

CURRITUCK COUNTY  
NORTH CAROLINA  
October 21, 2013

The Board of Commissioners met at 6:00 p.m. in the Historic Courthouse Conference Room with the Whalehead Preservation Trust and Steve Schuster of Clearscapes who gave a presentation on the Master Plan for Heritage Park.

The Board of Commissioners met at 7:00 p.m. for its regularly scheduled meeting at the Historic Courthouse in the Board Meeting Room with the following members present: Chairman Paul O'Neal, Vice-Chair Paul Martin, Commissioners Aydlett, Gilbert, Griggs, McCord, and Petrey.

Chairman O'Neal called the meeting to order at 7:00 PM and announced the Board of Commissioners had met in a work session with the Whalehead Trust for a presentation regarding plans going forward.

- A) Invocation**
- B) Pledge of Allegiance**

Reverend Glenn McCranie gave the invocation and led the Pledge of Allegiance.

- C) Approval of Agenda**

Commissioner Gilbert moved to approve the Agenda. Commissioner Martin seconded the motion. Motion carried unanimously.

#### **APPROVED AGENDA**

##### **Work Session**

6:00 PM Whalehead Trust - Update on Heritage Park

##### **7:00 PM Call to Order**

- A) Invocation-Reverend Glenn McCranie
- 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) **Consideration and Action:** Connecting Corolla
- B) **Public Hearing and Action:** PB 13-22 Currituck County: Request to amend the Unified Development Ordinance Chapter 2: Administration to revise standards relating to the Board of Adjustment so that they are consistent with the North Carolina General Statutes.

##### **Administrative Report**

- A) **Presentation by Tax Assessor on Present-Use Value Assessment**

### **New Business**

- A) **Regional Bike Plan Presentation and Adoption**
- B) **Consideration and Action** on An Ordinance of the Currituck County Board of Commissioners Amending Chapter 2, Article II, Division 2 Rules of Procedure; Amending Chapter 2, Article III, Division 1 to Provide for Advisory Board Terms and Meeting Attendance; Amending Chapter 2, Article III, By Repealing Division 2 Airport Advisory Board and Division 3 Economic Development Advisory Board; and Amending Chapter 2, Article III by Adding a New Division 3 Economic Development Advisory Board.
- C) **Consent Agenda:**
  - 1. Approval of October 7, 2013 Minutes
  - 2. Budget Amendments
  - 3. Adoption of Airport Transportation Improvement Program (TIP)
  - 4. Approval of Maple Commerce Park Covenants
  - 5. Approval of Local Firefighter's Relief Fund Boards
  - 6. Charge to Tax Collector the Levy on Motor Vehicles for July Renewals
  - 7. Approval of DSS Request to Purge Records
  - 8. Request to dispose of Finance records per the records retention schedule
- D) Commissioner's Report
- E) County Manager's Report

### **Closed Session**

Closed Session pursuant to N.C. Gen. Stat. §143-318.11(a)(3) to consult with the county attorney in order to preserve the attorney-client privilege and pursuant to N.C. Gen. Stat. §143-318.11(a)(6) to discuss a personnel matter.

Adjourn

### **D) Public Comment**

Chairman O'Neal opened the Public Comment period.

Mary Etheridge, Shawboro, stated she had been involved in litigation with the County for two years concerning illegal spot zoning. Although the courts had ruled in her favor, the County did not pay her legal fees. She wanted to prevent this same thing from happening to anyone else. She noted several ironies regarding decisions made by the Board and questioned the County's appeal of the court's decision.

County Attorney Ike McRee explained the illegal spot zoning decision was being appealed and that the Etheridges had also appealed the court's decision not to award attorney fees.

Commissioner Petrey referred to a list of 28 attendees at the Public Meeting required by the applicant in the case, all supporting the rezoning.

June Raffa, Harbinger, showed a pictorial presentation of the highway corridor from Coinjock south showing several storage facilities representing over 1500 storage units. She questioned the Commissioners' vision for the county and requested they honor their stewardship.

When asked by Chairman O'Neal, Ben Woody, Planning and Community Development Director, responded that the storage facilities were an allowable use in GB zoning as permitted under the

old Unified Development Ordinance (UDO) and were permitted by right.

Chairman O'Neal asked Mr. Woody to look at going forward whether they would be permitted under the new UDO.

Barbara Snowden, Currituck, provided an update of Two Flags over Currituck, stating that 547 students attended on Friday, over 1000 visitors Saturday and Sunday. Forty Civil War re-enactors participated, and there were 47 volunteers. She felt the event was a success and noted there were several requests to tour the Historic Courthouse. She requested a public event to showcase the building.

Eugene White, Chesapeake, landowner and farmer of property on Backwoods Road, commented on his text amendment request regarding minor subdivisions and water bonds for property more than a mile from existing water lines as well as landowner rights.

Josh Bass, Currituck Chamber of Commerce, announced the Chamber was offering free prescription discount cards, available at the Chamber office and at local Chamber member businesses.

Chairman O'Neal had received an email expressing distress that the Sheriff was being forced to take over the running of the new animal shelter and asked the County Manager if that was true.

County Manager Dan Scanlon responded that there had been conversations about the operation of the shelter when it is built and the Sheriff had been a willing participant in the discussions. She had not been required to take over the operation of the shelter.

Commissioner Aydlett questioned whether the Commissioners had the authority to direct the Sheriff, to which Mr. Scanlon responded they do not.

There being no further comments, Chairman O'Neal closed the Public Comment period.

### **Public Hearings**

#### **A) Consideration and Action: Connecting Corolla**

Holly White, Senior Planner, described the steps taken over the past year to arrive at the Connecting Corolla plan. The findings of the study included the need for direct access, ADA access, clean beaches, more bath facilities, improvement of current facilities, maps and public transportation.

The goals of the plan are to connect people safely to their destination, improve walkability in order to limit car time, and improve the overall sense of place and feel.

Forty projects were listed and categorized by importance, the highest priority projects promoting safety. Policies and actions had been defined to guide growth and development in order to accomplish the goals of the plan. Ms. White recommended adoption of the plan for use by staff and boards. An adopted plan would be an aid when applying for grants.

Commissioner Petrey remarked that safety was the #1 priority and thanked the staff.

Commissioner Gilbert complimented staff on a great job.

Chairman O'Neal opened the Public Hearing.

June Raffa commented visitors still had to drive through the corridor to get there.

There being no further comments, Chairman O'Neal closed the Public Hearing.

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

**B) Public Hearing and Action: PB 13-22 Currituck County: Request to amend the Unified Development Ordinance Chapter 2: Administration to revise standards relating to the Board of Adjustment so that they are consistent with the North Carolina General Statutes.**

Ben Woody, Planning and Community Development Director, reviewed the request.

The text amendment submitted by the Currituck County Planning and Community Development Department is intended to make the Unified Development Ordinance (UDO) consistent with Session Law 2013-126 House Bill 276, an act to clarify and modernize statutes regarding zoning boards of adjustment. The notable changes include:

- Allowing parties to have 30 days from receipt of written notice of a determination or violation to file an appeal to the Board of Adjustment. (Currently appeals for notices of violations must be filed within 10 days)
- Modifying the findings of fact required to grant a variance.
- Allowing the Board of Adjustment to affirm, reverse, or modify an appeal of a determination/violation with a majority vote. (Currently a 4/5ths vote is required to reverse or modified a determination/violation)

The law becomes effective October 1, 2013.

The Planning Board recommended unanimous **approval** at their September 10, 2013 meeting.

**PLANNING BOARD DISCUSSION (9-10-13)**

There was no discussion.

**PLANNING BOARD ACTION**

Mr. Cartwright moved to approve PB 13-22 due to its consistency with the 2006 Land Use Plan and that the request is reasonable and in the public interest and promotes orderly growth and development. Mr. Bell seconded the motion. Motion carried unanimously.

**HOUSE KEEPING  
UDO AMENDMENT REQUEST**

Amendment to the Unified Development Ordinance Chapter 2: Administration to revise standards relating to the Board of Adjustment so that they are consistent with the North Carolina General Statutes.

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 2.2.4 Board of Adjustment is amended by adding the following underlined language and deleting the strikethrough language:

**E. Quorum and Necessary Vote**

**(1) Quorum**

Four members of the Board of Adjustment shall constitute a quorum. No official business of the Board shall be conducted without a quorum present.

**(2) Voting**

**(a)** The concurring vote of four-fifths (4/5) ~~of the total number of members~~ of the Board of Adjustment shall be necessary to grant any variance ~~or approve any appeal reversing or modifying a decision.~~ A majority vote shall be required to decide an appeal application.

**(b)** Vacant positions and members who are disqualified from participating in or voting on a quasi-judicial matter in accordance with the North Carolina General Statutes shall not be considered members of the board if there are no qualified alternate members available to replace disqualified members.

**Item 2:** That Section 2.4.14 Variance is amended by adding the following underlined language, deleting the strikethrough language, and renumbering accordingly:

**D. Variance Review Standards**

A variance shall be approved on a finding the applicant demonstrates all of the following standards are met:

~~(1) Strict compliance with the provisions of the Ordinance results in no reasonable use of the land;~~

**(2)** The alleged hardship is suffered by the applicant as a result of the application of this Ordinance;

- (3) The hardship relates to the applicant's land, such as location, size, or topography, rather than personal circumstances;
- (4) The hardship is unique, or nearly so, rather than one shared by many surrounding properties;
- (5) The hardship is not the result of the applicant's own actions; and
- (6) The variance will ~~neither result in the extension of a nonconformity nor~~ not authorize the initiation of a nonconforming use of land.

**Item 3:** That Section 2.4.17 Appeal is amended by adding the following underlined language, deleting the strikethrough language, and renumbering accordingly:

#### **B. Initiation**

An appeal shall be initiated by filing a written Notice of Appeal with the Planning Director within:

- (1) Thirty days of the date of the interpretation or decision, or notice of violation being appealed; ~~or,~~
- ~~(2) Ten days of the date of the notice of violation being appealed.~~

#### **C. Appeal Procedure**

##### **(8) Decision-Making Body Review and Decision**

- (a) Applicable (see Section 2.3.10). The Board of Adjustment, following a quasi-judicial public hearing (see Section 2.3.8.C) shall decide the application for the appeal. The decision shall be based solely on the record of the appeal, as supplemented by arguments presented at the public hearing, and the standards in Section 2.4.17.D, Appeal Review Standards. The decision shall be one of the following:
  - (i) Affirmation of the decision or interpretation (in whole or in part);
  - (ii) Modification of the decision or interpretation (in whole or in part); or
  - (iii) Reversal of the decision or interpretation (in whole or in part).
- ~~(b) A vote to reverse or modify a decision or interpretation shall require a four/fifths majority of Board of Adjustment members present and voting.~~

**Item 4:** 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.

County Attorney Ike McRee confirmed the consistency of the zoning ordinances.

Chairman O'Neal opened the Public Hearing.

There being no comments, Chairman O'Neal closed the Public Hearing.

Commissioner Gilbert moved to approve the request to amend the Unified Development Ordinance Chapter 2: Administration to revise standards relating to the Board of Adjustment so that they are consistent with the North Carolina General Statutes. Commissioner Petrey seconded the motion. Motion carried.

### **Administrative Reports**

#### **A) Presentation by Tax Assessor on Present-Use Value Assessment**

Tracy Sample, Tax Assessor, gave the definition of the Present-Use Value Program as a voluntary program that provides the owner of Agricultural Land, Horticultural Land, or Forestland with preferential tax treatment if the owner and the property meet the eligibility requirements. He reviewed the eligibility requirements for deferred taxes, the tax calculations, method of collecting deferred taxes if the land is disqualified as well as reasons for disqualification. Applications may be filed at the Tax Office.

Manly West, Currituck, commented that his fair market value for farmland went down due to the revaluation; however, taxes went up 50% due to the tax increase.

Mr. Sample noted the tax rate on land in this program dropped in 2005 from \$.62, or \$7.44 per acre, to \$.32, or \$3.84 per acre, and remained until 2013 at which time it increased to \$.485, or \$5.82 per acre.

Chairman O'Neal thanked Mr. Sample for a very good presentation.

### **New Business**

#### **A) Regional Bike Plan Presentation and Adoption**

Holly White, Senior Planner, presented the Albemarle Regional Bicycle Plan which was funded by the NC Department of Transportation with Albemarle Regional Planning Organization oversight. The planning process began in the summer of 2012 for the purpose of providing a framework for the development of new facilities, programs, and policies that will support safe and efficient bicycling throughout the 10 county region.

Commissioners commented on the various plans heard during the evening, the millions of dollars required to implement the plans, and the need to combine them and keep them in the forefront as funding becomes available.

County Manager Dan Scanlon noted that, even though all transportation projects would be competing for the same funding, a project that is included in an approved plan would score higher than one not already adopted.

Ms. White noted these plans just identified needed projects and would provide the framework for the next several years.

Commissioner Martin moved to adopt the resolution supporting adoption of the Albemarle Regional Bicycle Plan. Commissioner Gilbert seconded the motion. Motion carried.

### **A RESOLUTION SUPPORTING ADOPTION OF THE ALBEMARLE REGIONAL BICYCLE PLAN**

**WHEREAS**, the Albemarle Commission and Albemarle RPO, participating local governments, and its subcontractor Alta/Greenways, have prepared the Albemarle Regional Bicycle Plan (the Plan); and

**WHEREAS**, the purpose of the Plan is to study the feasibility of establishing an interconnected network of off-road and on-road bicycle facilities throughout the entire Albemarle region; and

**WHEREAS**, the proposed bicycle network includes lands located within the multiple counties and municipalities of the Albemarle Region; and

**WHEREAS**, the Plan process involved public participation; and

**WHEREAS**, the Plan was financed by a North Carolina Department of Transportation grant.

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

- a. The Plan and related materials are acceptable to the County; and
- b. The Plan and related materials will be used to guide future bicycle transportation development, operations, and maintenance.

- B) Consideration and Action on An Ordinance of the Currituck County Board of Commissioners Amending Chapter 2, Article II, Division 2 Rules of Procedure; Amending Chapter 2, Article III, Division 1 to Provide for Advisory Board Terms and Meeting Attendance; Amending Chapter 2, Article III, By Repealing Division 2 Airport Advisory Board and Division 3 Economic Development Advisory Board; and Amending Chapter 2, Article III by Adding a New Division 3 Economic Development Advisory Board.**

County Attorney Ike McRee reviewed the amendments to Chapter 2 of the Currituck County Code of Ordinances.

Commissioner Petrey moved to approve the amendments to the Ordinance. Commissioner Gilbert seconded the motion. Motion carried.

**AN ORDINANCE OF THE CURRITUCK COUNTY BOARD OF COMMISSIONERS  
AMENDING CHAPTER 2, ARTICLE II, DIVISION 2 RULES OF PROCEDURE;  
AMENDING CHAPTER 2, ARTICLE III, DIVISION 1 TO PROVIDE FOR ADVISORY  
BOARD TERMS AND ATTENDANCE REQUIREMENTS; AMENDING CHAPTER 2,  
ARTICLE III BY REPEALING DIVISION 2 AIRPORT ADVISORY BOARD AND  
DIVISION 3 ECONOMIC DEVELOPMENT ADVISORY BOARD; AND AMENDING  
CHAPTER 2, ARTICLE III BY ADDING A NEW DIVISION 2 ECONOMIC  
DEVELOPMENT ADVISORY BOARD**

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.

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

PART I. Chapter 2, Article II, Division 2 of the Code of Ordinances, Currituck County, North Carolina is amended to read as follows

**Sec. 2-51. - Applicability of division.**

This division applies to all meetings of the board of commissioners at which the board is empowered to exercise any of the executive, quasi-judicial, administrative, or legislative powers conferred on it by law. Except for sections 2-55, 2-56(a), 2-65, 2-67, 2-77, 2-78 and 2-79 this division applies to all meetings of the board's committees, authorities, boards, commissions, councils and other public bodies other than the planning board and the board of adjustment.

**Sec. 2-52. - Open meeting policy.**

- (a) The public policy of the state and of the county is that the hearings, deliberations, and actions of the board and its committees, authorities, boards, commissions, councils or other bodies be conducted openly.
- (b) Except as otherwise provided in this division and in accordance with applicable law, each official meeting of the county board of commissioners, authorities, boards, commissions, councils or other bodies shall be open to the public, and any person may attend.

- (c) For the purposes of the provisions of this division concerning open meetings, an official meeting of the board and its committees, authorities, boards, commissions, councils or bodies is defined as any gathering together at any time or place or the simultaneous communication by conference telephone or other electronic means of a majority of board members for the purpose of conducting hearings, participating in deliberations, or voting upon or otherwise transacting public business within the jurisdiction, real or apparent, of the board.

**Sec. 2-53. - Location of meetings.**

All meetings shall be held within the boundaries of the county except as otherwise provided in this section.

- (1) A joint meeting with the governing board of any other political subdivision of this or any other state may be held within the boundaries of either subdivision as may be specified in the call of the meeting. At any such joint meeting, the board reserves the right to vote separately on all matters coming before the joint meeting.
- (2) A special meeting called for considering and acting on an order or resolution requesting members of the general assembly representing all or any portion of this county to support or oppose any bill pending in the general assembly or proposed for introduction therein may be held in the City of Raleigh or other such place as stated in the call of the meeting

**Sec. 2-54. - Quorum generally.**

A majority of the board membership shall constitute a quorum. The number required for a quorum shall not be affected by vacancies. If a member has withdrawn from a meeting without being excused by majority vote of the remaining members, he shall be counted as present for the purposes of determining whether a quorum is present. The board may compel the attendance of an absent member by ordering the sheriff to take the member into custody.

**Sec. 2-55. - Organizational meeting.**

On the first Monday in December following a general election in which county officers are elected, the board shall meet at the regular meeting time and place. The newly elected members of the board shall take and subscribe the oath of office as the first order of business. As the second order the board shall elect a chair and vice-chair from among its members. As the third order, the board shall approve the bonds of the register of deeds and the sheriff, and induct them and any other newly elected county officials into office.

**Sec. 2-56. - Regular and special meetings.**

- (a) *Regular meetings.* The board shall hold a regular meeting on the first and third Mondays of each month, except that if a regular meeting day is a legal holiday, the meeting shall be held on the next business day. The meeting shall be held at the county courthouse and shall begin on the first Monday and third Monday at 7:00 p.m.
- (b) *Special meetings.* The chair or a majority of board members may at any time call a special meeting of the board by signing a notice stating the time and place of the meeting and the

subjects to be considered. The person calling the meeting shall cause the notice to be delivered to the chair and all other board members, or left at the usual dwelling place of each member at least 48 hours before the meeting and shall cause a copy of the notice to be posted on the courthouse bulletin board at least 48 hours before the meeting. Only those items of business specified in the notice may be transacted at a special meeting, unless all members are present or those who are not present have signed waivers.

(1) *Emergency meetings.* If a special meeting is called to deal with an unexpected circumstance requiring immediate consideration, the notice requirements of this section do not apply. However, the person calling an emergency meeting shall take reasonable action to inform the other members and the public of the meeting. Local news organizations having requested notice of special meetings as provided in subsection (c) of this section shall be notified of such emergency meetings by the same method used to notify board members. Only business connected with the emergency may be discussed at the meeting.

(2) *Work sessions and informal meetings.* The board may schedule work sessions, committee meetings, or other informal meetings of the board or of a majority of its members at such times and concerning such subjects as may be established by resolution or order of the board. A schedule of any such meetings held regularly shall be filed in the same place and manner as the schedule of regular meetings. Work sessions and other informal official meetings not held regularly are subject to the same notice requirements as special board meetings.

(c) Meeting Attendance. A board member must be physically present at a regular or special meeting to participate or vote in the meeting.

~~(e)~~(d) *Sunshine list.* Any individual and any newspaper, wire service, radio station, and television station may file a written request with the clerk to the board of commissioners for notice of all regular and special meetings of the board. Requests by individuals must be renewed annually by December 31 and are subject to a nonrefundable annual fee of ~~\$15.60~~ for agendas and ~~\$36.60~~ for agendas and minutes as established in the county's fee schedule. Requests by news organizations must be renewed annually by December 31 and are not subject to any fee.

#### **Sec. 2-57. - Executive Closed sessions.**

~~(a) Notwithstanding the provisions of section 2-52 the board may hold an executive session and exclude the public, but only under the following circumstances:~~

~~(1) To consider the selection of a site for a county building or other facility.~~

~~(2) To consider the acquisition of any interest in real property by purchase, condemnation, lease, or other means. The final decision to acquire or lease must be made in open session.~~

~~(3) To consider and accept a gift or bequest of personal property offered to the county or any agency thereof.~~

~~(4) To discuss matters relating to the location or expansion of industries or other businesses in the county.~~

~~(5) To consider the commencement, prosecution, defense, settlement, or litigation of a potential or pending judicial action or administrative proceeding in which the county or~~

~~an officer or employee of the county is a party or in which the board finds that the county has a substantial interest. The terms of any settlement discussed in executive session and actually agreed to by all parties shall be reported to the board in open session and entered into its minutes within a reasonable time after the settlement is concluded.~~

- ~~(6) To consult with an attorney to the extent that confidentiality is required for the attorney to exercise his ethical duties as a lawyer.~~
- ~~(7) To consider the qualifications, competence, performance, character, fitness, conditions of appointment, or conditions of initial employment of a county officer or employee or a prospective county officer or employee. Final action appointing, employing, removing, or discharging of the county officer or employee shall be taken in open session.~~
- ~~(8) To consider the employment, performance, or discharge of an independent contractor. Final decisions regarding such employment or discharge shall be taken in open session.~~
- ~~(9) To hear or investigate a complaint, charge, or grievance by or against a county officer or employee. Final action regarding such complaint, charge, or grievance shall be taken in open session.~~
- ~~(10) To consider the appointment or removal of a member of another board, commission, or other public body, some or all of whose members are appointed by the county board of commissioners. At least seven days before making an appointment discussed previously in executive session, the board shall present at an open meeting and simultaneously make available for public inspection in the office of the clerk to the board a written list of the persons then under consideration for the appointment. Final action on appointments to and removal from other boards, commissions, or other public bodies shall be taken in open session.~~
- ~~(11) To consider information when state or federal law directs that the information be kept confidential or makes the confidentiality of the information a condition of state or federal aid.~~
- ~~(12) To consider and adopt contingency plans for dealing with, and consider and take action relating to, strikes, slowdowns, and other collective employment interruptions.~~
- ~~(13) To consider and take action necessary to deal with a riot or civil disorder or with conditions indicating that a riot or civil disorder is imminent.~~
- ~~(14) To plan, conduct, or hear reports concerning investigations of alleged criminal misconduct.~~
- ~~(15) To consider and decide matters concerning specific inmates of or security problems at the county jail or other correctional facility.~~
- ~~(16) To consider and give instructions concerning the setting or negotiation of contracts, including leases, concerning the use of airport facilities. Final action approving landing fees or such a contract shall be taken in open session.~~

The board may hold closed sessions as provided by law. The board shall commence a closed session only after a motion to go into closed session has been made and adopted during an open meeting. The motion shall state the purpose of the closed session. If the motion is based on N.C. Gen. Stat. §143-318.11(a)(1) (closed session to prevent the disclosure of privileged or confidential information or information that is not considered a

public record), the motion must also state the citation of the law that renders the information to be discussed privileged or confidential. If the motion is based on N.C. Gen. Stat. §143-318.11(a)(3) (consultation with attorney; handling or settlement of claims, judicial actions, mediations, arbitrations, or administrative procedures), it must identify the parties in any existing lawsuits concerning which the public body expects to receive advice during the closed session. The motion to go into closed session must be approved by the vote of a majority of those present and voting. The board shall terminate the closed session by majority vote.

- ~~(b) The board may go into executive session only upon motion made and adopted at an open meeting. The motion shall state the general purpose of the executive session and must be approved by a majority of those board members present and voting. Only those actions authorized by statute may be taken in closed session. A motion to adjourn or recess shall not be in order in closed session.~~
- (c) Unless the motion to go into executive session provides otherwise, the county manager, county attorney, and clerk to the board shall attend the executive session. No other person shall attend the executive session unless specifically invited by majority vote of the board.

**Sec. 2-58. - Public hearings—Generally.**

Public hearings required by law or deemed advisable by the board shall be organized by a special order, adopted by a majority vote, setting forth the subject, date, place and time of the hearing as well as any rules regarding the length of time of each speaker. At the appointed time, the chair shall call the hearing to order and preside over it. When the allotted time expires or no one who has not yet spoken wishes to do so, the chair shall declare the hearing ended.

**Sec. 2-59. - Same—Quorum.**

A quorum of the board shall be required at all public hearings required by law.

**Sec. 2-60. - Broadcasting and recording of meetings.**

- (a) Except as provided in this section, any radio or television station may ~~broadcasting~~ all or any part of an official board meeting required to be open to the public. Any person may photograph, film, tape record, or otherwise reproduce any part of a meeting required to be open.
- (b) Any radio or television station wishing to broadcast any portion of an official board meeting shall so notify the county manager no later than 24 hours before the meeting. If the number of requests or the quantity and size of the necessary equipment is such that the meeting cannot be accommodated in the designated meeting room and no suitable alternative site in the county is available, the county manager may require the news media to either pool equipment and personnel or to secure and pay the costs of an alternative meeting site mutually agreeable to the board and the media representatives.

**Sec. 2-61. - Minutes.**

Minutes shall be kept of all board meetings.

**Sec. 2-62. - Election of chair.**

The chair of the board shall be elected annually and shall not be removed from the office of chair unless ~~he~~ the chair becomes disqualified to serve as a board member.

**Sec. 2-63. - Powers of chair.**

The chair shall preside at all meetings of the board. A member must be recognized by the chair in order to address the board. The chair shall have the power to:

- (1) Rule motions in or out of order, including the right to rule out of order any motion patently offered for obstructive or dilatory purpose;
- (2) Determine whether a speaker has gone beyond reasonable standards of courtesy in his remarks and entertain and rule on objections from other members on this ground;
- (3) Entertain and answer questions of parliamentary law or procedure;
- (4) Call a brief recess at any time;
- (5) Adjourn in an emergency.

**Sec. 2-64. - Presiding officer when chair is active in debate.**

If the chair wishes to debate a proposal actively, he shall designate another board member to preside. The chair shall resume the duty to preside as soon as action on the matter is concluded.

**Sec. 2-65. - Order of business.**

Items shall be placed on the agenda according to the order of business. The order of business for each regular meeting shall be as follows:

- (1) Approval of the minutes;
- (2) Discussion and adjustment of agenda;
- (3) Public hearings;
- (4) Administrative reports;
- (5) Matters pertaining to Gibbs Woods, Fruitville Township and Poplar Branch Township (Beach);
- (6) Committee reports;
- (7) Unfinished business;
- (8) New business;
- (9) Informal discussion;
- (10) Budget amendment;
- (11) Announcements.

Without objection, the chair may call items in any order most convenient for the dispatch of business.

**Sec. 2-66. - Agenda generally.**

- (a) The clerk to the board shall prepare the agenda for each regular, special and emergency meeting. A request to have an item of business placed on the agenda must be received the Monday before the meeting. Any board member may, by a timely request, have an item placed on the agenda.
- (b) The agenda shall include, for each item of business placed on it, as much background information on the subject as is available and feasible to reproduce. A copy of all proposed ordinances shall be attached to the agenda. A copy of the agenda and attached materials shall be available for public inspection as soon as they are completed. Each board member shall receive a copy of the agenda. Copies may also be available for members of the public.
- (c) The board may, by majority vote, add an item that is not on the agenda.

**Sec. 2-67. - Appointments.**

The board shall use the following procedure to make appointments to fill vacancies in the board itself ~~or in other boards~~ and public offices over which the board has power of appointment:

- (1) The chair shall open the floor to nominations, whereupon the members shall put forward and debate names of possible appointees. When the debate ends, the chair shall call the roll of the members, and each member shall vote. The votes shall not be tallied until each member has voted. The nominee who receives the highest number of votes shall be appointed.
- (2) If more than one appointee is to be selected, then each member shall have as many votes as there are positions to be filled. A member may cast all his votes or less than all of them.

To make appointments to fill vacancies in other boards over which the board has power of appointment the board shall use the procedure set forth in sections 2-96 and 2-97 of this Code.

**Sec. 2-68. - Public address to board.**

Any individual or group who wishes to address the board shall make a request to be placed on the agenda to the clerk to the board. However, the board shall determine at the meeting whether it will hear the individual or group.

**Sec. 2-69. - Informal public comments.**

The clerk to the board shall include on the agenda of each regular meeting time for comments or questions from the public in attendance on any item on the agenda or not on the agenda, so long as ~~said~~ the topic is not concerned with any matter that is the subject of a public hearing on that agenda. Each person wishing to address the board shall place ~~his~~ their name and address and the topic of his comments on the sign-up sheet. ~~The county attorney~~ chairman shall specify the time allotted to each speaker and shall chair the public comment portion of the agenda. When a speaker's time for informal public comments has expired, the county attorney shall advise the speaker accordingly and proceed to hearing the comments from the next speaker. This section in no way limits the board of commissioners from seeking comments from the public during their discussions on any agenda item.

**Sec. 2-70. - Motions generally.**

- (a) *Action by the board.* The board shall proceed by motion. Any member, including the chair, may make a motion.
- (b) *Second required.* All motions shall require a second.
- (c) *One motion at a time.* A member may make only one motion at a time.
- (d) *Adoption by majority vote.* A motion shall be adopted by a majority of the votes cast, unless otherwise required by this division or state law.
- (e) *Renewal.* A motion that is defeated may be renewed at any subsequent meeting unless a motion to prevent reconsideration has been adopted.
- (f) *Withdrawal.* A motion may be withdrawn by the introducer at any time before a vote.

**Sec. 2-71. - Substantive motion.**

A substantive motion is out of order while another substantive motion is pending.

**Sec. 2-72. - Procedural motions.**

In addition to substantive proposals, the following procedural motions, and no others, shall be in order. Unless otherwise noted, each motion is debatable, may be amended, and requires a majority vote for adoption. In order or priority, if applicable, the procedural motions are:

- (1) *To adjourn.* The motion may be made only at the conclusion of action on a pending matter; it may not interrupt deliberation of a pending matter.
- (2) *To recess.*
- (3) *To call to follow the agenda.* The motion must be made at the first reasonable opportunity or it is waived.
- (4) *To suspend the rules.* The motion requires a vote equal to a quorum.
- (5) *To divide a complex motion and consider it by paragraph.*
- (6) *To defer consideration or table.* A substantive motion whose consideration has been deferred or tabled expires 100 days thereafter unless a motion to revive consideration is adopted.
- (7) *To call the previous question.* The motion is not in order until there has been at least 20 minutes of debate and every member has had one opportunity to speak.
- (8) *To postpone to a certain time or day.*
- (9) *To refer to committee.* Sixty days after a motion has been referred to a committee, the introducer may compel consideration of the measure by the entire board, regardless of where the committee has reported the matter back to the board.
- (10) *To amend.*
  - a. An amendment to a motion must be germane to the subject matter of the motion, but it may achieve the opposite effect of the motion.

- b. There may be an amendment to the motion and an amendment to an amendment, but no further amendments.
  - c. Any amendment to a proposed ordinance shall be reduced to writing on the call of any member, including the chairman.
- (11) *To revive consideration.* The motion is in order at any time 100 days after a vote to defer consideration of it. A substantive motion on which consideration has been deferred expires 100 days after the deferral, unless a motion to revive consideration is adopted.
- (12) *To reconsider.* The motion must be made by a member who voted with the prevailing side. The motion must be made at the same meeting at which the original vote was taken. The motion cannot interrupt deliberation on a pending matter, but is in order at any time before adjournment.
- (13) *To prevent reconsideration for six months.* The motion shall be in order immediately following the defeat of a substantive motion and at no other time. The motion requires a vote equal to a quorum and is valid for six months or until the next regular election of county commissioner board members, whichever occurs first.

#### **Sec. 2-73. - Debate.**

The chair shall state the motion and then open the floor to debate according to the following general principles:

- (1) The introducer, i.e., the member who made the motion, is entitled to speak first;
- (2) A member who has not spoken on the issue shall be recognized before someone who has spoken;
- (3) To the extent possible, the debate shall alternate between opponents and proponents of the measure.

#### **Sec. 2-74. - Duty to vote.**

It is the duty of each member to vote unless excused by a majority vote according to law. The board may excuse members from voting on matters involving their own financial interest or personal conduct. A member who wishes to be excused from voting shall so inform the chair, who shall take a vote of the remaining members. A member who fails to vote, not having been excused, shall be recorded as voting in the affirmative.

#### **Sec. 2-75. - Secret voting prohibited.**

No vote may be taken by secret ballot. If the board decides to vote by written ballot, each member shall sign his ballot and the minutes shall record the vote of each member. These ballots shall be retained and made available for public inspection until the minutes of that meeting have been approved, when they may be destroyed.

**Sec. 2-76. - Action by reference.**

The board shall not deliberate, vote, or otherwise act on any matter by reference to an agenda or document number unless copies of the agenda or documents being referenced are available for public inspection at the meeting and are so worded that people at the meeting can understand what is being discussed or acted on.

**Sec. 2-77. - Introduction of ordinances, resolutions, orders.**

A proposed ordinance shall be deemed introduced at the first meeting where it is on the agenda, regardless of whether it is actually considered by the board, and its introduction shall be recorded in the minutes.

**Sec. 2-78. - Adoption of ordinances generally.**

To be adopted at the meeting at which it is first introduced, an ordinance or any action with the effect of an ordinance, except the budget ordinance, any bond order, or any other ordinance for which a public hearing must be held before the ordinance is adopted, must receive the approval of all members of the board of commissioners. If the proposed ordinance is approved by a majority but not by all the members of the board, or if the measure is not voted on at that meeting, it shall be considered at the next regular meeting of the board. If it then or at any time thereafter within 100 days of its introduction receives a majority of the votes cast, the ordinance is adopted.

**Sec. 2-79. - Adoption of budget ordinance.**

- (a) Notwithstanding the provision of any general law or local act:
- (1) Any action with respect to the adoption or amendment of the budget ordinance may be taken at any regular or special meeting of the board by a simple majority of those present and voting;
  - (2) No action taken with respect to the adoption or amendment of the budget ordinance need be published or is subject to any other procedural requirement governing the adoption of ordinances or resolutions by the board;
  - (3) The adoption and amendment of the budget ordinance and the levy of taxes in the budget ordinance are not subject to the provisions of any local act concerning initiative or referendum.
- (b) During the period beginning with the submission of the budget to the board and ending with the adoption of the budget ordinance, the board may hold any special meetings that may be necessary to complete its work on the budget ordinance. Except for the notice requirements of G.S. 143-318.12, which continue to apply, provisions of law concerning the call of a special meeting do not apply during the period so long as (1) each member of the board has actual notice of each special meeting called for the purpose of considering the budget; and (2) no business other than consideration of the budget is taken up. This section does not allow the holding of closed meetings or executive sessions by the board otherwise prohibited by law from holding such a meeting or session, and may not be construed to do so.

**Sec. 2-80. - Robert's Rules of Order.**

To the extent not provided for in this division and to the extent that the reference does not conflict with the spirit of this division or North Carolina law, the board shall refer to Robert's Rules of Order Newly Revised to resolve procedural questions.

PART II. The Code of Ordinances, Currituck County, North Carolina is amended by adding a new section to Chapter 2, Article III, Division 1 to read as follows:

**Sec. 2-100. Terms and Meeting Attendance.**

- (a) Notwithstanding any other county ordinance, all appointments to county authorities, boards and commissions shall be for a term of two years unless otherwise provided by North Carolina law.
- (b) To participate and vote in a meeting of a county authority, board or commission the member must be physically present at the meeting. The seat of a county authority, board or commission shall be deemed vacant upon the member's unexcused absence from three consecutive meetings in a twelve month period of time and the board of commissioners shall appoint a person to the vacated seat for the unexpired term in accordance with sections 2-96 and 2-97.

PART III. The Code of Ordinances, Currituck County, North Carolina is amended by repealing Chapter 2, Article III, Division 2.

PART IV. The Code of Ordinances, Currituck County, North Carolina is amended by repealing Chapter 2, Article III, Division 3.

PART V. The Code of Ordinances, Currituck County, North Carolina is amended by adding a new division to Chapter 2, Article, III to read as follows:

**DIVISION 2. ECONOMIC DEVELOPMENT ADVISORY BOARD**

**Sec. 2-111. - Created.**

The county economic development advisory board is created pursuant to G.S. 153A-76.

**Sec. 2-112. - Composition.**

The economic development advisory board shall be composed of seven members who are citizens of the county. One member of the board of commissioners, the county manager, the president of the Currituck County Chamber of Commerce or designee and a representative of the College of the Albemarle appointed by the board of commissioners shall be ex officio members without a vote.

**Sec. 2-113. - Appointment and terms of members.**

The citizen members of the county economic development advisory board shall be appointed by and serve at the pleasure of the board of commissioners in the manner set forth in

sections 2-96 and 2-97. The initial economic development advisory board is to consist of three appointees for a term of one year and four appointees for a term of two years. Thereafter, all appointments are to be for terms of two years.

The commissioner serving as an ex officio member shall be appointed by the board of commissioners on the first Monday in December to serve for a two-year term.

#### **Sec. 2-114. - Compensation of members.**

The citizen members of the county economic development advisory board shall be paid the sum per meeting provided by the board of commissioners in the county fee schedule and shall be reimbursed for expenses incurred by them in the course of their duties upon the presentation of proper vouchers for those expenses.

#### **Sec. 2-115. - Removal of members.**

The board of commissioners shall have the right to remove any member appointed to the economic development advisory board at will and appoint a replacement member.

#### **Sec. 2-116. - Duties.**

The economic development advisory board is charged with the following duties:

- (1) working closely with the county's economic development director in formulating and recommending to the board of commissioners projects for carrying out an economic development program through attraction of new industries, encouragement of agricultural development and encouragement of new business and industrial ventures by local and nonlocal capital; promoting and encouraging tourism, and to that end shall seek advice and recommendations from the tourist industry; the study of tourist related services and recommendation to the board of commissioners for enhancement of tourist related services; and other activities of a similar nature; and
- (2) investigating, studying, and making recommendations to the board of commissioners pertaining to the construction, enlargement, improvement, maintenance, equipment, operation and regulation of the county airport.

#### **Sec. 2-117. - Function as advisory body.**

The county economic development advisory board shall have no legislative powers of its own but shall simply be an advisory body to the board of commissioners concerning the matters with which it is charged, and the board of commissioners will receive and consider the board's recommendations in the construction, enlargement, improvement, maintenance, equipment, operation, and regulation of the county airport and in the promotion, encouragement, and enhancement of tourism, and related services, and economic development within the county.

#### **Sec. 2-118. - Officers.**

The economic development advisory board shall appoint from its membership a chairman and any other officers as it may deem necessary for the orderly conduct of its business.

#### **Sec. 2-119. - Meetings.**

The economic development advisory board shall hold meetings once quarterly and at hours as may be fixed by the board. Special meetings may be held on call of the chairman upon 48 hours' notice to the members of the board. A copy of the minutes of all meetings shall be sent to

the county manager. All meetings or other business of the board shall be conducted in accordance with the Open Meetings Law.

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

PART VII. Part I and Part II of this ordinance are effective immediately upon adoption. Part III, Part IV and Part V of this ordinance are effective January 1, 2014.

**C) Consent Agenda:**

1. Approval of October 7, 2013 Minutes
2. Budget Amendments
3. Adoption of Airport Transportation Improvement Program (TIP)
4. Approval of Maple Commerce Park Covenants
5. Approval of Local Firefighter's Relief Fund Boards
6. Charge to Tax Collector the Levy on Motor Vehicles for July Renewals
7. Approval of DSS Request to Purge Records
8. Request to dispose of Finance records per the records retention schedule

Commissioner Gilbert moved to approve the Consent Agenda. Commissioner McCord seconded the motion. Motion carried unanimously.

<u>Account Number</u>	<u>Account Description</u>	<b>Debit</b>	<b>Credit</b>
		Decrease Revenue or Increase Expense	Increase Revenue or Decrease Expense
10752-514003	Travel-Spec. Adopt. Elderly & Disabled	\$ 73	
10330-530600	Transportation	\$ 310	\$ 2,997
10752-532003	Supplies-Spec. Adopt.	\$ 598	
10330-432200	HCCBG In Home	\$ 4,476	
10752-545003	Contracted Serv-Spec. Adopt.	\$ 5,539	
10390-499900	Fund Appropriate Balance	\$ 7,900	
10752-561003	Prof Services-Spec. Adopt.	\$ 8,444	
10752-519600	Child Daycare	\$ 18,954	
10330-431000	DSS Administration		\$ 18,790
10330-431800	Foster Care & Boarding Home		\$ 213
10330-432800	Daycare		\$ 18,954
10560-519701	HCCBG -Access Services		\$ 2,033
10560-545000	Contracted Services		\$ 310
10752-519700	HCCBG - In Home		\$ 2,997
		<u>\$ 46,294</u>	<u>\$ 46,294</u>

**Explanation:** *PUBLIC ASSISTANCE (752) - Adjust to State Funding Authorizations and carry forward Special Adoption funds. INTER COUNTY TRANSPORTATION (560)- Adjust to State Funding Authorizations. REVENUE (330)-Adjust to the State Funding Authorizations.*

**Net Budget Effect:** Operating Fund (10) - Decreased by \$22,894.

<u>Account Number</u>		<u>Account Description</u>	<b>Debit</b>	<b>Credit</b>
			Decrease Revenue or Increase Expense	Increase Revenue or Decrease Expense
10440	545000	Contract Services	\$ 10,000	
10440	514000	Travel	\$ 3,500	
10445	545000	Contract Services	\$ 4,700	
10445	514000	Travel	\$ 2,000	
10350	468000	Sale of Fixed Assets		\$ 10,000
10320	410000	Deed Stamp Excise Tax		\$ 10,200
			<u>\$ 20,200</u>	<u>\$ 20,200</u>

**Explanation:** *Finance (10440), Human Resources (10445) - Increase appropriations for Tyler Technologies/MUNS onsite training for Payroll/Human Resource and General Billing and for increased usage of GovDeals governmental auctions for disposal of surplus assets.*

**Net Budget Effect:** Operating Fund (10) - Increased by \$20,200.

<u>Account Number</u>		<u>Account Description</u>	<b>Debit</b>	<b>Credit</b>
			Decrease Revenue or Increase Expense	Increase Revenue or Decrease Expense
50795	590002	Lawn/Field Maintenance Equipment	\$ 275,000	
50380	481000	Investment Earnings		\$ 275,000
			<u>\$ 275,000</u>	<u>\$ 275,000</u>

**Explanation:** *Maple Community Park (50795) - Equipment to maintain landscaping and fields at the Maple Commerce Park/Recreation facilities.*

**Net Budget Effect:** County Governmental Construction Fund (50) - Increased by \$275,000.

<u>Account Number</u>	<u>Account Description</u>	<b>Debit</b>	<b>Credit</b>
		Decrease Revenue or Increase Expense	Increase Revenue or Decrease Expense
68888	590000	Capital Outlay	
		\$ 140,000	
68330	448800	Walnut Island POA	
			\$ 66,225
68390	499900	Appropriated Retained Earnings	
			\$ 73,775
		<u>\$ 140,000</u>	<u>\$ 140,000</u>

**Explanation:** *Walnut Island Sewer District (68888) - Increase appropriations for road improvements in the Walnut Island Sewer District. This will utilize funds that came from the Walnut Island Sewer District upon dissolution and additional funds from the Property Owners Association.*

**Net Budget Effect:** Walnut Island Sewer District (68) - Increased by \$140,000.

<u>Account Number</u>	<u>Account Description</u>	<b>Debit</b>	<b>Credit</b>
		Decrease Revenue or Increase Expense	Increase Revenue or Decrease Expense
42450	587067	T T - Moyock Central Sewer Operations	
		\$ 53,000	
42320	414000	Land Transfer Tax	
			\$ 53,000
67878	561000	Professional Services	
		\$ 53,000	
67390	495042	T F - Transfer Tax Capital Fund	
			\$ 53,000
		<u>\$ 106,000</u>	<u>\$ 106,000</u>

**Explanation:** *Land Transfer Tax Capital Fund (42450);Moyock Central Sewer Operations (67878) - Increase appropriations for an Environmental Assessment for the Moyock Central Sewer System.*

**Net Budget Effect:** Transfer Tax Capital Fund (42) - Increased by \$53,000.  
Moyock Central Sewer Fund (67) - Increased by \$53,000.

<u>Account Number</u>		<u>Account Description</u>	<b>Debit</b>	<b>Credit</b>
			Decrease Revenue or Increase Expense	Increase Revenue or Decrease Expense
57878	594500	Contract Services	\$ 12,400	
57878	596100	Professional Services		\$ 12,400
			<u>\$ 12,400</u>	<u>\$ 12,400</u>

**Explanation:** *Moyock Central Sewer Construction Fund (57) - Transfer budgeted funds to complete the Moyock VFD Sewer connection.*

**Net Budget Effect:** Moyock Central Sewer Construction Fund (57) -No change.

**C) Commissioner’s Report**

Commissioner Aydlett commented on the reason the ad valorem tax rate was increased, in order to maintain operations at the same level.

Commissioner Petrey appreciated the efforts to clean up the corridor; however, some struggling families are unable to purchase paint to improve the appearance of their homes.

Commissioner Gilbert announced the next Moyock Small Area Plan meeting on October 28 at the Moyock Library. She also reminded everyone that October is Breast Cancer Awareness month and encouraged preventative testing.

**D) County Manager’s Report**

No report.

**Closed Session**

Commissioner Petrey moved to enter closed session pursuant to N.C. Gen. Stat. §143-318.11(a)(3) to consult with the county attorney in order to preserve the attorney-client privilege and pursuant to N.C. Gen. Stat. §143-318.11(a)(6) to discuss a personnel matter. Commissioner Gilbert seconded the motion. Motion carried.

**Adjourn**

After returning to open session, no action was taken. There being no further business, Commissioner Griggs moved to adjourn. Commissioner Gilbert seconded the motion. The meeting was adjourned.