

CURRITUCK COUNTY
NORTH CAROLINA
February 4, 2013

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 Paul O'Neal, Vice-Chair Paul Martin, Commissioners Aydlett, Gilbert, Griggs, McCord, and Petrey.

A) Invocation

B) Pledge of Allegiance

Mr. Walter Gallop, Air Force Chaplain, was present to give the invocation.

C. Approval of Agenda

Commissioner Martin moved to approve the agenda as amended by deleting Surplus Resolution for Sheriff to dispose of seized weapons in the Consent Agenda, adding the EARL Agreement to Consent Agenda and adding Appointment to Planning Board. Commissioner Gilbert seconded the motion. Motion carried.

- A) Invocation
- B) Pledge of Allegiance
- C) Approval of Agenda
- D) Public Comment

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

Public Hearings

- A) **Public Hearing and Action:** PB 12-25 Corolla Light PUD, Phase 13: Request for a special use permit for an office/warehouse. The property is located at Lot 2, Phase 13, NC 12 (Ocean Trail), Tax Map 115B, Parcel 2, Section 13, Poplar Branch Beach Township.

New Business

- A) **Consideration of amendment to Ordinance regulating Outdoor Tour Operators**
- B) **Consideration of Ordinance to provide that a member of the Board of Commissioners shall serve on the Currituck County ABC Board without compensation**
- C) **Consideration of Trash Removal Service on Beach Strand**
- D) **Board Appointments:**
 - 1. Re-appointment of Daniel Clements and George Mears to the Whalehead Drainage Service District
 - 2. Appointments to ABC Board
 - 3. Appointment to Planning Board

E) Consent Agenda:

1. Resolution supporting NCACC Legislative Goals
2. Resolution in support of 2nd Amendment
3. Budget Amendments
4. Resolution approving McCord Contract
5. Surplus Resolution for Sheriff to dispose of seized weapons - **DELETED**
6. Report of unpaid 2012 Real Estate Taxes & order advertisement of Tax Liens
7. Approval of Agreement for East Albemarle Regional Library System

F) Commissioner's Report**G) County Manager's Report****Closed Session**

According to GS 143-318.11(4) to discuss matters relating to the location or expansion of industries or other businesses

Adjourn

D. 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. There being no comments, he closed the public comment period.

Public Hearings

A) Public Hearing and Action: PB 12-25 Corolla Light PUD, Phase 13: Request for a special use permit for an office/warehouse. The property is located at Lot 2, Phase 13, NC 12 (Ocean Trail), Tax Map 115B, Parcel 2, Section 13, Poplar Branch Beach Township.

Sworn testimony was given prior to making comments.

Ben Woody, Planning Director, reviewed the request.

CASE ANALYSIS FOR THE
Board of Commissioners
DATE: February 4, 2013

PB 12-25 Corolla Light, Phase 13, Special Use Permit (Office/Warehouse)

ITEM: PB 12-25 Corolla Light, Phase 13, Special Use Permit (Office/Warehouse)

LOCATION: Lot 2, Phase 13, NC 12 (Ocean Trail), Corolla, NC

TAX ID: 115B-000-0002-0013

ZONING DISTRICT: General Business (GB)

PRESENT USE: Vacant

OWNER: TFP, LLC
PO Box 369, 1142 Ocean Trail
Corolla, NC 27927

APPLICANT: Same as Owner

LAND USE/ZONING OF SURROUNDING PROPERTY:

	Land Use	2012 Zoning
NORTH:	Real Estate Office/Sewage Plant	GB
SOUTH:	Utilities/Vacant	RO1
EAST:	Residential	RO1
WEST:	Utilities	GB

LAND USE PLAN

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

SIZE OF SITE: 2.50 acres

NUMBER OF UNITS: 4

PROJECT DENSITY: 0.625 units per acre

UTILITIES: Water: Currituck County.
Sewer: Carolina Water Service (3,535 gpd)

PUD ALLOCATION: 267.05 acres total land area, 131.83 acres total open space, 26.7 acres commercial allocation

I. NARRATIVE OF REQUEST:

The applicant proposes to construct three office/warehouse buildings.

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

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. Office/Warehouse use is among those listed in the Table of Permissible Uses.

3. The conditions proposed meet or exceed the minimum requirements of this ordinance.
Suggested Findings:
 - a. The conditions proposed appear to meet the minimum requirements of the UDO.

4. The special use will not endanger the public health or safety:
Suggested Findings:
 - a. The use will not endanger the public health or safety.

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. The project site adjoins several developed residential properties to the east. Considering the scale of the proposed development, and given that the proposed buildings do not share the architectural features typical of the area, buffering of adjacent residential properties is important to ensure protection of property values and to remain in harmony with the surrounding area. Buffering is best achieved by preserving existing vegetation which, in this case, is dense and well established. In areas where existing vegetation cannot be preserved, the newly planted buffer yard shall incorporate healthy, large caliper, native trees in order to speed the return of an adequate buffer.

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. The proposed use is in keeping with the policies of the plan, some of which are:

POLICY CD7: Attractive, environmentally beneficial LANDSCAPING shall be provided by new commercial or office developments, and in the rehabilitation and upgrading of existing developments. Appropriate BUFFERING or other effective DESIGN FEATURES may be employed to allow less intensive forms of commercial and office development to adjoin existing or planned residential uses.
POLICY ID5: WAREHOUSING, STORAGE AND DISTRIBUTION facilities shall have access to thoroughfares of adequate traffic carrying capacity, and shall be appropriately designed and/or visually buffered according to the visibility of their location.

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. The uses should not exceed the county's ability to provide adequate public facilities.

III. Staff Review and Action:

Pursuant to the Unified Development Ordinance, the Technical Review Committee recommends approval subject to the following conditions:

1. Buffering along the east property line shall be a top priority and shall be achieved via existing vegetation where possible. Newly planted vegetation in this area shall include appropriately spaced, healthy, large caliper, native trees to quickly reestablish a sufficient buffer.
2. After grading of the site is complete, a detailed landscaping plan shall be submitted for staff review to ensure an adequate bufferyard is installed where existing vegetation has been removed. The plan shall include the species, caliper, and typical mature height of proposed trees.

IV. Planning Board Recommendation:

The Planning Board recommended approval of the special use permit for an office/warehouse as presented. Motion carried unanimously.

Chairman O'Neal opened the public hearing.

Commissioner Aydlett questioned the existing vegetation.

Commissioner Petrey questioned the hours of operation.

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

Commissioner Aydlett moved to approve with findings of fact, staff recommendations and case analysis. Commissioner Gilbert seconded the motion. Motion carried.

New Business

A) Consideration of amendment to Ordinance regulating Outdoor Tour Operators

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

**AN ORDINANCE OF THE CURRITUCK COUNTY BOARD OF COMMISSIONERS
AMENDING SECTION 8-87 AND SECTION 8-92 OF THE CURRITUCK COUNTY
CODE OF ORDINANCES AND ORDINANCE TO REGULATE OUTDOOR TOUR
OPERATORS**

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 the peace and dignity of the county; and

WHEREAS, pursuant to N.C. Gen. Stat. §153A-134 a county may by ordinance regulate and license occupations, businesses, trades, and professions; and

WHEREAS, pursuant to Section 1 of Chapter 875 of the 1985 Session Laws, as amended by Session Law 1998-64 and Session Law 2001-33 Currituck County may by ordinance regulate, restrict, and prohibit the use of dune or beach buggies, jeeps, motorcycles, cars, trucks, or any other form of power-driven vehicle specified by the Board of Commissioners on the foreshore, beach strand, and the barrier dune system; and

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

PART I. Section 8-87 of the Code of Ordinances, Currituck County, North Carolina is amended by to read as follows:

Sec. 8-87. Definitions.

Bus shall mean a vehicle with chassis not greater than one (1) ton and larger than a private passenger vehicle, but with a wheelbase greater than nineteen (19) feet in overall length not more than 25 feet, seats typically accessed by side or center aisle, intended to carry more than 15 passengers and used for the purpose of touring for hire.

Designated area shall mean that area of the county on the Outer Banks from the terminus of the paved portion of N.C. Highway 12 to the Virginia state line

Outdoor tour operator shall mean a company or individual that arranges travel tours by outdoor tour vehicle.

Outdoor tour vehicle shall mean a vehicle with maximum passenger capacity of 15 persons engaged in the business of carrying passengers for hire or offering to carry passengers for hire, when the primary purpose for riding in such vehicle is not transportation but touring and sight-seeing. A bus may not be used as an outdoor tour vehicle.

PART II. Section 8-92 of the Code of Ordinances, Currituck County, North Carolina is amended by to read as follows:

Sec. 8-92. Identification and marking generally.

(a) Every outdoor tour vehicle shall have a sign in plain view on each side of the vehicle, legible at a distance of 50 feet in letters not less than three inches high, containing the full name of the outdoor tour operator company operating the vehicle.

(b) There shall be on each side and on the rear of each outdoor tour vehicle a number no less than at least six three inches high, such number to be separate and distinct number from that on any other outdoor tour operator vehicle in the county. The numbers must be permanently affixed to the vehicle. The number shall be assigned to the outdoor tour vehicle and the owner thereof by the county manager or manager's designee and shall not be altered or changed without consent of the county manager or manager's designee.

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

PART IV. **Severability.** In the event one or more of the provisions contained in this ordinance shall for any reason be held by a court to be invalid, illegal or unenforceable in any respect, such invalidity, illegality or unenforceability shall not affect the remaining provisions of this ordinance, and this ordinance shall be construed as if such invalid, illegal or unenforceable provision or provisions had never been contained herein.

B) Consideration of Ordinance to provide that a member of the Board of Commissioners shall serve on the Currituck County ABC Board without compensation

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

AN ORDINANCE OF THE CURRITUCK COUNTY BOARD OF COMMISSIONERS AMENDING CHAPTER 2, ARTICLE III OF THE CURRITUCK COUNTY CODE OF ORDINANCES TO PROVIDE THAT A MEMBER OF THE BOARD OF COMMISSIONERS SHALL SERVE ON THE CURRITUCK COUNTY ABC BOARD WITHOUT COMPENSATION

WHEREAS, pursuant to N.C. Gen. Stat. §153A-76 a board of commissioners may change the composition and manner of selection of boards, commissions, and agencies, and may generally organize and reorganize the county government in order to promote orderly and efficient administration of county affairs; and

WHEREAS, pursuant to N.C. Gen. Stat. §153A-77 a board of commissioners may appoint advisory boards, committees, councils and agencies composed of qualified and interested county residents to study, interpret and develop community support and cooperation in activities conducted by or under the authority of the board of commissioners; and

WHEREAS, pursuant to N.C. Gen. Stat. §18B-700(c) county ABC board members shall be appointed by the board of county commissioners.

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

PART I. Chapter 2, Article III, Division 1 of the Currituck County Code of Ordinances is amended by adding a new section to read as follows

Sec. 2-99. County commissioner to serve as county ABC board member without compensation.

A county commissioner shall be appointed by the board of commissioners to serve as a member of the county ABC board. The county commissioner member of the county ABC board shall not receive compensation for service on the county ABC board.

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

C) Consideration of Trash Removal Service on Beach Strand

Dan Scanlon, County Manager, reviewed the contract.

Commissioner Aydlett moved to approve the contract with Corolla Surf Shop in the amount of \$26,100 to come from Occupancy Tax. Commissioner Petrey seconded the motion. Motion carried.

D) Board Appointments:

1. Re-appointment of Daniel Clements and George Mears to the Whalehead Drainage Service District

Commissioner Martin moved to reappoint Daniel Clements and George Mears. Commissioner Gilbert seconded the motion. Motion carried.

2. Appointments to ABC Board

Commissioner Petrey moved to appoint Commissioner Griggs and to appoint Gene Gregory as Chairman. Commissioner Martin seconded the motion. Motion carried.

3. Appointment to Planning Board

Commissioner Griggs appointed Steven Craddock. Commissioner Gilbert seconded the motion. Motion carried.

E) Consent Agenda:

1. Resolution supporting NCACC Legislative Goals
2. Resolution in support of 2nd Amendment
3. Budget Amendments
4. Resolution approving McCord Contract
5. Surplus Resolution for Sheriff to dispose of seized weapons- **DELETED**
6. Report of unpaid 2012 Real Estate Taxes & order advertisement of Tax Liens
7. Approval of Agreement for East Albemarle Regional Library System

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

RESOLUTION

IN SUPPORT OF LEGISLATIVE GOALS ADOPTED BY THE MEMBERSHIP OF THE NORTH CAROLINA ASSOCIATION OF COUNTY COMMISSIONERS

WHEREAS, the North Carolina Association of County Commissioners was founded in 1908 as a membership organization to represent the interests of counties before the General Assembly;

WHEREAS, all 100 counties are voluntary members of the North Carolina Association of County Commissioners, making the NCACC the official voice of North Carolina counties;

WHEREAS, every two years, the membership of the NCACC develops and approves a package of legislative proposals designed to protect and enhance the interests of county governments and the citizens who live in our 100 counties;

WHEREAS, the process to generate this package of legislative goals is deliberate and inclusive and provides extensive opportunities for counties to be involved;

WHEREAS, Currituck County is an active participant within the NCACC and participated in the process to develop these legislative proposals;

WHEREAS, more than 200 county officials representing 88 counties gathered in Durham County on Jan. 24-25, 2013, and debated and ultimately approved 60 proposals submitted by counties to be included in the legislative goals package;

WHEREAS, the attached proposals represent the collective wishes of all 100 counties;

NOW, THEREFORE, BE IT RESOLVED that the Currituck County Board of Commissioners adopts this resolution in support of the legislative proposals adopted by the NCACC membership at its 2013 Legislative Goals Conference;

FURTHER BE IT RESOLVED that copies of this resolution be transmitted to the members of the General Assembly representing Currituck County to let them know of our support for these issues.

**RESOLUTION AFFIRMING AND SUPPORTING THE SECOND AMENDMENT TO
THE CONSTITUTION OF THE UNITED STATES AND ARTICLE I, SECTION 30 OF
THE CONSTITUTION OF NORTH CAROLINA**

WHEREAS, the Second Amendment to the Constitution of the United States provides that “[A] well regulated militia being necessary to the security of a free state, the right of the people to keep and bear arms shall not be infringed.”, and;

WHEREAS, the Article I, Section 30 of the Constitution of North Carolina provides that “A well regulated militia being necessary to the security of a free State, the right of the people to keep and bear arms shall not be infringed; and, as standing armies in time of peace are dangerous to liberty, they shall not be maintained, and the military shall be kept under strict subordination to, and governed by the civil power. Nothing herein shall justify the practice of carrying concealed weapons, or prevent the General Assembly from enacting penal statutes against that practice.”; and;

WHEREAS, the United States Supreme Court in District of Columbia v. Heller, 128 S. Ct. 2783, 171 L.Ed.2d 637, 554 U.S. 570 (2008), an opinion authored by Justice Scalia, held that although the Second Amendment to the Constitution of the United States does not provide the right to keep and carry any weapon in any manner for any purpose, the Second Amendment protects an individual right to possess a firearm unconnected with service in a militia and to use that arm for traditionally lawful purposes, such as self-defense within a home; and

WHEREAS, the United States Supreme Court in McDonald v. City of Chicago, 130 S. Ct. 3020, 177 L.Ed.2d 894 (2010), an opinion authored by Justice Alito, held that the Fourteenth Amendment to the Constitution of the United States incorporates the Second Amendment right

to keep and bear arms for self-defense and is fully applicable to the States as fundamental to the Nation’s scheme of ordered liberty, and;

WHEREAS, the North Carolina Supreme Court in State v. Dawson, 272 N.C. 535, 159 S.E.2d 1 (1968) held that the right to bear arms, which is protected and safeguarded by the federal and State Constitutions, is subject to the authority of the General Assembly, in the exercise of the police power, to regulate, but the regulation must be reasonable and not prohibitive, and must bear a fair relation to the preservation of the public peace and safety; and

WHEREAS, it is reported that the President of the United States is proposing, and the United States Congress may consider, adoption of laws or regulations that may have the effect of infringing upon an individual’s constitutional right to possess a firearm as determined by the United States Supreme Court and North Carolina Supreme Court.

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

- Section 1. The North Carolina delegation to the United States Congress adamantly oppose the enactment of any law, rule or regulation that may have the effect of infringing upon an individual’s constitutional right to possess a firearm as determined by the United States Supreme Court and North Carolina Supreme Court.
- Section 2. The county’s legislative delegation to the North Carolina General Assembly adamantly oppose the enactment of any law, rule or regulation that may have the effect of infringing upon an individual’s constitutional right to possess a firearm as determined by the United States Supreme Court and North Carolina Supreme Court.
- Section 3. The Clerk to the Board of Commissioners forward a copy of this resolution to each member of the North Carolina delegation to the United States Congress and county’s delegation to the North Carolina General Assembly.

<u>Account Number</u>	<u>Account Description</u>	Debit Decrease Revenue or Increase Expense	Credit Increase Revenue or Decrease Expense
10650-545000	Contract Services	\$ 18,720	
10390-495015	T F - Occupancy Tax		\$ 18,720
		\$ 18,720	\$ 18,720

Explanation: Economic Development (10650) - Increase appropriations for lawn maintenance in the Maple Commerce Park for the remainder of this fiscal year.

Net Budget Effect: Operating Fund (10) - Increased by \$18,720.

<u>Account Number</u>	<u>Account Description</u>	Debit		Credit	
		Decrease Revenue or Increase Expense		Increase Revenue or Decrease Expense	
25607-545000	Contract Services	\$	10,000		
25390-499900	Appropriated Fund Balance			\$	10,000
		<u>\$ 10,000</u>		<u>\$ 10,000</u>	

Explanation: Guinea Mill Watershed Service District (25607) - Increase appropriations for watershed improvements in the Guinea Mill watershed service district.

Net Budget Effect: Guinea Mill Watershed Improvement Sewer District (25) - Increased by \$10,000.

<u>Account Number</u>	<u>Account Description</u>	Debit		Credit	
		Decrease Revenue or Increase Expense		Increase Revenue or Decrease Expense	
10795-545000	Contract Service	\$	440		
10795-576003	Youth Flag Football			\$	440
		<u>\$ 440</u>		<u>\$ 440</u>	

Explanation: Parks & Recreation (10795) - Transfer funds for increase in contracts for the remainder of this fiscal year.

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

RESOLUTION RATIFYING CONTRACTS BY AND BETWEEN McCORD’S LANDSCAPING AND COUNTY OF CURRITUCK

WHEREAS, in 2011 the County of Currituck solicited bids for lawn maintenance services on certain county property; and

WHEREAS, McCord’s Landscaping submitted the lowest responsible bids for lawn maintenance of certain county property identified as Northern Mainland Properties and Knotts Island Properties; and

WHEREAS, contracts dated January 27, 2012 were entered into between McCord’s Landscaping and the county; and

WHEREAS, on December 3, 2012 Kevin McCord was sworn into office as a Currituck County Commissioner; and

WHEREAS, Kevin McCord has more than a ten percent (10%) ownership interest in McCord's Landscaping; and

WHEREAS, N.C. Gen. Stat. §14-234 provides that a public officer may not enter into a contract with the county the public officer serves except in a county with no town or city with population of more than 15,000 persons; and

WHEREAS, the County of Currituck has no towns or cities; and

WHEREAS, McCord's Landscaping has been performing under its contracts with the county and the county has determined that it is in the county's best interest for such contracts to continue.

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

Section 1. The contracts entered into between McCord's Landscaping and the county dated January 27, 2012 in the aggregate amount of \$37,800.00 are hereby ratified and affirmed.

Section 2. This resolution shall be recorded in the official minutes of the Board of Commissioners for Currituck County stating that Kevin McCord did not vote or otherwise participate in the adoption of this resolution.

Section 3. The Clerk to the Board of Commissioners and Finance Officer are directed to comply with the posting and reporting requirements set forth in N.C. Gen. Stat. §14-234 with respect to this resolution and contracts described herein.

F) Commissioner's Report

Commissioner McCord stated that there was a BBQ dinner fund raiser for the Rick Ballance family on February 16 at Camden School.

Commissioner Griggs, commented on the New Commissioners School he attended.

Commissioner Martin, stated that there will be someone at the Senior Center to file taxes for low to medium income families, and to please call the Senior Center.

Commissioner Aydlett commented on the Legislative Goals conference he attended in Raleigh.

Commissioner Gilbert stated that the Board will hold a retreat this weekend for commissioners.

Chairman O'Neal commented on the new flood insurance rates and new maps.

G) County Manager's Report

No comments

Closed Session

According to GS 143-318.11(4) to discuss matters relating to the location or expansion of industries or other businesses and (3) to consult with the attorney in order to preserve the attorney-client privilege London, LLC, Mermaids vs. Currituck County.

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

Adjourn

After reconvening from closed session, no action was taken.

There being no further business, the meeting adjourned.