

CURRITUCK COUNTY
NORTH CAROLINA
October 3, 2011

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: Commissioners O'Neal, Gilbert, Martin, Etheridge, Petrey, and Rorer. Chairman Aydlett was absent due to illness.

Invocation and Pledge of Allegiance

The Reverend Vic Culberson was present for the invocation. Boy Scout Troop 182, Pilmoor United Methodist Church, led the Pledge of Allegiance.

Approval of Agenda

Commissioner O'Neal moved to amend the agenda by continuing Item 8 and adding a resolution for FEMA to clean ditches out. Commissioner Etheridge 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 **Recognition of Edith and Earl Brickhouse**
- Item 4 **Recognition of Boy Scout Troop 182, Pilmoor United Methodist Church**
- Item 5 **Recognition of Tourism Department**
- Item 6 **Public Hearing and Action:** PB 11-07 Bissell Professional Group: Request to amend Chapter 4 of the Unified Development Ordinance to modify the age restriction language for the Planned Adult Retirement Overlay District (RET).
- Item 7 **Public Hearing and Action** on Dissolution of Walnut Island Sanitary District in Currituck County
- Item 8 **Consideration of Ordinance** Amendment Section 10-128 of the Code or Ordinances relating to unattended property on the beach
- Item 9 **Appointment to Whalehead Board of Trustees**
- Item 10 **Consideration of awarding bids for the Maple Commerce Park Roads & Utilities**
- Item 11 **Consent Agenda:**
 - 1. Resolution and Order staying of demolition of structure on 4358 Caratoke, Hwy, Coinjock, NC

2. Report of Rural Fire Conditions for Moyock VFD and Knotts Island VFD
3. Permission for Inter County Public Transit Authority to transfer unspent portion of Currituck County's supplemental RGP funding in the amount of \$7,941.94
4. Approval of September 19, 2011, Minutes
5. Budget Amendments

Item 12 Commissioner's Report

Item 13 County Manager's Report

Adjourn

Public Comment

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

Deputy Chief Morris, Fire and EMS, presented the Commissioners with a pink shirt for "Breast Cancer Awareness Month." The Department has sold over 300 shirts and has raised \$2,200 for Breast Cancer.

Josh Bass, President, Currituck Chamber, reminded citizens that the FEMA deadline is November 11th.

There being no further business, Vice-Chairman Rorer closed the public comment period.

Recognition of Edith and Earl Brickhouse

The Board presented Edith and Earl Brickhouse a plaque for the many years of service as representatives on the Senior Tar Heel Legislature.

Recognition of Boy Scout Troop 182, Pilmoor United Methodist Church

The Board recognized Boy Scout Troop 182. Scout Master Dave introduced each Boy Scout and projects they were working on.

Recognition of Tourism Department

Diane Nordstrom, Tourism Director, introduced staff and the awards that they received this year. The award was for Wedding Event, Graphic Design and the Web Site.

The Board commended the Tourism Staff for a job well done.

Public Hearing and Action: PB 11-07 Bissell Professional Group: Request to amend Chapter 4 of the Unified Development Ordinance to modify the age restriction language for the Planned Adult Retirement Overlay District (RET).

Ben Woody, Planning Director, reviewed the request.

**Bissell Professional Group
PB 11-07
UDO AMENDMENT REQUEST**

An amendment to Chapter 4 to modify the age restriction for Planned Adult Retirement Overlay Districts.

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

Item 1: That Section 4.5.1 is amended by adding the following underlined language and deleting the following strikethrough language:

4.5.1 Intent

The Planned Adult Retirement Overlay District (RET) may be used only in conjunction with planned adult retirement and/or assisted living community development subject to the issuance of a special use permit. RET designation can be applied for within the following base zoning districts: A, RA, R, R01, RR and GB. A planned adult retirement community is a tract of land consisting of 10 acres or more under common ownership, containing residential dwelling units (single family, two-family, apartments, condominiums, and similar multi-family dwellings), necessary accessory buildings, and required or permitted social, cultural, recreational, retail, medical, and other commercial type facilities ~~intended for~~ targeted toward retired adults. Properties located within the planned adult retirement overlay will be subject to the requirements of this section in addition to the requirements of the base zoning district.

Item 2: That Section 4.5.4.A. is amended by deleting the following strikethrough language and adding the following underlined language:

~~A. Permanent residents of such facilities must be at least 55 years of age, except that the spouse or an immediate member of the family, or a live-in domestic, companion, or nurse may be a permanent resident regardless of age except in the case of a child. No person under 18 years of age shall reside in any dwelling unit for a period of time exceeding 90 days. The homeowners' association documents and restrictive covenants shall state the age restrictions within the development in order that the association shall enforce those provisions. It is the responsibility of the residents/association to provide evidence that the age restrictions are being met.~~

A. A planned adult retirement community may be age-restricted or age-targeted at the discretion of the developer. The homeowner's association documents and restrictive covenants shall establish the restrictions or targets within the development. It is the responsibility of the community association to manage and enforce the restrictions that are in effect for the community.

Item 3: 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.

Vice-Chairman Rorer opened the public hearing.

Commissioner O'Neal stated that this request does not change Waterside Villages.

Mark Bissell, Engineer, reviewed the request.

Tom Fatallio, Sound Side Estates, opposes the removal of the age restriction.

Dan Hedberg, stated that residents do not have any say and the bank will not meet with property owners.

John Jenkins, Home Owners Association, stated that the bank has made no attempt to resolve the situation.

Allen Wood, stated that his home is on the market and requests the age restriction be lifted.

Commissioner Martin moved to continue public hearing for two weeks and have the bank meet with residents of Waterside Villages. Commissioner Gilbert seconded the motion. Motion carried with Commissioner O'Neal and Rorer voting no.

Public Hearing and Action on Dissolution of Walnut Island Sanitary District in Currituck County

Ike McRee, County Attorney, reviewed the history and options for the district.

Vice-Chair Rorer, opened the public hearing.

Kay Hannah, Walnut Island resident, supported the request.

Ted Logue, supports the request.

Commissioner O'Neal questioned if staff has met with residents and reviewed options.

There being no further comments, Vice-Chair Rorer closed the public hearing.

Commissioner Petrey, moved to adopt resolution. Commissioner Gilbert seconded the motion. Motion carried.

**RESOLUTION DISSOLVING WALNUT ISLAND SANITARY DISTRICT
PURSUANT TO N.C. GEN. STAT. §130A-85**

WHEREAS, in the early 1980's with concern regarding the lack of sewage treatment facilities within the camper section of the Walnut Island community in Grandy, North Carolina, resident freeholders within the Walnut Island community petitioned the Currituck County Board of Commissioners for creation of a sanitary district to provide for the collection, treatment and disposal of wastewater from the camper section; and

WHEREAS, by resolution adopted March 30, 1983 and following public hearing the Currituck County Board of Commissioners created and established Walnut Island Sanitary District to provide for the collection, treatment and disposal of wastewater from the following defined area of the Walnut Island community:

Section One, Block D, Lots 1- 41 as delineated on plat recorded in Map Book 4, Page 68 of the Currituck County Registry.

Section Five, Block JJ, Lots 1- 55, "Now or Formerly "Faris", and Parcel "D" as delineated on plat recorded in Map Book 3, Page 47E of the Currituck County Registry.

Section Five, Block KK, Lots 1- 56, and " Property of Others" as delineated on plat recorded in Map Book 3, Page 47E of the Currituck County Registry.

Section Six, Block PP, Lots 1- 19, parcel E, and the unnumbered area between Lot 1 and Walnut Island Boulevard as delineated on plat recorded in Map Book 4, Page 45 of the Currituck County Registry.

Section Seven, all of Blocks AA, BB, CC, DD, EE, FF, GG, HH and II as delineated on plat recorded in Map Book 4, Page 46 of the Currituck County Registry.

Walnut Island Motel Subdivision, Lots 1- 30, excluding the Motel Site as delineated on Tax Insert Map 97- B, and;

WHEREAS, pursuant to N.C. Gen. Stat. § 130A-85 a county board of commissioners may dissolve a sanitary district located entirely within one county upon the condition that there are 500 or less resident freeholders residing in the sanitary district, the sanitary district has no outstanding bonded indebtedness, the board of commissioners agrees to assume and pay any other outstanding legal indebtedness of the sanitary district, the board of commissioners adopts a plan providing for continued operation and provision of all services previously being performed or rendered to the sanitary district; and the board of commissioners adopts a resolution finding that the interest of the citizens of the sanitary district and the county will be best served if the operation and services provided by the sanitary district were provided by the board of commissioners; and

WHEREAS, as required by N.C. Gen. Stat. § 130A-85(b) the Currituck County Board of Commissioners gave notice of a public hearing on the dissolution of Walnut Island Sanitary District in the Coastland Times, a newspaper with general circulation within Currituck County, on September 11, 2011, September 18, 2011 and September 28, 2011; and

WHEREAS, following a public hearing on the dissolution of Walnut Island Sanitary District at its regular meeting on October 3, 2011, the Currituck County Board of Commissioners finds that:

- (1) there are less than 500 resident freeholders residing within Walnut Island Sanitary District;
- (2) Walnut Island Sanitary District has no outstanding bonded indebtedness;
- (3) the Currituck County Board of Commissioners agrees to assume and pay any other outstanding legal indebtedness of Walnut Island Sanitary District;

- (4) with the adoption of this resolution the Board of Commissioners will adopt a plan providing for the continued operation and provision of services previously performed or rendered to Walnut Island Sanitary District; and
- (5) the best interest of the citizens of Walnut Island Sanitary District and Currituck County will be best served if the operation and the services provided by Walnut Island Sanitary District were provided for by the Currituck County Board of Commissioners and Walnut Island Sanitary District dissolved.

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

Section 1. Walnut Island Sanitary District is hereby dissolved effective at 11:59 p.m. on October 31, 2011.

Section 2. The plan providing for the continued operation and provision for collection, treatment and disposal of wastewater from real property located within the boundaries of Walnut Island Sanitary District, attached hereto as Exhibit A and incorporated herein by reference, is adopted.

Section 3. The Board of Commissioners agrees that the County of Currituck will assume and pay any outstanding legal indebtedness of Walnut Island Sanitary District.

Section 4. The County Manager, County Attorney and Clerk to the Board of Commissioners are authorized to execute documents and take other action necessary to carry out this resolution and vesting in the county all property, real, personal and mixed that belongs to Walnut Island Sanitary District; vesting in the county of all judgments, liens, rights of liens and causes of action in favor of Walnut Island Sanitary District; and vesting in the county all rentals, taxes and assessments and other funds, charges or fees owed to Walnut Island Sanitary District.

Section 5. This resolution shall be effective upon its adoption.

EXHIBIT A
PLAN FOR CONTINUED OPERATION AND SERVICES RELATED TO
WASTEWATER TREATMENT, COLLECTION AND DISPOSAL IN
FORMER WALNUT ISLAND SANITARY DISTRICT SERVICE AREA

I. INTRODUCTION AND BACKGROUND

This Plan for Service describes how ongoing wastewater collection, treatment and disposal will be provided to that area within Currituck County now served by Walnut Island

Sanitary District. Currituck County has initiated proceedings to dissolve Walnut Island Sanitary District pursuant to authority provided under N.C. Gen. Stat. § 130A-85.

Walnut Island Sanitary District, ("WISD"), was created by resolution of the Currituck County Board of Commissioners adopted on March 30, 1983. The boundary of the sanitary district encompassed the camper section of Walnut Island subdivision. The creation of the sanitary district was in response to concerns expressed by state and local health officials that facilities for the proper treatment and disposal of wastewater were inadequate and concern regarding improper discharge of wastewater. Subsequently, WISD provided for a wastewater collection, treatment and disposal system within its jurisdiction.

As time passed the WISD wastewater system began experiencing problems due to age and operational issues. Pressed to reduce infiltration of storm water into the system, among other issues, WISD was able to acquire grants and assessed WISD property owners to finance the construction of a new collection system. During that period of time WISD entered into an agreement with the developer of the adjacent Waterside Villages subdivision to provide for treatment and disposal of WISD wastewater through the Waterside Villages wastewater treatment facilities. It was also agreed at the time that WISD would convey approximately 4.7 acres of WISD land in the middle of Waterside Villages to the developer for future residential development.

The agreement between WISD and Waterside Villages was never consummated due ultimately to the failure of the developer of Waterside Villages and the acquisition of properties by lenders such as Wachovia. Thereafter, WISD sought to negotiate with Wachovia toward an agreement to provide again for treatment and disposal of WISD wastewater through the Waterside Villages wastewater treatment facilities. Unable to agree, WISD exercised its power of eminent domain to acquire the Waterside Villages wastewater treatment facilities. During the course of litigation, WISD and Wachovia entered into a settlement agreement providing for conveyance of the Waterside Villages wastewater treatment facilities to Currituck County with the county's agreement to provide up to 30,000 gallons per day of wastewater treatment for WISD and up to 90,000 gallons per day of wastewater treatment for properties within Waterside Villages. WISD agreed in the settlement agreement to convey its 4.7 acre tract of land in Waterside Villages to Wachovia.

II. OPERATING PLAN

The operating plan provides a framework for how Currituck County would operate the wastewater treatment system and area formerly owned and served by WISD. Generally, it is anticipated that Currituck County will simply continue operations of the WISD wastewater treatment system in a manner that assures ongoing maintenance and operations. Depending on the most cost effective

method, management and administration could continue under contract with the current manager of the system, Enviro-tech of North Carolina, Inc., ("Enviro-tech"), or by the Currituck County Utilities Department that currently operates water and wastewater systems.

CONTINUITY OF SERVICE AND OPERATIONS

Upon dissolution of WISD, wastewater collection, disposal and treatment will continue unimpeded. As set forth above, existing contract services, agreements, and vendor relationships or direct county management and administration of the wastewater treatment system will maintain and assure no impact on the quality or quantity of wastewater treatment service to ratepayers.

ORGANIZATIONAL PLAN

The organizational structure for the former WISD wastewater system and service area will follow that of other Currituck County utilities. Whether WISD wastewater system is incorporated into the regular operation of Currituck County utilities or ultimately it is determined that a service district is the more appropriate model for delivery of service, the Currituck County Board of Commissioners will serve as the governing board. The Currituck County Manager, by and through the Currituck County Director of Public Utilities and his staff will provide day-to-day management and oversight. If the current management agreement with Enviro-tech is continued then Enviro-tech will provide day-to-day management and oversight under supervision of the Currituck County Director of Public Utilities.

Under direct Currituck County management, existing employees of Currituck County will fill operational and administrative positions for the former WISD wastewater system and service area. Certain other administrative functions will be provided by respective Currituck County departments such as human resources, finance and legal.

TRANSFER AND DISPOSITION OF ASSETS AND LIABILITIES

By statute, all assets and liabilities of a dissolved sanitary district accrue to the county. Thus, Currituck County will receive title to all assets of WISD and will become responsible for subsequent capital improvements required to maintain wastewater services for ratepayers with the former WISD service area.

ASSETS

Assets of WISD include cash reserves, real property, plant and transmission equipment and rights-of-way.

LIABILITIES

In addition to what are assumed to be normal accounts payable liabilities and prepaid assessments, WISD has no reported liabilities.

GRANTS

WISD is the recipient of a Rural Center grant in the amount of \$ 500,000 for construction of a new wastewater collection system. All but \$57,000 of grant funds have been distributed to WISD. The Rural Center has stated that if WISD is dissolved it does not foresee any issue substituting the county as grant recipient.

WISD is the recipient of a Clean Water Management Trust Fund Grant in the amount of 500,000 for construction of a new wastewater collection system. All but \$50,000 of grant funds have been distributed to WISD. Clean Water Management Trust Fund does not foresee any issue substituting the county as grant recipient as the goal of the grant is connection of WISD collection system with the Waterside Villages wastewater treatment system.

III. TRANSITION PLAN

It is proposed that consolidation of WISD wastewater system and service with county operations occur within 30 days of WISD dissolution. During this period the transition plan would be finalized and implemented and determination made regarding initial management and administration of the former WISD wastewater treatment system and service area. Also during the transition period county staff will proceed to work with Wachovia to effectuate the transfer of the Waterside Villages wastewater treatment and disposal system to the county.

Consideration of Ordinance Amendment Section 10-128 of the Code or Ordinances relating to unattended property on the beach

continued

Appointment to Whalehead Board of Trustees

Commissioner O'Neal moved to appoint Carl Ross for a 3 year term. Commissioner Martin seconded the motion. Motion carried.

Consideration of awarding bids for the Maple Commerce Park Roads & Utilities

Commissioner Etheridge moved to award bid to Barnhill in the amount of \$1,812,629. Commissioner Martin seconded the motion. Motion carried.

Consent Agenda:

1. Resolution and Order staying of demolition of structure on 4358 Caratoke, Hwy, Coinjock, NC
2. Report of Rural Fire Conditions for Moyock VFD and Knotts Island VFD
3. Permission for Inter County Public Transit Authority to transfer unspent portion of Currituck County's supplemental RGP funding in the amount of \$7,941.94
4. Approval of September 19, 2011, Minutes
5. Budget Amendments
6. Request to FEMA for funding to clean out ditches, Rowland Creek, Indiantown Creek and Hog Bridge.

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

**RESOLUTION AND ORDER STAYING ORDER TO DEMOLISH
THE DWELLING LOCATED AT 4358 CARATOKE HIGHWAY, COINJOCK,
NORTH CAROLINA**

WHEREAS, at its regular meeting on August 15, 2011 the Board of Commissioners for the County of Currituck adopted an ordinance entitled "An Ordinance Directing The Building Inspector To Remove Or Demolish The Dwelling Located at 4358 Caratoke Highway, Coinjock, North Carolina As Unfit For Human Habitation And Directing The Placement Of A Notice Thereon That The Same May Not Be Occupied" finding that the dwelling located at 4358 Caratoke Highway, Coinjock, North Carolina is unfit for human habitation pursuant to the May 5, 2011 order of the Chief Building Inspector issued in accordance with Article IV, Chapter 4 of the Code of Ordinances of the County of Currituck, North Carolina, (the "Code of Ordinances"), and that all of the procedures required in the county's ordinances have been complied with; and

WHEREAS, the Board of Commissioners further found that the dwelling described in the May 5, 2011 order of the Chief Building Inspector should be removed or demolished as directed by the Chief Building Inspector and should be placarded by placing on the dwelling a notice prohibiting use for human habitation and that the owners of the dwelling, Robert Hadden, Robert M. Barrington, Sr., Walter M. Barrington, Jr., Audrey Barrington, Cassandra Barrington Davis, Diane Barrington Reid, Judy Barrington Eure, and Barbara Marshall have been given reasonable opportunity to remove or demolish the dwelling pursuant to Article IV, Chapter 4 of the Code of Ordinances and the order of the Chief Building Inspector and have failed to comply with, respond to or appeal within the time required by the Code of Ordinances, the Chief Building Inspector's order; and

WHEREAS, at its September 19, 2011 regular meeting the Board of Commissioners heard from Barbara Snowden, Currituck County Historian, that the subject dwelling was of historical interest and a request on behalf of certain community members that the county allow time for stabilization of the dwelling, determination whether it is in condition such that it might be rehabilitated and development of a plan for rehabilitation of the dwelling; and

WHEREAS, the Board of Commissioners finds that it is appropriate to stay the ordinance requiring demolition of the dwelling at 4358 Caratoke Highway in order to allow interested members of the community time for stabilization of the dwelling, determination whether it is in condition such that it might be rehabilitated and development of a plan for rehabilitation of the dwelling.

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

Section 1. The order contained in the ordinance requiring the Chief Building Inspector to remove or demolish the dwelling located at 4358 Caratoke Highway in accordance with his May 5, 2011 order and in accordance with Article IV, Chapter 4 of the Code of Ordinances and N.C. Gen. Stat. §160A-443 is stayed until December 31, 2012.

Section 2. This resolution shall be in full force and effect upon its adoption.

<u>Account Number</u>	<u>Account Description</u>	Debit	Credit
		Decrease Revenue or Increase Expense	Increase Revenue or Decrease Expense
10550-516200	Vehicle Maintenance	\$ 1,758	
10380-484001	Insurance Recovery		\$ 1,758
		\$ 1,758	\$ 1,758

Explanation: Airport (10550) - To record insurance proceeds from Nationwide Insurance for repairs to the Airport Jeep involved in an accident on 8/25/2011.

Net Budget Effect: Operating Fund (10) - Increased by \$1,758.

<u>Account Number</u>	<u>Account Description</u>	Debit		Credit	
			Decrease Revenue or Increase Expense		Increase Revenue or Decrease Expense
50650-590000	Roadway & Utilities Grant - Dept of	\$	1,812,629		
50330-447000	Commerce			\$	500,000
50390-495015	T F - Occupancy Tax			\$	556,218
50390-495040	T F - Capital Improvements			\$	756,411
			<u>\$ 1,812,629</u>		<u>\$ 1,812,629</u>

Explanation: Maple Commerce Park (50650) - To increase project for Barnhill Contract for roads and utility infrastructure at the Maple Commerce Park.

Net Budget Effect: County Governmental Construction (50) - Increased by \$1,812,629.

<u>Account Number</u>	<u>Account Description</u>	Debit		Credit	
			Decrease Revenue or Increase Expense		Increase Revenue or Decrease Expense
61818-590000	Capital Outlay	\$	6,300		
61818-511010	Data Transmission	\$	1,000		
61818-545000	Contract Services	\$	2,500		
61360-473000	Reconnection Fees			\$	9,800
			<u>\$ 9,800</u>		<u>\$ 9,800</u>

Explanation: Mainland Water (61818) - Increase appropriations to Mainland Water for repairs/replacement to communications systems for the SCADA system that was damaged during Hurricane Irene. This may be reimbursed by insurance and/or FEMA at a future date.

Net Budget Effect: Mainland Water (61) - Increased by \$9,800.

Commissioner's Report

Commissioner Gilbert commented on events at the airport and Maple Park next weekend.

Commissioner O'Neal questioned if staff could request the railroad to clean up their site in Moyock.

Commissioner Etheridge commented on the meeting with students at Shawboro School on government.

Commissioner Rorer, stated the Board should support students working with local government.

County Manager's Report

No comments

Adjourn

There being no further business, the meeting adjourned.