



CURRITUCK COUNTY NORTH CAROLINA

November 3, 2014
Minutes
Meeting of the Board of Commissioners

The Board of Commissioners met at 7:00 PM for a regularly scheduled meeting in the Board Meeting Room of the Historic Courthouse with the following members present: Board Chairman Paul O'Neal, Vice-Chairman Paul Martin and Commissioners Marion Gilbert, Vance Aydlett, Butch Petrey, Paul Beaumont, and David Griggs. Staff included County Manager Dan Scanlon, County Attorney Ike McRee and Planning Director Ben Woody.

Chairman O'Neal called the meeting to order at 7 PM and announced an earlier Work Session to discuss construction options for the Historic Jarvisburg Colored School (HJCS) restroom facilities. Vice-Chairman Paul Martin was not able to attend the Work Session. County Engineer Eric Weatherly was present, while Michelle Perry of the Engineering Department presented the options for the restrooms, showing slides with the layouts and related costs. Many members of the Board of Directors of the HJCS and supporters of the project were in attendance. At close of the presentation, and after some discussion, the Board directed the item be placed on the first December meeting Agenda for a vote, as well as repeat the Work Session on the same date.

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

Reverend Susan Fitch-Slater of Sharon United Methodist Church gave the invocation and led the Pledge of Allegiance.

C) Approval of Agenda

Chairman O'Neal amended the Agenda to remove Budget Amendment number 2015029 for the transfer of funds for the Southern Outer Banks Water Plant Expansion from the Consent Agenda. Commissioner Aydlett moved to approve the agenda as amended. Commissioner Gilbert seconded and the motion carried unanimously.

Approved Agenda

REVISED

Work Session

6 PM Historic Jarvisburg Colored School Facilities Presentation

7:00 pm Call to Order

- A) Invocation-Reverend Susan Fitch-Slater, Sharon United Methodist Church
- B) Pledge of Allegiance-Reverend Susan Fitch-Slater, Sharon United Methodist Church
- C) Approval of Agenda
- D) Public Comment

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

Administrative Reports

- A) **Senior Tarheel Legislative Update-Joanne Dibello**
- B) **Tourism Department Awards Recognition**

Public Hearings

- A) **PB 14-16 Lake View at Currituck:** Request for a development agreement between Currituck County and Survey Road, LLC for property located in Moyock on Survey Road west of the intersection with Caratoke Highway, Tax 15, Parcel 83, Moyock Township.

New Business

A) Board Appointments:

1. Whalehead Preservation Trust

B) Consent Agenda:

1. Approval of Minutes for October 20, 2014
2. Budget Amendments-***Budget amendment #2015029 for Southern Outer Banks Water System RO Plant Expansion was removed.***
3. CDBG Monthly Status Report
4. Building Permit Fee Schedule-Solar Array
5. Recommendation of Award, SOBWS Reverse Osmosis Well
6. Dominion Right-of-Way Agreement for Parks & Rec Maintenance Building

C) Commissioner's Report

D) County Manager's Report

Adjourn

D) Public Comment

Chairman O'Neal opened the public comment period.

Commissioner Gilbert acknowledged the retirement of Harvey Roberts, a Crawford volunteer firefighter, who was honored with a banquet last week. Mr. Roberts had forty years of service with the fire department. Chairman O'Neal asked and encouraged young people to volunteer.

With no one else wishing to speak, Chairman O'Neal closed the Public Comment period.

Administrative Reports

A) Senior Tarheel Legislative Update-Joanne Dibello

Joanne Dibello, Senior Tarheel Legislative Committee delegate, said she attended the meeting held in Raleigh on October 9 and 10. The purpose of the meeting is for each delegate to put forth the five most important legislative issues for seniors. She spoke of all of the programs and services our Senior Centers provide to our senior citizens and said the Director, Stacy Joseph, does a great job. Ms. Dibello said she was very disappointed to hear of state budget cuts for senior programs, and this was the issue of most importance that was submitted to the state legislators.

B) Tourism Department Awards Recognition

Tameron Kugler, Director of Travel & Tourism, announced the department had won two awards at the Destination Marketing Association of North Carolina's annual awards banquet. She acknowledged employee Dan Cloudsley for his outstanding effort in creating the winning materials. Ms. Kugler related tourism related Economic Impact statistics and explained the benefits tourism has on citizens of Currituck. She encouraged businesses to take advantage of their co-op advertising program, and invited residents to visit the Welcome Centers. She relayed to the Board that shoulder season occupancy tax collections increased this year in both September and October.

Public Hearings

- A) **PB 14-16 Lake View at Currituck:** Request for a development agreement between Currituck County and Survey Road, LLC for property located in Moyock on Survey Road west of the intersection with Caratoke Highway, Tax 15, Parcel 83, Moyock Township.

Ben Woody, Planning Director, presented and reviewed the request for the development agreement. Mr. Woody stated this concept was new to the County, and that he will ask for the Board to vote on the request at the next Board of Commissioners' meeting. He reviewed the purpose and intent of development agreements and recounted the zoning history and timeline of the property. Mr. Woody explained this agreement deals with developer installing sewer lines in return for vesting in the wastewater system. Mr. Woody said the Planning Board recommends approval.

To: Board of Commissioners

From: Planning Staff

Date: October 27, 2014

Subject: PB 14-16 Lake View at Currituck – Development Agreement

James O. Myers submitted an application for a Development Agreement between Survey Road, LLC (the "Developer") and Currituck County for the proposed Lake View at Currituck subdivision located at 120 Survey Road in the Moyock Township. The use of a development agreement is authorized in North Carolina General Statutes 153A-379.1– 153A-379.13 and Section 2.4.18 of the Currituck

County Unified Development Ordinance (UDO); the purpose and intent of a development agreement is to:

1. Encourage comprehensive planning and capital facilities planning;
2. Ensure the provision of adequate public facilities for development;
3. Encourage the efficient use of resources, while providing certainty in the process of obtaining development permits and approvals; and
4. Reduce the economic costs of development by providing greater regulatory certainty.

The Development Agreement proposed between the Developer and Currituck County requires that the Developer install a new oversized public sewer force main to connect the Lake View at Currituck subdivision to the Moyock Central Sewer System. The sewer mains, pump stations, and appurtenances subject to the development agreement will be dedicated to the county upon completion and acceptance by the Technical Review Committee. Through approval of the development agreement the county will reserve capacity in in the Moyock Central Sewer System for the build out of the Lake View at Currituck subdivision and will consider the cost of installation of the sewer force main as a cost of development for the purpose of establishing zoning vested rights. Detailed obligations of the Developer and county are included in the Conditions section of the Development Agreement.

The Developer is also submitting an amended sketch plan and preliminary plat for approval, as well as requesting modifications to the current (special) use permit. The significant changes include:

1. *Removal of road connection through Eagle Creek open space.* The third entrance road across Eagle Creek open space is proposed for removal. The entrance roads in the subdivision were reviewed by a traffic engineer and NCDOT and the revised plans reflect the recommendations.
2. *Reduction in sidewalks and widths.* The applicant is requesting removal of sidewalks from one side of the street and footbridge over the lake. The resubmitted plans now include sidewalks along one side of the street interconnected in open space and neighborhood commercial areas.
3. *Removal of county dedication, increase in commercial area, and decrease in open space.* The 1.75 acre tract previously dedicated to the county on the preliminary plat is proposed to revert to the developer, allocated for commercial, and removed from open space in exchange for installing a 6 inch sewer force main off-site of the development. (See Development Agreement)
4. *Reduction in street intersection spacing.* The approved preliminary plat provides intersection spacing of approximately 270 feet for the interconnection street (Chip's Road). The revised plans reduce that spacing to approximately 170' which is below the approved spacing (270' approximate) and the current UDO requirement (400').
5. *Revised phasing plan.*
6. *Removed specific playground equipment summary for pocket parks.*
7. *Reduction in structure setbacks/drainage easements.* The approved preliminary plan allows setbacks to be as follows:
 - a. 20' setback to NCDOT 50' right of way and 22' setback to back of curb.
 - b. 20' separation between principal structures and 5' pool setback to property line.
 - c. 10' rear setback

The developer is requesting a modification in setbacks as follows:

- a. 20' front setback
 - b. 5.5' side setback 5' pool setback to the property line
 - c. 10' rear setback to open space.
8. *Removal of community wastewater references.* The developer has removed the community wastewater plant from the plans and the area is shown as future development.
 9. *Modifications to the current (special) use permit.* The developer proposes to delete conditions related to subdivision access alignment and construction of the community wastewater system.

The TRC recommendations related to the resubmitted plans include the following:

1. The proposed interconnection street does not meet the required 400' intersection spacing. Since there is not precedent for further reduction, Staff recommends maintaining the intersection spacing of the approved preliminary plat (approximately 270'). The Board will consider a text amendment on November 17, 2014 that proposes to reduce the minimum intersection spacing to 125 feet for local streets. If approved, the proposed plans will meet the 125 foot spacing requirement.
2. The approved preliminary plat was given under the previous UDO which allowed for patio style development (reduced lot sizes and setbacks). The current UDO does not provide for patio home development and the proposed setbacks are not consistent with the approved preliminary plat or transition standards of the current UDO. The applicant plans to request a PUD Variance to allow for reduced side setbacks. A PUD Variance was previously approved to allow on-street parking.
3. The interconnection street shall include street trees and pavement to the property lines. A performance guarantee may be posted for the improvement if not installed at final plat.
4. Street names are currently under review by GIS.

Enclosed please find a draft version of the Development Agreement that includes an amended sketch plan, preliminary plat and special use permit.

Planning staff recommends **approval** because the proposed development agreement is consistent with the Moyock Small Area Plan because the subject property and sewer main extension are located in a Full Service area; is consistent with the Land Use Plan because it focuses sewer service in existing developed areas and in nearby targeted growth areas (POLICY WS3); and the development agreement demonstrates the impact on the future provision of public sewer capital improvements by the county.

The Planning Board **recommended unanimous approval** at their August 12, 2014 meeting.

PLANNING BOARD DISCUSSION (8/12/14)

Mr. Woody provided an overview of the development agreement.

Mr. Cooper asked if the county would accept the sewer line that is being installed before the final plat is recorded.

Mr. Woody said yes.

Mr. Wright asked if the additional phasing of the development would require an increase in sewer capacity. Does this set a precedent for the county to have to expand the sewer capacity?

Mr. Woody said yes.

Mr. Craddock said anticipated revenues from sewer commission fees and monthly users fees for sewer service will help to offset the investment the county will have to make with the expansion.

Ms. Bell is concerned with the side setbacks.

Mr. Cooper said tonight the board is considering the Development Agreement and not the changes.

Mr. Craddock asked by removal of the conditions from the use permit, is this giving them the ability to create higher density by lowering these side setbacks.

Mr. Woody said lowering the setbacks doesn't create the ability to have a higher density.

Mr. Bissell provided an overview of the proposal, wastewater treatment for the subdivision, phasing, sidewalks, and setbacks.

Mr. Cooper asked when the agreement would expire.

Mr. Woody said once it is adopted it is effective for 10 years. Mr.

Bissell said everything should be platted within 4 to 5 years.

Mr. Winslow said he has the adjacent farm, Lindsey Farm. Will there be any change in the already approved buffer zone between the farm and this project?

Mr. Woody said it will remain the same.

Mr. Winslow said the sewer line will run down the farm side of the road, is the intent to put it on farm property?

Mr. Woody said the intent is to put it in DOT right-of-way. Mr.

Winslow asked where the overflow from the lake will go.

Mr. Bissell said it will go to Survey Road and under 168 Hwy. and out. Mr.

Winslow asked will there be any enlargement of the existing ditch?

Mr. Bissell said no.

Mr. Clark closed the public hearing.

ACTION

Mr. Craddock moved to approve PB 14-16 due to its consistency with the Moyock Small Area Plan and the 2006 Land Use Plan and the request is reasonable and in the public interest and does

promote orderly growth and development. Mr. Cooper seconded the motion and motion carried unanimously.

After completion of the presentation, Commissioner Petrey inquired if the flooding issues have changed since original approval in 2006. Mr. Woody said they will now fall under the 2010 Unified Development Ordinance (UDO), which is more stringent in addressing stormwater issues. Commissioner Petrey said he wants to be sure we won't be creating an even bigger stormwater problem. There was some discussion regarding vesting, which would run out December 1, after which Mr. Woody reviewed the phase and development schedule.

John Morrison of Twiford Law Firm, Moyock, introduced the parties involved and explained the Development Agreement and its potential benefit to both parties. Mr. Morrison said the agreement brings certainty for the County while allowing vesting rights for the developer. The agreement would keep rules from changing in the middle of the game which he feels is needed due to the long-term commitment of both parties. Mr. Morrison reviewed the sub-division plan, amenities, and the timeline stated in the agreement. He reviewed the development agreement guarantees prescribed for both parties. Chairman O'Neal asked about vesting by work performed or money spent. Mr. Woody said the old UDO was 5% of the project in spending. Now, he said, vesting includes submittal of a final plat.

Commissioner Petrey inquired about minimum lot size under the old UDO and what the minimum is for Lakeview sub-division. Mr. Woody answered that the minimum size under the old UDO was 7,500 square feet, with some exceptions for patio homes. This subdivision, on average, would have lots of 10,000 square feet.

Mark Bissell of Kitty Hawk, clarified the vesting with the Board, stating that the developer prefers to hook up to the wastewater system, but they do have a backup plan to spend the 5% required for vesting should the Development Agreement be denied.

Chairman O'Neal inquired about the types of businesses they hoped to attract. Mr. Bissell answered they want to include businesses that would serve the community, such as a small market, day care or a dry cleaner.

Vice-chairman Martin asked about estimated costs for installation of the force main. Although Mr. Bissell did not have a cost, he said the value would be about \$88,000, a good return for the County.

Commissioner Aydlett discussed revisited stormwater concerns. Mr. Bissell said they exceeded the requirements under the old UDO. They also oversized the lake to accommodate additional runoff. Eric Weatherly, County Engineer, said they would meet the requirements of the County ordinance. Mr. Woody said staff could do a comparison but Commissioner Aydlett said the vesting was going to happen regardless, whether under the old or new based on the comment that they have a backup plan to spend the 5% if the agreement is not approved. Commissioner Martin asked if the County had plans to extend lines over the next few years, to which Mr. Scanlon answered we did not.

After review and discussion, Chairman O'Neal recessed PB 14-16 to be continued at the next regular meeting.

New Business

A) Board Appointments:

1. Whalehead Preservation Trust

The following appointments were approved unanimously by the Board of Commissioners: Commissioner Griggs appointed Dan Scanlon and Commissioner Martin appointed Ike McRee, to the Whalehead Preservation Trust.

B) Consent Agenda:

1. Approval of Minutes for October 20, 2014
2. Budget Amendments-***Budget amendment #2015029 for Southern Outer Banks Water System RO Plant Expansion was removed.***
3. CDBG Monthly Status Report
4. Building Permit Fee Schedule-Solar Array
5. Recommendation of Award, SOBWS Reverse Osmosis Well
6. Dominion Right-of-Way Agreement for Parks & Rec Maintenance Building

Commissioner Martin moved for approval of the Consent Agenda, seconded by Commissioner Gilbert. The motion carried unanimously.

<u>Account Number</u>	<u>Account Description</u>	Debit Decrease Revenue or Increase Expense	Credit Increase Revenue or Decrease Expense
60808-590001	Capital Outlay	\$ 15,000	
60808-516001	Repair & Maintenance		\$ 10,000
60808-561001	Professional Services		\$ 5,000
		<u>\$ 15,000</u>	<u>\$ 15,000</u>

Explanation: Ocean Sands (60808-) - Transfer funds within the Ocean Sands budget to replace groundwater lowering pumps at Ocean Sands WWTP.

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

<u>Account Number</u>	<u>Account Description</u>	Debit	Credit
		Decrease Revenue or Increase Expense	Increase Revenue or Decrease Expense
10450-545000	CONTRACTED SERVICES	\$ 1,700	
10450-532000	SUPPLIES		\$ 1,700
		\$ 1,700	\$ 1,700

Explanation: Tax (10450) - Transfer funds for upgrade to online services in order to properly display maps.

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

<u>Account Number</u>	<u>Account Description</u>	Debit	Credit
		Decrease Revenue or Increase Expense	Increase Revenue or Decrease Expense
10790-590000	Capital Outlay	\$ 2,576	
10790-532000	Supplies		\$ 2,576
		\$ 2,576	\$ 2,576

Explanation: Library (10790) - Transfer funds to purchase tables for the Barco library

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

C) Commissioner's Report

Commissioner Beaumont encouraged everyone to attend the horse show to be held Saturday, November 8, at the Rural Center.

Commissioner Martin encouraged folks to visit the Rural Center, stating it is a beautiful area. He also announced the dedication of the new soccer fields at Maple to be held Saturday, November 8, at 9:30 AM.

Commissioner Aydlett reminded folks to be sure to get out and exercise their right to vote on Tuesday. He asked those who placed large post signs on a particular property in Knott's Island to be sure to fill in the holes upon removal of the campaign signs.

Commissioner Petrey requested information for calculating the need for schools to be included in the next meeting agenda. He believes the County growth will require a new school.

Chairman O'Neal announced that the North Carolina Department of Transportation will be hosting a meeting and presentation in Currituck County on December 15, 2014, to discuss traffic concerns.

D) County Manager's Report -

No Report.

Adjourn

There being no further business, Commissioner Martin moved to adjourn, with a second by Commissioner Gilbert. The motion carried unanimously and the meeting was adjourned.