

CURRITUCK COUNTY  
 NORTH CAROLINA  
 January 7, 2013

The Board of Commissioners met at 6:00 p.m. for a work session with the Airport Advisory Board.

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**

Kimberley Ferebee, New Bethlehem Church of Christ/DC was present to give the invocation.

**C) Approval of Agenda**

Commissioner Aydlett moved to delete #A under old business. Commissioner Gilbert seconded the motion. Motion carried.

**Work Sessions**

6:00 p.m. Airport Advisory Board

**7:00 pm Call to Order**

- 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 on proposed Tax schedules, standards and rules for the 2013 reassessment**
- B) **Public Hearing and Action:** PB 05-38 Bonney Bright Mine: Request for a special use permit modification to expand an existing sand mining operation from 29.2 acres to 49 acres. The property is located at 101 Marsh Causeway on Knotts Island, Tax Map 55, Parcels 1, 2, and 3, Fruitville Township.

- C) **Public Hearing and Action:** PB 12-19 Barry Nelms: Request to amend the new Unified Development Ordinance Chapter 5: Development Standards to allow off-premise directional signs.

#### Administrative Reports

- A) **Moyock Women's Club, Presentation and donation to Back Pack for Kids**
- B) **Update on the Moyock Small Area Plan**

#### Old Business

- A) **Consideration and Action:** PB 12-20 Harbinger Land & Timber: Request for conditional zoning from Agricultural (A) and Residential (R) to Conditional District-Residential (CD-R) of 84 acres in Moyock on the west side of Poyners Road and north and south sides of Elrod Road, Tax Map 31, Parcels 1A, 1B, 1D, 15A, and 17A, Crawford Township. - TABLED
- B) **Consideration and action on an ordinance amending the Code of Ordinances to regulate Outdoor Tour Operators**

#### New Business

- A) **Consideration of Construction Funding agreement with Crawford VFD for expansion of Sligo Station**
- B) **Board Appointments:**
1. Appointment of Commissioner Griggs to the Whalehead Board of Trustees
  2. Appointment to Albemarle Commission
  3. Appointment of Commissioner Petrey to Economic Development Board
  4. Appointment of Commissioner Martin to the Rural Planning Organization and County Manager to the TCC
  5. Appointment of Commissioner McCord to the Albemarle Mental Health Board
  6. Appointment of Chairman O'Neal to the Regional Health Dept. Board
  7. Appointment to Planning Board
  8. Appointment to Board of Adjustment
  9. Appointment to ABC Board
  10. Appointment of Voting Delegate to Legislative Goals Conference
- C) **Consent Agenda:**
1. Budget Amendments
  2. Approval of Surplus from Sheriff's Department
  3. Approval of County Lease Permit from Florida Tower Partners, LLC., leasing space on tower site for Emergency Management for \$1,750 per month
  4. Approval of Resolution Opposing Tolls for the Knotts Island-Currituck Ferry
  5. Approval of December 3, 2012 Meeting Minutes
  6. Approval of Retention and Disposition Schedule for Register of Deeds
  7. Approval of purchase of certain material, supplies and Equipment from Motorola Communications for the construction of the County's 800 MHz communications system
- D) **Commissioner's Report**

E) County Manager's Report

**Adjourn**

**Special Meeting**

Tourism Development Authority

Budget Amendments

**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.

Ron Melton, Shingle Landing, stated that they will be meeting with the County Attorney on Wednesday at the Public Library.

Tommy Hardison, Shingle Landing, commented on the railroad crossing and the fees.

John Snowden, Maple, expressed that the county lost a good friend, Allen Russell, with Department of Transportation, over Christmas.

Chairman O'Neal recognized the life of Allen Russell.

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

**Public Hearings**

**A) Public Hearing on proposed Tax schedules, standards and rules for the 2013 reassessment**

Tracy Sample, Tax Collector, reviewed the new values that will be out by March 1. The new tax rate will go into effect July 1, 2013.

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

B) **Public Hearing and Action: PB 05-38 Bonney Bright Mine:**  
 Request for a special use permit modification to expand an existing sand mining operation from 29.2 acres to 49 acres. The property is located at 101 Marsh Causeway on Knotts Island, Tax Map 55, Parcels 1, 2, and 3, Fruitville Township.

Sworn testimony was given prior to making comments.

Ben Woody, Planning Director, reviewed the request.

**CASE ANALYSIS FOR THE  
 Board of Commissioners  
 DATE: January 7, 2013  
 PB 05-38 Bonney Bright Mine, Special Use Permit Modification**

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**ITEM:** PB 05-38 Bonney Bright Mine, Special Use Permit Modification

**LOCATION:** Knotts Island: 101 Marsh Causeway

**TAX ID:** 0055-000-0001-0000  
 0055-000-0002-0000  
 0055-000-0003-0000

**ZONING DISTRICT:** Agricultural (AG)

**PRESENT USE:** Mining Operation

**OWNER:** Bonney G. Bright  
 5513 Buzzard Neck Road  
 Virginia Beach, VA 23457

**APPLICANT:** Bonney G. Bright

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

	<b>Land Use</b>	<b>2012 Zoning</b>	<b>2013 Zoning</b>
<b>NORTH:</b>	Low Density Residential/Farmland	N/A (Virginia)	N/A (Virginia)
<b>SOUTH</b>	Farmland/Woodland	AG	SFI
<b>EAST:</b>	Undeveloped-Wetlands/Farmland	AG	SFI
<b>WEST:</b>	Low Density Residential/Campground	RR/A	SFI

**LAND USE PLAN**

**CLASSIFICATION:** The 2006 Land Use Plan classifies the site as **Limited Services and Conservation** within the **Knotts Island-Gibbs Woods** subarea.

**SIZE OF SITE:** Parcel Area (3 parcels): 101.8 acres

**SIZE OF MINE:** 49 Acres

Existing Mine: 29.2 Acres  
Expansion: 19.8 Acres

**WETLANDS:** 3.8 Acres

**STREETS:** The mine access is from NC 615 (Marsh Causeway)

**UTILITIES:** There will be no new utilities associated with the use.

## **I. NARRATIVE OF REQUEST:**

1. The applicant is seeking review under the new UDO and approval for the expansion (19.8 acres) of an existing sand mining operation.
2. The Board of Commissioners approved a text amendment that allows existing mining operations that have maintained good standing for the past five years to expand their operations. The maximum expansion that the Board can approve is 50% of the net acreage (excluding wetlands).
3. The existing operation (28.9 acres) was approved by the Board of Commissioners on May 15, 2006. The permit is valid for ten years.
4. The mining operation has maintained compliance with the state permits since November 9, 2007. In addition, the operation has maintained compliance with the county special use permit for the past five years.

## **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. The special use will not endanger the public health or safety:

#### **Suggested Findings:**

- a. The expansion of the mining operation should have little or no additional impact on public health or safety.
  - b. The site will be posted for "No Trespassing" every 250 feet as noted on the site plan.
  - c. A water truck will continue to maintain the access road for dust control.
  - d. The hydrological report (Groundwater Monitoring and Recharge Plan) prepared by Sigma Environmental Services, Inc. dated November 19, 2012 concluded:
    - (1) Dewatering of the existing mine has performed within the drawdown ranges originally predicted in the GMA report. It is anticipated that recharge system performance at the Currituck mine will serve to mitigate the dewatering impacts to the surface aquifer.
2. The special use will not injure the value of adjoining or abutting lands and will be in harmony with the area in which it is located.
 

#### **Suggested Findings:**

    - a. The mining operation is existing and operational.
    - b. The proposed expansion will be subject to the same conditions as the existing operation.
    - c. The UDO permits mining operations in the "A" zoning district with a special use permit.
  3. The special use will be in conformity with the Land Use Plan or other officially adopted plan.

#### **Suggested Findings:**

- a. The 2006 Land Use Plan classifies this site as Limited Services and Conservation within the Knotts Island – Gibbs Woods subarea. The proposed expansion is in keeping with the policies of the plan, such as:

Policy ID8: MINING ACTIVITIES, or secondary impacts of mining activities not subject to permit approval by the State of North Carolina, may be subject to review and management by Currituck County. Activities to be addressed may include, but not be limited to, the adequacy of roads serving the mine site, visual impacts during operation and after closing of the mine site, noise and dust considerations, etc.

4. 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.

**Suggested Findings:**

- a. The county should have adequate public facilities to service this subdivision.

**III. STAFF REVIEW AND ACTION:**

Pursuant to the Unified Development Ordinance, the Technical Review Committee recommends approval subject to the existing conditions, as modified, of the special use permit issued by the Board of Commissioners:

1. If at any time the State permit issued for this mining operation is suspended or revoked, the suspension or revocation shall cause this Special Use Permit to become void.
2. Any modifications to the State permits shall be filed within 10 working days of issuance or submittal in the Planning/inspections Department of Currituck County.
3. This special use permit shall be valid for a period of ten years from the date of permit issuance. The special use permit will expire May 15, 2016. ~~granted.~~
4. That no more than ~~49~~ 28.9 acres (~~50%~~ 28.4%) of the ~~total~~ net tract (not including wetlands) shall be excavated for the purposes of mining under this permit.
5. The maximum mining depth shall be 30' below natural ground or an elevation of -26 below MSL.
6. That 3' x 3' warning signs noting "Truck Entering Highway" be posted on Marsh Causeway (NC 615) 500' in advance of the entrance in both directions.
7. That a left turn lane meeting NCDOT design and construction standards shall be installed on Marsh Causeway (NC 615).
8. A benchmark shall be set proximate to the mining area to establish the elevation of the natural ground. The benchmark location shall be shown on the mining site plan.
9. No encroachment into natural drainageways and channels shall be allowed.
10. ~~No off-site discharging of water or sediment from the mine site is allowed under this permit.~~
11. A minimum of once every six months, there shall be maintenance performed on the recharge/sediment ditch.
12. Drainage patterns shall not be altered so as to cause flooding off-site while the permit is valid and after reclamation.
13. All trucks and equipment used in conjunction with the mine shall be stored, within the mine site and not the adjacent farmland. The on-site storage of commercial dump trucks shall not be permitted.
14. The hours of operation of all mining related activities on this site, as determined by the Currituck County Board of Commissioners, shall be Monday through Friday from 7 a.m. to 7 p.m., Saturday from 7 a.m. to 7 p.m. and no mining activity shall occur on Sunday.
15. The proposed mine entrance shall be gated.
16. At least 200' of continuous pavement shall be required onsite starting at the point the access road intersects with a public street and shall be completed prior to the excavation of any fill material.
17. All roads utilized to access the mining site shall be maintained free of dust and sediment and shall be properly graded and drained in order to minimize potholes and standing water.
18. All trucks hauling mined materials shall be covered with a tarpaulin.

19. Mined materials shall not be stored in excess of 25' in height.
20. Stockpile areas and overburden (i.e.: excess material) to be used for future reclamation shall be placed where it will not be disturbed by normal mining activities and shall be stabilized to reduce wind and water erosion.
21. No bulk waste, hazardous waste, commercial waste, garbage, construction or demolition waste shall be placed on the site.
22. "No Trespassing" signs shall be posted around the site being mined at a minimum distance of 250 feet apart indicating that a mining operation is being conducted on the property.
23. Reclamation shall be conducted simultaneously with mining operations. Annual reclamation reports shall be submitted to the Planning/Inspections Department of Currituck County within 10 days of being filed with the State.
24. All provisions of State and local permits issued for the operation shall be met.
25. No mining activities shall adversely affect surrounding in use wells. Any person owning or operating a mining site in a manner that adversely affects an in use well through contamination or diminution of groundwater shall provide the well owner with a replacement water supply or equal quantity and quality.
26. A minimum of four monitoring wells shall be located on the site. During the installation of the wells, the stratigraphy of the subsurface at each well shall be accurately logged by a qualified geologist. At all monitoring well locations, separate wells shall be screened at shallow and deep depths, both above and below any clay layers identified.
27. The wells shall be secured against unauthorized entry with a lockable cap. The necessary permits or approvals to construct these wells shall be obtained from the N.C. Division of Water Quality.
28. The owner/operator shall establish a benchmark for the water quality and quantity as it exists prior to the mining operation and establish a monthly monitoring program during the excavation activity. The wells shall be monitored at least 90 days prior to initiating any excavation of the initial pit area or recharge swale to allow for the determination of pre-existing (static) groundwater levels. Copies of the monitoring reports shall be submitted monthly to the Planning Department.
29. Water levels in all monitoring wells shall be measured and recorded weekly for the first 90 days prior to any dewatering activities at the site and weekly for the following 90 days upon initiation of dewatering activities. Following this initial period, the wells shall be measured monthly on the same day and approximate time of day. The static water levels shall be measured with an accuracy of plus or minus 0.1 foot and shall be referenced to a datum point and a record of the water levels maintained. The monthly precipitation and the volume of pit water discharge shall also be recorded. Copies of these records shall be provided to the State and the County Planning Department on or about the end of each quarter. Static water level monitoring frequency may be increased or decreased as deemed appropriate by the Department.
30. An initial chloride sample shall be collected, analyzed, and recorded from each monitoring well prior to dewatering activities to create base line data level for the site. Furthermore, chloride samples shall be collected, analyzed, and recorded on a monthly basis from all monitoring wells and from the 12-inch discharge pipe prior to the water entering the outlet apron. As noted above, monthly pumping withdrawals and rainfall amounts shall be measured and recorded at the site and reported to the Land Quality Section, along with the required monitoring well water level data and chloride data, on a quarterly basis.
31. A reserve fund shall be established, to be held by the property owner, to finance the initial capital expenses of establishing the anticipated future lake use of the property. At a minimum, the estimated capital expense shall be an amount equal to \$1,000 times the number of acres in the total site. The reserve fund shall include an assumed inflationary rate of 5% per year for the expected life of the mining site. Any funds held by the State of North Carolina pursuant to G.S. 74-54 will be credited towards the required amount.
32. The owner shall place funds in the reserve annually in amounts equal to the capital cost estimates provided above divided by the number of years the mining site will be open.

The annual amount shall be calculated as follows:

$$102 \text{ acres} \times \$1,000 = \$102,000 - \$52,100 \text{ State Bond} = \$49,900$$

\$49,900/10 years = \$4,990;

Year + 5% Inflationary Rate:

Year 1 \$4,990.00

Year 2 \$5,239.50

Year 3 \$5,501.48

Year 4 \$5,776.55

Year 5 \$6,065.38

Year 6 \$6,368.64

Year 7 \$6,687.08

Year 8 \$7,021.43

Year 9 \$7,372.50

Year 10 \$7,741.13

33. The first payment shall be made prior to commencement of excavation activities and evidence of such payment, in the form of a notarized statement by the property owner, must be presented to the administrator. Such evidence shall be submitted annually, along with the total balance of reserve funds, to the administrator on or before the anniversary of the initial notarized statement. In the event the mining operation permanently discontinues before the expected timetable submitted, the owner shall pay all remaining amounts to the reserve fund as evidenced by a notarized statement to the administrator.
34. The reclamation shall be in accordance with the state approved reclamation plan.
35. Should any conditions within this permit conflict with any other permit issued for this activity, then the more restrictive condition shall prevail.
36. Berm height to be increased to ten feet with vegetation.

#### **IV. PLANNING BOARD RECOMMENDATION:**

The Planning Board recommended approval of PB 05-38 as presented with the Technical Review Committee recommendations with the exclusion of conditions #31, #32, and #33. Motion carried unanimously.

Chairman O'Neal opened the public hearing.

Dave with Bissell & Associates, reviewed the request.

Harold Jones, Environmental Engineer, discussed the drainage and runoff. There will be no impacts on traffic.

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

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

**C) Public Hearing and Action: PB 12-19 Barry Nelms: Request to amend the new Unified Development Ordinance Chapter 5: Development Standards to allow off-premise directional signs.**

Ben Woody, Planning Director, reviewed the request.

The new UDO was recently amended to allow off-premise directional signage for businesses located adjacent to the Atlantic Intracoastal Waterway. Barry Nelms, a business owner on the Currituck Sound, also requested a text amendment to allow off-premise directional signage for businesses located along the Currituck Sound. The Board of Commissioners remanded Mr. Nelms' request back to the Planning Board and directed staff to review the sign ordinance and provide a recommendation to allow for off-premise directional signage.

Staff presented three options to the Planning Board to allow for the signage in addition to Mr. Nelms' request. In order to reduce the number of options for the Board's consideration, staff is only bringing forward the two most diverse options prepared along with Mr. Nelms' request. The two options are:

1. Option 1: Allows off-premise directional signs on properties owned by the owner of the business.
2. Option 2: Allows off-premise directional signs at the intersection of the major arterial street and the collector street accessing the business.

In addition to the above options, the Board may also want to consider the following:

1. Business location adjacent to bodies of water, such as various creeks, Albemarle Sound, North River, North Landing River, Tulls Bay, Knotts Island Bay, and Coinjock Bay.
2. Streets in which directional signs can be located along, such as all or various major arterial streets (US 158, NC 168, NC 34, NC 136, NC 615, and NC 12).
3. Size/Height of the directional sign.
4. Number of directional signs on a pole.
5. Distance from the intersection.

The 1992 UDO allowed off-premise directional signs for businesses in Corolla Village, businesses within 1,200 feet of Caratoke Highway, and businesses located along the Atlantic Intracoastal Waterway (Coinjock Canal). The sign was authorized by the Board of Commissioners and displayed the name of the business only and the direction in which it was located. The off-premise directional signs were required to be similar in size and style to a street name sign. In 2010, the sign committee prepared a comprehensive sign ordinance amendment. The recommendation of the committee was to remove the off-premise directional signage from the ordinance, which was approved by the Board on April 4, 2011.

NCDOT requires an outdoor advertising permit for signs that are designed to attract attention on the state highway. Signs that guide pedestrians or are considered too small to attract the attention on the state highway are not subject to NCDOT outdoor advertising regulations and permitting.

The 2006 Land Use Plan policy objectives (Policies CA1, CA4, CA5) do not support increasing the frequency of off-premise advertising signage. Policy CA5 states: "...that an attractive, less commercialized landscape, particularly along heavily traveled land and water routes, is essential

to the tourist-based economy of the area. The placement of additional billboards and off-site advertising signs shall not be permitted in Currituck County.” While providing direction (name and mileage) to the business and eliminating the advertising from the signage would be offer consistency with the 2006 Land Use Plan policy objectives.

Also included in this packet is a map with a corresponding table that identifies properties zoned for commercial uses along waterways and if the property accesses a major arterial street.

The Planning Board **recommended approval** of PB 12-19 as presented by Mr. Nelms and recommended that all businesses on all waterways be given the same allowances at their November 13, 2012 meeting.

Chairman O’Neal opened the public hearing.

Theresa McPherson, supports request and that it will be good for local economy.

Janet Rose, supports the request.

Barry Nelms, applicant requests the same consideration that was given for the Crabbie’s sign. He owns 27 acres that the sign can be placed on. He is requesting a 100 square foot sign.

Commissioner Gilbert questioned the size of the sign.

Commissioner McCord questioned why sign would be lighted.

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

Commissioner Martin moved to deny the request. Commissioner Petrey seconded the motion. Motion failed with Commissioners Gilbert, Griggs, Aydlett and McCord voting no.

Commissioner Aydlett moved to table so staff could come up with a reasonable sign. Commissioner Gilbert seconded the motion. Motion carried.

### **Administrative Reports**

- A) **Moyock Women’s Club, Presentation and donation to Back Pack for Kids**

Sheila Tyler, Moyock Women's Club, presented a check in the amount of \$2600 to Commissioner Petrey for the Back Pack for Kids program.

Commissioner Aydlett thanked Commissioner Petrey for his efforts in helping the kids of Currituck County.

**B) Update on the Moyock Small Area Plan**

Holly White, Senior Planner, reviewed the Moyock Small Area Plan and the list of citizens that will serve on this Committee.

Commissioner Gilbert requested that Mike Hall be added to the list.

Commissioner Gilbert moved to approve the 13 member committee with addition of Mike Hall. Commissioner Aydlett seconded the motion. Motion carried with Commissioner Petrey voting no.

**Old Business**

- A) **Consideration and Action: PB 12-20 Harbinger Land & Timber: Request for conditional zoning from Agricultural (A) and Residential (R) to Conditional District-Residential (CD-R) of 84 acres in Moyock on the west side of Poyners Road and north and south sides of Elrod Road, Tax Map 31, Parcels 1A, 1B, 1D, 15A, and 17A, Crawford Township.**

**Tabled**

- B) **Consideration and action on an ordinance amending the Code of Ordinances to regulate Outdoor Tour Operators**

Ike McRee, County Attorney, stated that the county has been working 4 years on this ordinance and have had several public hearings.

**VERSION 1/7/13**

**AN ORDINANCE OF THE CURRITUCK COUNTY BOARD OF COMMISSIONERS AMENDING THE CURRITUCK COUNTY CODE OF ORDINANCES 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

WHEREAS, due to increasing motor vehicle traffic and pedestrian use of the county's beach and roads of northern beach communities and the interest in preservation and protection of the Corolla Wild Horses and habitat it has become necessary to regulate outdoor tour operators in a manner that will protect the viability of that industry, the natural resources upon which such industry depends and to protect the livability and attractiveness of the county's northern beach.

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

PART I. The Code of Ordinances, Currituck County, North Carolina is amended by adding to Chapter 8 Article IV. Outdoor Tour Operators to read as follows:

#### **ARTICLE IV. OUTDOOR TOUR OPERATORS**

##### **Sec. 8-86. Purpose.**

It is the purpose and intent of this article to allow outdoor tour operators but to regulate outdoor tour operators in a manner that will protect and enhance the public's use of its beach, protect the county's natural resources and preserve the livability and attractiveness of northern Currituck Outer Banks communities.

##### **Sec. 8-87. Definitions.**

*Bus* shall mean a vehicle larger than a private passenger vehicle, but with a wheelbase greater than nineteen (19) feet in length, 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.

##### **Sec. 8-88. License required.**

(a) It shall be unlawful for any person to engage in business as an outdoor tour operator or to operate an outdoor tour vehicle in the designated area without a license issued pursuant to this article. The license shall be effective only for term of two years stated in the license and upon payment of any annual fee, unless suspended or revoked sooner as provided for by ordinance and may not be transferred.

(b) No more than ten (10) licenses to engage in business as an outdoor tour operator or to operate outdoor tour vehicles in the designated area shall be issued at any one time.

(c) Each license may allow an outdoor tour operator to operate at any given point in time and only on approved routes five (5) outdoor tour vehicles or the number of outdoor tour vehicles allowed in an issued special use permit, whichever is less.

(d) Any outdoor tour operator lawfully operating more outdoor tour vehicles than allowed pursuant to Sec. 8-88(c) of this Ordinance on the date that is Ordinance becomes

effective shall be deemed a nonconforming use. Any use determined to be a nonconforming use by application of the provisions of Sec. 8-88(d) of this Ordinance shall be permitted to continue for a period not to exceed one year from the effective date of this Ordinance.

**Sec. 8-89. Application; inspection**

(a) *Application.* Application for a license issued hereunder shall be notarized and made upon forms prepared and made available by the county manager or manager's designee and shall contain:

- (1) The name and address of the owner, and the event the owner is a corporation or partnership, a copy of the articles of incorporation or organizational documents;
- (2) Factory authorized material setting forth the characteristics of each outdoor tour vehicle including dimensions, weight, passenger capacity, and manner of propulsion;
- (3) Color photographs not less than eight (8) inches by ten (10) inches of all four (4) sides of each outdoor tour vehicle or, in the discretion of the county manager or designee, sketches of a similar make and model, and sample of the color proposed for use on the tour vehicle;
- (4) The make, model, passenger capacity and vehicle identification number of each outdoor tour vehicle including outdoor tour vehicles held in reserve;
- (5) Adequate proof of liability insurance coverage;
- (6) A current state department of transportation license tag or registration tag required by any other government entity;
- (7) Address of fixed headquarters within the county for the operation of the outdoor tour operator's business;
- (8) A fee for each year of the license term as set from time to time by the board of commissioners; and
- (9) A copy of any permit required by the Currituck County Unified Development Ordinance.

(b) *Investigation of applicant.* Within five business days after receipt of each application, the county's manager or manager's designee shall cause an investigation to be made of the applicant and applicant's proposed operation. Such investigation shall be made for the purpose of verifying the information in the application and ensuring compliance with the provisions of this article.

(c) *Issuance.* The county's manager or manager's designee shall issue an outdoor tour operator license when the county's manager or manager's designee finds that the applicant meets the requirements of this article. Renewal of the license shall be required by January 31 of the last year of the current license term.

**Sec. 8-90. Fixed place of business required.**

Each outdoor tour operator, as a condition for holding a license under the provisions of this article, shall establish and maintain a fixed headquarters on private property within the county for the operation of the outdoor tour operator's business. The headquarters shall conform to the ordinances of the county and shall provide adequate off-street parking space for all outdoor tour vehicles not in service. The outdoor tour operator's headquarters shall not be moved except by the approved transfer of the outdoor tour operator's license to another location.

**Sec. 8-91. Insurance for the benefit of passengers.**

Any outdoor tour operator company desiring a license under this article shall give and maintain a policy of liability insurance from an insurance company authorized to do business in the State of North Carolina for each outdoor tour vehicle in use as an outdoor tour operation vehicle with minimum coverage as shall be required by state law for bodily injuries and property damage resulting from an accident. Such policies of insurance shall be filed with the county and shall specifically provide that such policy shall not be canceled without notice to the county.

**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 at least six 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.

**Sec. 8-93. Tour guide required.**

All tours by an outdoor tour operator or on outdoor tour vehicles shall be conducted by guide who is an employee of the outdoor tour operator. No outdoor tour shall be comprised of more than five (5) outdoor tour vehicles including the outdoor tour vehicle operated by the guide.

**Sec. 8-94. Safe mechanical condition of outdoor tour vehicles.**

Every outdoor tour vehicle operated within the county shall be maintained in a safe mechanical condition, with all safety equipment remaining intact and operative at all times with the outdoor tour vehicle is in service.

**Sec. 8-95. Cleanliness of outdoor tour vehicles.**

Each outdoor tour vehicle operated under this article shall be kept painted and in a clean and sanitary condition, free of litter and debris, and at all times suitable for transportation of passengers.

**Sec. 8-96. State license tag for outdoor tour operator required.**

Prior to the use and operation of any vehicle as an outdoor tour vehicle under the provisions of this article, the owner of the outdoor tour vehicle shall secure and display on the outdoor tour vehicle a current North Carolina license registration tag as required by law.

**Sec. 8-97. Authority for removal of outdoor tour vehicles from operation in county.**

The county manager or manager's designee shall have the authority to remove from operation in the county any vehicle used as an outdoor tour vehicle which is in violation of this article and to prohibit operation of the outdoor tour vehicle until all deficiencies have been corrected.

**Sec. 8-98. Traffic regulations.**

(a) Outdoor tour vehicles shall operate within the county in accordance with the rules of the road as provided in the laws of the state and ordinances of the county.

(b) Outdoor tour vehicles may be restricted to operation on the route or routes approved by the Board of Commissioners and on file with the Clerk to the Board of Commissioners. The Board of Commissioners may approve one route, or may approve various routes based on, but not limited to, the type, size, and/or passenger loads of outdoor tour vehicles, the condition of streets and roads and number of single-family residential dwellings located along a street or road.

(c) It shall be unlawful to operate an outdoor tour vehicle in any manner which places the occupants of the outdoor tour vehicle in immediate harm, or in any manner which impedes standard traffic flow on streets, roads or public vehicular areas. Impeding standard traffic flow on streets, roads or public vehicular areas shall include moving slower than the standard traffic flow or stopping within or along streets, roads or public vehicular areas for other than slowing, yielding or stopping as may be required by motor vehicle law.

(d) It shall be unlawful to operate an outdoor tour vehicle before 8:00 a.m. or after 8:00 p.m. west of the dune line in the designated area.

**Sec. 8-99. Penalties for violation; issuance of citations; suspension.**

(a) Failure to comply with this article or any of the laws, ordinances and regulations of the county may result in revocation or nonrenewal of a license and shall be punishable as provided in Section 1-8 of this Code.

(b) Any citation issued for violation of this article shall be issued to the license holder at the time of the violation.

(c) Any outdoor tour operator whose outdoor tour vehicles receive multiple sustained citations for violating this article in a thirty day period shall be suspended from operating in the designated area in accordance with the following schedule:

<u>Number of citations issued In Thirty Day Period</u>	<u>Days of Suspension</u>
2 or more	3 days
5 or more	10 days
10 or more	Revocation

Outdoor tour operators suspended under this section must pay all outstanding civil citations in full before license privileges will be reinstated.

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

**PART III. 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.

Commissioner Aydlett commended the Board on addressing the concerns and this ordinance was fair to all.

Commissioner Aydlett moved to approve ordinance with fee schedule. Commissioner Gilbert seconded the motion. Motion carried.

**New Business**

- A) **Consideration of Construction Funding agreement with Crawford VFD for expansion of Sligo Station**

Ike McRee, County Attorney, reviewed the agreement.

Commissioner Gilbert moved to approve contingent upon the property being deeded to Crawford VFD. Commissioner McCord seconded the motion. Motion carried

**B) Board Appointments:**

1. Appointment of Commissioner Griggs to the Whalehead Board of Trustees
2. Appointment to Albemarle Commission
3. Appointment of Commissioner Petrey to Economic Development Board
4. Appointment of Commissioner Martin to the Rural Planning Organization and County Manager to the TCC
5. Appointment of Commissioner McCord to the Albemarle Mental Health Board
6. Appointment of Chairman O'Neal to the Regional Health Dept. Board
7. Appointment to Planning Board
8. Appointment to Board of Adjustment
9. Appointment to ABC Board
10. Appointment of Voting Delegate to Legislative Goals Conference

Commissioner Martin approved 1 thru 6 with Commissioner Gilbert being appointed to the Albemarle Commission. Commissioner Aydlett seconded the motion. Motion carried.

Commissioner Gilbert appointed Carol Bell to Planning Board. Commissioner Aydlett seconded the motion. Motion carried.

Commissioner Griggs moved to table his appointments to Planning Board and Board of Adjustment. Commissioner Martin seconded the motion. Motion carried.

Commissioner Aydlett or Chairman O'Neal will attend the Legislative Goals Conference.

Commissioner Aydlett moved to table the ABC Board Appointment. Commissioner Petrey seconded the motion. Motion carried.

**C) Consent Agenda:**

1. Budget Amendments

2. Approval of Surplus from Sheriff's Department
3. Approval of County Lease Permit from Florida Tower Partners, LLC., leasing space on tower site for Emergency Management for \$1,750 per month
4. Approval of Resolution Opposing Tolls for the Knotts Island-Currituck Ferry
5. Approval of December 3, 2012 Meeting Minutes
6. Approval of Retention and Disposition Schedule for Register of Deeds
7. Approval of purchase of certain material, supplies and Equipment from Motorola Communications for the construction of the County's 800 MHz communications system

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

<u>Account Number</u>	<u>Account Description</u>	<b>Debit</b>	<b>Credit</b>
		Decrease Revenue or <u>Increase Expense</u>	Increase Revenue or <u>Decrease Expense</u>
60808-545001	Contract Services - sewer	\$ 79,500	
60808-588000	Contingency		\$ 79,500
		<u>\$ 79,500</u>	<u>\$ 79,500</u>

**Explanation:** Ocean Sands Water and Sewer Plant (60808) - Transfer contingency funds for the Ocean Sands WWTP Equalization Basin Painting Project. This project will be to Pappas Civil Contractors, LLC, Tarpon Springs Florida.

**Net Budget Effect:** Ocean Sands Water and Sewer Fund (60) - No change.



<u>Account Number</u>	<u>Account Description</u>	<b>Debit</b>		<b>Credit</b>	
		Decrease Revenue or		Increase Revenue or	
		<u>Increase Expense</u>		<u>Decrease Expense</u>	
20609-545000	Contract Services	\$	32,000		
20609-590000	Capital Outlay	\$	3,800,000		
20609-588000	Contingency			\$	32,000
20390-490000	Proceeds from Debt Issuance			\$	3,800,000
			<u>\$ 3,832,000</u>		<u>\$ 3,832,000</u>

**Explanation:** Whalehead Watershed Drainage District (20609) - Transfer contingency funds for preliminary engineering to establish budget for Phase III of the stormwater drainage project.

**Net Budget Effect:** Whalehead Watershed Drainage District (20) - Increased by \$3,800,000.

<u>Account Number</u>	<u>Account Description</u>	<b>Debit</b>		<b>Credit</b>	
		Decrease Revenue or		Increase Revenue or	
		<u>Increase Expense</u>		<u>Decrease Expense</u>	
12548-590015	Capital Outlay	\$	12,000		
12548-553015	Dues & Subscriptions	\$	2,000		
12548-536115	Personal Protective Equipment			\$	14,000
			<u>\$ 14,000</u>		<u>\$ 14,000</u>

**Explanation:** Knotts Island Vol Fire Dept (12548) - Transfer funds to purchase 4 radios that was presented during FY 2012, but not purchased and for increase in dues & subscriptions.

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

<u>Account Number</u>	<u>Account Description</u>	<b>Debit</b>		<b>Credit</b>	
		Decrease Revenue or		Increase Revenue or	
		<u>Increase Expense</u>		<u>Decrease Expense</u>	
65858-590000	Capital Outlay	\$	3,000		
65858-545000	Contract Services			\$	3,000
			<u>\$ 3,000</u>		<u>\$ 3,000</u>



<u>Account Number</u>	<u>Account Description</u>	<b>Debit</b>		<b>Credit</b>	
		Decrease Revenue or Increase Expense		Increase Revenue or Decrease Expense	
10750-557700	Crisis Intervention	\$	34,845		
10750-557701	LIEAP	\$	20,315		
10390-499900	Appropriated Fund Balance	\$	56,831		
10330-431000	DSS Administration			\$	111,991
		\$	111,991	\$	111,991

**Explanation:** Social Services Administration (10750) - Adjust budgets to State funding authorizations.

**Net Budget Effect:** Operating Fund (10) - Decreased by \$56,831.

<u>Account Number</u>	<u>Account Description</u>	<b>Debit</b>		<b>Credit</b>	
		Decrease Revenue or Increase Expense		Increase Revenue or Decrease Expense	
10545-561000	Medical Examiner	\$	11,000		
10390-499900	Appropriated Fund Balance			\$	11,000
		\$	11,000	\$	11,000

**Explanation:** Medical Examiner (10545) - Increase appropriations due to increase in requests for services provided by the medical examiner.

**Net Budget Effect:** Operating Fund (10) - Decreased by \$56,831.

<u>Account Number</u>	<u>Account Description</u>	<b>Debit</b>		<b>Credit</b>	
		Decrease Revenue or Increase Expense		Increase Revenue or Decrease Expense	
60808-532001	Supplies	\$	8,000		
60808-533601	System Supplies	\$	5,000		
60808-590001	Capital Outlay	\$	48,312		
60808-588000	Contingency			\$	23,312

60808-561001	Professional Services	\$	25,000
60808-516001	Repairs & Maintenance	\$	13,000
		<u>\$</u>	<u>61,312</u>
		<u>\$</u>	<u>61,312</u>

**Explanation:** Ocean Sands Water and Sewer Plant (60808) - Transfer funds for operations and to purchase vehicle for the Ocean Sands personnel and a used tractor for use in the district.

**Net Budget Effect:** Ocean Sands Water and Sewer Fund (60) - No change.

### RESOLUTION SURPLUS PROPERTY

WHEREAS, the Board of Commissioners of Currituck County, North Carolina during its regular meeting held on January 7, 2013 authorized the following property listed below, be declared surplus and disposed of; and

WHEREAS, Sheriff Johnson has requested that upon the retirement of Deputy William H. Rutherford that his duty weapon, a Glock 23 handgun, serial # CVM720 US, be given to him. Mr. Rutherford has made the request to purchase same upon his retirement.

### RESOLUTION OPPOSING ELIMINATION OF THE KNOTTS ISLAND FERRY TOLLS FOR KNOTTS ISLAND-CURRITUCK FERRY

**WHEREAS,** The Knotts Island-Currituck Ferry services has been provided free of charge for all travelers for almost 50 years, linking the knows island community to the Currituck County mainland; and

**WHEREAS,** the Knotts Island-Currituck Ferry service was primarily established to ease the transportation burden for school children, resident workers and businesses to mitigate an over 2 hour drive via NC 615 through the Virginia Communities of Chesapeake and Virginia Beach back to the Currituck County Mainland; and

**WHEREAS,** Knotts Island-Currituck Ferry service provides a necessary and critical level of service to maintain efficient transportation flow to all North Carolina and Currituck County residents and visitors; and

**WHEREAS,** the establishment of any toll, let alone at the alarming rate of \$10 one-way, would irreparable harm not only the residents of Knotts Island, but also greatly strain the budgets of Currituck County government and Schools, while simultaneously stifling the

access and quality of life for all Currituck County residents and visitors to enjoy; and

**WHEREAS**, the Board of Commissioners questions whether the State of North Carolina statutes specifically GS 136-89.197, allows for the establishment of a toll on the Knotts Island-Currituck Ferry, as a comparable facility under the full control of the NC Department of Transportation is not available since the State of Virginia controls portions of the comparable facility; and

**WHEREAS**, further the Board of Commissioners questions whether the State of North statutes, specifically GS 136-89.197, allows for the establishment of a toll on the Knotts Island-Currituck Ferry, as any discuss of tolling must first be established, vetted and approved at the Regional Planning Organization (RPO).

**NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COMMISSIONERS FOR CURRITUCK COUNTY, NORTH CAROLINA, THAT:**

Currituck County strongly opposes consideration of any toll for the Knotts Island-Currituck Ferry System as injurious to the general well-being of our residents, businesses and visitors, and notes the severe fiscal consequences for the budgets of Currituck County government and Currituck County Schools; and

**BE IT FURTHER RESOLVED** that the Currituck County Board of Commissioners vehemently opposes the elimination of the Knotts Island-Currituck Ferry route as such action would devastatingly affect the quality of life of our Knotts Island residents, especially the school children, business and visitors who depend on it daily.

#### **D) Commissioner's Report**

Chairman O'Neal stated it was time to schedule a meeting in Raleigh with Rep. Steinburg and Senator Cook to discuss issues.

Commissioner Aydlett requested a work session with the Fire & EMS Board.

#### **E) County Manager's Report**

No comments

#### **Adjourn**

#### **Special Meeting**

#### **Tourism Development Authority**

#### **Budget Amendments**

Commissioner Petrey 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
15442-545000	Contract Services	\$ 26,000	
15442-513000	Utilities		\$ 26,000
		\$ 26,000	\$ 26,000

**Explanation:** Occupancy Tax - Tourism Promotion (15442) - Transfer funds to provide \$11,000 to redesign the Tourism website and \$15,000 to develop a mobile app for Tourism.

**Net Budget Effect:** Occupancy Tax Fund (15) - 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
15447-592000	Whalehead Projects	\$ 5,000	
15320-415000	Occupancy Tax		\$ 5,000
		\$ 5,000	\$ 5,000

**Explanation:** Occupancy Tax - Tourism Related Expenditures (15447) - Increase appropriations to the Whalehead Trust for them to purchase 2 boat trailers.

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

**Adjourn**

There being no further business, the meeting adjourned.