



**CURRITUCK COUNTY
NORTH CAROLINA**

August 15, 2016
Minutes – Regular Meeting of the Board of Commissioners

6:00 PM CALL TO ORDER

The Currituck County Board of Commissioners met at 6:00 PM in the Historic Currituck Courthouse, 153 Courthouse Road, Currituck, NC, for its regular session.

| Attendee Name | Title | Status | Arrived |
|------------------|----------------|---------|---------|
| David L. Griggs | Board Chairman | Present | |
| O. Vance Aydlett | Vice Chairman | Present | |
| Paul M. Beaumont | Commissioner | Present | |
| Marion Gilbert | Commissioner | Present | |
| Mike D. Hall | Commissioner | Present | |
| Mike H. Payment | Commissioner | Present | |
| S. Paul O'Neal | Commissioner | Absent | |

A) Invocation & Pledge of Allegiance-Pastor Glenn McCranie, US Navy Chaplain, Retired

Pastor Glenn McCranie offered the Invocation and led the Pledge of Allegiance.

B) Approval of Agenda

Chairman Griggs amended the agenda as follows:

The Mobile Crisis services report and the Whalehead Dredging presentation were removed from the Administrative Reports section of the agenda.

The ABC and the Historic Preservation Commission appointments were removed from the Board Appointments section.

A revised application for alcohol use at a Soundside Park event was added to the Consent Agenda.

A Closed Session was added to the agenda.

Commissioner Aydlett moved to approve and the motion was seconded by Commissioner

Gilbert. The motion passed unanimously, 6-0.

Approved agenda:

6:00 PM Call to Order

- A) Invocation & Pledge of Allegiance-Pastor Glenn McCranie, US Navy Chaplain, Retired
- B) Approval of Agenda

Administrative Reports

- A) ~~Mobile Crisis Services Keith Hamm, Crisis Worker~~**

- ~~B) Whalehead Dredging~~**

Public

Hearings

- A) Public Hearing and Action: PB 15-10 The Landing: Request for a preliminary plat/use permit for a 29 lot conservation subdivision located on Baxter Lane, Tax Map 14, Parcel 4, Moyock Township.**

New Business

- ~~A) Board Appointments~~**

- ~~1. ABC Board~~
- ~~2. Historic Preservation Commission~~

- ~~B) Consent Agenda~~**

- ~~1. Approval Of Minutes-August 1, 2016~~
- ~~2. Budget Amendments~~
- ~~3. Resolution to Surplus Water Department Assets~~
- ~~4. Job Description Revisions-Custodian & Maintenance Repair Worker-Electrician~~
- ~~5. Amended Item~~-Consideration of Alcohol Use Application-Soundside Park**

- ~~C) Commissioner's Report~~**

- ~~D) County Manager's Report~~**

Public Comment

Please limit comments to matters other than those appearing on this agenda as a Public Hearing. Public comments are limited to 5 minutes.

Closed Session

Amended Item-Closed Session pursuant to G.S. 143.318.11(a)(3) to consult with the County Attorney in order to preserve attorney-client privilege and receive advice from the County Attorney and for the following pending lawsuits: Swan Beach Corolla, LLC v. Currituck County.

Adjourn

| | |
|------------------|---|
| RESULT: | APPROVED [UNANIMOUS] |
| MOVER: | O. Vance Aydlett, Vice Chairman |
| SECONDER: | Marion Gilbert, Commissioner |
| AYES: | David L. Griggs, Board Chairman, O. Vance Aydlett, Vice Chairman, Paul M. Beaumont, Commissioner, Marion Gilbert, Commissioner, Mike D. Hall, Commissioner, Mike H. Payment, Commissioner |

ADMINISTRATIVE REPORTS

A. Mobile Crisis Services-Keith Hamm, Crisis Worker

This item was removed from the agenda.

B. Whalehead Dredging

This item was removed from the agenda.

PUBLIC HEARINGS

A. Public Hearing and Action: PB 15-10 The Landing: Request for a preliminary plat/use permit for a 29 lot conservation subdivision located on Baxter Lane, Tax Map 14, Parcel 4, Moyock Township.

Parties were sworn and Mr. Woody reviewed the application for the use permit for Commissioners, after which he noted both the planning staff and the Technical Review Committee recommend approval.

Staff Report
PB 15-10 The Landing
Board of Commissioners
August 15, 2016

APPLICATION SUMMARY

Property Owner:

James & Catherine Jarvis
241 Shingle Landing Road; PO Box 609
Moyock, NC 27958

Applicant:

INFRASTRUCTURE**WATER**

PUBLIC

SEWER

ON-SITE WASTEWATER (SEPTIC)

TRANSPORTATION

THE PRIMARY ACCESS IS LITTLE ACORN TRAIL. IT IS THE APPLICANT'S RESPONSIBILITY TO EXTEND LITTLE ACORN TRAIL TO MAKE THE CONNECTION TO THE SUBJECT PROPERTY. THE UDO ALSO REQUIRES ROAD CONSTRUCTION TO THE PROPERTY LINE THAT ABUTS THE EXISTING PORTION OF BAXTER'S LANE. THE APPLICANTS WILL INSTALL PAVED WALKING TRAILS AND WILL MAKE CONNECTIONS TO EXISTING SIDEWALKS.

STORMWATER/DRAINAGE

REVIEWED BY ENGINEER.

SCHOOLS

ELEMENTARY STUDENTS GENERATED: 7

MIDDLE SCHOOL STUDENTS GENERATED: 2

HIGH SCHOOL STUDENTS GENERATED: 4

COMPATIBILITY

THE USE IS COMPATIBLE WITH THE 2006 LAND USE PLAN AND THE 2014 MOYOCK SMALL AREA PLAN.

RECREATION AND PARK AREA DEDICATION

The applicants have offered an easement for access to Shingle Landing Creek as well as construction of a camping platform along Shingle Landing Creek. A payment-in-lieu will be required if the County prefers not to accept the easement.

RECOMMENDATIONS**TECHNICAL REVIEW COMMITTEE**

THE TECHNICAL REVIEW COMMITTEE RECOMMENDS ADOPTION OF THE USE PERMIT AND APPROVAL OF THE PRELIMINARY PLAT SUBJECT TO THE FOLLOWING CONDITIONS OF APPROVAL:

1. The application complies with all applicable review standards of the UDO provided the following items are addressed:
 - a. Recreation and Park Area Dedication or Payment-in-Lieu resolved to County's satisfaction.
 - b. Community Water Access shall be provided including an elevated boardwalk and kayak launch adjacent to Shingle Landing Creek.
 - c. Paved walking trails and connection to existing sidewalks shall be required.
 - d. Record exempt division plat so that the application and area calculations are consistent with the 72.66 acre tract.
 - e. Access streets shall meet NCDOT Construction Standards.
 - f. Soil engineering for footer(s) will be required as determined by soil map.
2. A USE PERMIT SHALL BE APPROVED ON A FINDING THAT THE APPLICANT DEMONSTRATES THE PROPOSED USE WILL MEET THE BELOW REQUIREMENTS. IT IS STAFF'S OPINION THAT THE EVIDENCE IN THE RECORD, PREPARED IN ABSENCE OF TESTIMONY PRESENTED AT A PUBLIC HEARING, SUPPORTS THE PRELIMINARY FINDINGS.

USE PERMIT REVIEW STANDARDS

The use will not endanger the public health or safety.

PRELIMINARY APPLICANT FINDING:

1. THE USE WILL ADHERE TO COUNTY HEALTH AND SAFETY STANDARDS, INCLUDING RECOMMENDATIONS MADE BY ALBEMARLE REGIONAL HEALTH SERVICES. THE PROJECT SHOULD NOT ADVERSELY AFFECT THE PUBLIC HEALTH OR SAFETY.

The use will not injure the value of adjoining or abutting lands and will be in harmony with the area in which it is located.

PRELIMINARY APPLICANT FINDINGS:

1. LAND TO THE EAST AND SOUTH HAS BEEN DEVELOPED INTO SINGLE FAMILY HOMES; THE DEVELOPABLE PORTION OF THIS TRACT WILL BE DEVELOPED SIMILARLY; OVER 50% OF THE LAND WILL BE PRESERVED. LOT SIZES ARE SIMILAR TO THOSE IN ADJACENT SUBDIVISIONS. WETLANDS WILL BE PRESERVED. THE USE WILL NOT INJURE THE VALUE OF ADJOINING OR ABUTTING LANDS, AND WILL BE IN HARMONY WITH THE SURROUNDING AREA.

The use will be in conformity with the Land Use Plan or other officially adopted plans.

PRELIMINARY STAFF FINDINGS:

1. THE UDO INDICATES THAT A TYPE II CONSERVATION SUBDIVISION IS ALLOWED IN THE AG ZONING DISTRICT WITH A USE PERMIT.

2. The 2006 Land Use Plan classifies this site as Rural within the Moyock subarea. The proposed use is in keeping with the policies of the plan, some of which are:

POLICY HN1: Currituck County shall encourage development to occur at densities appropriate for the location.

POLICY HN3: Currituck County shall especially encourage two forms of residential development, each with the objective of avoiding traditional suburban sprawl:

1. OPEN SPACE DEVELOPMENTS that cluster homes on less land, preserving permanently dedicated open space and often employ on-site or community sewage treatment.

POLICY ES2: NON-COASTAL WETLANDS, including FRESHWATER SWAMPS, AND INLAND, NON-TIDAL WETLANDS, shall be conserved for the important role they play in absorbing floodwaters, filtering pollutants from stormwater runoff, recharging the ground water table, and providing critical habitat for many plant and animal species.

3. The 2014 Moyock Small Area Plan classifies this site as Limited Service. The policy emphasis of this designation is more on residential development and densities. Limited service designations provide for limited availability to infrastructure and services and low to moderate residential densities. This application is low density at .4 units per acre. The proposed use is in keeping with the policies of the plan, some of which are:

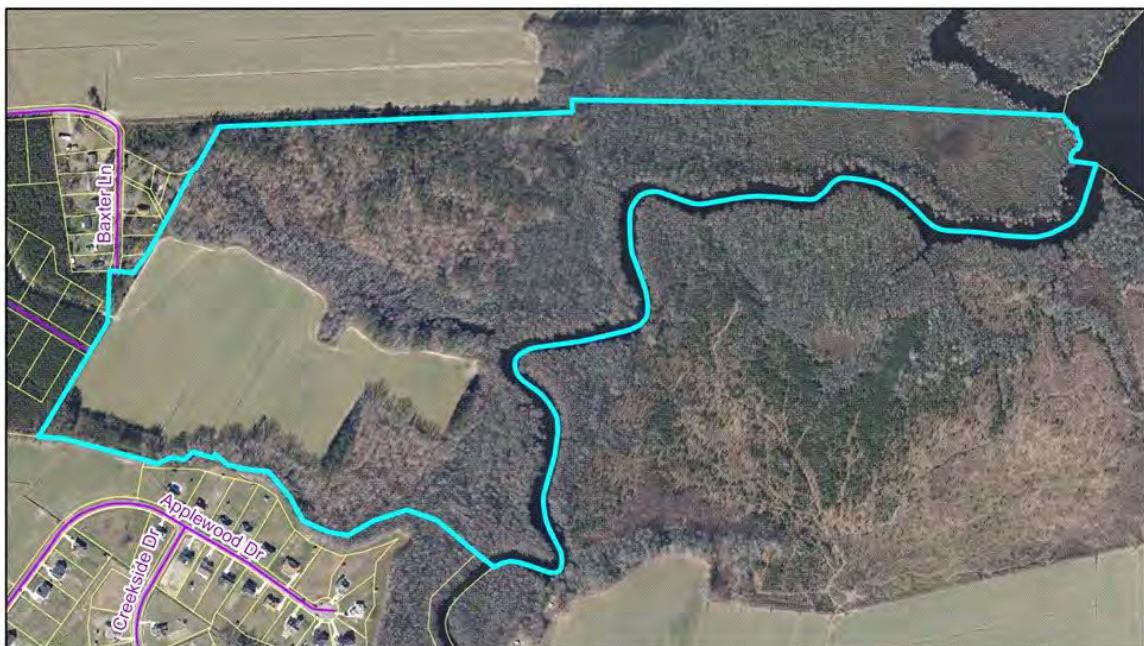
POLICY FLU1: Promote compatibility between new development and existing development to avoid adverse impacts to the existing community.

POLICY CC1: Encourage and foster development that is compatible with rural atmosphere, transitional areas, and a small town, main street feel consistent with the vision, policies, and future land use map of this plan.

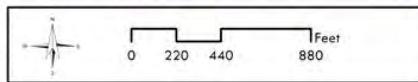
The use will not exceed the county's ability to provide adequate public facilities, including, but not limited to: schools, fire and rescue, law enforcement, and other county facilities. Applicable state standards and guidelines shall be followed for determining when public facilities are adequate.

PRELIMINARY STAFF FINDINGS:

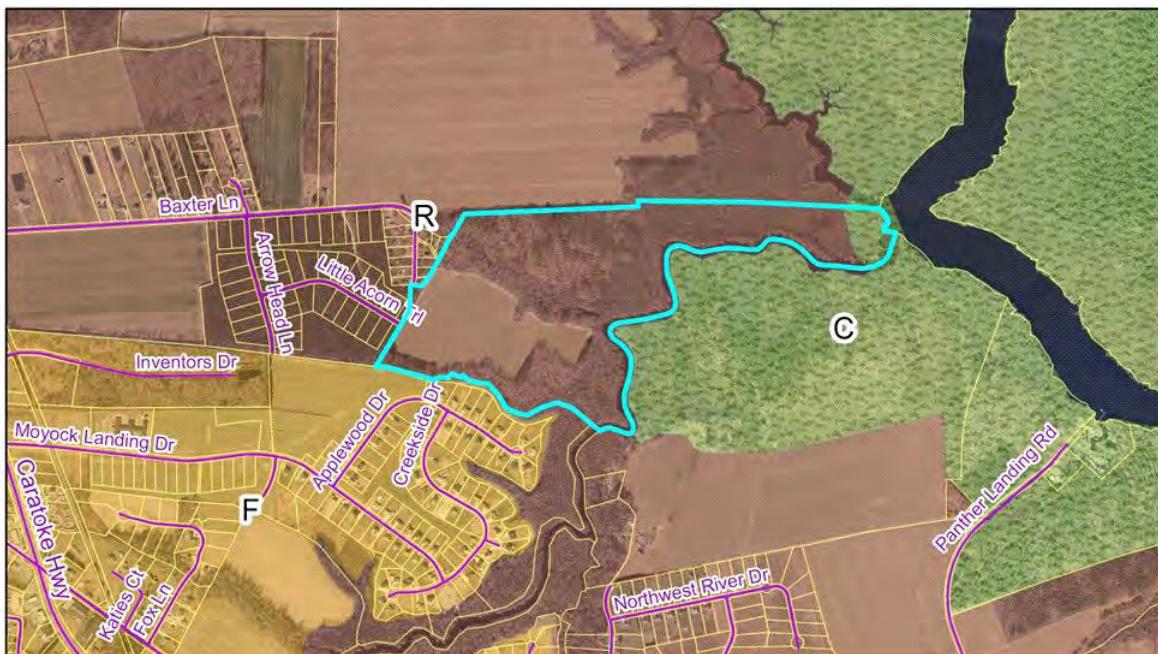
1. THE COUNTY HAS ADEQUATE PUBLIC FACILITIES TO SERVICE THIS DEVELOPMENT INCLUDING SCHOOLS, FIRE AND RESCUE, LAW ENFORCEMENT, ETC.



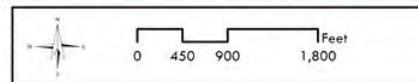
PB 15-10 The Landing
Preliminary Plat - Use Permit
Aerial



Currituck County
Planning and
Community Development



PB 15-10 The Landing
Preliminary Plat - Use Permit
Land Use Plan Classifications



Currituck County
Planning and
Community Development

Mr. Woody responded to Board questions after review.

Mark Bissell, project Engineer, provided sworn testimony. He displayed a color map highlighting the natural buffers and water access. He discussed connectivity and noted they are offering more than the 50% open space requirement. He reviewed the findings of fact and presented his data to support approval of the development. He answered questions related to the water access and stated the boardwalk is representation of an easement dedicated to the county. He explained the Phase 1 notation on the application referred to a prior request, initially for ten lots. This request would be a completed project, with no second phase. He said home values and structure type would be similar to neighboring communities.

Frank Samuel, Baxter Landing, expressed safety concerns with having only one ingress and egress for the subdivision. He questioned school capacity, water pressure, drainage, park access and construction traffic using Little Acorn Trail. He was informed the kayak launches would be for private use within the subdivision. Mr. Woody confirmed that there is ample school capacity and said stormwater would be subject to the requirements of the county's stormwater ordinance and county water pressures would be modeled to insure firefighting capability.

Mr. Bissell said there is a secondary access to the property via the Baxter Lane extension but acknowledged construction traffic and main access would use Little Acorn. Mr. Bissell addressed water lines and fireflows, stating in his opinion that there would be no issues.

Commissioner Beaumont suggested the applicant did not meet their burden with the findings of fact due to the absence of home elevations and pricing. Property values and home sizes were discussed with Mr. Bissell, who suggested starting home size would be 1800 square feet with pricing in the \$250-350,000 range. Mr. Bissell and the applicant confirmed they had no issues with setting a \$250,000 minimum value as a condition for approval.

Chairman Griggs closed the public hearing.

Commissioner Gilbert moved to approve PB 15-10, The Landing, for the preliminary plat, including that the use will not endanger the public health or safety, that it adheres to the county health and safety standards including recommendations made by Albemarle Regional Health Services; it will not injure the value of adjoining or abutting lands and will be in harmony with the area in which it is located, including the minimum price range of \$250,000; the use will be in conformity with the land use plan and other official adopted plans including the staff findings in our packet, numbers 1 through 3, and the 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 to state standards and guidelines should be followed in determining when public facilities are adequate.

Commissioner Beaumont seconded and the motion passed unanimously, 6-0.

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| RESULT: | APPROVED [UNANIMOUS] |
| MOVER: | Marion Gilbert, Commissioner |
| SECONDER: | Paul M. Beaumont, Commissioner |
| AYES: | David L. Griggs, Board Chairman, O. Vance Aydlett, Vice Chairman, Paul M. Beaumont, Commissioner, Marion Gilbert, Commissioner, Mike D. Hall, Commissioner, Mike H. Payment, Commissioner |

NEW BUSINESS

A) Board Appointments

1. ABC Board

The ABC Board appointment was removed from the agenda.

2. Historic Preservation Commission

The appointments to the Historic Preservation Commission were removed from the agenda.

B) Consent Agenda

Commissioner Aydlett moved to approve the Consent Agenda and was seconded by Commissioner Gilbert. The motion passed unanimously, 6-0.

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| RESULT: | APPROVED [UNANIMOUS] |
| MOVER: | O. Vance Aydlett, Vice Chairman |
| SECONDER: | Marion Gilbert, Commissioner |
| AYES: | David L. Griggs, Board Chairman, O. Vance Aydlett, Vice Chairman, Paul M. Beaumont, Commissioner, Marion Gilbert, Commissioner, Mike D. Hall, Commissioner, Mike H. Payment, Commissioner |

1) Approval Of Minutes-August 1, 2016

1. Minutes for BOC-August 1, 2016

2. Budget Amendments

| <u>Account Number</u> | <u>Account Description</u> | Debit | Credit |
|-----------------------|----------------------------|---|---|
| | | Decrease Revenue or Increase Expense | Increase Revenue or Decrease Expense |
| 10510-561000 | Professional Services | \$ 8,950 | |
| 10380-488400 | ABC Profits | | \$ 8,950 |
| | | <u>\$ 8,950</u> | <u>\$ 8,950</u> |

Explanation: Sheriff (10510) - Increase appropriations for annual law enforcement policy review. This was previously paid by the State and has been passed to the County for this fiscal year.4

Net Budget Effect: Operating Fund (10) - Increased by \$8,950.

| <u>Account Number</u> | <u>Account Description</u> | Debit | Credit |
|-----------------------|----------------------------|---|---|
| | | Decrease Revenue or Increase Expense | Increase Revenue or Decrease Expense |
| 10330-432200 | HCCBG In Home | \$ 25,082 | |
| 10752-519700 | HCCBG In Home | | \$ 6,227 |
| 10390-499900 | Fund Appropriate Balance | | \$ 18,855 |
| | | <u>\$ 25,082</u> | <u>\$ 25,082</u> |

Explanation: PUBLIC ASSISTANCE (10752) - Decrease HCCBG In Home to reflect the actual amount of allocated funds of the County Funding Plan from Albemarle Commission.

Net Budget Effect: Operating Fund (10) -Decreased by \$25,082.

3. Resolution to Surplus Water Department Assets

R E S O L U T I O N

WHEREAS, the Board of Commissioners of Currituck County, North Carolina during its regularly scheduled meeting held on August 15, 2016, authorized the following, pursuant to GS 160A and 270(b), that the property listed below, be disposed of and sold on Gov Deals :

| Asset | Description |
|-------|--------------------|
| 6299 | 2007 Ford F150 4x4 |
| 5881 | 2004 Ford F150 4x4 |
| 5732 | 2003 Ford F150 4x4 |
| 6011 | 2005 Ford F150 4x4 |
| 3390 | 2008 Ford F450 4x4 |

6569

Ditch Witch Trenching Machine

Following Items were purchased with Carolina Water:

Two 20Hp Berkley Pumps

90" by 20' 7800 gallon horizontal Steel Tank

ADOPTED, this 15th day of August, 2016.

David L. Griggs
Currituck County Board of
Commissioners

4. Job Description Revisions-Custodian & Maintenance Repair Worker-Electrician

5. Amended Item-Consideration of Alcohol Use Application-Soundside Park

C) Commissioner's Report

Chairman Griggs read a Proclamation adopted by the state of North Carolina which recognized the Bulls and BBQ Throwdown at the Currituck Heritage Festival as a sanctioned event of the Kansas BBQ Society. This year's festival will be held September 17-18, 2016. He acknowledged all of the parents whose children went off to college.

Commissioner Gilbert asked citizens to be mindful of traffic and busses, with the continued presence of visitors and JP Knapp Early College High School in session.

Commissioner Beaumont discussed the Board's reliance on guidance from citizen advisory boards, and his belief that those appointed have a responsibility to behave appropriately as ambassadors of the county, particularly when serving under the umbrella of the county. He talked about social media and noted he was made aware of actions by advisory board members that he found disturbing. He asked that those serving act appropriately.

Commissioner Aydlett thanked county Engineer Eric Weatherly and Will Creef, Soil and Water, who went to Knotts Island to assess drainage issues at the boat ramp parking facility. He also thanked the state for replacing culverts. He said the water is gone and grass has been cut. Commissioner Aydlett asked that someone check on missing mile markers on the 4-wheel drive beach. He noted horse tour operators appear to be doing a good job educating the public.

D) County Manager's Report

No report.

PUBLIC COMMENT

Please limit comments to matters other than those appearing on this agenda as a Public Hearing. Public comments are limited to 5 minutes.

No one was signed up nor wished to speak at public comment.

CLOSED SESSION

1. Amended Item-Closed Session pursuant to G.S. 143.318.11(a)(3) to consult with the County Attorney in order to preserve attorney-client privilege and receive advice from the County Attorney and for the following pending lawsuits: Swan Beach Corolla, LLC v. Currituck County.

Commissioner Griggs moved to enter closed session pursuant to G.S. 143.318.11(a)(3) to consult with the County Attorney in order to preserve attorney-client privilege and receive advice from the County Attorney and for the following pending lawsuits: Swan Beach Corolla, LLC v. Currituck County.

The motion was seconded by Commissioner Gilbert and passed unanimously.

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| RESULT: | APPROVED [UNANIMOUS] |
| MOVER: | David L. Griggs, Board Chairman |
| SECONDER: | Marion Gilbert, Commissioner |
| AYES: | David L. Griggs, Board Chairman, O. Vance Aydlett, Vice Chairman, Paul M. Beaumont, Commissioner, Marion Gilbert, Commissioner, Mike D. Hall, Commissioner, Mike H. Payment, Commissioner |

ADJOURN

The following portion of the meeting through adjournment was not video recorded:

After returning from Closed Session, the Board began a discussion on matters related to two individuals who serve as members of Currituck County advisory boards. Commissioner Gilbert reported that ABC Board member Jerry Maleski touched her inappropriately when they were both in attendance at a recent local political party meeting. Commissioner Beaumont reported a citizen had sent him a Facebook posting made by Game Commission member Curtis Austin, which he found profane and believed it crossed the line. He referred to prior Board consideration to remove John Snowden, Chairman of the Economic Development advisory board, for similar conduct and stated the need for consistency as to what the Board deems acceptable.

Commissioners instructed staff to develop guidelines for all advisory board members to follow relative to ethics and communications. The Board, after discussing options to address the actions of Mr. Malesky and Mr. Austin, chose to invite each to defend their actions at a special meeting hearing. Public notice requirements were discussed and several dates were considered which ranged from 48 hours to two weeks. Commissioner Hall wanted to ensure there would be enough time for notification and preparation and wanted to allow at least ten days before holding the meeting. Other members felt seven days was ample time.

Motion to issue notices to Jerry Malesky and Curtis Austin and offer them the opportunity to respond at a Special Meeting

After discussion, Commissioner Gilbert moved to direct staff to send notices to Jerry Malesky and Curtis Austin of the intent to remove them from their respective Boards and offer the opportunity for each to present to the Board of Commissioners why they should not be removed from their respective Boards at a special session of the Board of Commissioners to be held Monday, May 22, 2016, at 6 PM. The motion was seconded by Chairman Griggs and passed 5-1.

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| RESULT: | APPROVED [5 TO 1] |
| MOVER: | Marion Gilbert, Commissioner |
| SECONDER: | David L. Griggs, Board Chairman |
| AYES: | David L. Griggs, Board Chairman, O. Vance Aydlett, Vice Chairman, Paul M. Beaumont, Commissioner, Marion Gilbert, Commissioner, Mike H. Payment, Commissioner |
| NAYS: | Mike D. Hall, Commissioner |

Motion to cancel meeting of September 6, 2016.

County Manager Dan Scanlon explained there were no time sensitive items or planning items tracking to the September 6, 2016, regular meeting of the Board. Commissioner Aydlett moved to cancel the September 6, 2016, regular meeting of the Board of Commissioners and was seconded by Commissioner Griggs. The motion passed unanimously, 6-0.

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| RESULT: | APPROVED [UNANIMOUS] |
| MOVER: | O. Vance Aydlett, Vice Chairman |
| SECONDER: | David L. Griggs, Board Chairman |
| AYES: | David L. Griggs, Board Chairman, O. Vance Aydlett, Vice Chairman, Paul M. Beaumont, Commissioner, Marion Gilbert, Commissioner, Mike D. Hall, Commissioner, Mike H. Payment, Commissioner |

Motion to Adjourn Meeting

Prior to adjournment, the County Attorney, Ike McRee, informed the Board that the Discharge of Firearms Ordinance considered at the August 1, 2016, meeting would be brought back before the Board to satisfy the condition that was put into the motion at that meeting. Information would be presented pertaining to noise and mapping information related to varying distances. Once the data is brought the condition will have been met, making the ordinance effective.

With no further business, Commissioner Beaumont moved to adjourn. The motion was seconded by Chairman Griggs and carried unanimously. The meeting of the Board of Commissioners was concluded.

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| RESULT: | APPROVED [UNANIMOUS] |
| MOVER: | Paul M. Beaumont, Commissioner |
| SECONDER: | David L. Griggs, Board Chairman |
| AYES: | David L. Griggs, Board Chairman, O. Vance Aydlett, Vice Chairman, Paul M. Beaumont, Commissioner, Marion Gilbert, Commissioner, Mike D. Hall, Commissioner, Mike H. Payment, Commissioner |