

CURRITUCK COUNTY  
NORTH CAROLINA  
April 18, 2011

The Board of Commissioners met at 5:00 p.m. at the Extension Building for dinner and a Report to the People.

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 Aydlett, Commissioners O'Neal, Gilbert, Martin, Etheridge and Rorer.

### **Invocation and Pledge of Allegiance**

The Reverend Randy Blanchard, Pilmoor Memorial United Methodist Church, was present for the invocation.

### **Approval of Agenda**

Chairman Aydlett moved to amend the agenda by adding a closed session. Commissioner O'Neal 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            **Public Hearing and Action:** PB 10-32 Corolla Light Phase 10: Request for a special use permit for retail, restaurant, outdoor recreation, and miniature golf located at 1102 Corolla Village Drive, PIN #115B000P2AVOPEN and PIN #115B000P2D1OPEN, Poplar Branch Township.
  
- Item 4            **Public Hearing and Action:** PB 11-04 Three of a Kind, Inc.: Request to amend the Unified Development Ordinance, Chapter 9 Infrastructure to require the county to return money held for installation of water lines and related apparatus to the developer if the waterlines have not been installed within three years after such payment.
  
- Item 5            **Discussion on use of alcohol in county facilities**
  
- Item 6            **Appointment to Board of Adjustment**
  
- Item 7            **Appointment to Economic Development Board**
  
- Item 8            **Consent Agenda:**
  - 1. Budget Amendments
  - 2. Resolution for Surplus vehicles in Sheriff's Department
  - 3. Amendments to Wastewater Ordinances (TABLED)
  - 4. Approval of April 4, 2011, Minutes
  
- Item 9            Commissioner's Report
  
- Item 10           County Manager's Report

Adjourn

**Special Meeting**

Tourism Development Authority

Call to Order

TDA Budget Amendments

Adjourn

**Closed Session**

**Public Comment**

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

Chairman Aydlett opened the public comment period and asked that if there was anyone present to speak on Item 5 to comment at this time.

Doris Flora, opposed the use of alcohol on County property.

Larry Etheridge, stated that the Fire Chief, Bill Thorn, opposes the use of alcohol at the Knotts Island Ruritan Building. He also opposes this use at the Ruritan Club.

Reverend Jim Clark, opposes the use of alcohol on county property.

Manly West, opposes the use of alcohol on county property.

Reverend Charles Stevens, opposes the use of alcohol on County property.

David Sawyer, opposes the use of alcohol on County property.

Wayne Sawyer, opposes the use of alcohol at the Extension Center Building.

Commissioner O'Neal stated that he has never received so many calls opposing this use.

Chairman Aydlett closed the public comment period.

Commissioner O'Neal moved not to change the policy of no alcohol on county property. Commissioner Etheridge seconded the motion. Motion carried.

Commissioner Rorer stated that there is a misconception of this process. The Board was to listen to the people on

this item and discuss at a later time. This was not to be voted on at this time.

Commissioner Etheridge stated that this has never been voted on.

Sheriff Johnson submitted a letter in opposition of alcohol on county property.

**Public Hearing and Action: PB 10-32 Corolla Light Phase 10: Request for a special use permit for retail, restaurant, outdoor recreation, and miniature golf located at 1102 Corolla Village Drive, PIN #115B000P2AVOPEN and PIN #115B000P2D1OPEN, Poplar Branch Township.**

Ike McRee, County Attorney, reviewed the process for a special use permit.

Sworn testimony was given before making comments.

Ben Woody, Planning Director, reviewed the request.

**CASE ANALYSIS FOR THE  
Board of Commissioners  
DATE: April 18, 2011**

**PB 10-32 Corolla Light, Phase 10 Special Use Permit**

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**ITEM:** PB 10-32 Corolla Light, Phase 10 Special Use Permit request for retail, restaurant, outdoor recreational, and miniature golf.

**LOCATION:** 1102 Corolla Village Drive, located at the intersection of Corolla Village Road and Ocean Trail (NC 12).

**TAX ID:** 115B-000-P2AV-OPEN  
115B-000-P2D1-OPEN

**ZONING DISTRICT:** General Business (GB) Designation in a PUD Overlay

**PRESENT USE:** Utility and Open Space

**OWNER:** Outer Banks Ventures, Inc.  
c/o R. A. Brindley  
215 Brooke Avenue, Unit 1001  
Norfolk, VA 23510

**APPLICANT:** Mitch Halloran

Coastal Engineering and Surveying, Inc.  
 PO Box 1129  
 Kitty Hawk, NC 27949

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

	<b>Land Use</b>	<b>Zoning</b>
<b>NORTH:</b>	State of NC - Woodland and Beach	RO1
<b>SOUTH:</b>	Shopping Center	GB (PUD)
<b>EAST:</b>	Residential	RO1 (PUD)
<b>WEST:</b>	Whalehead Club/Wildlife Center	RO1

**LAND USE PLAN**

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

**SIZE OF SITE:** 6.88 acres

**UTILITIES:** The development will be served by Southern Outer Banks Water System (SOBWS). Carolina Water Service, Inc. will provide sanitary sewer service with a maximum flow of 9,000 gpd.

**PUD ALLOCATION:**

Total Land Area	267.05 acres
Total Open Space	131.83 acres
General Business Allocation	26.70 acres

**I. NARRATIVE OF REQUEST:**

- o The developer is seeking approval of a special use permit for 36-hole miniature golf course, amphitheater, sky trail rope course, retail, and a cafe.
- o According to the applicant, the existing wastewater disposal fields will be abandoned and relocated prior to operation of the proposed uses. Modifications to the wastewater treatment plant and disposal area require NCDENR permit modifications prior to construction and/or installation. The plans to relocate the wastewater disposal area must be approved by the county.
- o On March 28, 2011, the applicant notified the county of plans to idle Corolla Light WWTP #1 and divert all existing wastewater flow from the Corolla Light WWTP #1 to the Monterey Shores wastewater treatment plant.
- o On April 4, 2011, NC DENR, DWQ, indicated the state would be receptive to the proposal submitted by Outer Banks Ventures and Burgin Engineering. The

proposal includes idling Corolla Light #1 WWTP, abandoning the disposal fields at the Corolla Light #1 plant, and redirecting the flow from Corolla Light #1 WWTP to Monterey Shores facility. According to DWQ the allowance is contingent upon:

- o Proper modification being made to applicable permits.
- o Inclusion of permit conditions in the modified Monterey Shores permit providing protection of prior designees for allocation purposes.
- o Inclusion of any other permit conditions deemed appropriate to ensure proper safeguarding of the plan as a whole.
- o Other existing disposal sites (already permitted) that remain available to receive wastewater if needed, including the sub-surface system serving the Corolla Light facility and the newly permitted Outer Banks Ventures system.
- o A revised site plan (submitted on February 24, 2011) was reviewed by staff, presented to the Planning Board on March 8, 2011, and reviewed by the TRC on March 16, 2011. This plan is under review by the TRC and includes the following modifications:
  - o Temporary tents for the amphitheater and vending areas.
  - o An increase in seating in the amphitheater from 264 seats to 308 seats.
  - o Installation of chain link fencing along the perimeter of the miniature golf.

## II. QUESTION(S) BEFORE THE BOARD:

### Special Use Permit Criteria and Staff Findings:

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

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

#### 1. Completeness of application.

##### Suggested Findings:

- a. The application is complete provided assurances for wastewater treatment and disposal, including green

area, are submitted from NC DENR, Carolina Water, and Outer Banks Ventures.

2. The proposed use is among those listed in the Table of Permissible Uses as a special use indicated with an "S".

**Suggested Findings:**

- a. The proposed uses are listed as permissible uses in the Table of Permissible Uses.
  - b. Chapter 4 of the UDO requires a special use permit for specific uses located in commercial areas of a PUD.
3. The conditions proposed meet or exceed the minimum requirements of this ordinance.

**Suggested Findings:**

- a. The conditions proposed will meet the minimum requirements of the ordinance.
4. The special use will not endanger the public health or safety.

**Suggested Findings:**

- a. The proposed development should have little to no negative impact on public health or safety provided assurances for wastewater disposal, including green area, are submitted from NC DENR, Carolina Water, and Outer Banks Ventures.
5. The special use will not injure the value of adjoining or abutting property and will be in harmony with the area in which it is located.

**Suggested Findings:**

- a. Existing commercial uses are located within the vicinity of the proposed development.
6. The special use will be in conformity with the Land Use Plan or other officially adopted plan.

**Suggested Findings:**

The 2006 Land Use Plan classifies this site as Full Service within the Corolla subarea. Design criteria should be established to ensure that commercial development protects and preserves the existing community in scale, architectural style, materials, landscaping, and site design. The policy emphasis for the Corolla subarea suggests clustered commercial development. The proposed use is in keeping with the policies of the plan, some of which are:

Policy OB2: So as to minimize COMMERCIAL STRIP DEVELOPMENT and maximize the traffic moving capability

of NC 12, Currituck County shall encourage commercial development to cluster at appropriate locations rather than dispersing along NC 12.

Policy CA2: A CANOPY OF STREET TREES shall be encouraged along all major highways in the County. This canopy may be implemented through the preservation of existing trees or the planting of trees that will reach substantial size at maturity. The preservation or planting of such trees shall be encouraged in the area immediately adjoining the right-of-way.

Policy ES7: MARITIME FOREST and SAND DUNES shall receive a high level of environmental protection and special consideration when reviewing public and private sector development proposals in Currituck County.

7. The special use will not exceed the county's ability to provide adequate public facilities, including, but not limited to, schools, fire and rescue, law enforcement, and other county facilities. Applicable state standards and guidelines shall be followed for determining when public facilities are adequate. Such facilities must be in place or programmed to be in place within two years after the initial approval of the plan (sketch plan in the case of major subdivisions).

**Suggested Findings:**

- a. It appears the county has adequate public facilities to service this development.

**III. TECHNICAL REVIEW COMMITTEE RECOMMENDATION:**

Pursuant to the Unified Development Ordinance, the Technical Review Committee recommends conditional approval provided the following items are submitted:

Planning Department

1. A copy of the NC DENR modified permits, permitted green area, wastewater treatment plant capacity and allocations, utility area maps, and easements that affect this property must be provided. Proposed development located within an easement must be relocated or provide legal documentation that authorizes the activities and improvements. (DRP) *Staff commentary: On March 28, 2011, the applicant provided documentation to relocate the wastewater*

*treatment from Corolla Light WWTP #1 to Monterey Shores WWTP. Carolina Water must provide assurances that would secure wastewater treatment and disposal of current customers and vested properties.*

**IV. PLANNING STAFF RECOMMENDATION:**

The proposed development meets the criteria for granting a Special Use Permit and therefore staff recommends conditional approval provided the following items can be corrected or addressed:

1. A copy of the NC DENR modified permits, permitted green area, wastewater treatment plant capacity and allocations, utility area maps, and easements that affect this property must be provided. Proposed development located within an easement must be relocated or provide legal documentation that authorizes the activities and improvements. (DRP)
2. The applicant shall demonstrate the wastewater treatment facilities can manage the current demands and future allocations/demands of Corolla Light, PUD, Buck Island, PUD, and Monterey Shores, PUD. (DRP)
3. The proposed development is adjacent to existing single family dwellings in Corolla Light, and considering the potential for amplified sound the board should give careful consideration to the hours of operation. The applicant requests hours of operation from 8:00-9:00 am to midnight, during the season. It should be noted that the Currituck County Code of Ordinances, Noise Control Ordinance, exempts sound emanating from events for which a special use permit has been issued by the Board of Commissioners. (Sec 9-35)

Should the Board recommend approval of this request, staff recommends the following permit conditions:

1. The proposed development shall be subject to the special use permit, as amended, issued by the Board of Commissioners on October 6, 2008 as well as the conditions of this permit.
2. The issuance of the special use permit does not constitute site plan approval. Modifications to the concept plan may be necessary to meet the minimum ordinance and other codes. A site plan, grading and drainage plan, landscape plan, tree preservation and maritime forest comparison plan, and lighting plan that meets the minimum commercial (non-residential)

- site plan design standards must be approved by TRC.  
(DRP, UDO 9.6)
3. Prior to any land disturbing activities, the applicant shall submit the following documents to the county:
    - a. A copy of the NC DENR modified permits or authorization, permitted green area, utility area maps, and easements that affect this property must be provided. Proposed development located within an easement must be relocated or provide legal documentation that authorizes the activities and improvements.
    - b. Written agreement from Carolina Water, utility provider, and Outer Banks Ventures, applicant, securing the wastewater treatment and disposal of current demands and vested, future allocations. The written agreement shall provide the following minimum information:
      - (1) A comprehensive description of current and proposed wastewater treatment and disposal operations and upgrades for Corolla Light, PUD, Buck Island, PUD, and Monterey Shores, PUD.
      - (2) A comprehensive analysis of the current and proposed wastewater allocations for Corolla, Light, PUD, Buck Island, PUD, and Monterey Shores, PUD. The analysis shall include all allocations provided by Carolina Water for future users.
  4. Provide the estimated number of trips per hour, using the Traffic Engineers Trip Generation Manual, to determine potential off-site improvements.
  5. Existing vegetation located in the required 25' type A bufferyard (eastern rear property line) shall be retained. No land disturbing activities, with the exception of planting vegetation, should occur within this area.
  6. In an effort to provide protection for the public traveling along Ocean Trail and the sidewalks, a 10 foot vegetative buffer shall be provided between the miniature golf holes and the property line. No land disturbing activities, with the exception of planting vegetation, should occur within this area.
  7. The landscape plantings shall consist of native, salt tolerant vegetation.
  8. Low Impact Development techniques such as cisterns that capture the rainwater from the roof, bio-retention areas/rain gardens, constructed wetlands, and use of porous pavement should be incorporated where possible. Cisterns should not discharge stormwater as sheet flow or concentrated flow across

- the ground as a means to drain cisterns. Water captured in cisterns should be reused within the development through building design, for maintenance of the building and grounds, in LID techniques such as rain gardens or constructed wetlands, or other uses approved by the county. (LUP Policy WQ5).
9. The development should include preservation of the existing features of the site including topography along NC 12 as well as and significant vegetation. (LUP Policy WQ5, LUP Policy CA2)
  10. Where possible, a pedestrian interconnection between the Corolla Light Town Center and the proposed development should be provided, and a cross access vehicular connection is encouraged. The connection shall be coordinated with the adjacent property owner and the county.
  11. Pedestrian crossings (NC12) located at the entrance of the Whalehead Club shall not be provided at this time. The pedestrian crossing at the entrance of the Whalehead Club shall be considered upon finalization of the Heritage Park Master Plan.
  12. The architectural style and materials of all proposed buildings and fencing shall preserve the existing coastal community character of the Currituck Outer Banks. The proposed development shall be established to protect and preserve the existing community in scale, architectural style, materials, landscaping, and site design (emphasis on uniformity and outer banks style architecture, native, salt tolerant plants. (Full Service LUC)
  13. Fencing visible from NC 12 should be designed in an architectural style and of materials emphasizing the coastal community character of the Currituck Outer Banks. Use of chain link fencing along these areas shall be prohibited. (Full Service LUC)

#### **V. PLANNING BOARD RECOMMENDATION:**

The Planning Board **recommended denial** of PB 10-32 due to it in a residential neighborhood, lighting, noise, hours of operation, across from Heritage Park, and not in harmony with the area at their March 8, 2011 meeting. **PLANNING BOARD DISCUSSION (3/8/11)**

Ms. Wilson stated the parking proposal is to accommodate 186 bicycles and 150 vehicle parking spaces. Does this number of bicycles factor into the reduction in parking?

Ms. Voliva stated that on the plan there is a difference of 15 spaces from what is required and what is being proposed.

Ms. Wilson stated when doing calculations from the scale on the plan it there are 12 bikes per foot of space.

Ms. Voliva stated a parking reduction must be addressed in a traffic study which is a condition.

Mr. West stated that the access would be solely from NC12 to Corolla Village Road.

Mr. Willis stated he had no comment at this time but would be happy to answer any questions.

Mr. Clark asked Mr. Willis if he has gotten the permits from NCDENR for permitted green area, utility area maps and easements that affect this property.

Mr. Willis stated no. He has a number of options of how he can resolve this and he is in the process of determining which one is the most feasible.

Mr. Clark stated it has been three months since this case has been before the Planning Board and why he doesn't have them.

Mr. Willis stated he is making decisions based on his engineering expertise as to which is the best way to resolve the issues of the wastewater disposal.

Ms. Wilson stated the site plan is showing that in the furthest southern portion of the parking lot there are 10 spaces for future parking spaces and you are short of parking.

Mr. Willis stated when this site plan was submitted he was not aware he was short of parking but would be glad to construct these parking spaces.

Ms. Taylor asked what the hours of operation of the amphitheater are.

Mr. Willis stated activity would be during the fall, spring, and summer. Activity will occur during the day as well as night which may have amplified sound.

Ms. Taylor stated this project is in the middle of a residential neighborhood.

Mr. Sides stated he represents the Corolla Civic Association. The Association has concerns about this proposal because there are many unanswered questions. There

is a lack of clarity as to what Mr. Willis is proposing and the parking issues. This proposal is incompatible with the Heritage Park. The existing trees need to be protected. Mr. Sides stated he would like Mr. Willis to define the project, have a wastewater treatment plan submitted and approved, provide complete detail of the fun park and that it is compatible with the small area plan, noise and lighting is adequately addressed, buffering and adequate parking.

Ms. Harrison is concerned with the amplified sound, hours of operation, buffering, security, parking and there are still many unanswered questions.

Mr. Harrison asked if there was an ordinance which addresses noise and a time constraint, which he was under the impression that it was 10:00 p.m. Mr. Harrison stated he is concerned with what is being proposed, parking, lighting, hours of operation, and buffering.

Mr. Clark stated the Currituck County Code of Ordinances, Noise Control Ordinance, exempts sound emanating from events for which a special use permit has been issued by the Board of Commissioners.

Mr. Woody stated the Board of Commissioners can set the hours of operation.

Ms. Voliva stated the Unified Development Ordinance establish the lighting requirements for the Outer Banks Overlay which 50% of the lights have to be turned off.

Mr. Seery provided pictures of how the proposal will affect his property. Mr. Seery is concerned with the environmental impacts this project will have, lighting, noise, wastewater runoff, lights from vehicles, the increase of traffic on NC12, and having only one access.

Mr. Taylor is concerned with the Corolla Village Road access.

Mr. Willis stated they will comply with all county ordinances that apply to lighting.

**ACTION**

Ms. Taylor moved to deny PB 10-32 due to incompatibility with a residential neighborhood, lighting, noise, hours of operation, across from Heritage Park, not in harmony with area. Ms. Wilson seconded the motion. Motion carried unanimously.

**PLANNING BOARD DISCUSSION (2/8/11)**

Mr. Willis stated he had a meeting with the state on wastewater which took place February 7, 2011. As a result of that meeting communication was sent to the county that states it is possible to construct the project with modifications to the setbacks with the wastewater plant and change in the method of disposal. This project has been presented to two community groups in the Outer Banks. Mr. Willis presented a new site plan which is consistent with the comments from the state. As part of the process this site plan will go back to the Technical Review Committee (TRC). The parking has been changed since some of the uses have been eliminated from the project. Mr. Willis is asking that the Planning Board recommend approval of the new site plan contingent upon staff being satisfied since they have met the requirements of the UDO. The only concern they have about staff recommendations are the proposed hours of operation.

Mr. Midgette stated that the disposal has to be moved before anything can be done.

Mr. Willis stated the disposal is being moved to a different site.

Mr. Clark asked what is the parking percentage with the new site plan.

Mr. Willis stated there is no need for a parking relief with the new site plan.

Mr. Midgette stated he is concerned with approving or disapproving a project because staff has not had adequate time to review the new site plan.

Mr. Willis stated that Corolla Light is a PUD and they are asking for approval of the uses that are being proposed.

Mr. Woody stated it is not uncommon that after the political process the site plan goes back to the TRC.

Mr. Kovacs stated there are complete different uses on the new site plan which are not included on the original site plan.

Mr. Willis stated the uses have not changed just the layout has changed.

Mr. Seery is asking the Planning Board to reject this proposal because it is not in harmony with Corolla, stormwater runoff, lighting, noise, public safety issues and decreasing property value.

Mr. Harrison is asking that the Planning Board deny this request because of the water problem in Corolla Light and concern with stormwater runoff, safety and security issues, setbacks from the parking lot to his property, and public walking through private property.

Mr. Sides stated he represented the Corolla Civic Association and presented a power point presentation on lack of clarity, public health concerns, lighting, noise, pollution, and not in harmony with the community. Mr. Sides is asking that this project be delayed until the county can see if it is consistent with the Corolla Village Small Area Plan. Mr. Sides on behalf of the Corolla Civic Association is asking the Planning Board to table this request until the wastewater facility has been moved and a complete set of information is provided on what this fun park will involve.

Mr. Willis stated he wants the Planning Board comments on the uses which are being proposed on this site. This is an opportunity to get input from the public, planning board and staff. Mr. Willis stated they are interested in resolving stormwater and wastewater problems and trying to do their part as good stewards of the environment. The lighting on this site will not provide a public nuisance. The amphitheater may provide some noise at times. Changes have been made to the proposal to reflect staff and public comments. Heritage Park has talked about an amphitheater for 14 years which is designed for special events weekly. Mr. Willis stated the proposed amphitheater will be used for family orientated activities and events.

The Planning Board discussed that NC DENR needs further research and evaluation is required to determine the applicability of a 100' setback to the plant.

Mr. Willis stated that if you stay out of the 100' setback all the uses are permissible.

Mr. Midgette stated that this was tabled at the last Planning Board meeting because clarification was needed from NC DENR.

Mr. Willis stated the issue before the Planning Board is whether or not he has the right to do what they are

proposing to do under the laws of the State of North Carolina.

Mr. Woody stated the board is to decide if the use is an appropriate use for the property and make a recommendation to the Board of Commissioners. Part of the deliberation is to make sure it is in compliance with county, state and federal regulations.

Mr. West stated that as a board if the uses are acceptable they would need to know about the setbacks and if the wastewater a permissible use.

Mr. Willis stated the state permit cannot be granted without zoning. If he doesn't have zoning approval then he can't get the permit which is required by the county.

Mr. Woody stated the board has to decide if they have the information needed to make a decision.

The Planning Board discussed the new site plan which has not been reviewed by staff or the planning board.

Mr. Woody stated no uses can go over the disposal area, there is a 100' setback from the wastewater treatment plant, the disposal area has to move, and authorization is required from Carolina Water. The applicant will not be able to build on the site until these things occur.

Mr. Willis stated all wastewater disposal will be removed from the site.

**ACTION**

Ms. Taylor motioned to table PB 10-32 due to not enough information for the wastewater treatment, not enough time to review new site plan and the community is entitled to see new site plan. Mr. West seconded the motion. Ayes: Mr. Kovacs, Ms. Wilson, Mr. Clark, Mr. West, Ms. Taylor, Ms. Newbern, Mr. Wright, and Mr. Midgette. Nays: Mr. Bell.

**PLANNING BOARD DISCUSSION (1/11/11)**

Ms. Taylor asked if the staff recommendations in this request are incorporated into the Corolla Village Small Area Plan and if not, could they be added.

Ms. Voliva stated it could be requested that they work with the Corolla Village Small Area Plan.

Mr. Clark asked what is the standard relief the county gives for parking percentage.

Ms. Voliva stated there is not a specified percentage. It is up to the permit issuing authority to determine whether or not parking relief should be granted. Staff is asking for a traffic study that would address bike and pedestrian traffic, as well as any off site improvements, i.e. as turn lane.

Mr. Willis stated he is on the committee for the Corolla Village Small Area Plan (SAP). They have asked that this particular piece of property be apart of the plan. Mr. Willis stated he is a strong supporter of the goals of the Corolla Village SAP. Corolla Light was approved under the ordinance in 1984 as one of the first Planned Unit Developments (PUD). The process that Corolla Light has to go through as a PUD has evolved through the years. Corolla Light has GB and PUD Overlay zoning districts, but any use that is proposed they still have to get a special use permit. Mr. Willis stated if they were going to propose an amphitheater which is not specifically governed by the county ordinance; before he knows that he can get a special use permit for this use he has to do a full set of detailed construction drawings which is costly. Mr. Willis stated that the uses they are proposing, they have the right to do under the zoning approved, but they want feedback from the county. Mr. Willis stated the uses are needed in terms of entertainment aspects for the community. Mr. Willis stated as developers for Corolla Light they have been working the wastewater issue in conjunction with the county. The two existing wastewater plants, which are 25 years old will be replaced and moved. These wastewater changes for this project were not submitted to the state prior to submitting to the county. The changes have now been submitted to the state, but Mr. Willis has not received back from the state confirmation that what they are proposing is okay.

Mr. Willis stated they are building this project to make money, important to the area, and feedback from guests is that there is not enough to do in Corolla. Mr. Willis stated the main objective in coming to the Planning Board and Board of Commissioners is to get guidance on the uses to tell them what uses they have the right to do and what uses they cannot do. Mr. Willis asked that you consider the project and make a recommendation so it can move to the Board of Commissioners so they can get feedback from the commissioners on the uses. Mr. Willis stated the new Unified Development Ordinance will address these issues.

Mr. Midgette asked Mr. Willis if he has read the staff recommendations.

Mr. Willis is concerned with the hours of operations that are proposed.

Ms. Wilson asked if the three wastewater disposal fields will be eliminated.

Mr. Willis stated the wastewater plant will completely go away and wastewater use will be handled completely different than what is there now. There will be some type of wastewater disposal on the property.

Mr. Snider stated that having an amusement park across from the Heritage Park will not be in harmony with the area. Mr. Snider stated this is not consistent with area.

Mr. Harrison stated he owns a house which is in direct view of the parking lot. Mr. Harrison is concerned what impact this will have on the value of his property. People come to Corolla to be with their families. Mr. Harrison stated it would be used for 12 weeks and will sit idle for the rest of the year. Mr. Harrison is asking that the board deny the request.

Mr. Willis talked about the commercial use of the wastewater disposal. Corolla Light is a resort village which has an indoor sports center which was controversial when it was first proposed. Mr. Willis stated there are over 3,000 lots which are platted north of the paved road in Currituck County which is not commercial. For these people where are the facilities and services for those houses going to be constructed. There are commercial uses to the south and Mr. Willis feels this project will have less impact.

Ms. Wilson stated that although there are plans to move two of the wastewater disposal plants, the proposed carousel and amphitheater would still be built over an active wastewater disposal field.

**ACTION**

Ms. Taylor moved to table PB 10-32 due to the lack of information from NC DENR for permits and the lack of adequate parking. Mr. Clark seconded the motion. Motion carried unanimously.

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Chairman Aydlett opened the evidentiary phase of the hearing.

Commissioner O'Neal questioned the process of the Planning Board and to the Commissioners for action.

Chairman Aydlett questioned the capacity at Monterey Shores, buffer and infrastructure.

Commissioner Martin questioned staff if this was in harmony with the area.

Commissioner Etheridge stated that this is a full service area.

Commissioner O'Neal stated that the property located to the south is commercial.

Crouse Gray, Attorney for applicant, presented his case. He stated that the client will be utilizing 6.8 acres out of 267 acres. Mr. Gray stated that there was a need for recreation in the area, which would also bring jobs.

Mr. Gray presented his expert witnesses.

Mitch Halloran, Coastal Engineering and Surveying, Inc., reviewed the stormwater management plan.

Robert Bergin, Engineer representing Outer Banks Venture, reviewed the waste water plan.

Lee Moore, East Coast Entertainment, reviewed the noise concerns with the theater and that there would be no problem with the county noise ordinance.

Commissioner Martin had a question on noise control.

Chairman Aydlett, questioned the location of the theater on east side of property and decibel rating.

Commissioner O'Neal wanted to know how often concerts will take place and the times.

Commissioner Etheridge stated that this was consistent with other areas.

Guy Sides, had questions for Mr. Moore regarding sound effects by wind.

Bob Shultz, Corolla, stated that tourism is increasing in the area and does not see the need for this project.

David Murray, Attorney for property owners, questioned Mr. Moore about the size of the speakers and noise.

Jay Seery, Corolla, presented an affidavit stating that this project will injure and diminish the value of his property by at least 25% because of the loud noise, lighting and large crowds of people and vehicles.

Crouse Gray, Attorney, had no further witnesses.

Rick Willis, Developer, reviewed his project and answered questions.

David Murray, Attorney, stated that this project has not met the ordinance and there is no evidence on how to prevent noise and that it will not injure adjacent property.

Karen Galganski, Monterey Shores, expressed concerns with the waste water, noise and lighting that have not been answered.

Alicia McDonnell, Monterey Shores, had questions on the waste treatment plant.

Guy Sides, Corolla, not opposed to the development, but it is not compatible with community and Small Area Plan. Mr. Sides requested the Board table this item until the Special Use Permit is complete and require a bond for new water plant.

Doug Brindley, stated this project will bring much needed revenue and activities to the area.

Crouse Gray, Attorney for applicant, stated that his client has been in real estate for 27 years.

David Murray, Attorney, requested to redirect by quoting from the Randall Travel Marketing Report.

Wanda Harrison, Baldwin Court, stated that this would affect property values and opposes the request.

David Murray, Attorney, stated that Mr. Seery's affidavit on property values is competent evidence.

Bruce Yeutter, Corolla Light, supports the project.

James Tucker, landscaper, supports project.

Michael Grabski, Corolla Light, stated that there was information still missing on the impact of the sound.

Crouse Gray, Attorney for applicant, stated that Rick Willis will clear up existing Waste Water confusion.

Chairman Aydlett asked if they would be willing to provide extra buffering on back of the area. Mr. Willis will consider this.

Crouse Gray, Attorney, stated that this was not a mega-theater and it would be away from houses. He requested the Board grant the permit with staff conditions.

The evidentiary phase of the hearing was closed.

Commissioner Etheridge moved to approve with staff recommendations and additional buffering if necessary and closing time is 10:00 P.M. Commissioner Gilbert seconded the motion. Motion carried.

**Public Hearing and Action: PB 11-04 Three of a Kind, Inc.: Request to amend the Unified Development Ordinance, Chapter 9 Infrastructure to require the county to return money held for installation of water lines and related apparatus to the developer if the waterlines have not been installed within three years after such payment.**

Ben Woody, Planning Director, reviewed the request.

**Three of a Kind, Inc.  
PB 11-04  
UDO AMENDMENT REQUEST**

An amendment to Chapter 9 Infrastructure to require the county to return money held for installation of water lines and related apparatus to the developer if the waterlines have not been installed within three years after such payment.

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

**Item 1:** That Section 9.2.6.4 is amended as follows:

**9.2.6.4 Fees (PB 08-49, 10/20/08)**

All connection fees shall be paid for each residential lot that is required to be connected to the county water system prior to final plat approval. All connection fees shall be paid for each commercial lot required to be connected to the county water system at the time of issuance of the building

permit authorizing construction to begin. Any payment(s)/deposit(s) made to Currituck County or otherwise provided to Currituck County for the installation of water lines and/or related apparatus for or related to subdivision or plat approval shall be returned to the developer or its designee if the water lines have not been installed within three years of such payment(s)/deposit(s).

**Item 2:** The provisions of this Ordinance are severable and if any of its provisions or any sentence, clause, or paragraph or the application thereof to any person or circumstance shall be held unconstitutional or 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 Aydlett opened the public hearing.

William Brumsey, Attorney for applicant, reviewed the request.

Commissioner O'Neal moved to approve with developer's substitution of the payment(s)/deposit(s) with surety bond or letter of credit in like amount. Chairman Aydlett seconded the motion. Motion carried.

#### **Discussion on use of alcohol in county facilities**

Discussed during Public Comment period.

#### **Appointment to Board of Adjustment**

Commissioner Etheridge moved to appoint David Palmer. Commissioner Petrey seconded the motion. Motion carried.

#### **Appointment to Economic Development Board**

Commissioner Rorer moved to appoint Ron Rose. Commissioner Etheridge seconded the motion. Motion carried.

#### **Consent Agenda:**

1. Budget Amendments
2. Resolution for Surplus vehicles in Sheriff's Department
3. Amendments to Wastewater Ordinances (TABLED)
4. Approval of April 4, 2011, Minutes

Commissioner Etheridge moved to table item 3 in consent agenda. Commissioner O'Neal seconded the motion. Motion carried.

Commissioner Martin moved to approve consent agenda.  
 Commissioner Gilbert seconded the motion. Motion carried.

<u>Account Number</u>	<u>Account Description</u>	<b>Debit</b>	<b>Credit</b>
		Decrease Revenue or Increase Expense	Increase Revenue or Decrease Expense
10415-532000	Supplies	\$ 681	
10415-514000	Travel		\$ 681
		\$ 681	\$ 681

**Explanation:** *Legal (10441)* - Transfer funds to supplies needs due to excessive copies for planning and litigation cases.

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

<u>Account Number</u>	<u>Account Description</u>	<b>Debit</b>	<b>Credit</b>
		Decrease Revenue or Increase Expense	Increase Revenue or Decrease Expense
10430-521000	Rent	\$ 200	
10430-545000	Contracted Services	\$ 660	
10430-532100	Ballot Programs & Imprint		\$ 860
		\$ 860	\$ 860

**Explanation:** *Elections (10430)* - Transfer funds to rent and contracted services for increased rent during the November election and pest control for the Elections office.

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

<u>Account Number</u>	<u>Account Description</u>	<b>Debit</b>	<b>Credit</b>
		Decrease Revenue or Increase Expense	Increase Revenue or Decrease Expense
10440-514000	Travel	\$ 726	
10440-514500	Training & Education	\$ 137	
10445-514500	Training & Education	\$ 137	
10440-545100	Credit Card Fees		\$ 1,000
		<u>\$ 1,000</u>	<u>\$ 1,000</u>

**Explanation:** Finance (10440); Human Resources (10445) - Transfer funds from credit card fees for MAPS training/Laserfiche training and travel for this fiscal year.

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

<u>Account Number</u>	<u>Account Description</u>	<b>Debit</b>	<b>Credit</b>
		Decrease Revenue or Increase Expense	Increase Revenue or Decrease Expense
10480-514000	Travel	\$ 165	
10480-521000	Equipment Lease	\$ 10,524	
10480-557300	Excise Tax on Deeds	\$ 8,000	
10480-557301	Floodplain Mapping Fee	\$ 7,000	
10480-557303	ARM Fee	\$ 1,200	
10480-557400	Children's Trust Fund Domestic Violence Centers	\$ 5,300	
10320-407000	Marriage Licenses		\$ 11,000
10320-410000	Excise Tax on Deeds		\$ 6,165
10480-514500	Training & Education		\$ 500
10480-545100	Data Processing		\$ 10,524
10480-557302	Deed of Trust Fee		\$ 5,000
		<u>\$ 33,189</u>	<u>\$ 33,189</u>

**Explanation:** Register of Deeds (10480) - To increase appropriations for revenue based expenses in the Register of Deeds and to reclassify equipment lease and data processing fees.

**Net Budget Effect:** Operating Fund (10) - Increased by \$17,165.

<u>Account Number</u>	<u>Account Description</u>	<b>Debit</b>	<b>Credit</b>
		Decrease Revenue or Increase Expense	Increase Revenue or Decrease Expense
10490-532003	Supplies - Court Facilities	\$ 1,713	
10490-545000	Contracted Services - Other	\$ 1,500	
10490-590003	Capital Outlay - Court Facilities	\$ 38,370	
10460-592000	Courthouse Projects		\$ 33,773
10310-400010	Ad Valorem Taxes - Current Levy		\$ 7,810
		\$ 41,583	\$ 41,583

**Explanation:** *Court Facility Fees (10490)* - To increase appropriations for shelving and supplies for the Clerk of Courts Office, to replace heat pump in Courtroom A and for operations for the remainder of this fiscal year.

**Net Budget Effect:** Operating Fund (10) - Increased by \$7,810.

<u>Account Number</u>	<u>Account Description</u>	<b>Debit</b>	<b>Credit</b>
		Decrease Revenue or Increase Expense	Increase Revenue or Decrease Expense
10540-557002	Permit Incentive Plan	\$ 10,000	
10310-400010	Ad Valorem Taxes - Current Levy		\$ 10,000
		\$ 10,000	\$ 10,000

**Explanation:** *Inspections (10540)* - To increase appropriations refunds to customers that meet the terms of the Permit Incentive Plan.

**Net Budget Effect:** Operating Fund (10) - Increased by \$10,000.

<u>Account Number</u>	<u>Account Description</u>	<b>Debit</b>	<b>Credit</b>
		Decrease Revenue or Increase Expense	Increase Revenue or Decrease Expense
10550-514500	Training & Education	\$ 257	
10550-513000	Utilities	\$ 2,850	
10550-531002	Aviation Fuel	\$ 150,000	
10550-535000	Credit Card Maintenance	\$ 3,500	

10550-506000	Insurance Expense		\$	1,264
10550-507000	Retirement Expense		\$	1,500
10350-467100	Aviation Fuel		\$	131,250
10350-467101	Tax Exempt Fuel Sales		\$	10,000
10350-468000	Sale of Fixed Assets		\$	6,195
10310-400010	Ad Valorem Taxes - Current Levy		\$	6,398
			\$	156,607
			\$	156,607

**Explanation:** *Airport (10550)* - To increase appropriations for additional fuel sales and operating costs for the remainder of this fiscal year.

**Net Budget Effect:** Operating Fund (10) - Increased by \$153,843.

<u>Account Number</u>	<u>Account Description</u>	<b>Debit</b>	<b>Credit</b>
		Decrease Revenue or Increase Expense	Increase Revenue or Decrease Expense
10775-514500	Training & Education	\$ 62	
10775-514000	Travel		\$ 62
10790-514500	Training & Education	\$ 246	
10790-514000	Travel		\$ 246
		\$ 308	\$ 308

**Explanation:** *Senior Center (10775); Library (10790)* - To transfer funds for operations.

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

<u>Account Number</u>	<u>Account Description</u>	<b>Debit</b>	<b>Credit</b>
		Decrease Revenue or Increase Expense	Increase Revenue or Decrease Expense
51380-425000	Public School Capital Fund	\$ 5,250	
51848-590000	Capital Outlay		\$ 5,250
		\$ 5,250	\$ 5,250

**Explanation:** *School Construction (51848)* - To reduce School Technology budgeted from the Public School Capital Building Fund. Technology funds run directly through the School budget and do not pass through the County.

**Net Budget Effect:** School Construction Fund (51) - Reduced by \$5,250.



Mainland Water plant that failed April 2, 2011.

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

<u>Account Number</u>	<u>Account Description</u>	<b>Debit</b>		<b>Credit</b>	
		Decrease Revenue or Increase Expense		Increase Revenue or Decrease Expense	
10795-532000	Supplies	\$	8,000		
10795-516001	Repairs & Maintenance - Maple Park			\$	8,000
			<u>\$ 8,000</u>		<u>\$ 8,000</u>

**Explanation:** Recreation (10795) - Transfer funds for supplies needed for the remainder of this fiscal year.

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

**R E S O L U T I O N**

**WHEREAS**, the Board of Commissioners of Currituck County, North Carolina during its regularly scheduled meeting held on April 18, 2011 authorized the attached list of vehicles from the Sheriff’s Department, pursuant to GS 160A and 270(b), be declared surplus for public auction the date to be determined; and

**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.

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

<b>AUC #</b>	<b>VEH I.D.</b>	<b>Year</b>	<b>Make</b>	<b>Model</b>
3024		1994	CHEV	CAPRICE
5512		2001	FORD	CROWN VIC
5509		2002	FORD	CROWN VIC
5741		2004	FORD	CROWN VIC
5962		2005	FORD	CROWN VIC
5959		2005	FORD	CROWN VIC
5965		2005	FORD	CROWN VIC
6097		2006	FORD	CROWN VIC

**Commissioner's Report**

Commissioner Martin thanked the citizens for their input at public comment.

Commissioner Etheridge questioned if we had a mutual aid agreement for surrounding counties.

Commissioner O'Neal questioned if the county offered a discount if citizens on the outer banks paid up front their impact fee for water.

Commissioner Rorer commended staff on the UDO rewrite. He also attended the Relay for Life this past week.

Commissioner Petrey and Gilbert appreciated the community involvement in helping the Board make decisions.

**County Manager's Report**

County Manager stated that the National Weather Service said that Currituck did have a EF1 tornado. There is no federal assistance funding for Currituck.

**Closed Session according to GS 143-318.11(3) to consult with attorney to provide attorney client privilege.**

Commissioner Etheridge moved to go into closed session as stated. Commissioner Martin seconded the motion. Motion carried.

**Adjourn**

After reconvening from closed session, no action was taken. There being no further business, the meeting adjourned.

**Special Meeting**

Tourism Development Authority

Call to Order

TDA Budget Amendments

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

<u>Account Number</u>	<u>Account Description</u>	<b>Debit</b>	<b>Credit</b>
		Decrease Revenue or Increase Expense	Increase Revenue or Decrease Expense
15442-587066	T T - SOBWS Appropriated Fund	\$ 5,700,000	
15390-499900	Balance		\$ 5,700,000
		\$ 5,700,000	\$ 5,700,000

**Explanation:** *Tourism Promotion (15442)* - Transfer funds to the Southern Outer Banks Water System for a 5 year loan at 2.5% interest for start up costs to purchase the Corolla Light and Pine Island Water Systems, renovate the elevated storage tank at Corolla Light and expand the existing Southern Outer Banks water system.

**Net Budget Effect:** Occupancy Tax Fund (15) - Increased by \$5,700,000.

<u>Account Number</u>	<u>Account Description</u>	<b>Debit</b>	<b>Credit</b>
		Decrease Revenue or Increase Expense	Increase Revenue or Decrease Expense
15442-514000	Travel	\$ 2,200	
15442-514500	Training & Education		\$ 2,200
		\$ 2,200	\$ 2,200

**Explanation:** *Tourism Promotion (15442)* - Transfer funds for travel for the remainder of this fiscal year.

**Net Budget Effect:** Occupancy Tax Fund (15) - No change.

**Adjourn**

There being no further business, the meeting was adjourned