

CURRITUCK COUNTY
NORTH CAROLINA
May 3, 2010

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 O'Neal, Commissioners Etheridge, Gregory, Rorer, Nelms, Aydlett and Taylor.

Invocation Pledge of Allegiance

Mr. Walter Gallop was present to give the invocation.

Approval of Agenda

Commissioner Aydlett moved to amend the agenda by adding 2 budget amendments and approval to waive tipping fees for Gregg Barco. 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 **Proclamation - National Day of Prayer**
- Item 4 **Public Hearing and Action:** PB 10-08 Tres Beau, Ltd. d/b/a Back Country Outfitters & Segway of the Outer Banks: Request for a special use permit for an outdoor tour operator located at 102-A Austin Street, Tax Map 115B, Parcel 2P2B, Poplar Branch Township.
- Item 5 **Public Hearing and Action:** PB 10-11 Tres Beau, Ltd.: Request for a special use permit for a private outdoor recreational facility located at Wild Horse Lane, Wild Horse Estates II, Tax Map 99D, Parcel OPAR, Poplar Branch Township.
- Item 6 **Public Hearing and Action** to approve a resolution allowing the dissolution of Albemarle Mental Health Center and Development Disabilities and Substance Abuse Services as an area mental health authority
- Item 7 **Consideration of an Ordinance amending Section 8-34 and Section 8-35 of the Code or Ordinances to provide for licensure consistency with County Ordinances**
- Item 8 **Approval of July 4th Fireworks Display**
- Item 9 **Appointment to Whalehead Stormwater Drainage Service District**
- Item 10 **Consent Agenda:**
 - 1. Approval of April 19, 2010, Minutes
 - 2. Budget Amendments
 - 3. Revised JCPC funding plan to transfer SOS assets to Restitution

4. Division of Mental Health, Development, Disability and Substance abuse quarterly fiscal monitoring report
5. Resolution General Surplus and Vehicle Surplus property and Auction to be held May 15, 2010
6. **Approval of waiving tipping fees for Gregg Barco**

Item 11 Commissioner's Report

Item 12 County Manager's Report

Adjourn

Public Comment

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

Chairman O'Neal opened the public comment period.

Robert Brown, owner of Mermaids Club, stated that he has an appeal before the Board of Adjustment and this ordinance was an attempt to shut down his business.

Commissioner Nelms thanked DOT for completing the paving on Poplar Branch Road. He also mentioned the unauthorized use of the soccer fields at Jarvisburg School where there was a stabbing incident.

Chairman O'Neal directed staff to send a letter to WRC about the sign that has been moved in the Indian Town Creek waterway. This sign has been in the same place for 50 years.

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

Proclamation - National Day of Prayer

Commissioner Nelms moved to adopt the proclamation. Commissioner Etheridge seconded the motion. Motion carried.

**PROCLAMATION
NATIONAL DAY OF PRAYER
May 6, 2010**

WHEREAS, National Days of Prayer have been part of our country's heritage since the first one was declared by the Continental Congress in 1775; and

WHEREAS, leaders of our Nation have relied upon the power of prayer throughout American history; and

WHEREAS, May 6, 2010, marks the 59th consecutive observance of National Day of Prayer, as mandated by both Houses of Congress and by our President in Public Law 100-307; and May 6, 2010, has been set aside as our National Day of Prayer; and

WHEREAS, it is good that we acknowledge that we are all God's handiwork and that it is appropriate to call upon Him in prayer; and

WHEREAS, National Day of Prayer's theme is "PRAYER...FOR SUCH A TIME AS THIS" and the scripture is "The Lord is good, a refuge in times of trouble. He cares for those who trust in Him"— Nahum 1:7; and

WHEREAS, while American troops fight for democracy and freedom around the globe and battle the war on terror, citizens of the United States will gather on May 6, 2010, to worship and pray for the American troops, our nation, churches, families, schools, businesses, media and governmental leaders, asking the Lord to grant them wisdom for the challenges they face on a daily basis;

NOW, THEREFORE, the Board of Commissioners of Currituck County, North Carolina, do hereby proclaim May 6, 2010, as "NATIONAL DAY OF PRAYER" in Currituck, North Carolina, and urge our citizens to join together in their homes, places of work, and places of worship to pray for the unity of the hearts of all mankind and to continue in prayer for our State and our Nation.

Public Hearing and Action: PB 10-08 Tres Beau, Ltd. d/b/a Back Country Outfitters & Segway of the Outer Banks: Request for a special use permit for an outdoor tour operator located at 102-A Austin Street, Tax Map 115B, Parcel 2P2B, Poplar Branch Township.

Sworn testimony was given prior to making comments.

Ben Woody, Planning director, reviewed the request.

MEETING DATE: May 3, 2010
Special Use Permit
PB 10-08 Tres Beau Ltd. d/b/a Back Country
Outfitters &
Segway of the Outer Banks

ITEM: SPECIAL USE PERMIT - OUTDOOR TOUR OPERATOR

LOCATION: 102-A Austin Street

ZONING DISTRICT: General Business (GB) - PUD Overlay District

TAX ID: 115B0002P2B0000

OWNER: Corolla Light Town Center, LLC
 PO Box 1237
 Nags Head, NC 27959-1237

APPLICANT: Scott Trabue
 Tres Beau, Ltd. d/b/a Back Country
 Outfitters &
 Segway of the Outer Banks
 PO Box 1630
 Kitty Hawk, NC 27949

LAND USE/ZONING OF SURROUNDING PROPERTY:

	Land Use	Zoning
NORTH:	Commercial	Zoned GB
SOUTH:	Residential	Zoned RO1
EAST:	Residential	Zoned RO1
WEST:	Residential	Zoned RO1

LAND USE PLAN

CLASSIFICATION: The 2006 Land Use Plan classifies the site as **Full Service** within the **Corolla** sub-area.

NARRATIVE:

1. The applicant is requesting a Special Use permit for conducting guided vehicular horse tours, kayak tours and segway tours in the off-road areas of Corolla as well as walking segway tours of the Whalehead Club grounds.

2. All tours and tour vehicles will originate from the Corolla Light Town Center location.
3. The Board of Commissioners adopted an ordinance on September 21, 2009 that established outdoor tour operators as a specific land use. Subsequently, any business operating as a vehicular tour operator with a base operation within the jurisdiction of Currituck County is required to apply for a new special use permit.
4. The Special Use Permit application pertains to the property located at 102-A Austin Street. Associated activities that may occur off-site are subject to the conditions included in the approved Permit.
5. There are several policies in the Currituck County 2006 Land Use Plan that support this type of endeavor. Some are as follows:
 - a. POLICY ED1: new and expanding industries and businesses should be especially encouraged that:
 - 1) diversify the local economy,
 - 2) train and utilize a more highly skilled labor force, and
 - 3) are compatible with the environmental quality and natural amenity-based economy of Currituck County.
 - b. POLICY HP3: Development of the tourism and educational potential of the area's architectural, historic and cultural resources shall be encouraged.

It appears this request is consistent with the policies and objectives of the Land Use Plan provided care is taken to ensure the outdoor tours are conducted in an environmentally sustainable manner. The Planning Department is particularly encouraged to see a growing emphasis on eco-tourism industries that expose the general public to the natural resources of Currituck County.

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:

- The parcel has adequate on-site parking and is located in a well established commercial area.

ii. The proposed use **will not** substantially injure the value of adjoining or abutting property for the following reasons:

Suggested Findings:

- The Unified Development Ordinance indicates that outdoor tour operators are a permitted land use with a Special Use Permit in a General Business (GB) zoning district.

iii. The proposed use **will** be in harmony with the particular neighborhood or area in which it is to be located.

Suggested Findings:

- The parcel is located in Corolla Light Town Center which is a well established commercial area and is therefore in keeping with the character of the surrounding area.

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:

- The 2006 Land Use Plan classifies this site as Full Service in the Corolla Subarea and the

proposed use is in keeping with the policies of the plan.

- 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.

Suggested Findings:

- Approval of this request should have no impact on public facilities.

STAFF RECOMMENDATION

The proposal appears to meet the criteria for granting a Special Use Permit for the property at 102-A Austin Street and staff recommends **APPROVAL** with the following conditions:

1. The guided horse tours and segway walking tours are approved.
2. The guided kayak and off-road segway tours are approved on condition that a valid Special Use Permit for an Outdoor Recreation Facility is issued for the launch site at Wild Horse Estates (PB10-11).
3. All tours must be guided from Memorial Day to Labor Day. Tag-a-long tours are permitted on condition that the lead vehicle is operated by an employee of the tour company and subsequent vehicles are under the employee's supervision.
4. Tour vehicles shall be labeled with decals or paint markings that clearly display the company name. Label font size shall be a minimum of four inches.
5. Tours shall comply with Chapter 3: Article II. Wild Horses, Chapter 10: Article II. Beaches and all other applicable provisions of the Currituck County Code of Ordinances. Tours shall also operate in accordance with all State and Federal laws.
6. There shall be one parking space required for every vehicle seating 1-5 persons, two parking spaces

required for every vehicle seating 6-10 persons etc., and one parking space required for every two employees. If any additional activities or uses occur on-site, additional parking may be required per the Unified Development Ordinance. Currently there is adequate onsite parking.

Use	Parking Requirement	Quantity	Parking Total
Horse Tours	Tour vehicle seating 6 to 10 ppl = 2 parking spaces per vehicle	5	10
Kayak Tours	Tour vehicle seating 6 to 10 ppl = 2 parking spaces per vehicle	1	2
Segway Tours	Tour vehicle seating 1-5 ppl = 1 space per vehicle	1	1
Segway Walking Tour	1 parking space/3ppl	10	3
Employees	1 parking space/2 employees	6	3
		TOTAL Required:	19

7. Vehicles held in reserve in the event of inclement weather or breakdowns may be used as long as the parking requirements and all other conditions of this permit are met. Reserve vehicles must be stored at an approved location.
8. The Board of Commissioners may establish a maximum number of vehicles as part of the special use permit approval process.
9. This special use permit shall be reviewed administratively on an annual basis and a report shall be filed with the Currituck County Board of Commissioners detailing the nature of any complaints received by the Planning Department. At the discretion of the Code Enforcement Officer or Board of Commissioners, the special use permit shall be subject to revocation or modification by the permit issuing authority following a public hearing.

PLANNING BOARD RECOMMENTION:

The Planning Board recommended approval of the special use permit with the staff recommendations.

PLANNING BOARD DISCUSSION (4-13-10)

Mr. West asked Mr. Trabue how many segways he has.

Mr. Trabue stated approximately 15 segways, 8 are used for the in town tours and 5 in off road area tours. All tours are guided.

Ms. Wilson stated when she was doing horse training with the children at the Wild Horse Fund schoolhouse she was impressed with the educational component of the tours.

Mr. Trabue stated the in town tours are historical and the off road tours are ecological as well as historical.

ACTION

Mr. Clark move to **approve** PB 10-08 with the findings of fact and staff recommendations included in the case analysis. Ms. Wilson seconded the motion. Motion carried unanimously.

Chairman O'Neal opened the public comment period. There were no comments, so the public hearing was closed.

Commissioner Aydlett moved to approve with findings of fact and staff recommendations. Commissioner Nelms seconded the motion. Motion carried

**Public Hearing and Action: PB 10-11 Tres Beau, Ltd.:
Request for a special use permit for a private outdoor recreational facility located at Wild Horse Lane, Wild Horse Estates II, Tax Map 99D, Parcel OPAR, Poplar Branch Township.**

Sworn testimony was given prior to making comments.

Ben Woody, Planning director, reviewed the request.

**CASE ANALYSIS FOR THE
BOARD OF COMMISSIONERS
MEETING DATE: May 3, 2010
Special Use Permit
PB 10-11 Tres Beau Ltd.**

ITEM:	SPECIAL USE PERMIT - PRIVATE OUTDOOR RECREATIONAL FACILITY
LOCATION:	Wild Horse Lane - Open Area of Wild Horse Estates II
ZONING DISTRICT:	Outer Banks Limited Access Residential (RO2)
TAX ID:	099D-000-OPAR-0000
OWNER:	Wild Horse Estates LLC 76 Spindrift Trail Kitty Hawk, NC 27949

APPLICANT: C. Scott Trabue
Tres Beau Ltd.
PO Box 1630
Kitty Hawk, NC 27949

LAND USE/ZONING OF SURROUNDING PROPERTY:

	Land Use	Zoning
NORTH:	Residential	RO2
SOUTH:	Residential	RO2
EAST:	Residential	RO2
WEST:	Residential	RO2

LAND USE PLAN

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

NARRATIVE:

1. The applicant is requesting a Special Use permit for a Private Outdoor Recreational Facility that includes launching kayak tours and conducting off-road segway tours from the property and on the "Conservation and Limited Use Easement".
2. All tours and tour vehicles will originate from the Back Country Outfitters and Segway of the Outer Banks storefronts at the Corolla Light Town Center. There is a special use permit application for Outdoor Tour Operator pending for that location (PB10-08).
3. Use of the property will consist of parking and loading/unloading patrons, kayaks and segways.
4. There are no proposed structural improvements to the property.
5. There is a "Conservation and Limited Use Easement" recorded that allows for this specific use on and across 70-acres of the 140-acre subdivision as well as any of the easements and open space of Wild Horse Estates.
6. The Segway tour will be conducted in the easement/open space no longer than 1 hour and 15 minutes
7. The Kayak tour is approximately 1 hour and 30 minutes of paddling time.
8. There are several policies in the Currituck County 2006 Land Use Plan that support this type of endeavor. These policies include:

Policy ED1: New and expanding businesses should be especially encouraged that: 1) diversify the local economy 2) train and utilize a more highly skilled labor force and 3) are compatible with the environmental quality and natural amenity based economy of Currituck County

Policy PA1: Public access to the sound and ocean waters of Currituck County is essential to the quality of life of residents and visitors, as well as the economy of the area. The County supports the establishment of ADDITIONAL PUBLIC AND PRIVATE ACCESS opportunities to the waters of Currituck County. (Also see Outer Banks Policy Section.)

Policy PA2: The County supports MANY FORMS OF "ACCESS" to the water, including scenic outlooks and boardwalks, boat ramps, marinas and docks, fishing piers, canoe and kayak launches, and other means of access. Whenever possible, such facilities shall be designed to accommodate the needs of handicapped individuals

Policy HP3: Development of TOURISM AND EDUCATIONAL POTENTIAL of the area's architectural, historic and cultural resources shall be encouraged.

It appears this request is consistent with the policies and objectives of the Land Use Plan provided care is taken to ensure the use of the property for launching kayak and initiating segway tours are conducted in an environmentally sustainable manner.

OUTSTANDING TECHNICAL REVIEW COMMITTEE COMMENTS:

Planning

The Conservation & Limited Use Easement recorded in Deed Book 699 Pages 219 -223 states that the easement is shown on the Plat (Plat Cabinet H, Slide 169-173). We are unable to determine from the recorded plats where the easement is located. The Plat should be amended and re-recorded within 30 days from issuance of the Special Use Permit.

Parks & Recreation

Business should make appropriate arrangements for patrons to use restrooms and should not be using Carova Beach Park to serve as restrooms for their business.

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:

- The site has direct access from Ocean Pearl Road, which will be improved as part of the established Carova Service District.
- There are no proposed permanent structures and the site will remain in its natural state.

ii. The proposed use **will not** substantially injure the value of adjoining or abutting property for the following reasons:

Suggested Findings:

- The Unified Development Ordinance indicates that private outdoor recreational facilities are a permitted land use with a Special Use Permit in the Outer Banks Limited Access Residential (RO2) zoning district.
- There is a "Conservation and Limited Use Easement" recorded that allows for this specific use on and across 70-acres of the 140-acre subdivision as well as any easements.
- At most, there will be vehicular traffic of 5 motor vehicles per day associated with this use.
- At most, there will be 6 segways on the property for a maximum of 3 hours per day.

iii. The proposed use **will** be in harmony with the particular neighborhood or area in which it is to be located.

Suggested Findings:

- There are five (5), one and a half acre residential lots and thirteen (13) lots that are larger than 10 acres in Wild Horse

Estates. Overall, Residential density in this area is low.

- The public County-owned "Carova Park" is located in the open space of Wild Horse Estates.
- Noise associated with this use will be minimal.

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:

- The 2006 Land Use Plan classifies this site as Limited Service in the Carova Subarea and the proposed use is in keeping with the policies of the plan as Private Outdoor Recreational Facilities are allowed with a Special Use Permit.
- No commercial activity will take place on the property.

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.

Suggested Findings:

- This application should have no impact on the County's ability to provide public facilities.

STAFF RECOMMENDATION

The proposal appears to meet the criteria for granting a Special Use Permit for the property at Wild Horse Lane (Parcel # 099D-000-OPAR-0000) and staff recommends **APPROVAL** with the following conditions:

1. This Special Use Permit is valid only in conjunction with a valid Special Use Permit for Outdoor Tour Operator from the Corolla Light Town Center Property (PB 10-08).
2. The Conservation & Limited Use Easement recorded in Deed Book 699 Pages 219 -223 states that the easement is shown on the Plat (Plat Cabinet H, Slide 169-173). We are unable to determine from the recorded plats

where the easement is located. The Plat should be amended and re-recorded within 30 days from issuance of the Special Use Permit.

3. No equipment, kayaks, segways or vehicles shall be stored on site.
4. There shall be a maximum of three (3) Kayak Tours and two (2) Segway Tours per day.
5. Kayaks and Segways shall be labeled with decals or paint markings that clearly display the company name.
6. Kayak tours shall be limited to one 9-passenger vehicle carrying 8 patrons/trip and a maximum of 4 tandem kayaks plus the guide.
7. Segway tours shall be limited to one 6-passenger vehicle carrying 5 patrons/trip plus the guide.
8. Tour Vehicles and Segways shall not be operated outside of the easement boundaries.
9. Kayak tour participants shall not enter upon private property along the canals or the Currituck Sound.
10. Tours shall operate during daylight hours only.
11. Tours shall comply with Chapter 3: Article II. Wild Horses, Chapter 10: Article II. Beaches and all other applicable provisions of the Currituck County Code of Ordinances. Tours shall also operate in accordance with State and Federal Laws.
12. All commercial transactions shall occur at the Corolla Storefront in the Corolla Light Town Center.
13. Tour patrons have access to restrooms at the Corolla Light Town Center Storefront.

PLANNING BOARD RECOMMENTION

The Planning Board recommended approval of the special use permit with the staff recommendations.

PLANNING BOARD DISCUSSION (4-13-10)

Mr. West asked if the vehicles and trailers are parked at the park during the tours or if they go back to Corolla.

Mr. Trabue stated the vehicles and trailers stay at the park during the tours. The landowners have established a parking area for the vehicles and trailers.

Mr. West asked if the path that the segways use is sand.

Mr. Trabue stated yes.

Ms. Wilson asked Mr. Trabue what ramp he uses off the beach to access.

Mr. Trabue stated twenty-one.

Ms. Wilson stated she understands the property itself is a protected area for the wild horses. If the Wild Horse Fund and the horses are the steward of this sanctuary the presence of tours is a concern. Ms. Wilson asked for clarification between the Conservation & Limited Use Easement Agreement and covenant as to Mr. Trabue being allowed to transverse over the property.

Mr. Trabue stated in the covenants it states Corolla Outback Adventures can grant right of access to "others". Mr. Trabue stated he has a contract with Corolla Outback Adventures.

Mr. Bender confirmed this.

Ms. Wilson asked Mr. Trabue if he has had any problems when taking the segways out and wild horses.

Mr. Trabue stated they view the horses from a distant. The segways do not startle the horses and the tours move along at a slow rate.

Mr. Clark asked Mr. Trabue if he has had any trouble with motor boats where the kayaks tours are in the canal.

Mr. Trabue stated the canal is so shallow that no one brings their motor boats in.

Mr. Clark asked Mr. Woody is a private business allowed to use the boat ramp at the park to launch kayaks?

Mr. Woody stated he would have to ask the Parks and Recreation Director.

ACTION

Ms. Wilson move to **approve** PB 10-11 with the findings of fact and staff recommendations included in the case analysis and the following condition:

- Clarification of the conservation easement when it goes before the Board of Commissioners.

Ms. Newbern seconded the motion. Motion carried unanimously.

Chairman O'Neal opened the public hearing.

Charles Fafara, adjacent property owner, expressed concerns with trash and noise.

Jay Bender, property owner, stated that he would move to the adjacent site which was used last season.

Commissioner Aydlett requested that trash cans be provided.

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

Commissioner Aydlett moved to approve with findings of fact and staff recommendations along with use of the same site as last season along with placing trash cans in the area. Commissioner Gregory seconded the motion. Motion carried.

Public Hearing and Action to approve a resolution allowing the dissolution of Albemarle Mental Health Center and Development Disabilities and Substance Abuse Services as an area mental health authority

Dan Scanlon, County Manager, reviewed the reasons for the dissolution of Albemarle Mental Health Center.

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

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

RESOLUTION WITHDRAWING COUNTY OF CURRITUCK FROM ALBEMARLE MENTAL HEALTH AREA AUTHORITY

WHEREAS, Albemarle Mental Health Center, an area mental health, developmental disabilities and substance abuse authority ("AMHC"), has experienced financial difficulties rendering it incapable of exercising its duties and responsibilities; and

WHEREAS, as a consequence of AMHC financial difficulties the North Carolina Department of Health and Human Services, Division of Mental Health, Developmental Disabilities and Substance Abuse Services, (the "Division"), assumed management of AMHC in January 2009; and

WHEREAS, since July 1, 2009 East Carolina Behavioral Health has contracted with the Division to provide Local Management Entity, ("LME"), mental health services to Currituck County; and

WHEREAS, it is apparent that at some date beyond July 1, 2010 AMHC will be dissolved and no longer have the authority to provide LME mental health services to Currituck County and that the Secretary of the North Carolina Department of Health and Human Services will approve the dissolution of AMHC; and

WHEREAS, Currituck County has ensured the continuity of LME mental health services through a continuing contract with East Carolina Behavioral Health and the pending adoption of an agreement to join the area authority constituting East Carolina Behavioral Health.

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

Section 1. Currituck County hereby withdraws from Albemarle Albemarle Mental Health Center, an area mental health, developmental disabilities and substance abuse authority.

Section 2. This resolution shall be effective on June 30, 2010.

Consideration of an Ordinance amending Section 8-34 and Section 8-35 of the Code or Ordinances to provide for licensure consistency with County Ordinances

Ike McRee, County Attorney, reviewed the amendment.

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

AN ORDINANCE AMENDING SECTION 8-34 AND SECTION 8-35 OF THE CURRITUCK COUNTY CODE OF ORDINANCES TO PROVIDE FOR LICENSURE CONSISTENCY WITH COUNTY ORDINANCES

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

WHEREAS, pursuant to N.C. Gen. Stat. §§153A-134 and 160A-181.1 a county may regulate and license businesses, forms of amusement and entertainment and regulate sexually oriented businesses through zoning regulations, licensing requirements or other appropriate local ordinances; and

WHEREAS, on July 7, 2003 a Currituck County ordinance was enacted regulating Sexually Oriented Businesses and the Board of Commissioners for the County of Currituck now finds that it is necessary and advisable to ensure that the licensure of sexually oriented businesses and adult live entertainers is consistent with other county ordinances.

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

Part I. **Section 8-34(b)** of the Currituck County Code of Ordinances is amended to read as follows:

(b) An application for a license must be made by the owner of the business on a form prescribed by the sheriff, and submitted to the county sheriff's office.

The completed application shall contain the following information and shall be accompanied by the following documents:

- (1) The full true name of the applicant;
- (2) The full true name under which the sexually oriented business will be operated and, if the business will be operated in a name other than that of the applicant, a certified copy of the assumed name certificate prepared and recorded in the county register of deeds office pursuant to G.S. 66-68 et seq.;
- (3) The type of sexually oriented business the applicant intends to operate;
- (4) Whether the applicant intends to serve alcoholic beverages at the sexually oriented business and/or apply for an ABC permit;
- (5) The address where the sexually oriented business is to be operated and where the books and records are maintained for examination by the Office of Currituck County Sheriff, County Planning Inspector, or County Manager, or their lawful agents;
- (6) If the owner of the real property upon which the sexually oriented business is to be operated is not the applicant, the name and address of the owner of the real property upon which the business is to be operated and a copy of the lease or rental agreement;
- (7) The principal telephone number to be used by the sexually oriented business;
- (8) If the applicant is an individual, the applicant shall appear in person and deliver a completed and signed application form and provide the following information:
 - a. His or her present residence and business addresses and telephone numbers;
 - b. A valid driver's license or other government issued picture identification; and
 - c. Social security number;

If the applicant is a partnership or corporation, the applicant shall designate one of its general partners or officers to act as its agent. Such person shall appear in person and deliver a completed and signed application form and shall provide the following information: (a) his or her present residence and business addresses and telephone numbers, (b) a valid driver's license or other government issued picture identification, and (c) social security number;

If the applicant is a partnership: (a) the name, residence address and telephone number, and social security number of each partner, including limited partners, and (b) a copy of the partnership agreement. If one or more of the partners is a

corporation, the provisions of this subsection pertaining to corporations shall apply;

If the applicant is a corporation: (a) a certified copy of the articles of incorporation, a certified copy of the certificate of authority, and a certified copy of the most recent annual report filed with the secretary of state, and (b) the name, residence address and telephone number, and social security number of each of its current officers and directors, and of any stockholder holding 50 percent or more of the stock of the corporation;

(9) The name, residence address and telephone number, and social security number of each individual who will be an operator of the business;

(10) A federal tax identification number assigned to the sexually oriented business and a completed tax information authorization form (IRS Form 8821) authorizing only the verification of said number;

(11) A sketch or diagram showing the configuration of the premises, including a statement of total floor space occupied by the business. The sketch or diagram need not be professionally prepared but must be drawn to a designated scale or drawn with marked dimensions of the interior of the premises to an accuracy of plus or minus six inches. The requirements of this subsection shall not apply for renewal applications if the applicant adopts a sketch or diagram that was previously submitted for the license sought to be renewed and if the licensee certifies that the licensed premises has not been altered since the immediately preceding issuance of the license and that the previous sketch or diagram continues to accurately depict the layout of the licensed premises;

(12) Copies of all permits issued under the county's Unified Development Ordinance evidencing compliance with the county's Unified Development Ordinance.

~~(13)~~ If the applicant wishes to operate an adult live entertainment business or an adult mini motion picture theatre then said applicant shall comply with the application requirements stated in sections herein.

PART II. Section 8-35(b) of the Currituck County Code of Ordinances is amended to read as follows:

- (b) The sheriff shall deny the application for any of the following reasons:
- (1) An applicant or any individual identified in the application is under 18 years of age; or
 - (2) The application and investigation fee has not been paid; or
 - (3) An applicant or any individual identified in the application has refused to allow an inspection of the premises; or
 - (4) An applicant or any individual identified in the application has overdue license fees associated with the operation of a sexually oriented business; or

- (5) An applicant or any individual identified in the application has a license under this article which is suspended or revoked; or
- (6) An applicant failed to provide the information necessary to determine the qualifications of the applicant or any individual identified in the application for issuance of the license, or provided materially false or misleading information on the application form; or
- (7) An applicant or any individual identified in the application has been convicted of any sexually oriented crime and less than five years have elapsed since the latter of the date of conviction or the date of release from confinement, if the conviction is for a felony, or less than two years have elapsed since the latter of the date of conviction or the date of release from confinement, if the conviction is for a misdemeanor. The fact that the conviction is being appealed shall have no effect on the denial of the license; or
- (8) The application demonstrates or reveals information showing that the proposed business location or location of the adult live entertainment business at which an adult live entertainer intends to perform fails to meet the requirements of the county's Unified Development Ordinance.

(89) The application demonstrates or reveals information showing that the proposed business fails to meet the requirements of this article.

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

Approval of July 4th Fireworks Display

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

**RESOLUTION APPROVING THE EXHIBITION, USE AND DISCHARGE OF
PYROTECHNICS AT THE WHALEHEAD CLUB
IN COROLLA, NORTH CAROLINA**

WHEREAS, pursuant to N.C. Gen. Stat. §§14-410 and 14-413 a display operator that will exhibit, use or discharge pyrotechnics at a public exhibition must receive written authority for such public exhibition from the board of commissioners for a county; and

WHEREAS, a display operator must provide proof of insurance in the amount of at least \$500,000.00; and

WHEREAS, Dominion Fireworks, Inc. is under contract with Currituck County to provide an exhibition of fireworks at the county's property known as The Whalehead Club in Corolla, North Carolina on July 4, 2010 which will be a public exhibition and Dominion Fireworks, Inc. has provided

a certificate of insurance evidencing insurance coverage in an amount in excess of \$500,000.00.

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

Section 1. Dominion Fireworks, Inc. is authorized to exhibit, use or discharge pyrotechnics for public exhibition at that property known as The Whalehead Club in Corolla, North Carolina on July 4, 2010.

Section 2. This resolution shall be effective upon adoption

Appointment to Whalehead Stormwater Drainage Service District

Commissioner Aydlett moved to approve as submitted by WHPOA. Commissioner Taylor seconded the motion. Motion carried.

Daniel Clements, Robert Collins, Richard Donica, Lee Foreman, George Mears, and Ron Harman.

Consent Agenda:

1. Approval of April 19, 2010, Minutes
2. Budget Amendments
3. Revised JCPC funding plan to transfer SOS assets to Restitution
4. Division of Mental Health, Development, Disability and Substance abuse quarterly fiscal monitoring report
5. Resolution General Surplus and Vehicle Surplus property and Auction to be held May 15, 2010
6. Approval of waiving tipping fees for Gregg Barco

Commissioner Etheridge moved to approve. Commissioner Gregory 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	
12543-532003	Supplies	\$	1,800		
12543-536103	PPE	\$	2,500		
12543-553003	Dues & Subscriptions	\$	1,500		
12543-590003	Capital Outlay	\$	3,290		
12543-516003	Repairs & Maintenance			\$	9,090

\$	9,090	\$	9,090
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Explanation: Moyock VFD (12543) - Transfer for operations for the remainder of this fiscal year.
Net Budget Effect: Fire Services Fund (12) - No change.

<u>Account Number</u>	<u>Account Description</u>	Debit	Credit
		Decrease Revenue or Increase Expense	Increase Revenue or Decrease Expense
10441-545000	Contracted Services	\$ 6,000	
10441-514500	Training & Education		\$ 6,000
		<u>\$ 6,000</u>	<u>\$ 6,000</u>

Explanation: Information Technology (10441) - To transfer funds for software installation and configuration.
Net Budget Effect: Operating Fund (10) - no change.

<u>Account Number</u>	<u>Account Description</u>	Debit	Credit
		Decrease Revenue or Increase Expense	Increase Revenue or Decrease Expense
10330-432200	HCCBG - In Home	\$ 2,222	
10560-519701	HCCBG Access Service		\$ 2,222
		<u>\$ 2,222</u>	<u>\$ 2,222</u>

Explanation: Inter-County Transportation (10560) - To adjust budget to grant authorization.
Net Budget Effect: Operating Fund (10) - Decreased by \$2,222.

<u>Account Number</u>	<u>Account Description</u>	Debit	Credit
		Decrease Revenue or Increase Expense	Increase Revenue or Decrease Expense
10530-532441	Technology < \$1,000	\$ 585	
10530-532000	EMS Supplies	\$ 1,850	
10530-514500	Training & Education		\$ 585
10541-590000	Capital Outlay		\$ 1,850
		<u>\$ 2,435</u>	<u>\$ 2,435</u>

Explanation: Emergency Medical Services (10530); Fire Services (10541) - To transfer funds

for expendable parts of personal protective equipment and to purchase a portable projector for training.

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

<u>Account Number</u>	<u>Account Description</u>	Debit	Credit
		Decrease Revenue or Increase Expense	Increase Revenue or Decrease Expense
10775-516200	Vehicle Maintenance	\$ 22	
10775-531000	Gas		\$ 22
10795-532000	Supplies	\$ 1,000	
10795-516001	Maintenance & Repairs		\$ 1,000
10430-553000	Dues & Subscriptions	\$ 20	
10430-532000	Supplies		\$ 20
10900-582400	Notes Payable	\$ 52	
10960-554000	Insurance & Bonds		\$ 52
60808-557100	Software License Fees	\$ 81	
60808-516000	Maintenance & Repair		\$ 81
61818-557100	Software License Fees	\$ 104	
61818-511000	Telephone and Postage	\$ 4,600	
61818-516200	Vehicle Maintenance		\$ 1,000
61818-531000	Gas, Oil, Etc.		\$ 1,000
61818-532000	Supplies		\$ 1,000
61818-545000	Contracted Services		\$ 1,600
61818-540000	Workers Comp		\$ 104
66868-511010	Data Transmission	\$ 1,020	
66868-516200	Vehicle Maintenance		\$ 1,020
50640-570004	Reimbursable Expenses	\$ 1,532	
50640-545004	Contract Services		\$ 1,532
55818-562000	Professional Services	\$ 595	
55818-563000	Professional Services		\$ 595
63838-545000	Contract Services	\$ 5,000	
63838-545800	White Goods Disposal	\$ 7,500	
63838-558400	Solid Waste Disposal Tax	\$ 15,000	
63838-545900	Tire Disposal	\$ 8,500	
63838-545001	Contract Services-Collection		\$ 36,000
		<u>\$ 45,026</u>	<u>\$ 45,026</u>

Explanation: Transfers within departments for operations for the remainder of this fiscal year.

Net Budget Effect: Operating Fund (10) - No change.
 Ocean Sands Water and Sewer District (60) - No change.
 Mainland Water (61) - No change.

Southern Outer Banks Water (66) - No change.
 County Governmental Construction Fund (50) - No change.
 Mainland Water Construction (55) - No change.
 Solid Waste (53) - No change.

<u>Account Number</u>	<u>Account Description</u>	Debit	Credit
		Decrease Revenue or Increase Expense	Increase Revenue or Decrease Expense
12546-513006	Utilities	\$ 1,000	
12546-514506	Travel, training & education		\$ 1,000
12546-516106	Building & Grounds	\$ 750	
12546-531006	Gas		\$ 750
12546-532006	Supplies	\$ 1,500	
12546-532106	Fire supplies	\$ 3,500	
12546-536106	Personal protective equipment		\$ 2,000
12546-554006	Insurance		\$ 3,000
		<u>\$ 6,750</u>	<u>\$ 6,750</u>

Explanation: Corolla Fire & Rescue (12546) - Operating transfers for Corolla Fire & Rescue Squad Inc contract.

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

<u>Account Number</u>	<u>Account Description</u>	Debit	Credit
		Decrease Revenue or Increase Expense	Increase Revenue or Decrease Expense
65858-545000	Contracted Services	\$ 24,000	
65858-561000	Professional Services		\$ 24,000
		<u>\$ 24,000</u>	<u>\$ 24,000</u>

Explanation: Moyock Commons Sewer (65858) - Increase contracted services to repair Infiltration Pond Number 1 at Moyock Commons.

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

<u>Account Number</u>	<u>Account Description</u>	Debit	Credit
		Decrease Revenue or Increase Expense	Increase Revenue or Decrease Expense
10512-513000	Utilities	\$ 1,400	
10512-511000	Telephone & Postage		\$ 800
10512-514000	Travel		\$ 500
10512-514500	Training & Education		\$ 100
		\$ 1,400	\$ 1,400

Explanation: Animal Control (10512) - Transfer to increase utilities for operations for the remainder of this fiscal year.

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

RESOLUTION

WHEREAS, the Board of Commissioners of Currituck County, North Carolina during its regularly scheduled meeting held on May 3, 2010, authorized the following, pursuant to GS 160A and 270(b), that the property listed below, be disposed of at a public auction:

SEE Vehicle Surplus and General Surplus listings attached.

WHEREAS, the volunteer fire and rescue departments within the county shall have the option to obtain the attached list of surplus property prior to auction in accordance with the adopted **Surplus Property Disposal Policy for Volunteer Fire and Rescue Departments**;

WHEREAS, the public auction will be held Saturday, May 15, 2010, at the Currituck County Public Works Storage Compound, behind the transfer station located at 216 Airport Road, Maple, NC 27956 at 9:00 a.m. (Rain date to be determined.)

NOW, THEREFORE, BE IT RESOLVED, that the Board of Commissioners of County of Currituck reserves the right to reject any and all bids.

CURRITUCK COUNTY

Surplus Vehicle List

<u>Veh. ID</u>	<u>Year</u>	<u>Make</u>	<u>Model</u>	<u>VIN</u>	<u>Color</u>	<u>Mileage</u>
5404	01	Ford	Crown Vic	2FAFP71W71X109548	White	161,279
5505	02	Dodge	Durango	1B4H528N51F69043	White	
5629	03	Ford	Crown Vic	2FAHP71W93X146192	White	107,125
5625	03	Ford	Crown Vic	2FAHP71W03X146193	White	160,249
5620	02	Dodge	Durango	1B4H538N52F132442	White	
5662	02	Dodge	Intrepid	2B3HD46R72H210681	Green	106,000
5403	01	Ford	Crown Vic	2FAFP71W51X109547	White	137,310

4380	99	Ford	Crown Vic	2FAFP71W0xx175707	White	151,971
5508	02	Ford	Crown Vic	2FAFP71W52X105466	White	156,357
5628	03	Ford	Crown Vic	2FAFP71W73X146191	White	103,431
5729	04	Dodge	Intrepid	2B3HD46Y24H606856	White	111,922
5924	05	Jeep	Cherokee	154GR48K55C549502	White	96,305
5528	93	Ford	SuperDuty	2FDLF47M4PCA69719	White	
5513	02	Ford	Crown Vic	2FAFP71W72x105467	White	124,187
5831	04	Ford	Crown Vic	2FAHP71W84X161154	White	129,614
5738	04	Ford	Crown Vic	2FAFP71W84x112270	White	148,540
5895	99	Ford	Expedition	1FMPU18L7XLA16482	White	182,355
	88	Boston Whaler		6286E11889	Gray	
		Evinrude Motor		G3152484	Blue	
		Evinrude Motor		E0D0002	Blue	
5952	05	Ford	Crown Vic	2FAFP73W85X113045	White	167,099
4349	98	Chevy	Blazer	1GNNDT13WXW2157876	Pewter	163,908
4404	98	Ford	F350	1FDSF34LIXEC19670	White	185,675
3104	95	Ford	Taurus	1FALP52U9SA216972	White	
	98	Ford	Explorer	1FMYU24XOXVA37512	White	120,961
	01	Dodge	Durango	1B4H528NXif56954	White	
	95	Ford	F250	1FTHF25H6SNa73357	White	
	92	Chevy	Caprice	1G1B15370NR134279	White	
	91	Chevy	Caprice	1G1B15374MR238625	White	
	00	Ford	Ambulance	1FDXE45F8YHB968633	White	159,517
	95	Ford	Taurus	1FALP52UBSA21973	White	101,549
	98	Ford	Taurus	1FAFP52U9XA143106	White	70,422
	04	Jeep	Laredo	1J4GR48K55L549503	White	
	1992	Ford	Van	1FBJS31H5NHA49092	Red	
	1999	Ford	Taurus	1FAFP53U3XG31886	White	159,244

Asset Tag #

Item Description

803	1 Singer Sewing Machine
	1 Bunn Coffee Machine
	1 Couch (Flower Print)
	1 Pro Form Treadmill
	1 Trainer Exercise Machine
	1 Water Fountain
	1 Drafting Table
	1 Coca Cola Cooler on wheels
	1 Field Kitchen W/box
	1 Emerson Microwave
1612	1 Kenmore Microwave
	1 Electric Range Kenmore
	1 Gas Range Fridgedair
2664	1 Refrigerator
	1 Washing Machine GE
	1 Large Chalk Board
	7 Glass cabinets with stands
	1 Kenmore vacuum cleaner
	1 GE VHS Video Recorder
	4 Air Registers
	8 Windows and frames

- 2998, 1928, 1579, 158/1, 1612
- 1578, 1577
- 1 Sliding Glass door
- 4 wood doors
- 1 Gate Closer Stanley
- 1 Corian Table top and cabinet
- 5 dictaphones with assoc. elec. Equipment
- 2 IBM Electric Typewriters
- 1 Panasonic Recorders
- 4 Brother Fax Machines
- 3 Hewlett Packard Laser Printers
- 1 Panasonic Fax Machine
- 3 Key boards Mitsumi
- 1 Brother Typewriter
- 2 Radio Antennas
- 2 Incinolet Toilets
- 8 - 2 drawer file cabinets
- 7 - 4 drawer File Cabinets
- 2 wood folding tables
- 10 wood desks
- 5 wood chairs
- 1 coat rack
- 1 5 slot steel locker
- 2 wood tables
- 15 office chairs and parts
- 4 wood shelving units
- 1 General Air compressor
- 1 wood Storage cabinet
- 1 computer stand (Silver)
- 1 20,000 BTU Air Conditioner
- 3 Large wood cabinets
- 1 Ford 4000 Tractor
- 1 Ecco 25 KVA Generator
- 1 Rogers 1987 12 X 60' Office Trailer
- 1 Rogers 1988 12 X 60' Office Trailer
- 4204 1 Drafting Table
- 2901 1 Blueprint Machine
- 1 Drag Rake 3 pt hitch
- 1 Drag Box Blade 3 pt hitch
- 1 Drag Tool 3 pt hitch.
- 1 GE Dryer
- 1 Whirlpool AC Unit
- 1 Steel Cabinet`
- 1 Wood Table
- 5 10x6" Black Iron Tees
- 7 6" Black iron Pipe 3 to 4' in length
- 15 4" pipe clamps
- 5 Hydrant Leg Ells
- 1 Hydrant body
- 1 Cummins Onan Propane Generator
- 1 Rohn 45G Radio Tower
- 1 Rohn 55G Radio Tower
- 1 Steel Pipe gate (2pcs)

1 Steel truck cab protector.

Commissioner's Report

Commissioner Taylor reminded citizens of the Moyock Fire Department breakfast second Saturday every month.

Commissioner Nelms stated that Dennis Anderson would be having a county fair May 21 - 24.

County Manager's Report

County Manager would like to schedule budget work sessions in the next couple of weeks.

Adjourn

There being no further business, the meeting adjourned.