



## CURRITUCK COUNTY NORTH CAROLINA

January 4, 2016

Minutes – Regular Meeting of the Board of Commissioners

### 5:00 CALL TO ORDER

The Currituck County Board of Commissioners met at 5 PM in the Historic Currituck Courthouse for its regular meeting. Chairman Griggs called the meeting to order.

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

### A) Invocation & Pledge of Allegiance-Reverend Walter Gallop, Air Force Chaplain, Retired

Reverend Walter Gallop gave the Invocation and led the Pledge of Allegiance.

### B) Approval of Agenda

Commissioner Aydlett moved to approve the agenda, seconded by Commissioner Gilbert. The motion carried unanimously.

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

## ADMINISTRATIVE REPORTS

### A. Resolution of the Albemarle Regional Solid Waste Authority Admitting Washington County as a Member of the Authority

County Manager, Dan Scanlon, reviewed the history and purpose of the Albemarle Regional Solid Waste Management Authority, explaining that Washington County has asked to be admitted as a member. Each member County must accept Washington County in order to change the Charter. Commissioner Aydlett said he believes their admittance would be a

positive for all members.

Commissioner Gilbert moved to accept with a second by Commissioner Aydlett. The motion carried unanimously.

#### RESOLUTION OF THE

#### ALBEMARLE REGIONAL SOLID WASTE MANAGEMENT AUTHORITY ADMITTING WASHINGTON COUNTY AS A MEMBER OF THE AUTHORITY

WHEREAS, Chowan, Currituck, Dare, Gates, Hyde, Perquimans and Tyrrell Counties (collectively, the "Member Units") agreed to take action pursuant to Chapter 153A, Article 22 of the General Statutes to create the Albemarle Regional Solid Waste Management Authority (the "Authority") by resolution dated September 21, 1992 ("Initial Resolution"); and

WHEREAS, the Member Units unanimously agreed, pursuant to Article XI of the Initial Resolution, to amend the Initial Resolution, and adopted the First Amendment to Resolution Establishing Albemarle Regional Solid Waste Management Authority on March 26, 2009; and

WHEREAS, Washington County desires to become a member of the Authority.

NOW, THEREFORE, BE IT RESOLVED that the Authority hereby admits Washington County as a member of the Authority, subject to the following terms, conditions and agreements:

1. Washington County shall pay to the Authority \$42,607.13 within thirty (30) days after the date of this Resolution.
2. Washington County shall approve and execute the Member Waste Management Agreement between Washington County and the Authority.
3. Washington County shall approve the First Amendment to Waste Supply and Disposal Agreement between the Authority and Republic Services of North Carolina, LLC.
4. Washington County shall approve and execute the Second Amendment to Resolution Establishing Albemarle Regional Solid Waste Management Authority.

If Washington County fails to take the actions set forth in Paragraphs 1-4 above within sixty (60) days from the date of this Resolution, Washington County's admission to the Authority shall be withdrawn and shall be null and void with no legal effect.

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

#### B. Release and Overview of Revised Flood Maps

Ben Woody, Planning and Community Development Director, reviewed the revised flood maps which are released about every five years. Using a power point presentation he reviewed the data and provided information and statistical changes that would occur with the implementation of the new mapping. He cautioned the public that one in five flood claims happen in areas not designated as a flood zone. Mr. Woody expects the maps will be placed on the Federal Register, after which an appeal period begins. He said public meetings will be held by the State of North Carolina Department of Public Safety to provide information to the public and answer questions. He said a link to the Flood Maps could be found on the home page of the Currituck County website, [www.CurrituckGovernment.com](http://www.CurrituckGovernment.com), along with contact information for mainland and Currituck Outer Banks residents. Rate maps can also be viewed at <http://fris.nc.gov/fris/>. Board members discussed the positive changes and benefits associated with the new flood maps.

## PUBLIC HEARINGS

### A. Public Hearing & Action-PB 84-11 Corolla Light Phase 3:

Chairman Griggs, at the applicant's request, moved to continue the item to the February 1, 2016, meeting of the Board of Commissioners. Commissioner Gilbert seconded and the motion carried unanimously.

<b>RESULT:</b>	<b>CONTINUED [UNANIMOUS]</b>	<b>Next: 2/1/2016 5:00 PM</b>
<b>MOVER:</b>	David L. Griggs, Board Chairman	
<b>SECONDER:</b>	Marion Gilbert, Commissioner	
<b>AYES:</b>	David L. Griggs, Board Chairman, O. Vance Aydtlett, Vice-Chairman, S. Paul O'Neal, Commissioner, Paul M. Beaumont, Commissioner, Marion Gilbert, Commissioner, Mike D. Hall, Commissioner, Mike H. Payment, Commissioner	

### B. Public Hearing & Action-PB 15-20 Spruill Sand Mine:

Parties wishing to speak were sworn and Chairman Griggs opened the Public Hearing. Mr. Woody reviewed the applicant's request for permit renewal with the Board of Commissioners.

STAFF REPORT FOR THE  
Board of Commissioners  
DATE: January 4, 2016  
PB 15-20 William Spruill Sand Mine

<b>ITEM:</b>	PB 15-20 William Spruill Sand Mine request for a Use Permit to operate an extractive industry (sand mine).
<b>LOCATION:</b>	Moyock: 913 Caratoke Highway
<b>TAX ID:</b>	0015-000-0031-0000 0015-000-032B-0000
<b>ZONING DISTRICT:</b>	Agricultural (AG) and Heavy Industrial (HI)
<b>PRESENT USE:</b>	Extractive Industry (sand mine)
<b>OWNER:</b>	William Spruill PO Box 146 Moyock NC 27958

**APPLICANT:** Wayne Leary  
PO Box 86  
Shawboro NC 27973

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

	<b>Land Use</b>	<b>Zoning</b>
<b>NORTH:</b>	Farmland	AG
<b>SOUTH:</b>	Farmland, Retail, Residential	GB
<b>EAST:</b>	Woodland, Farmland	AG
<b>WEST:</b>	Reclaimed Sand Mine	GB

**LAND USE PLAN**

**CLASSIFICATION:** The 2006 Land Use Plan classifies the site as Full Service within the Moyock subarea. The 2014 Moyock Small Area Plan classifies the site as Limited Service.

**SIZE OF SITE:** 58.70 acres

**COMMUNITY MEETING:** A community meeting was held on October 2, 2015 at the Moyock Library. No one attended the meeting.

**I. NARRATIVE OF REQUEST:**

1. A special use permit was issued to William Spruill on October 18, 1999 to excavate a maximum 30% of the entire site. The permit was valid for ten years and with the vesting suspension provided by the North Carolina General Assembly, the special use permit expired January 1, 2013. A new use permit was issued by the Board of Commissioners on January 2015 that expired along with the state permit on October 14, 2015. This is a new use permit request to replace the expired use permit.
2. It was determined under the previous use permit that the mine had been over excavated by 5.65 acres. The owner is on schedule for refilling the over excavated area according to most recent quarterly fill report as required by the Board of Commissioners.
3. The application includes a request for a 50% setback reduction along all property lines where an existing vegetative visual screen is between the mining activity and the adjoining use/property lines. (See aerial photography for reference)
4. The site will be dewatered under a state permit approval.

**II. USE PERMIT REVIEW STANDARDS:**

**Use Permit Criteria and Staff Findings:**

Use permits (UP) are intended to allow the Board of Commissioners flexibility in the administration of the UDO. Through the UP procedure, property uses which would otherwise be considered undesirable in certain districts can be developed subject to conditions of approval to minimize any negative effects they might have on surrounding properties.

In order to approve a UP, certain criteria must be satisfied. The criteria and staff findings are outlined as follows:

1. The use will not endanger the public health or safety.  
It is staff's opinion that the evidence in the record, prepared in absence of testimony presented at a public hearing, supports the finding that the use will not endanger the public health or safety.

**Staff Findings:**

- a. The mine site is posted with No Trespassing signs 250 feet apart.

- b. The owner will post a performance guarantee for any in use wells located within a 1,500 foot radius of the excavation area to be used in the event the dewatering diminishes the quantity or quality of the well water.
  - c. All trucks hauling mined materials shall be covered with a tarpaulin.
2. 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.

It is staff's opinion that the evidence in the record, prepared in absence of testimony presented at a public hearing, supports the finding that 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.

**Staff Findings:**

- a. A special use permit was issued for the mining operation on October 18, 1999 and the mine has operated for 16 years with no registered complaints.
  - b. No bulk waste, hazardous waste, commercial waste, garbage, construction or demolition waste shall be placed on the site.
3. The use will be in conformity with the Land Use Plan or other officially adopted plan.

It is staff's opinion that the evidence in the record, prepared in absence of testimony presented at a public hearing, supports the finding that the use will be in conformity with the Land Use Plan and other officially adopted plans.

**Staff Findings:**

The 2006 Land Use Plan classifies this site as Full Service within the Moyock subarea. With respects to nonresidential uses, it is essential that the existing community character be preserved in the Full Services area. The proposed use is in keeping with the policies of the plan, which include:

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

**Staff Findings:**

The 2014 Moyock Small Area Plan classifies this site as Limited Service within the Moyock subarea. The proposed use is in keeping with the policies of the plan, which include:

POLICY BI4: Provide industrial development opportunities for cluster industries identified by Currituck Economic Development such as defense aero-aviation, port and maritime related industries, alternative energy, agriculture and food, and local existing business support.

4. 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. Such facilities must be in place or programmed to be in place within two years after the initial approval of the plan (sketch plan in the case of major subdivisions).

It is staff's opinion that the evidence in the record, prepared in absence of testimony presented at a public hearing, supports the finding that 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.

**Staff Findings:**

- a. The proposed use will not produce additional burdens on schools, fire and rescue, or other public facilities.

**III. TECHNICAL REVIEW COMMITTEE RECOMMENDATION:**

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

1. The use permit shall expire upon expiration of the NC State Mining Permit, which is expected to be in five years. (Planning)
2. Provide the hydrogeological report, monitoring well plan, or performance guarantee as determined by the county engineer. (UDO Section 4.2.5.A.14) (Planning)
3. In accordance to Section 4.2.5, discharge waters shall not adversely affect downstream properties. It is unclear how discharge waters from the mine is prevented from sheet flowing from the "vegetative restraining area" onto neighboring properties. Please provide a channelized flow to prevent runoff onto neighboring properties or more detailed information regarding how runoff will not impact neighboring properties. (Engineering)
4. Section 4.2.5 requires mines with dewatering operations to perform a hydrogeological study, monitoring wells and or a performance guarantee if there are any wells or ponds within 1500' of the pit. Information provided addresses ponds but not wells. Please provide the location of all potable wells within 1500' of the pit. At a minimum, the performance guarantee should be provided for each well in accordance to the UDO. (Engineering)

**Site Plan Corrections:**

- a. Show all wells within 1,500 foot radius of the mine on the plat. (UDO Section 4.2.5.A.14)
- b. Show the flood zone lines on the plat. (UDO Section 4.2.5.A.14) Placing a copy of the Moyock area flood zones is not sufficient.
- c. Provide a copy of the approved state permit once issued.

**IV. PLANNING BOARD RECOMMENDATION:**

Mr. Cartwright moved to approve PB 15-20 with staff recommendations included in the staff report. Mr. Bell seconded the motion and motion carried unanimously.

At the close of his presentation, Mr. Woody answered questions pertaining to mining percentages and operations, as Commissioner O'Neal asked about increasing the allowable mining percentage to 50% from 30% to address and remedy the current violation for overmining. Mr. Woody explained one of the caveats of allowing for an increase to 50% is to first operate for a period of time free of violations.

Wayne Leary of Shawboro, representing Mr. Spruill, said he concurs with staff findings. He provided a history of the reclamation as required due to overmining. Mr. Leary said Mr. Spruill is on schedule with reclamation and says it was an oversight on his part that the County permit was not renewed, which led to the violations. Their goal is to continue on and exceed the reclamation requirements placed by the County.

With no one else signed up to speak, Chairman Griggs closed the Public Hearing.

Commissioner Beaumont moved to approve the renewal of the mining permit, with a second by Commissioner Payment. The motion carried unanimously.

<b>RESULT:</b>	<b>APPROVED [UNANIMOUS]</b>
<b>MOVER:</b>	Paul M. Beaumont, Commissioner
<b>SECONDER:</b>	Mike H. Payment, Commissioner
<b>AYES:</b>	David L. Griggs, Board Chairman, O. Vance Aydtlett, Vice-Chairman, S. Paul O'Neal, Commissioner, Paul M. Beaumont, Commissioner, Marion Gilbert, Commissioner, Mike D. Hall, Commissioner, Mike H. Payment, Commissioner

**C. Public Hearing & Action-PB 15-13 Currituck County Solar Arrays:**

Ben Woody reviewed the text amendment, addressing setbacks, buffering, and zoning district restrictions. Mr. Woody said the Planning Board recommended approval. Chairman Griggs opened the public hearing.

#### **MEMORANDUM**

To: Board of Commissioners

From: Planning Staff

Date: December 18, 2015

Subject: PB 15-13 Amended Solar Array Text Amendment

The Board of Commissioners has directed the Planning Board to rehear the solar array text amendment in order to provide an option for reducing the 300' setback. A conditional rezoning will also now be required for a solar array use. Finally, the use will only be allowed in the Agricultural (AG) zoning district.

Please let us know if you have any questions.

#### **Planning Board Recommendation:**

Mr. Cartwright moved to approve PB 15-13 due to its consistency with the Land Use Plan and that the request is reasonable and in the public interest and promotes orderly growth and development. Ms. Overstreet seconded the motion and motion carried unanimously.

#### **PLANNING BOARD DISCUSSION: (12/8/15)**

Tammy Glave presented the staff report.

Mr. Wright recuses himself from this item.

Mr. Cartwright asked what is the height of the vegetative buffer.

Ms. Glave said 8' in height regardless of caliper inches. The goal with the buffering is not to see the solar panels. The one in Moyock is proposing using wax myrtles.

Mr. Craddock asked what is the logic behind changing the permissible uses of solar arrays to only be in the Agricultural District and not the other district that existed previously.

Ms. Glave said the value of the land. Bringing an agriculturally use of the land to a solar array increases its taxed value.

Mr. Craddock said since solar arrays will only be in the agricultural district they will benefit by paying lower taxes as to being in a HI district.

Mr. Woody said solar arrays pay lower taxes because they are exempt from 80% of local property taxes.

Mr. Cooper asked if the only changes are reducing the 300' setback requirement to 100' by increasing buffer requirements and the zoning district.

Ms. Glave said yes.

Mr. Cooper asked what drove these proposed changes to the text amendment.

Mr. Woody said the Board of Commissioners are directing staff to make these changes.

Mr. Cartwright moved to approve PB 15-13 due to its consistency with the Land Use Plan and that the request is reasonable and in the public interest and promotes orderly growth and development. Ms. Overstreet seconded the motion and motion carried unanimously.

### PB 15-13

#### CURRITUCK COUNTY

Amendment to the Unified Development Ordinance Chapter 4: Use Standards to offer a setback reduction with additional landscape standards for Solar Arrays, require conditional zoning for the use, and only allow the use in the Agricultural (AG) zoning district.

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 4.1.2: Use Table is amended by adding the following bold and underlined language and deleting the struck-through language:

Use Category	Use Type	Zoning District (current district in parenthesis) [note: overlay or sub-district requirements may further limit uses]															Additional Req. (4.2.____)	
		RC	AG	SFM	SFO	SFR	SFI	MXR	GB	LB	CC	VC	LI	HI	PD-R	PD-M		PD-O
Utilities	Solar array		<del>U</del> <b><u>CZ</u></b>						<del>U</del>	<del>U</del>			<del>U</del>	<del>U</del>		<del>U</del>	<del>U</del>	3.H.1

**Item 2:** That Section 4.2.3.H.1: Solar Array is amended by adding the following bold and underlined language and deleting the struck-through language:

#### **4.2.3.H.**

##### (1) Solar Array

- (a) Solar arrays shall be configured to avoid glare and heat transference to adjacent lands.
- (b) Appropriate ground cover/grass is required and shall be maintained as not to create a fire hazard.



- (c) The solar panels, equipment, and associated security fencing shall be located at least 300 feet from any perimeter property line abutting a residential dwelling, residential zoning district, religious institution, public school, state licensed day care center, public playground, public swimming pool, or public park . The solar panels, equipment, and associated security fence shall be screened from those uses/zoning districts by a Type CD buffer. The buffer may be reduced to a Type C when abutting a right-of-way, use, or zoning district not listed above and the setback may be reduced to 100' in these instances.
- (d) The total height of the solar energy system, including any mounts, shall not exceed 15 feet above the ground when orientated at maximum tilt.
- (e) The solar energy system owner shall have 12 months to complete decommissioning of the facility if no electricity is generated for a continuous 12 month period.
- (f) Operations, maintenance, and decommissioning plans are required.
- (g) Ground water monitoring wells shall be installed prior to construction of the solar energy system and testing data shall be submitted annually to the Planning and Community Development Department until decommissioning occurs. Monitoring wells shall be located near the center of the site and along each exterior property line at approximately the lowest ground elevation point of each property line. Testing data shall be provided to the county indicating compliance with EPA National Primary Drinking Water Standards prior to construction and annually until decommissioning occurs.
  - i. Should the initial ground water testing indicate that the site is not in compliance with the EPA National Primary Drinking Water Standards, subsequent annual reports shall indicate no increase in noncompliance with those standards.
- (h) Prior to the issuance of a building permit, the developer shall post a performance guarantee in the form of cash deposit with the county to ensure decommissioning funds are available in an amount equal to 115 percent of the estimated decommissioning costs minus salvageable value. Estimates for decommissioning the site and salvageable value shall be prepared and certified by a registered engineer or North Carolina licensed general contractor and submitted prior to building permit approval and verified by a registered engineer or North Carolina licensed general contractor and resubmitted every two years thereafter until decommissioning occurs.

**Item 3:** 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.

**Item 4:** This ordinance amendment shall be in effect from and after the \_\_\_\_ day of \_\_\_\_\_, 2015.

Warren Wilgus of Oxford Road, Moyock, raised concerns that the contractor is not doing what he said he would do and has been trying to get some answers regarding a berm at the Wildwood site. He believed the berm would be erected and landscaped immediately. He said he was confused about the different contingencies and wanted to know if a berm is going to be constructed.

Commissioner O'Neal said the issues are separate, and we should call the question on the text amendment before moving on to other issues.

With no one else wishing to speak, Chairman Griggs closed Public Hearing and asked for a motion.

Commissioner O'Neal moved to approve as presented and was seconded by Commissioner Beaumont. The motion carried unanimously.

Mr. Woody said he had addressed some points raised by Mr. Wilgus with the applicant, who agreed to the berms and landscaping and maintaining the 300 foot setback if adjacent to residential property. Mr. Woody said those two things will occur at Wildwood. Mr. Woody explained the landscaping would have to be installed before any certificate of compliance would be issued, but the landscaping did not have to be installed immediately upon the start of construction. Mr. Woody noted that shrubs atop berms may be more difficult to grow and maintain, and the County may want to look at other options for better screening.

Commissioner Beaumont said several people had told him there are bright lights at the site at night. Mr. Woody said he had addressed that issue with the contractor, who told him nighttime construction would cease after December 31, 2015.

The Board recalled the applicant's public hearing when application was made for the Special Use permit for the Wildwood solar array and, at that time, represented to the Board and citizens the things they intended to do, with the Board relying on those representations for approval. The Board and County Attorney discussed the importance of crafting motions to include all conditions proposed. Commissioner O'Neal asked what purpose is there for sworn testimony if it means nothing, and he considers sworn testimony part of the permit.

Chairman Griggs recommended meeting with staff to ensure any conditions are included in future motions to avoid similar issues going forward. Mr. Woody said he would share a copy of the letter from staff to the applicant, and would include a request that the buffering be installed sooner rather than later.

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

#### **D. Public Hearing and Action on Resolution Creating the Backwoods Reserve-Saddlebrook Water Service District**

County Attorney, Ike McRee, said the advertising requirement would be met and the item would be ready to be heard at the January 19, 2016, regular meeting. Chairman Griggs moved to defer the item until January 19, 2016. The motion was seconded by Commissioner Gilbert and carried unanimously.

<b>RESULT:</b>	<b>CONTINUED [UNANIMOUS]</b>	<b>Next: 1/19/2016 5:00 PM</b>
<b>MOVER:</b>	David L. Griggs, Board Chairman	
<b>SECONDER:</b>	Marion Gilbert, Commissioner	
<b>AYES:</b>	David L. Griggs, Board Chairman, O. Vance Aydlett, Vice-Chairman, S. Paul O'Neal, Commissioner, Paul M. Beaumont, Commissioner, Marion Gilbert, Commissioner, Mike D. Hall, Commissioner, Mike H. Payment, Commissioner	

## NEW BUSINESS

### A. Consideration and Action on Ordinance Amending Chapter 2, Article III of the Code of Ordinances to Establish the Animal Services and Control Advisory Board

County Attorney, Ike McRee, reviewed the details of the Ordinance to establish the Animal Services and Control Advisory Board. Answering Commissioner questions, he said a number of different ordinances within North Carolina and other states were reviewed, concentrating on public education.

Commissioner O'Neal moved to approve with a second by Commissioner Gilbert.

Commissioner Hall requested that the item be tabled until the January 19, 2016 meeting, believing we were moving too fast and he would like time to review. The Board confirmed with the County Attorney that this was a lawful ordinance for adoption and was recommended by staff. He confirmed that the ordinance could be amended as needed.

With a 6 to 1 vote on the motion, with Commissioner Hall voting against, the item was scheduled to be reheard on January 19, 2016. Mr. McRee explained an ordinance must be adopted by unanimous vote on the first presentation, and can pass at a second reading with a simple majority.

<b>RESULT:</b>	<b>RETURNED FOR RECONSIDERATION [6 TO 1]</b>	<b>Next: 1/19/2016 5:00 PM</b>
<b>AYES:</b>	David L. Griggs, Board Chairman, O. Vance Aydlett, Vice-Chairman, S. Paul O'Neal, Commissioner, Paul M. Beaumont, Commissioner, Marion Gilbert, Commissioner, Mike H. Payment, Commissioner	
<b>NAYS:</b>	Mike D. Hall, Commissioner	

## B) Board Appointments

### 1. Senior Citizens Advisory Board

Commissioner Gilbert nominated George Rhine and Commissioner O'Neal nominated Joanne DiBello for reappointment. Both nominations were unanimously approved by the Board.

<b>RESULT:</b>	<b>APPROVED [UNANIMOUS]</b>
<b>AYES:</b>	David L. Griggs, Board Chairman, O. Vance Aydlett, Vice-Chairman, S. Paul O'Neal, Commissioner, Paul M. Beaumont, Commissioner, Marion Gilbert, Commissioner, Mike D. Hall, Commissioner, Mike H. Payment, Commissioner

## 2. Library Board of Trustees

Commissioner Gilbert nominated Stacy Vasquetelles. The appointment was approved unanimously.

<b>RESULT:</b>	<b>APPROVED [UNANIMOUS]</b>
<b>AYES:</b>	David L. Griggs, Board Chairman, O. Vance Aydlett, Vice-Chairman, S. Paul O'Neal, Commissioner, Paul M. Beaumont, Commissioner, Marion Gilbert, Commissioner, Mike D. Hall, Commissioner, Mike H. Payment, Commissioner

## 3. Planning Board

Commissioner Gilbert nominated Carol Bell for reappointment. The nomination was unanimously approved by the Board.

<b>RESULT:</b>	<b>APPROVED [UNANIMOUS]</b>
<b>AYES:</b>	David L. Griggs, Board Chairman, O. Vance Aydlett, Vice-Chairman, S. Paul O'Neal, Commissioner, Paul M. Beaumont, Commissioner, Marion Gilbert, Commissioner, Mike D. Hall, Commissioner, Mike H. Payment, Commissioner

## 4. Economic Development

Roger Lambertson was nominated for reappointment to the Economic Development Board and unanimously approved.

<b>RESULT:</b>	<b>APPROVED [UNANIMOUS]</b>
<b>AYES:</b>	David L. Griggs, Board Chairman, O. Vance Aydlett, Vice-Chairman, S. Paul O'Neal, Commissioner, Paul M. Beaumont, Commissioner, Marion Gilbert, Commissioner, Mike D. Hall, Commissioner, Mike H. Payment, Commissioner

## 5. Recreation Advisory Board

Commissioner Aydlett nominated Ryan Hodges and Commissioner Payment nominated Robin Kane for reappointments to the Recreation Advisory. Both nominees were approved unanimously.

<b>RESULT:</b>	<b>APPROVED [UNANIMOUS]</b>
<b>AYES:</b>	David L. Griggs, Board Chairman, O. Vance Aydlett, Vice-Chairman, S. Paul O'Neal, Commissioner, Paul M. Beaumont, Commissioner, Marion Gilbert, Commissioner, Mike D. Hall, Commissioner, Mike H. Payment, Commissioner

### C) Consent Agenda

Commissioner Gilbert asked for a name correction in the minutes of December 7, 2015, as it was Frank Flora who commented during the Moyock Commons Public Hearing.

Commissioner O'Neal moved to approve with the correction, seconded by Commissioner Aydlett. The motion carried unanimously.

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

#### 1) Approval Of Minutes-December 7, 2015

#### 2. Petition for Road Addition-Shangrila Subdivision, Moyock

#### 3. Certification of Review-Board of Education Facility Needs Survey

### D) Commissioner's Report

Commissioner Beaumont asked staff to put together a request to be sent to the state to allow the County to rescind the 80% tax deferral for alternative energy development. Chairman Griggs supported Commissioner Beaumont's request and asked staff for a resolution to be brought to the January 19, 2016 meeting for adoption.

Commissioner O'Neal, for the benefit of the public, explained the subsidies provided by the Federal Government to alternative energy. North Carolina subsidies ended in June but the state did not repeal the county subsidies, allowing alternative energy companies to pay .20 cents on the dollar.

Commissioner Beaumont announced his attendance at the open house for the animal shelter, praising the top-notch facility and encouraging all to stop by.

Commissioner Hall encouraged all to continue in the holiday spirit and care for seniors and animals.

Commissioner Aydlett asked about pay for Advisory Board members. He was particularly concerned with the commitment needed for those on the Land Use Planning Committee. Mr. Scanlon explained committees with a finite term were looked at as

volunteer in nature, stating the Board has the ability to compensate the Land Use Plan members.

Commissioner O'Neal shared memories of Charles Wellons, of Shawboro, and Eldon Miller, a former Commissioner, and spoke of their contributions to their communities. He asked that the County commit to identifying a piece of property in Moyock where a park will be built, saying we have the budget and willing partners and wants the project to be a priority. Mr. Scanlon said the County is moving down a list of suggested parcels of land. Commissioner O'Neal thanked everyone who have called to express their views about his choice to not seek re-election.

Commissioner Payment announced the Animal Shelter ribbon cutting scheduled for January 19, 2016, and wished everyone a Happy New Year.

Commissioner Gilbert concurred on the Animal Shelter, commending Eric Weatherly, County Engineer, for taking care of the hiccups associated with a new building. She also recalled fond memories of Eldon "Pop" Miller, stating a Moyock park was number one on his list. She announced the Moyock Women's Club Frosty Toes 5K is January 23, 2016, at 9 AM, and for those interested to contact any member of the Moyock Women's Club.

Chairman Griggs said he had the opportunity to tour other animal shelters and praised our new shelter as a stand-out. He commended staff on the tremendous amount of work and the team effort needed to get it done and thanked the community for their support.

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

Mr. Scanlon reminded the Board that the next meeting is on Tuesday, January 19, due to the Martin Luther King Holiday, and that prior to the meeting the Board will meet on site at 3:30 PM for the Animal Shelter official dedication. Mr. Scanlon said after moving the animals and shutting down the old shelter, the County would immediately shut down Airport Road for the airport construction.

#### **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.***

Judy Marsenko, Ocean Sands and Crown Point property owners association board member, submitted a paper with questions she would like answered by the Board. Upon review of the questions, Mr. McRee said the questions had come from Coastland Corporation, the plaintiff in a lawsuit against the County, and do not appear to be on behalf of the members of the association.

Doris Flora, Moyock, thanked Commissioner O'Neal for his attempt to encourage the building of a county park in Moyock.

With no one else wanting to speak and the public comment period closed, Chairman Griggs recessed the regular meeting of the Board.

## **SPECIAL MEETING**

### **1. Ocean Sands Water and Sewer District Board**

After recessing the January 4, 2016, regular meeting of the Board of Commissioners, Chairman Griggs called to order the Special Meeting of the Ocean Sands Water and Sewer District Board.

County Attorney, Ike McRee, with the Board sitting as the Governing Board for the Ocean Sands Water and Sewer District Board, reviewed multiple lawsuits filed against the County by Coastland Corporation, who alleges multiple violations of a settlement agreement between them and the County from the 1980's. He reviewed a timeline and detailed the allegations with the Board. Mr. McRee believes that Ocean Sands Water and Sewer District (OSWSD) needs to be a party to the suits, and has retained attorney Jim Schenk to represent the district. The County has filed motions to add OSWSD to the suit, and the attorney believes it is important for the OSWSD Board to authorize council for the district and to consent joining both the litigation and arbitration matter.

The Board asked several questions and Mr. Scanlon said the OSWSD Advisory Board is aware of the suit, but has not yet offered an official position.

Commissioner Payment moved to approve having council represent the Ocean Sands Water and Sewer Board in the matter and specifically consent to allow the water and sewer district's joinder in the lawsuit and arbitration. Commissioner Gilbert seconded and the motion carried unanimously.

With there being no further business, Chairman Griggs moved to adjourn the meeting of the Ocean Sands Water and Sewer District and reconvene the meeting of the Board of Commissioners.

## **CLOSED SESSION**

### **2. Closed session pursuant to G.S. 143-318.11(a)(3) to consult with the county attorney and to preserve the attorney-client privilege regarding the matter captioned Swan Beach Corolla, LLC v. Currituck County.**

Upon reconvening the regular meeting of the Board of Commissioners, Commissioner Gilbert moved to enter Closed Session pursuant to G.S. 143-318.11(a)(3) to consult with the county attorney in order to preserve the attorney-client privilege and to receive advice from the county attorney regarding a claim against the county and for the following pending lawsuit: Swan Beach Corolla v. Currituck County.

Commissioner Beaumont seconded, the motion carried unanimously, and the Board entered closed session.

## **ADJOURN**

### **Motion to Adjourn Meeting**

After returning from closed session, and there being no further business, Commissioner Payment moved to adjourn. Commissioner Hall seconded, the motion carried unanimously, and the meeting was adjourned.

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