reviewed the ranges and was present to answer questions.

Juanita Krause, Summit Farms, opposes permit and asked why Camden Sheriff instead of Currituck answers noise complaints.

Sherry Motes, expressed concerns with safety and hours of operation.

Troy Breathwaite, expressed his concerns with noise and hours of operation.

Linda Knox, requested the Board to table the request.

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

Commissioner Taylor moved to approve with Staff and Planning Board recommendations, no Sunday hours, request Camden County Board consider rules as Currituck County, and include if they have a violation permit can be revoked. Commissioner Nelms seconded the motion. Motion carried with Commissioners O'Neal and Aydlett voting no.

Public Hearing and Action: PB 09-07 Currituck County Schools: Request to amend the Currituck County Unified Development Ordinance to exempt public outdoor recreational facilities from the requirements of Section 9.4 Lighting Standards.

Ben Woody, Planning Director, reviewed the amendment.

Currituck County Schools is requesting a text amendment to exempt public outdoor recreation facilities from the mainland lighting standards; Section 9.4 of the UDO.

The mainland lighting standards place additional requirements on properties that contain structures in excess of 20,000 heated square feet. In summary, the current lighting regulations restrict athletic field lighting to a maximum height of 25 feet and a maximum of 3 footcandles measured at the property line. The text amendment proposes to create an exemption from these standards for facilities such as athletic fields, community swimming pools, parks and water access areas.

What follows are the minutes from the February 10 Planning Board meeting and a draft of the text amendment as described above. The Planning Board recommended unanimous approval of this request.

PLANNING BOARD DISCUSSION

The board discussed different height of the lighting.

Mr. Woody will check on the lighting at Griggs School before this goes to the BOC meeting.

ACTION

Mr. West motioned to recommend approval to amend the Currituck County Unified Development Ordinance to exempt public outdoor recreational facilities from the requirements of Section 9.4 Lighting Standards. Mr. Clark seconded the motion. Motion carried unanimously.

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

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

Public Hearing and Action: PB 09-08 Currituck County Board of Commissioners: Request to amend the Currituck County Unified Development Ordinance, Chapter 10: Subdivision Requirements, to exempt property divisions transferred to a government entity from the zoning and subdivision requirements of the Unified Development Ordinance.

Ben Woody, Planning Director, reviewed the request.

The Currituck County Board of Commissioners is requesting a text amendment that would exempt the division of property dedicated to the public from the requirements of the Unified Development Ordinance. As proposed, the amendment will allow a governmental entity to accept a dedicated parcel of land that may not meet the requirements of the subdivision ordinance; however, all resultant parcels must meet the full requirements of the Unified Development Ordinance.

To qualify for the proposed exemption, the dedicated property must be used for the conservation of natural resources, utilities, or other public purposes. If the governmental entity transfers the dedicated property to a non-governmental entity at a later date or the property is further divided for non-public uses, all requirements of the Unified Development Ordinance must then be met.

What follows are the minutes from the February 10 Planning Board meeting and a draft of the text amendment as described above. The Planning Board recommended unanimous approval of this request.

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

PLANNING BOARD DISCUSSION

Mr. West asked if this would include open space.

Mr. Woody stated yes if it was accepted by the government entity.

ACTION

Mr. Kovacs motioned to recommend approval to amend the Currituck County Unified Development Ordinance, Chapter 10: Subdivision Requirements, to exempt property divisions transferred to a government entity from the zoning and subdivision requirements of the Unified Development Ordinance. Mr. Bell seconded the motion. Motion carried unanimously.

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

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

Public Hearing and Action: PB 09-02 Currituck County Planning Department: Request to amend the Currituck County Unified Development Ordinance, Chapter 2: Zoning Districts, Chapter 3: Special Requirements, and Chapter 17: Definitions to revise the requirements for Adult Establishments and to permit Tattoo and Body Piercing Studios only in the HM zoning district.

Ben Woody, Planning Director, reviewed the request.

The enclosed text amendment submitted by the Currituck County Planning Department is intended to revise and clarify several of the definitions included in the Adult Establishments ordinance. During a recent Board of Adjustment case regarding the issuance of a conditional use permit, it was determined the definition of Adult Business may unintentionally include land uses that are not of an adult nature. This text amendment is intended to clean up this and other potential inconsistencies in the Adult Establishments ordinance.

Additionally, the Board of Commissioners requested that Tattoo and Body Piercing Studios be prohibited in the General Business (GB), Commercial (C), and Light Manufacturing (LM) zoning districts. This change would provide that these establishments are only permitted in the Heavy Manufacturing (HM) zoning district with the issuance of a Conditional Use Permit.

What follows are the minutes from the January 10 and February 10 Planning Board meetings and a draft of the text amendment as described above. The Planning Board recommended unanimous approval of this request with the modified requirement that the spacing provisions for adult establishments be increased from 1000 feet to 1500 feet.

PLANNING BOARD DISCUSSION - February 10 meeting

None

ACTION

Mr. West motioned to recommend approval of the text amendment as presented with the exception of increasing the adult establishments spacing requirement from 1,000 feet to 1,500 feet. Ms. Robbins seconded the motion. Motion carried unanimously.

PLANNING BOARD DISCUSSION - January 10 meeting

Mr. West asked about location buffers in feet and that no adult establishment shall be 1000 feet from a church, public school, and public playground. How is this measured? Can this be changed to 1 mile?

Mr. Woody stated it is measured building to building.

Mr. Woody stated that if you set a provision in your county which excludes adult businesses it would be unconstitutional. Mr. Woody stated a map would need to be generated to show these areas with increased buffers. Mr. Woody stated that tattoo and body piercing studios are not adult establishments. Mr. Woody stated he will ask the county attorney to review the separation of an adult establishment and tattoo studios.

ACTION

Mr. West motioned to tabled PB 09-02 text amendment so staff can determine increased spacing provisions and map adult establishments and tattoo studios. Ms. Turner seconded the motion. Motion carried unanimously.

Currituck County PB 09-02 UDO AMENDMENT REQUEST

An amendment to Chapter 3: Special Requirements, Chapter 17: Definitions, and Chapter 2: Zoning Districts.

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 Chapter 3: Special Requirements, Section 3.7.1 is amended by deleting the strikethrough language and adding the following underlined language:

3.7.1 Adult Establishments (Special Use Permit only)

- A. The provisions of these regulations are adopted by the Currituck County Board of Commissioners under authority granted by the General Assembly of the State of North Carolina, in Chapter 153A, (45-50) and further Article VI of Chapter 153A, Section 135 of the General Statutes. From and after the effective date of September 19, 1994, these regulations shall apply to every building, lot, tract, or parcel of land within Currituck County. For the purpose of promoting the health, safety, morals and general welfare of the citizenry of Currituck County, these regulations are adopted by the Board of Commissioners to regulate adult establishments and sexually oriented businesses, as hereby defined, located in Currituck County. Further, these regulations have been made with reasonable consideration among other things, as to the character of the county and its areas and their peculiar suitability for these businesses.
- B. These regulations shall not repeal, impair, abrogate, or interfere with any existing easements, covenants, deed restrictions, setback requirements, rules, definitions,

regulations previously adopted pursuant to law in any established zoning district in Currituck County. However, where these regulations impose greater restrictions, the provisions of these regulations shall govern.

- C. For the purpose of these regulations, ~~the following definitions shall apply:~~ Adult Establishments and Sexually Oriented Businesses as defined in Chapter 17: Definitions shall apply.

- ~~1. Adult Arcade: An establishment where, for any form of consideration, one or more motion picture projectors, slide projectors, or similar machines for viewing by five or fewer persons each are used to show films, motion pictures, video cassettes, slides, or other photographic reproductions that are characterized by an emphasis upon the depiction or description of specified sexual activities or specified anatomical areas (as defined hereinafter).~~
- ~~2. Adult Bookstore: An establishment that has as substantial portion (over 25 percent of total retail space) of its stock in trade and offers for rent or sale, for any consideration, any one or more of the following: 1) books, magazines, periodicals, or other printed matter, or photographs, films, motion pictures video cassettes, slides, or other visual representations that a emphasis upon the depiction or description of specified sexual activities or specified anatomical areas; or 2) instruments, devices, or paraphernalia that are designed for use in connection with specified sexual activities.~~
- ~~3. Adult Business: An adult business shall be defined as any business activity, club or other establishment which permits its employees, members, patrons or quest on its premises to exhibit any specified anatomical areas before any other person or persons.~~
- ~~4. Adult Motion Picture Theater: An establishment where, for any form of consideration, films, motion pictures, video cassettes, slides, or similar photographic reproductions are shown, and in which a substantial portion (25 percent) of the total presentation time is devoted to the showing of material characterized by an emphasis on the depiction or description of specified sexual activities or specified anatomical areas.~~
- ~~5. Adult Theater: A theater, concert hall, auditorium or similar establishment characterized by (activities featuring) the exposure of specified anatomical areas or by specified sexual activities.~~

- ~~6. Massage: Any manipulation of body muscle or tissue by rubbing, stroking, kneading, or tapping, by hand or mechanical device.~~
- ~~7. Massage Business: Any establishment or business wherein massage is practiced, including establishments commonly known as massage studios or massage parlors. Specifically excluding from this definition are massages under the direct supervision of a licensed physician or a masseuse licensed in the State of North Carolina or where massage is accessory to the principal use (such as at health clubs and beauty salons).~~
- ~~8. Sexually Oriented Business: A sexually oriented business shall be defined as any business activity, club or other establishment, within which the exhibition, showing, rental, or sale of materials distinguished or characterized by an emphasis on material depicting, describing, or exhibiting specified anatomical areas or relating to specified sexual activities is permitted. Sexually oriented businesses shall include, but are not limited to: adult arcades, adult bookstores, adult motion picture theaters, adult theaters, massage businesses, as defined by this ordinance.~~
- ~~9. Specified Anatomical Areas: Specified anatomical areas shall be defined as less than completely and opaquely covered human genitals, pubic regions, buttocks and female breasts below a point immediately above the top of the areola.~~
- ~~10. Specified sexual activities: Specified sexual activities shall be defined as:

 - ~~a. Human genitals in a state of stimulation or arousal;~~
 - ~~b. Acts of human masturbation, sexual intercourse, sodomy; or~~
 - ~~c. Fondling or other erotic genitals, pubic regions, buttocks or female breasts.~~~~
- ~~11. Total Retail Space: Any space within the structure that is used for the direct sale of merchandise to the public and storage areas for those items.~~

D. Adult ~~businesses~~, establishments and sexually oriented businesses shall be subject to the following restrictions:

- 1. Adult ~~businesses~~ establishments may be located only in an HM (Heavy Manufacturing) zoning district provided a special use permit is obtained.

2. No adult ~~business~~ establishment shall be permitted in any building:
 - a. Located within ~~1000~~ 1500 feet in any direction from a building used as a residential dwelling and any R and RA zoning district.
 - b. Located within ~~1000~~ 1500 feet in any direction from a building in which an adult ~~business~~ establishment or a sexually oriented business is located.
 - c. Located within ~~1000~~ 1500 feet in any direction from a building used as a church, synagogue, or other house of worship.
 - d. Located within ~~1000~~ 1500 feet in any direction from a building used as a public school or as a state licensed day care center.
 - e. Located within ~~1000~~ 1500 feet in any direction from any lot or parcel on which a public playground, public swimming pool, or public park is located.
3. Except for signs as permitted in Chapter 7, promotional displays and presentations shall not be visible to the public from sidewalks, walkways or streets.
4. Determination of parking requirements shall be the responsibility of the zoning administrator who shall use the table found in Chapter 8 as a guide (i.e. adult motion picture theaters shall provide parking as is required for other motion picture theaters; adult businesses shall provide parking as is required for dance halls, bars and nightclubs, etc.).
- E. Any adult ~~business~~ establishment or sexually oriented business lawfully operating on September 19, 1994, which is in violation of this ordinance shall be deemed a nonconforming use. Any use which is determined to be nonconforming by application of the provisions of this section shall be permitted to continue for a period not to exceed two years. Such nonconforming uses shall not be increased, enlarged, extended, or altered except that the use may be changed to a conforming use. If a nonconforming use is discontinued for a period of 180 days or more it shall not be reestablished.
- F. If two or more adult ~~businesses,~~ establishments or sexually oriented ~~adult~~ businesses are within 1000 feet of one another and otherwise in a permissible location, the business which was first established and continually

operating at its present location shall be considered the conforming use and the later-established business(es) shall be considered nonconforming.

- G. An adult ~~business~~ establishment or sexually oriented ~~adult~~ business lawfully operating as a conforming use shall not be rendered nonconforming by the subsequent location of a church, house of worship, day care center, school, playground, public swimming pool, or public park within 1000 feet of the adult business and sexually oriented business.

Item 2: That Chapter 17: Definitions is amended by deleting the strikethrough language, adding the underlined language and reordering in alphabetical order the following definitions:

Sexually Oriented Business (aka Adult Establishment ~~or Sexually Oriented Establishment~~)

A sexually oriented business shall be defined as any business activity, club or other establishment, within which the exhibition, showing, rental, or sale of materials distinguished or characterized by an emphasis on material depicting, describing, or exhibiting specified anatomical areas or relating to specified sexual activities is permitted. Sexually oriented businesses shall include, but are not limited to, adult arcades, adult bookstores, ~~adult businesses,~~ adult motion picture theaters, adult theaters, ~~escort agencies, and~~ massage businesses, ~~as defined by this ordinance.~~ As used in this Ordinance, the following definitions shall apply:

- a. **Adult Arcade:** An establishment where, for any form of consideration, one or more motion picture projectors, slide projectors, or similar machines ~~for viewing by five or fewer persons each~~ are used to show films, motion pictures, video cassettes, digital reproductions, slides, or other photographic reproductions that are characterized by an emphasis upon the depiction or description of specified sexual activities or specified anatomical areas.
- b. **Adult Bookstore:** An establishment that has as substantial portion (over 25% of total retail space) of its stock-in-trade and offers for rent or sale, for any consideration, any one or more of the following:
 - i. books, magazines, periodicals, or other printed matter, or photographs, films, motion pictures, video cassettes, digital reproductions, slides, or other visual representations that are characterized by an emphasis upon the depiction or description of specified sexual activities or specified anatomical areas; or

- ii. instruments, devices, or paraphernalia that are designed for use in connection with specified sexual activities.
- c. **Adult Business:** ~~An adult business shall be defined as any business activity, club or other establishment which permits its employees, members, patrons, or guest on its premises to exhibit any specified anatomical areas before any other person or persons. A nightclub, bar, restaurant, or other commercial establishment that regularly features, exhibits, or displays as one of its principal business purposes:~~
 - i. persons who appear nude or semi-nude; or
 - ii. live performances which are characterized by the exposure of specified anatomical areas or by specified sexual activities; or
 - iii. films, motion pictures, videocassettes, digital reproductions, slides, or other photographic reproductions which depict or describe specified sexual activities or specified anatomical areas.
- d. **Adult Motion Picture Theater:** An establishment where, for any form of consideration, films, motion pictures, video cassettes, digital reproductions, slides, or similar photographic reproductions are regularly shown, and in which a substantial portion (25%) of the total presentation time is devoted to the showing of material characterized by an emphasis on the depiction or description of as one of its principal business purposes that depict or describe specified sexual activities or specified anatomical areas.
- e. **Adult Theater:** A theater, concert hall, auditorium or similar establishment characterized by (activities featuring) the exposure of specified anatomical areas or by specified sexual activities.
- f. **Escort Agencies:** A person or business that furnishes, offers to furnish, or advertises to furnish escorts as one of its principal business purposes, for a fee, tip, or other consideration.
- g. **Massage Business:** Any establishment or business wherein massage is practiced, including establishments commonly known as massage studios or massage parlors. Specifically ~~exclud~~inged from this definition are massages under the direct supervision of (i) a licensed physician ~~by~~ (ii) a masseuse licensed in the State of North Carolina, or (iii)

where massage is an accessory to the principle use (except as an accessory to an adult establishment or sexually oriented business) such as at health clubs and beauty salons

- h. **Specified Anatomical Areas:** Specified anatomical areas shall be defined as less than completely and opaquely covered human genitals, pubic regions, buttocks and female breasts below a point immediately above the top of the areola; or human male genitals in a discernibly turgid state, even if completely and opaquely covered.
- i. **Specified Sexual Activities:** Specified sexual activities shall include, but are not limited to, the following ~~be defined as:~~
 - i. human genitals in a state of sexual stimulation, ~~or~~ arousal, or tumescence; or
 - ii. sex acts, normal or perverted, actual or simulated, including ~~of~~ human masturbation, sexual intercourse, sodomy, or oral copulation; or
 - iii. fondling or other erotic touching of human genitals, pubic regions, buttocks, anus, or female breasts.

Item 3: That Chapter 2: Zoning Districts, Section 2.5 Permitted Uses Table is amended by deleting the following strikethrough language:

Section 2.5 Permitted Uses Table

Use	LUC	Zoning Districts											Special Requirements	
		A	RA	R	RO1	RO2	RR	GB	C	LBH	LM	HM		
Office & Service														
Tattoo and Body Piercing Studios	IV							e	e			e	c	3.5.8

Item 4: That Chapter 3: Special Requirements, Section 3.5.8 is amended by adding the following underlined language:

3.5.8 Tattoo and Body Piercing Studios (Conditional Use Permit only)

Item 5: 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.

Brian Bashears, wanted to know which Board member had requested this amendment.

John Snowden, Maple Road, commented on the first amendment right and violation of this.

Maria Avery, commented on image of county and business of this type on the corridor and the use of business licenses.

Commissioner Nelms stated that this would run businesses out of the county.

Commissioner Taylor stated that Mr. Bashears had a nice establishment and if he wanted to relocate, he would be able to.

Chairman Etheridge closed the public hearing.

Commissioner Nelms moved to vote on items separate.
Commissioner Aydlett seconded the motion. Motion carried.

Commissioner O'Neal moved to approve Chapter 2 zoning districts, Chapter 3 Special requirements. Commissioner Aydlett seconded the motion. Motion carried.

Commissioner O'Neal moved to approve Chapter 17 to revise the requirements for Adult Establishments and to permit tattoo and body piercing studios only in HM zoning district. Chairman Etheridge seconded the motion. Motion failed with Commissioners Aydlett, Gregory, Rorer, Nelms and Taylor voting no.

Consideration of Concession License Agreement for Airport

Commissioner O'Neal moved to table. Commissioner Taylor seconded the motion. Motion carried.

Consent Agenda:

1. Budget amendments
2. Approval of Code Enforcement Violation Files Disposition
3. Resolution East Carolina HIV/AIDS Grant
4. Magette Well change order #1, Mainland Water Construction
5. Crowder Construction change order #3, Mainland Water construction
6. Hendrix-Barnhill CO1 & CO2, Mainland Water
7. McKenzie Construction change order #2, Moyock Library Construction

8. Amendment to The Design Collaborative agreement for Moyock Library
9. Resolution to Declare Surplus Property for Disposal
10. Resolution supporting the creation of an Insurance Commission
11. Approval of Grant for Mosquito Control and Resolution designating County Manager to sign
12. Approval of Job Descriptions in Tourism Department
13. Approval of Building Inspection Records Disposition
14. Approval of February 16, 2009, Minutes
15. Application Public School Capital Building Fund
16. Ordinance on County Boards

<u>Account Number</u>	<u>Account Description</u>	Debit	Credit
		Decrease Revenue or Increase Expense	Increase Revenue or Decrease Expense
66868-516000	Repairs and Maintenance	\$ 6,500	
66868-533800	Chemicals	\$ 4,000	
66868-533200	Lab Tests		\$ 6,500
66868-545000	Contract Services		\$ 4,000
		\$ 10,500	\$ 10,500

Explanation: *Southern Outer Banks Water System (66868) - To transfer funds for scheduled maintenance for the remainder of this year and for increased cost of chemicals.*

Net Budget Effect: Southern Outer Banks Water System Fund (66) - No change

<u>Account Number</u>	<u>Account Description</u>	Debit	Credit
		Decrease Revenue or Increase Expense	Increase Revenue or Decrease Expense
10540-557000	Refunds	\$ 128	
10540-511000	Telephone & postage		\$ 128

\$	128	\$	128
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Explanation: *Inspections (10540)* - To refund building permit fees collected in prior years due to calculation error.

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

<u>Account Number</u>	<u>Account Description</u>	Debit		Credit	
		Decrease Revenue or Increase Expense	Increase Expense	Increase Revenue or Decrease Expense	Decrease Expense
61818-516000	Repairs and Maintenance	\$	20,000		
61818-590003	Fire Hydrants			\$	20,000
		\$	20,000	\$	20,000

Explanation: *Mainland Water (61818)* - To transfer funds for repairs to the road to the water wells at the airport.

Net Budget Effect: Mainland Water Fund (61) - No change.

<u>Account Number</u>	<u>Account Description</u>	Debit		Credit	
		Decrease Revenue or Increase Expense	Increase Expense	Increase Revenue or Decrease Expense	Decrease Expense
10415-511000	Telephone & Postage	\$	2,100		
10415-561000	Professional Services			\$	2,100
		\$	2,100	\$	2,100

Explanation: *Legal (10415)* - Transfer funds for postage for OLF information mailing.

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

<u>Account Number</u>	<u>Account Description</u>	Debit		Credit	
		Decrease Revenue or Increase Expense	Increase Expense	Increase Revenue or Decrease Expense	Decrease Expense
10511-545000	Contracted Services Appropriated Fund	\$	10,000		
10390-499900	Balance	\$	149,366		
10510-540000	Worker's Compensation			\$	66,805

10530-540000	Worker's Compensation	\$	92,561
		\$	159,366

Explanation: *Sheriff (10510); Jail (10511); Emergency Medical Services (10530)* - To adjust accounts to reflect decrease in amounts needed for FY 2008 Worker's Comp Audit.

Net Budget Effect: Operating Fund (10) - Reduced by \$149,366.

		Debit	Credit
<u>Account Number</u>	<u>Account Description</u>	Decrease Revenue or <u>Increase Expense</u>	Increase Revenue or <u>Decrease Expense</u>
10510-532000	Supplies	\$ 12,500	
10510-514000	Travel		\$ 2,500
10510-557600	Miscellaneous Information		\$ 5,000
10510-536000	Uniforms		\$ 5,000
		\$ 12,500	\$ 12,500

Explanation: *Sheriff (10510)* - To transfer funds to furnish additional space in Corolla and for operations for the remainder of this year.

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

		Debit	Credit
<u>Account Number</u>	<u>Account Description</u>	Decrease Revenue or <u>Increase Expense</u>	Increase Revenue or <u>Decrease Expense</u>
50790-594500	Contract Services	\$ 16,149	
50790-596100	Professional Services	\$ 20,550	
50790-588000	Contingency		\$ 32,098
50790-570000	Reimbursable Expenses		\$ 4,601
		\$ 36,699	\$ 36,699

Explanation: *Moyock Library Construction (10790)* - To transfer funds for change order #2 for McKenzie construction for door card reader and for increase in professional services.

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

<u>Account Number</u>	<u>Account Description</u>	Debit	Credit
		Decrease Revenue or Increase Expense	Increase Revenue or Decrease Expense
55818-591001	600 GPM Deep Wells	\$ 90,039	
55818-591003	Wells - Raw Water Line	\$ 2,645	
55818-588004	Tanks - Contingency		\$ 7,096
55818-588003	Distribution System - Contingency		\$ 85,588
		\$ 92,684	\$ 92,684

Explanation: *Mainland Water Construction (55818) - To transfer funds from contingencies for Magette change order #1, Crowder change order #2 and Hendrix-Barnhill change orders 1 & 2.*

Net Budget Effect: Mainland Water Construction Fund (55) - No change.

Surplus Property Water Department, Pump, High Service Model 4L12, Motor, electric 29 HP

**RESOLUTION SUPPORTING CREATION
OF AN INSURANCE COMMISSION**

WHEREAS, increasing homeowners, wind and hail and other property related insurance rates and deductibles are a major concern to all property owners within North Carolina and a particular concern to those who own property in coastal region of North Carolina; and

WHEREAS, currently decisions regarding increases or decreases in the rates and deductibles of Insurance in North Carolina rest solely with the Insurance Commissioner and the Department of Insurance; and

WHEREAS the process, procedures and methods used by the Insurance Commissioner and the Department of Insurance in making such decisions currently provide the public with little to no transparency and very limited means of providing input or recourse for unfair and unjust decisions of the Insurance Commissioner and the Department of Insurance.

NOW, THEREFORE, BE IT RESOLVED the Currituck County Board of Commissioners supports the legislative creation of an Insurance Commission tasked with providing fair and just insurance rates to all North Carolina residents in a manner that is open to the public and provides aggrieved persons sufficient means of recourse for unfair or unjust insurance

rates and encourages all Currituck County and North Carolina resident, property owners, and visitors to contact their representatives in the North Carolina General Assembly to indicate support for such legislation.

AN ORDINANCE OF THE CURRITUCK COUNTY BOARD OF COMMISSIONERS AMENDING CHAPTER 2, ARTICLE III OF THE CURRITUCK COUNTY CODE OF ORDINANCES TO PROHIBIT THE CONCURRENT MEMBERSHIP ON A COUNTY AUTHORITY, BOARD OR COMMISSION

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 a new section to Chapter 2, Article III, Division 1 to read as follows

Sec. 2-98. Multiple Committee Appointments Prohibited.

Other than a county commissioner, officer or employee serving ex officio, no person shall hold concurrently two or more appointments to a county authority, board or commission.

PART II. This ordinance shall apply to those persons holding two or more appointments to a county authority, board or commission on the date this ordinance is adopted at the completion of their current terms of appointment.

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

Commissioner's Report

Commissioner Nelms requested the Board to give back \$5,000 of their salary to help with the county insurance for employees. He also requested the Board exempt fees for building permits up to \$150,000.

County Manager's Report

No comments

Adjourn

There being no further business, the meeting adjourned.

