



**CURRITUCK COUNTY  
NORTH CAROLINA**

May 2, 2016

Minutes – Regular Meeting of the Board of Commissioners

**WORK SESSION**

**1. 4:00 PM Board of Equalization and Review**

The Currituck County Board of Commissioners met at 4 PM sitting as the Board of Equalization and Review. No one appeared for review. At 4:20 PM Commissioner Aydlett moved to conclude the meeting. Commissioner Payment seconded and the motion carried unanimously.

<b>RESULT:</b>	<b>APPROVED [UNANIMOUS]</b>
<b>MOVER:</b>	O. Vance Aydlett, Vice Chairman
<b>SECONDER:</b>	Mike H. Payment, 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

**CLOSED SESSION-AMENDED AGENDA ITEM**

At the conclusion of the meeting of the Board of Equalization and Review, the Board of Commissioners held a 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. Commissioner Aydlett moved to enter Closed Session, the motion was seconded by Commissioner Payment and carried unanimously.

**5:00 CALL TO ORDER**

The Currituck County Board of Commissioners met at 5 PM for a regular meeting in the Historic Currituck Courthouse Board Meeting Room.

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	

Chairman Griggs called the meeting to order and announced the earlier meeting of the Board of Equalization and Review, with no one appearing.

**A) Invocation & Pledge of Allegiance-Reverend Frank Custer, Mt. Zion United Methodist Church**

Reverend Frank Custer of Mount Zion United Methodist Church gave the Invocation and led the Pledge of Allegiance.

**B) Approval of Agenda**

Chairman Griggs amended the agenda, removing Public Hearing Item B, PB 15-26, Currituck County.

Approved agenda:

**Work Session**

4:00 PM Board of Equalization and Review

***Amended Item: A closed session was held after the work 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.***

**5:00 Call to Order**

- A) Invocation & Pledge of Allegiance-Reverend Frank Custer,  
Mt. Zion United Methodist Church
- B) Approval of Agenda ***(Agenda was amended removing Item B under Public Hearings)***

**Public Hearings**

**A) Public Hearing and Action: PB 15-18 Mashuda Multi-Family:** Request for conditional rezoning of 15.78 acres from Agricultural (AG) to Conditional District - Mixed Residential (C-MXR). The property is located in Barco at the terminus of Patriot Way east of Central Elementary School and on the north side of Shortcut Road (US 158), Tax Map 60, Parcel 99E, Crawford Township.

**B) Public Hearing and Action: PB 15-26 Currituck County:** Request for a use permit to expand the existing Panther Landing Convenience Center located on Panther Landing Road in Moyock, Tax Map 14, Parcel 13B, Moyock Township. ***This item was removed from the agenda. No date set for rehearing.***

**C) Public Hearing & Action: PB 16-08 Aquatic**

**Development Group:** Request a text amendment to allow outdoor recreation use to increase height limit to 110'.

**D) Public Hearing and Action: PB 16-05 Aquatic**

**Development Group:** Request for a conditional rezoning of approximately 52 acres from Heavy Industrial (HI) to Conditional General Business (C-GB) to allow a water park located at 8528 Caratoke Highway in Powells Point, Poplar Branch Township, Tax Map 124, Parcels 13, 137J, 137D, 137F, and 139N.

**E) Public Hearing & Action: PB 16-06 Windswept Pines:**

Request for preliminary plat/use permit for a 59 lot residential subdivision located off Baxter Lane in Moyock, Tax Map 9, Parcels 6 and 11G, Moyock Township.

**F) Public Hearing & Action: Ocean Sands**

**Stormwater Service District**

**New Business**

**A) Board Appointments**

1. Nominations for Initial Appointments to the Animal Shelter Advisory Board
2. Game Commission
3. ABC Board

**B) Consent Agenda**

1. Approval Of Minutes
2. Budget Amendments
3. Resolution Pedestrian Plan Funding:
4. Dominion Power Right of Way Agreement
5. 2016-17 County Funding Plan Approval-NCDPS/Juvenile Crime Prevention Council

**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.***

**Adjourn**

Commissioner Gilbert moved to approve the agenda as amended and was seconded by Commissioner Hall. The motion carried unanimously.

<b>RESULT:</b>	<b>APPROVED [UNANIMOUS]</b>
<b>MOVER:</b>	Marion Gilbert, 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

## PUBLIC HEARINGS

### A. Public Hearing and Action: PB 15-18 Mashuda Multi-Family:

Ben Woody, Planning and Community Development Director, briefly reviewed the rezoning request with the Board, explaining the hearing was reopened at the Board's request to offer the owner of the property and nearby residents the opportunity to provide additional testimony.

<b>ITEM:</b>	PB 15-18 Mashuda Multi-Family Site: a conditional rezoning of 15.78 acres from Agricultural (AG) to Conditional District- Mixed Residential (C-MXR).
<b>LOCATION:</b>	Barco - Patriot Way east of Central Elementary School on north side of Shortcut Road (US 158).
<b>TAX ID:</b>	0060000099E0000
<b>OWNER:</b>	Frank C. And Maria A. Mashuda 2072 Crown Drive St. Augustine, FL 32092-3605 703-909-6935, 703-920-0712
<b>APPLICANT:</b>	ABLX, LLC c/o Brian Innes 378 Caratoke Highway Moyock, NC 27958 252-453-2531

### LAND USE/ZONING OF SURROUNDING PROPERTY:

	<b>Land Use</b>	<b>Zoning</b>
<b>NORTH:</b>	Wastewater treatment plant/ Undeveloped lands/ Farmland	HI/AG
<b>SOUTH</b>	Residential	AG
<b>EAST:</b>	Farmland	AG
<b>WEST:</b>	Wastewater treatment plant/Undeveloped lands	GB

### LAND USE PLAN

**CLASSIFICATION:** The 2006 Land Use Plan classifies the site as Full Service within the Barco-Coinjock-Airport subarea.

The policy emphasis of the Barco-Coinjock-Airport sub-area is to emerge as a principal community center serving the central area of the mainland.

Residential development densities should be medium to high. In areas where central sewer is proposed or existing, additional services are available, and the character of the surrounding areas supports it, higher density ranging from 3-4 units per acre could be considered though the use of overlay zones. Although the densities are in keeping with the policy emphasis of the sub-area, the proposed application is not 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. LOCATION AND DENSITY FACTORS shall include whether the development is within an environmentally suitable area, the type and capacity of sewage treatment available to the site, the adequacy of transportation facilities providing access to the site, and the proximity of the site to existing and planned urban services.

POLICY TR11: ACCESS TO HIGHER INTENSITY DEVELOPMENT shall general not be permitted through an area of lower intensity development. For example, access to a multi-family development, a major park facility or other large traffic generator shall not be permitted through a local street serving a single-family residential neighborhood.

**MAPLE-****BARCO SAP:**

The Maple-Barco Small Area Plan classifies the property as Employment.

The Employment future land use classification is anticipated for land uses that will generate economic activity or job growth. Residential development should be discouraged in areas of the Employment land use category.

Policies not in support of the application include:

POLICY LU1: Provide for very low density development in close proximity to the airport facility and in designated approach zones. Additionally, promote an appropriate mix of development types in the Maple/Barco area.

**CURRENT ZONING:**

Agricultural (AG) Base District  
Airport Overlay District (AO)

**PROPOSED ZONING:** Conditional District - Mixed Residential (C-MXR)**CURRENT USE:** Undeveloped**SIZE OF SITE:**

15.78 acres

**ZONING HISTORY:**

Agricultural (A) - 1989 Zoning Map  
Agricultural (A-40) - 1979 Zoning Map  
Light Industrial (LI) - 1971 Zoning Map

**UTILITIES:**

County water is available to serve this development. The proposed development is requesting connection to the Maple wastewater treatment plant.

**TRANSPORTATION:**

The parcel accesses Caratoke Highway through Patriot Way, a private gravel road that serves single-family residential dwellings. All roads accessing the development must be designed and constructed to meet NCDOT standards.

**FLOOD ZONE:**

The proposed development is located in the X, Shaded X, and AE flood zones.

**WETLANDS:**

According to the applicant, the site does contain 404 wetlands. No

mitigation is proposed within the wetland area. A copy of the wetland delineation shall be submitted during the site plan or subdivision review process.

**SOILS:** The proposed development predominately contains soils that are considered suitable to marginal for on-site septic.

**PLAN REQUEST:** Residential Development  
Mixed Residential (MXR)  
15.74 acres

- Density: 4 units/acre (sustainable incentives)
- Eight two-story buildings
- Open Space
  - Required (30%): 4.72 acres

**PROPOSED ZONING CONDITIONS:**

1. Use: 63 unit multi-family complex consisting of 8 buildings with 8 residential dwelling units in each building with the exception of one building that will contain only 7 dwelling units and a manager office and/or common space for residents.
2. The site will meet Currituck County sustainability requirements necessary to receive density bonus. The sustainability practices planned to be included in this development:
  - Schedule A:1. Use of central air conditioners that are Energy Star qualified.
  - 2. Use of only solar or tankless water heating systems throughout the structure.
- Schedule B:1. Roof eaves or overhangs of three feet or more on southern or western exposures.
2. Inclusion of shade features to shade all windows and doors on the southern building façade.
3. Provision of 150 ft undisturbed buffers adjacent to/surrounding all wetlands or surface waters.
4. Provision of rain gardens or other appropriate stormwater infiltration BMP systems of at least 100 square feet in area.
3. The proposed buildings will not exceed two stories in height.
4. The water main for the site will be constructed such that a connection will be created between the water main adjacent to Patriots Way and the water main that currently terminates at the Maple Commerce Park Wastewater Treatment Plant.
5. The sanitary sewer for the site will be pumped to the Maple Commerce Park Wastewater Treatment Plant.
6. Passive recreational facilities will be provided on-site including:
  - a. A walking trail around the stormwater pond,
  - b. Seating benches adjacent to the walking trail and,
  - c. Accessible picnic platforms adjacent to the pond.
7. Upon development of the county's trail system, the developer will provide a connecting trail from the development to the county's trail system in Maple Commerce Park.

**COMMUNITY MEETING:**

A community meeting was held on October 7, 2015 at 7:00 pm at the Barco Library. The concerns taken from the meeting were related to the development type, densities, traffic, water and fire flow, impacts on the adjacent properties, inadequate public facilities, and proximity to the airport. A detailed summary of the community meeting is provided by the applicant.

**TECHNICAL REVIEW COMMITTEE RECOMMENDATION:**

The conditional zoning process provides an opportunity for an applicant to propose use limitations or development conditions that ensure development proposals are consistent with the policies set forth in adopted plans. The TRC **recommends denial** of the proposed request. The proposed

development is located within the Airport Overlay District (AO), compatible use zone 3. Although the proposed development may not be developed as a subdivision, the UDO states subdivision of land for residential purposes shall be subject to the maximum gross density requirements of the base zoning district. The development application includes a request for sustainability incentives to increase the overall density by one unit per acre. The conditional rezoning request is not consistent with the goals, objectives, and policies of the Land Use Plan and Maple-Barco Small Area Plan and, is not reasonable and in the public interest since the request is not compatible with existing and proposed uses surrounding the land subject to the application. In addition the proposed request would not result in a logical and orderly development pattern.

Additional Staff Concerns:

1. The proposed development is located within the Airport Overlay District (AO), compatible use zone 3.
2. The Maple-Barco Small Area Plan identifies the property as Employment future land use classification that discourages residential development within this area.
3. The proposed development shall meet the multi-family design standards of Chapter 5 of the UDO. The building design and site plan shall meet the requirements in effect at the time of site plan or subdivision submittal. The conditional rezoning does not vest the plan.

After Mr. Woody's review, Commissioner O'Neal moved to reopen the hearing. The motion was seconded by Commissioner Gilbert and carried unanimously.

Mr. Frank Mashuda, of St. Augustine, Florida, and the property owner, recounted his history in Currituck County and stressed the need for housing and jobs. He described his development plan, highlighting its connectivity and walkability to the nearby park, ballfields, school and YMCA. Mr. Mashuda referred to a newspaper article which said schools, housing and amenities are what bring industry, believing the development will help recruit businesses, kick-start development, and perhaps create a new aspect to serve as a model for use in other areas of the county. He said he plans to stay with the project as an equity investor and wants to create a smart, modern community and will abide by any rigorous standards set by the county. He said the community will help pay for the sewer plant. Mr. Mashuda said the rezoning request was due to economic considerations, and he understands the concerns of the single-family residents now living in the community. Mr. Mashuda said there would be no government funding and addressed concerns regarding its location in the airport overlay district.

Larry Gaither, Camden, said he has been a realtor in the Moyock area since 1989. Mr. Gaither addressed property values, believing the development would enhance the value of the adjoining properties.

Rodney Young, a resident of Patriot Way and adjoining property owner, spoke against the complex in his neighborhood, noting when he bought his property in Phase 1 he understood the remainder would also be single family. He expressed concerns of increased traffic and safety, increased light and noise pollution and the potential for increased crime. He spoke of concerns with water runoff, and his belief that his land value will decrease. He addressed approval may potentially be spot zoning, would not follow the Small Area Plan, and addressed its location in the airport overlay zone. Mr. Young noted the intended commercial use for the sewer plant. He asked that a right of way through the industrial park be used to gain access and not allow access through Patriot Way.

With no one else wishing to speak Chairman Griggs closed the Public Hearing.

Commissioner Beaumont moved to deny PB 15-18, Mashuda Multi-Family, because the request is not consistent with the Land Use Plan due to inconsistency with the goals and objectives of the land use plan policies HN1 and TR11, the Barco Small Area Plan because the proposed density is not appropriate for the location since it adjoins and accesses through a four lot private access subdivision,

Commissioner Payment seconded and the motion carried unanimously.

<b>RESULT:</b>	<b>APPROVED [UNANIMOUS]</b>
<b>MOVED:</b>	Paul M. Beaumont, Commissioner
<b>SECONDER:</b>	Mike H. Payment, 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

#### **B. Public Hearing and Action: PB 15-26 Currituck County:**

This item was removed from the agenda.

#### **C. Public Hearing & Action: PB 16-08 Aquatic Development Group:**

Ben Woody reviewed the request for a text amendment to the Unified Development Ordinance (UDO) to allow a height increase for outdoor recreation uses from 60 feet to 110 feet. He reminded the Board that text amendments are effective county wide, suggesting limiting the increase to water parks if they desire.

To: Board of Commissioners  
From: Planning Staff  
Date: April 15, 2016  
Subject: PB 16-08 Aquatic Development Group Text Amendment

The enclosed text amendment submitted by Aquatic Development Group is necessary to make water parks a feasible use in Currituck County. A water park typically offers high waterslides and watchtowers. Exceeding the maximum structure height of 60 feet for outdoor recreation uses is imperative to the construction of a water park.

It is staff's opinion that exceeding the height limit of 60 feet for outdoor recreation uses is appropriate for the use. There is an increased setback to mitigate potential impacts of exceeding the height requirement.

The 2006 Land Use Plan Policy statements that are relevant to the request are as follows:

POLICY ED1: NEW AND EXPANDING INDUSTRIES AND BUSINESSES should be especially encouraged that: 1) diversify the local economy, 2) train and utilize a more highly skilled labor force, and (3) are compatible with the environmental quality and natural amenity-based economy of Currituck County.

POLICY ES1: New development shall be permitted to locate only in areas with SUITABLE SOIL and where ADEQUATE INFRASTRUCTURE is available.

Recommendation:

Planning staff recommends **approval** of the text amendment because it is consistent with the goals, objectives, and policies of the Land Use Plan by promoting new businesses that are compatible with the environmental quality of the county, and it is reasonable and in the public interest because a water park would provide a new type of outdoor recreational opportunity in the county.

Planning Board:

Mr. Cartwright moved to approve PB 16-08 as presented. Mr. Bell seconded the motion and motion carried.

**Planning Board Recommendation (4/12/16)**

Warren Eadus, Quibble & Associations, Shay Balance, and Charles Jordan (8541 Caratoke Hwy. Mother's Home) appeared before the board.

Ms. Glave presented the staff report.

Mr. Craddock asked why 110 feet is being proposed vs. 100 feet.

Ms. Glave said this is the height of the tallest slide being proposed.

Mr. Eadus apologized that Aquatic Development Group was unable to make their flight. He was here to answer any questions the board may have and to provide an overview of the project.

Mr. Craddock asked if the measurement of the height of the slide is measured from grade level to the highest point on the slide.

Ms. Glave said it is measured from grade level to the mid-point of the highest roof surface, which is similar to a house.

Mr. Cooper opened the public hearing.

Mr. Balance said he is in full support of this request.

Mr. Jordan is concerned with the height request due to power tension wires.

Ms. Glave said they are not allowed to develop within the power line easement.

Mr. Whiteman asked if the 110 feet starts at the edge of the easement or edge of the property.

Ms. Glave said the easement. Ms. Glave said the power company has the ultimate say in what can be built within the easement; but the building code and fire code say you can't build any habitable structures or restaurants. A restroom facility would be allowed if it is all concrete.

Mr. Cooper closed the public hearing.

Mr. Craddock said he does have some concern with the height, not for a water slide, but for other structures that may follow.

Mr. Cooper said this request will apply only to outdoor recreation uses.

Mr. Eadus said the applicant would be willing to entertain additional language to limit the height to water slides.

Mr. Whiteman said he agrees that language should be added so that the height request is specific to water slides.

Mr. Craddock asked what safeguards will exist during and after for aviation, i.e. lighting that makes things stand out.

Mr. Eadus said if the FAA does have any requirements, they will meet them.

Ms. Overstreet asked if there was an environmental concern with obstructing the visual environment.

Mr. Eadus said he was not aware of one.

Mr. Cooper asked if a use permit will be required. Ms. Glave said it depends on the zoning.

Mr. Cartwright moved to approve PB 16-08 as presented. Mr. Bell seconded the motion and motion carried.

**PB 16-08****UDO AMENDMENT REQUEST**

Amendment to the Unified Development Ordinance Chapter 10:

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 4.2.4 Commercial Uses is amended by adding the following underlined language:

**(4) Recreation, Outdoor**

Outdoor recreation uses shall comply with the following standards:

- (a)** Outdoor recreation uses shall be screened from abutting major arterial streets with a Type D buffer.
- (B)** Grading shall be limited to a maximum of five feet above or below the grade existing prior to development.
- (C)** No associated outdoor features shall be located between the front façade of the building and the street fronting the lot.
- (D)** Structures associated with outdoor recreation uses may be increased to a maximum height of 60 **110** feet. Structures that exceed 35 feet in height shall be required to maintain a one foot setback from front, side and rear property lines for every one foot of structure height. Guy wires, when applicable, shall conform to district setback provisions.

**Item 2:** 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.

Mr. Woody answered questions from the Board regarding the one-to-one setback requirement and emergency response. Mr. Woody explained setbacks for structures over 35 feet were imposed for both visual relief and safety. He expects employees would be trained to handle emergencies on the attractions with the ability to get patients down for treatment by emergency responders, although he has not yet had a detailed discussion with the applicants. Commissioner Aydlett suggested the Board consider limiting the height allowance to water park usage.

With no further discussion, Chairman Griggs opened the Public Hearing.

Shay Balance of Jarvisburg, representing the land owner Bittersweet Farms/Griggs Investments, stated they are in full support, and noted that Barnhill Contracting company has had variances to operate on the property with a tower higher than the proposed 110 feet.

Warren Eadus of Jarvisburg, representing the applicants, offered to answer any questions the Board may have.

Ken Griggs of 148 Lucinda Lane, also representing Bittersweet Farms/Griggs Investments, stated his support and asked the Board to allow the increase.

With no one else wishing to speak Chairman Griggs closed the Public Hearing, agreeing with Commissioner Aydlett on limiting the height increase to the matter before them.

With no further discussion, Commissioner Griggs moved to approve PB 16-08 with staff recommendations with a condition that the maximum height of 110 feet is limited to outdoor water park features, and because the request is consistent with the land use plan due to the following: it allows new businesses that diversify the local economy (Policy ED1) and that it promotes new businesses that are compatible with the natural amenity based economy of Currituck County; and the request is reasonable and in the public interest because it allows a new type of outdoor recreation opportunity in the county and it does not result in significant adverse impacts on the natural environment.

Commissioner Aydlett seconded. County Attorney, Ike McRee, to ensure the Board's action is clear, suggested adding an additional sentence to item 4d of the text amendment. Chairman Griggs amended his motion to include that the first sentence is to state "outdoor recreation uses may be increased to 60 feet", adding the second sentence to read "Structures associated with water parks may be increased to a maximum height of 110 feet."

The amended motion was seconded by Commissioner Aydlett and carried unanimously.

<b>RESULT:</b>	<b>APPROVED [UNANIMOUS]</b>
<b>MOVED:</b>	David L. Griggs, Board Chairman
<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

#### **D. Public Hearing and Action: PB 16-05 Aquatic Development Group:**

Mr. Woody reviewed the application with the Board. After review, Mr. Woody summarized that the Technical Review Committee (TRC) and Planning Board recommended approval. Staff recommended three conditions, which he reviewed with the Board.

##### **APPLICATION SUMMARY**

###### **Property Owner:**

Bitter Sweet Farms LLC  
PO Box 154  
Harbinger NC 27941

Griggs Investments LLC  
101 W Main St Se 500  
Norfolk VA 23510

###### **Applicant:**

Aquatic Development Group  
13 Green Mountain Dr  
Cohoes NY 12047

**Case Number:** PB 16-05

**Application Type:** Conditional Rezoning

**Parcel Identification Number:** \*

0124-000-0013-0000  
0124-000-137J-0000  
0124-000-0137D-0000  
0124-000-137F-0000

0124-000-139N-0000

\*PINs will change once exempt plat is recorded  
Storage

**Land Use Plan Classification:** Full Service

**Zoning History:** M & A-40 (1975); HM & A (1989)  
Recreation)

**Current Zoning:** HI

**Existing Use:** Vacant, Sand Mine, Material

**Parcel Size (Acres):** 52 ±  
**Plan Request:** Water Park (Outdoor

**Proposed Zoning:** C-GB

### SURROUNDING PARCELS

	<b>Land Use</b>	<b>Zoning</b>
North	Commercial Park, Sand Mine, Vacant	HI & GB
South	Commercial Park, Residential	HI, GB, & AG
East	Residential, Vacant	GB & MXR
West	Sand Mine, Wetlands	HI, GB, AG

### STAFF ANALYSIS

The applicant is requesting to develop an outdoor water park with the ability to add additional outdoor entertainment features (adventure course, etc.). Associated infrastructure and amenities are to include restaurants, water slides, restroom facilities, employee housing/dorms, stormwater management, on site sewer treatment and disposal, parking, and all other required features as required by county, state, and federal regulations. The applicant is requesting to exceed the 60' height limit for outdoor recreational facilities (slides and watch towers) and that request is being processed separately under a text amendment.

This conditional rezoning request for C-GB is reasonable because a water park will provide a new type of outdoor recreational opportunity in the county and will promote economic growth. The establishment of a destination oriented use in the Point Harbor area should be a catalyst for higher quality growth that will help the area transition from existing strip development patterns to compact nodal development. The close proximity of the subject parcel to The Pointe and Kilmarlic golf courses begins to create a critical mass of tourist oriented activities that would have an overall positive impact on the local economy of Lower Currituck.

The policy emphasis of the 2006 Land Use Plan is for this area of Point Harbor to continue to evolve as a full service community, but with better attention to the planning needed to protect residential areas and natural features that make the area so attractive. The subject parcel has very little existing residential development in close proximity and provides a substantial buffer between the proposed development and Albemarle Sound. By clustering new uses in this area of Point Harbor, other more rural or residentially developed areas can remain relatively unaffected by intense commercial development patterns.

### RECOMMENDATION

#### TECHNICAL REVIEW COMMITTEE

The Technical Review Committee recommends **approval** of the conditional rezoning subject to the following:

1. The exempt lot must be subdivided out prior to the Planning Board meeting. (Planning)

#### PLANNING BOARD

Mr. Cooper moved to approve PB 16-05 as presented with staff recommendations due to its consistency with the Land Use Plan, it promotes new and expanding industry that diversifies the local economy, county water is available, it is located in an area that is intended to continue to evolve as a Full Service community, has the opportunity for commercial growth based on tourism lacking in this part of the county, and is reasonable and in the public interest because:

- It promotes economic growth.
- It will provide a new type of outdoor recreation in the county.

- It is in close proximity to other tourism related uses and has adequate separation from existing residential development and environmental resources.
- According to the Comprehensive Transportation Plan, US 158 has an existing capacity of 37,600 vehicles per day - the projected 2035 annual average daily traffic volume is 26,700.

Mr. Cartwright seconded the motion and motion unanimously.

#### **CONSISTENCY STATEMENT**

The conditional zoning request is consistent with the 2006 Land Use Plan because:

- It promotes a new and expanding industry that diversifies the local economy, trains and utilizes a more highly skilled labor force, and is compatible with the environmental quality of the county. (Policy ED1)
- County water is available to the site and the use will help grow the water system. The development will provide its own wastewater treatment plant. (Policy ES1)
- It is located in an area that is intended to continue to evolve as a Full Service community. (Point Harbor Policy Emphasis)
- With limited access from US158 and a focus on landscaping and appearance standards, the request can have a positive impact on the long-term economic prospects for residents and property owners (Policy ML4).

The request is reasonable and in the public interest because:

- It promotes economic growth.
- It will provide a new type of outdoor recreation in the county.
- It is in close proximity to other tourism related uses and has adequate separation from existing residential development and environmental resources.
- According to the Comprehensive Transportation Plan, US 158 has an existing capacity of 37,600 vehicles per day - the projected 2035 annual average daily traffic volume is 26,700.

**CONDITIONS OF APPROVAL**

Only conditions mutually agreed to by the owner(s) may be approved as part of a conditional zoning district. Conditions shall be limited to those that address conformance of development and use of the site with county regulations and adopted plans and that address the impacts reasonably expected to be generated by the development or use. No condition shall be less restrictive than the standards of the parallel general use zoning district.

**Suggested conditions of approval:**

1. All proposed development will be consistent with and currently allowed within GB Zoning. (Applicant)
2. That the fire marshal comments be approved by the TRC at site plan submittal.
3. That a Traffic Impact Analysis (TIA) be provided prior to site plan submittal. All TIA recommendations be incorporated into the site design, consistent with NCDOT approval.

After Mr. Woody's presentation, Commissioners had questions about water capacity, proposed dorm housing, vehicle capacity and parking, and the on-site wastewater treatment plant. Staff confirmed there would be enough water capacity for the park, and Mr. Scanlon said a meeting has been scheduled with applicant to discuss the specifics regarding the wastewater treatment plant.

With no further discussion, Chairman Griggs opened the Public Hearing.

Shay Balance of Jarvisburg, representing Bitter Sweet Farms/Griggs Investments, spoke in favor of the project and gave a history of the land's former use as a mud run. He said Barnhill is currently using the property and again mentioned the height of the tower at the asphalt plant was over 110 feet, noting the tower is no longer there.

Teresa Jenkins, daughter of a thirty year resident across the highway from the project, told the Board of her mother's concerns with noise, hours of operations, and traffic. Mr. Woody said the noise is enforceable with the current ordinance and the Board can set conditions for hours of operation. He said a study would be performed and recommendations made to address traffic issues.

Warren Eadus, Jarvisburg, clarified for Commissioner Gilbert the parking lot accommodates 1800 cars with an expected attendance of 4,000 to 4,500 daily. He said they will abide by any traffic study, stating at least a deceleration lane would be required. Mr. Eadus told Commissioner Hall the dorms, like the wastewater plant, are included as place holders for now, as the plan is flexible. He explained they may need to build housing, which would likely be used seasonally. Mr. Eadus assumes eight to ten permanent, year-round employees, with perhaps thirty or more lifeguards during the summer, with other needs to include restaurant help, ticket sales and control center employees. Mr. Eadus noted Aquatic Development Group's 25 years of experience.

Ken Griggs, Bitter Sweet Farms/Griggs Investments, spoke in favor of the project and would appreciate the Board's support.

Mr. Woody confirmed that after Board approval of the rezoning, the balance of the approval process would be through the Technical Review Committee (TRC). Mr. Woody said technical aspects regarding noise, lighting, screening, landscaping and hours of

operation would be regulated by county ordinances already in place.

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

Chairman Griggs moved to approve PB 16-05 with staff recommendations as the request is consistent with the land use plan because of the following: it promotes a new business that diversifies the local economy and is compatible with the environmental quality of the county. (Policy ED1); it is located in an area that is intended to continue to evolve as a full-service community and additionally with a focus on high-quality, tourist-oriented development. The request can have a positive impact on the long-term economic prospects for the residents and property owners (Policy ML4). The request is reasonable and in the public interest because it promotes economic growth, will provide a new type of outdoor recreation in the county and it is in close proximity to other tourism related uses and has adequate separation from the existing residential development and environmental resources. Conditions include that fire marshall comments be included in approval, traffic impact analysis be provided, and limited to uses in the General Business zoning district.

Commissioner Payment seconded and the motion carried unanimously.

<b>RESULT:</b>	<b>APPROVED [UNANIMOUS]</b>
<b>MOVER:</b>	David L. Griggs, Board Chairman
<b>SECONDER:</b>	Mike H. Payment, 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

#### **E. Public Hearing & Action: PB 16-06 Windswept Pines:**

Parties were sworn in for the proceeding and Chairman Griggs opened the Public Hearing. Mr. Woody reviewed the project request with the Board.

##### **INFRASTRUCTURE**

WATER	PUBLIC
SEWER	ON-SITE SEPTIC
TRANSPORTATION	PEDESTRIAN: 5' WIDE SIDEWALKS SHALL BE INSTALLED ALONG BOTH SIDES OF THE STREETS
STORMWATER/DRAINAGE	CONNECTIVITY SCORE: 1.4
SCHOOLS	ROADSIDE SWALES AND PONDS ELEMENTARY STUDENTS GENERATED: 14 STUDENTS (159) MIDDLE SCHOOL STUDENTS GENERATED: 4 STUDENTS (251) HIGH SCHOOL STUDENTS GENERATED: 8 STUDENTS (89)
RECREATION AND PARK AREA	1.48 ACRES - PAYMENT IN LIEU OF DEDICATION WILL BE ACCEPTED IN THE AMOUNT OF \$9,065.
DEDICATION	
RIPARIAN BUFFERS	30' RIPARIAN BUFFER IS REQUIRED ADJACENT TO ALL 404 JURISDICTIONAL WETLANDS (EXCLUDING MAN-MADE DITCHES)

##### **RECOMMENDATIONS**

Technical Review Committee

1. THE TECHNICAL REVIEW COMMITTEE RECOMMENDS ADOPTION OF THE USE PERMIT AND APPROVAL OF THE PRELIMINARY PLAT SUBJECT TO THE FOLLOWING CONDITIONS OF APPROVAL:
  - A. ALL LOTS SHALL MEET A MINIMUM LOT WIDTH OF 100 FEET.
  - B. SIDEWALKS SHALL BE A MINIMUM 5' IN WIDTH.
  - C. THE 25' DRAINAGE EASEMENT SHALL BE MEASURED FROM THE TOP OF BANK AND INCLUDE THE DITCH WHERE IT DRAINS MORE THAN 5 ACRES.
  - D. BASED ON THE TOTAL NUMBER OF LOTS, A MINIMUM OF TWO ACCESS POINTS ARE REQUIRED FOR THIS SUBDIVISION. DURING THE CONDITIONAL REZONING PROCESS, THE APPLICANT PROVIDED AN ACCESS TO THE DEVELOPED PROPERTIES TO THE NORTH. HOWEVER, THE LAND OWNER (N/F ALLISON/KEMP) HAS DECLINED THE REQUIRED CONNECTION. PAYMENTS IN LIEU OF THE CONSTRUCTION OF THE INTERCONNECTION WILL BE REQUIRED OR AN ALTERNATE INTERCONNECTION SHALL BE PROVIDED AND APPROVED.
  - E. THE PRELIMINARY PLAT SHALL CONTAIN THE FOLLOWING ADDITIONAL INFORMATION:
    - I. WETLAND JURISDICTIONAL BOUNDARIES.
    - II. LEGEND FOR SIDEWALKS AND OTHER FEATURES ON THE PLAN. CROSSWALK LOCATIONS SHALL BE DETERMINED AT CONSTRUCTION DRAWING REVIEW.
    - III. TYPE B BUFFERYARD ALONG ALL PERIMETERS THAT ADJOIN A RESIDENTIAL SINGLE FAMILY DEVELOPMENT OR AG ZONING DISTRICT WITH SELECTED WIDTHS (10' OR 25') AND MINIMUM PLANTING REQUIREMENTS (INCLUDING THE ENTIRE N/F ALLISON/KEMP PARCEL).
    - iv. The eastern portion of the property is shown as not a part and the proposed lot line shall be completely closed.
    - v. All open space shall be clearly identified on the plan.
2. A use permit shall be approved on a finding that the applicant demonstrates the proposed use will meet the use permit review standards. It is staff's opinion that the evidence in the record, prepared in absence of testimony presented at a public hearing, supports the preliminary applicant findings.
3. The conditions of approval necessary to ensure compliance with the review standards of the UDO and to prevent or minimize adverse effects of the development application on surrounding lands include:
  - a. Plan corrections shall be submitted prior to issuance of the use permit.

#### Planning Board

Mr. Cartwright moved to approve PB 16-06 as presented with staff recommendations, use will not endanger the public health or safety, the use will not injure the value of adjoining or abutting land and will be in harmony with the area in which it is located; the use will be in conformity with the Land Use Plan or other officially adopted plans; and the use will not exceed the county's ability to provide adequate public facilities. Mr. Craddock seconded the motion carried unanimously.

#### USE PERMIT REVIEW STANDARDS

The use will not endanger the public health or safety.

##### PRELIMINARY APPLICANT FINDINGS:

1. THE USE WILL ADHERE TO COUNTY HEALTH AND SAFETY STANDARDS, THE NEED TO CROSS THE RAILROAD HAS BEEN ELIMINATED, ALL LOTS WILL FRONT ON LOW-SPEED INTERIOR STREETS, AND WILL BE SERVED WITH PUBLIC WATER SUPPLY. 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 SOUTH HAS BEEN DEVELOPED INTO SINGLE FAMILY HOMES; THE HOMES THAT WILL BE CONSTRUCTED IN THIS SUBDIVISION WILL BE SIMILAR TO EXISTING HOMES IN THE AREA.
2. APPROPRIATE LANDSCAPE BUFFERS AND FARM BUFFERS ARE PROVIDED, AND EXISTING DRAINAGE CONCERN ARE BENING ADDRESSED.

3. 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 Applicant Findings:

1. THE MOYOCK SMALL AREA PLAN CLASSIFIES THIS AREA AS FULL SERVICE. THE PROPOSED DEVELOPMENT DENSITY IS ONLY 1.24 UNITS PER ACRE, WELL BELOW THE DENSITIES OF 1.5 TO 3 UNITS PER ACRE ENVISIONED IN THE MOYOCK SMALL AREA PLAN.

RELEVANT MSAP AND 2006 LUP POLICIES:

1. 2006 LUP POLICY HN1: Currituck County shall encourage development to occur at densities appropriate for the location. LOCATION AND DENSITY FACTORS shall include whether the development is within an environmentally suitable area, the type and capacity of sewage treatment available to the site, the adequacy of transportation facilities providing access to the site, and the proximity of the site to existing and planned urban services. For example, projects falling within the Full Services areas of the Future Land Use Map would be permitted a higher density because of the availability of infrastructure as well as similarity to the existing development pattern. Such projects could be developed at a density of two (2) or more dwelling units per acre. Projects within areas designated as Limited Service would be permitted a density of one (1) to one and one half (1.5) units per acre depending upon the surrounding development pattern and availability of resources. Projects within areas designated as Rural or Conservation by the Future Land Use Plan would be permitted a much lower density of 1 dwelling unit per 3 acres because of the lack of infrastructure in the area, the existing low density development pattern, and presence of environmentally sensitive natural areas.
2. 2006 LUP POLICY HN2: Currituck County recognizes that large-lot mini-estates (i.e. 5 to 10 acres) consume large amounts of land, often without economic purpose. Estate lots having no relationship to agriculture or other resource-based activities promote sprawl and make the provision of infrastructure and services very costly. The County shall therefore encourage alternatives to large lot developments through INNOVATIVE DEVELOPMENT CONCEPTS AND CORRESPONDENCING ZONING techniques.
3. 2006 LUP POLICY TR12: New residential developments shall provide for the installation of PAVED PUBLIC ROADWAY AND DRAINAGE INFRASTRUCTURE at the time of development. This policy is intended to prevent the creation of substandard developments that must later correct for infrastructure problems that could have been avoided, had they been installed properly from the beginning. Family subdivisions and non-asphalt roads serving the northern beaches are the only exception to this policy.
4. 2006 LUP POLICY PR6: All new residential development shall provide for ADEQUATE OPEN SPACE AND RECREATION IMPROVEMENTS including, as may be appropriate, funding in proportion to the demand created by the development. The amount of open space and improvements may be determined according to the number of dwelling units in the development and/or by a percentage of the total acreage in the development. Fees in lieu of land dedication shall be based on the inflation adjusted assessed value of the development or subdivision for property tax purposes.
5. 2006 LUP POLICY WQ3: Currituck County supports policies, plans, and actions that help protect the water quality of the county's estuarine system by preventing SOIL EROSION AND SEDIMENTATION, and by controlling the quantity and quality of STORMWATER RUNOFF entering the estuary.

6. MSAP POLICY IS4: Ensure that stormwater runoff, soil erosion, and sedimentation is properly managed to reduce nuisance flooding and pollution of sensitive environmental areas.
7. MSAP POLICY IS5: Encourage retrofitting of NCDOT drainage infrastructure to manage nuisance flooding.

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 APPLICANT FINDINGS:**

1. CURRITUCK COUNTY HAS ADEQUATE PUBLIC FACILITIES TO SERVE THE PROPOSED SUBDIVISION.

**PLANNING BOARD DISCUSSION (4/12/16)**

Mark Bissell, Bissell Professional Group, Richard Truran (151 Baxter Lane), Ben Woody, and Donna Voliva appeared before the board and were sworn in.

Ms. Voliva presented the staff report.

Mr. Cooper asked how far off the property line will the cul-de-sac to the north be?

Ms. Voliva said it is just to the south of the ditch that exists, which is approximately a 5 to 10 foot separation. This project will be subject to the current stormwater manual.

Mr. Cooper asked what is the proposed density vs. the allowed density.

Ms. Voliva said the project density is 1.17 units per acre; and with the conditional rezoning, that was approved, they are allowed 20,000 sq. ft. minimum lot size and a total of 59 lots are proposed.

Mr. Bissell provided an overview of the project. The project will be done in the MXR District which has a higher level of design. All lots have been approved by the health department as provisional suitable. All lots back up to open space and buffering will be Type B. This request is consistent with the Moyock Small Area Plan and the Land Use Plan. Three community meetings have been held and the primary concerns were drainage. They have proposed improvements to the drainage onsite as well as off-site, which is more than what the conditional rezoning conditions call for. Mr. Bissell said they are constructing a new bypass drainage system that takes all the water coming from the northeast, under Hwy. 168 and the railroad and routing it around the site. The ditch that currently runs down the Truran property line and taking 80-90 percent of the water out of this ditch by bypassing it. They will be putting a new ditch and new culvert in, which will be a 60" pipe under Baxter Lane and moving the existing culvert.

Mr. Cooper opened the public hearing.

Mr. Truran said he is concerned with existing drainage issues, ditches not being cleaned out, and this request will decrease property values. Mr. Truran said he owns a 10 acre lot. When these lots were developed it was called Martha Vineyard. Because of the poor drainage on this property, the county would not put three acre lots on it. The last two 10 acre lots are currently zoned agricultural and cannot be subdivided unless retention ponds are installed. Mr. Truran provided pictures of his property during a heavy rain.

Mr. Cooper said this development will have to adhere to the new stormwater manual regulations.

Mr. Craddock asked Mr. Truran does the stormwater pond on his property help with his drainage on his lot.

Mr. Truran said yes.

Mr. Bissell said Mr. Truran is right that the drainage he has right now is terrible; but with what they are proposing will take approximately 80-90 percent of the water out of his ditch. The project will have two stormwater ponds onsite and this will help substantial help improve the drainage.

Mr. Whiteman asked what will be done to mitigate flooding to surrounding properties during construction.

Mr. Bissell said an erosion and soil plan will be submitted.

Mr. Bell asked if anything can be done to evaluate and improve the water downstream to the creek.

Mr. Bissell said there is a hairpin turn at the end of NCDOT maintenance where a substandard culvert is located and drains to the creek.

Mr. Cooper closed the public hearing.

Mr. Bell made a recommendation that it be looked into how culvert at the hairpin turn could be enlarged.

Mr. Cooper asked if a ditch or culvert that is on private property, which gets hundreds of acres of land that drains and gets clogged up; does the stormwater manual address this issue.

Mr. Woody said this is why there is a high retention standard onsite to avoid over straining the outfalls.

Mr. Craddock asked if there is a way the Planning Board could recommend to the Board of Commissioners to recommend to NCDOT to look into county ditches?

Mr. Woody said the board should provide a motion and vote for this request, then after this may make a statement asking the Board of Commissioners to look into the this issue.

Mr. Cooper said he and the board received an email from Charles and Kathleen Kemp and the majority of their concerns have been discussed by the board tonight.

Mr. Cartwright moved to approve PB 16-06 as presented with staff recommendations, use will not endanger the public health or safety, the use will not injure the value of adjoining or abutting land and will be in harmony with the area in which it is located; the use will be in conformity with the Land Use Plan or other officially adopted plans; and the use will not exceed the county's ability to provide adequate public facilities. Mr. Craddock seconded the motion carried unanimously.

Mark Bissell of Bissell Engineering of Kitty Hawk, representing Allied Properties, believes the plan to be consistent with the Moyock Small Area Plan and the Land Use Plan. Mr. Bissell said all TRC questions have been addressed, as has citizen concerns regarding drainage. He described a plan to construct a new drainage outfall utilizing a newly installed culvert under Baxter Lane, with onsite drainage also discharging via this new bypass. Mr. Bissell believes existing residents will see stormwater relief and that the project meets all of the county policy requirements.

Commissioner O'Neal referenced an email in the file from the Army Corp of Engineers stating that some ditching had not been designated as Waters of the US. Mr. Bissell said the email referred to two ditches, with Army Corp claiming responsibility as US waters if ditches have a bottom width of four foot. Commissioner O'Neal said folks should be concerned with what the Federal Government is doing in this regard.

Mike Kennedy of Moyock is concerned that 58 additional homes, with surrounding communities and more to come, will make Baxter Lane unsafe, explaining challenges with trying to turn onto or from Baxter Lane onto the highway. He asked the Board to reconsider access over the railroad tracks. Mr. Kennedy said he is not opposed to building but thinks infrastructure must be in place, with developers helping to build it.

Commissioner Beaumont asked Mr. Woody to review the school formula for capacity with regard to new subdivision approvals. Mr. Woody explained the calculations for school needs and addressed difficulties acquiring railroad crossing approvals and associated fees, which can be very expensive over time. Mr. Woody said there will be connectivity within the year which will allow exiting via Tulls Creek Road to the traffic signal. Commissioner Griggs asked Mr. Woody to address the developer responsibility for infrastructure and restrictions regarding the county's ability to collect impact fees.

Mr. Bissell said the North Carolina Department of Transportation reviewed the plan and had no objections and two railroad companies were opposed to allowing the crossing if there was a reasonable alternative. He also said the Baxter Estates to Shingle Landing connectivity was ready to begin, and hopefully a light would be installed at some point.

Mr. Woody pulled up a map to show the plan for interconnectivity.

After discussion, and with no one else wishing to speak, Chairman Griggs closed the public hearing.

Commissioner Gilbert moved to approve PB 16-06, Windswept Pines, for the preliminary plat permit for 59 lots to include staff recommendations and in addition to conditions 3, 4, and 5, to install the culverts under Baxter Lane to improve off-site drainage and to perform an evaluation of the existing main ditch, the Truran/Ward property line from the site to Baxter Lane if warranted and also to explore the possibility of routing a portion of stormwater runoff of the northeast, and to include the additional changes in the plat that was presented regarding the US Waterways.

Commissioner Hall seconded and the motion carried unanimously.

Commissioner O'Neal raised the issues with traffic, stating they have existed for some time and every citizen has concerns as new subdivisions go in. He asked that an independent engineering firm perform a study. Dan Scanlon, County Manager, explained the challenges with independent study, as the county doesn't have any way to rectify a problem if found. Commissioner O'Neal believes a study could help future boards make decisions or to lobby the state as to what our traffic issues are. The Board agreed and asked staff to look into affecting a study and bring the information back to the Board for consideration.

<b>RESULT:</b>	<b>APPROVED [UNANIMOUS]</b>
<b>MOVER:</b>	Marion Gilbert, 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

## ) Recess

Chairman Griggs called a ten minute recess before hearing the next item.

## F. Public Hearing & Action: Ocean Sands Stormwater Service District

Commissioners returned from recess and Chairman Griggs called the meeting back to order.

County Manager, Dan Scanlon, began with a brief explanation of stormwater districts and that several successful ones currently exist throughout the county. Mr. Scanlon said members of the Ocean Sands & Crown Point subdivision Property Owners Association created a sub-committee that spent two years researching and exploring options to alleviate recurrent flooding issues within their community. Mr. Scanlon said committee members

would present their recommendations to support the creation of a stormwater service district, while another would present an opposing view.

Chairman Griggs opened the public hearing:

Barbara Marzetti, a resident of Ocean Sand in Corolla and member of the Ocean Sands/Crown Point Stormwater Committee, introduced committee members in attendance who would also be presenting. After introductions, Ms. Marzetti used a powerpoint to present information and data to support the creation of the district. Information included the causes and impacts of flooding and photos depicting past flooding in the community. She provided estimated tax revenues based on an initial rate of .05 cents. Ms. Marzetti said of 19 members of the stormwater committee only 4 were adversely affected by flooding. Ms. Marzetti described efforts to work with developer, Coastland Corporation, and noted non-responsiveness and other issues that inhibit the committee's ability to move forward. She reviewed resident outreach and presented survey results showing over 93% of the 330 respondents were in support of the creation of a stormwater district. Ms. Marzetti said a district is the only viable option and asked the Board for their help.

Linda Garczynski of Kitty Hawk, and 30 year owner in Ocean Sands, commended the work of the Stormwater Committee. She discussed the possibility of having to comply with new federal stormwater regulations and addressed costs and health impacts of standing water. Ms. Garczynski believes Coastland Corporation has been disrespectful to property owners and that homeowners deserve the same solution as the Whalehead subdivision.

Gerrilea Adams, a resident of Crown Point, Corolla, and member of both the Stormwater Committee and the Crown Point Property Owners Association, noted the overwhelming positive survey response, believing it a valid sample size for the population. She said there are ninety (90) lots in Crown Point, noting one held by Coastland Corporation allowed them control of the Property Owners Association. Ms. Adams said homeowners unanimously supported creation of the district based on a vote at the recent Crown Point owners meeting and creating a district would insure a responsive solution.

Braxton Hill, a resident of Virginia Beach and Vice President of Coastland Corp, spoke in opposition to the creation of the Stormwater District. Noting he would agree with much of what had been presented by the committee, he refuted the process being followed. Mr. Hill referred to a document previously submitted to the Board by Coastland Corporation questioning whether sufficient due diligence was performed. He said three stormwater management engineers have collaborated to bring alternative solutions to those proposed in the Moffatt & Nichols' engineering report, a preliminary engineering study performed for the stormwater committee, and expressed his concern with the \$9-\$10 million dollar cost set out in that study. He asked the Board to deny the creation of the district, so he could have more time affording him the opportunity to meet with Ed Pence to discuss engineering alternatives and to research commercial financing options in lieu of public financing through the county.

Mr. Hill's comments regarding finance were questioned by the Board. Mr. Scanlon said a public financing would be preferable because government can borrow at lower rates,

is less expensive and can be deducted. Commissioner O'Neal asked about collateral for the financing he suggested. Mr. Hill said property liens would be used as collateral and an assessment would be instituted. He said it would have to be approved by property owners with a two thirds vote.

Mr. Hill, responding to Chairman Griggs question as to why nothing has been done to resolve the community's flooding problem, said he met with Eric Weatherly, County Engineer, eight years ago to resolve flooding issues in Sea Loft village and discussed at that time the need to also resolve other flooding issues in the community. Coastland Corporation voted in favor of the Moffat & Nichol study, but Mr. Hill believes one report, with no information on financing or operational cost, does not constitute enough due diligence.

Commissioner Beaumont said the county has been successful in other districts to address stormwater and Coastland may have been acting as obstructionists. Commissioner Payment said he understands why the community got tired of waiting, believing if they hadn't taken the initiative no solutions would have been presented by Coastland.

Mr. Hill questioned the validity of the report submitted by the Stormwater Committee and County Attorney, Ike McRee, reviewed statutory requirements and said the report met those requirements. Mr. McRee also noted a document that Mr. Hill referred to earlier, which was created by the Soil & Water Department on how to create a stormwater district, was a guideline.

Asked directly by Commissioner O'Neal to provide to the Board what his objections are and what he is asking for, Mr. Hill said he wishes to be provided the opportunity to perform necessary due diligence.

Mr. Scanlon said Mr. Hill is asking legitimate questions, noting both sides agree an issue exists. Mr. Scanlon explained to the Board that the committee paid for a preliminary study but there are questions that need to get vetted out, and in order to do so, the committee is asking for an initial .05 cent assessment to be able to move to a detailed study, which will look at different options and answer all of the questions being asked.

Roger Green of Sea Mist Court, Ocean Sands, agrees with the stormwater committee recommendations and would like to see the plan implemented.

Gemma Green said her property has not flooded but flooding makes it difficult to get into their property. She supports the district.

Kerry Reed of Crown Point spoke in support of the district, saying their home doesn't flood but neighbor's houses do.

Mary Riley of Sunrise Court, Corolla, spoke in support of committee recommendations and formation of the service district. She said surrounding homes have had severe flooding and expressed concern that emergency vehicles cannot respond.

Pat Riley of Sunrise Court, Ocean Sands said he is a 30 year resident strongly supports the creation of the district.

Karl Suter, a non-resident homeowner on Oleander Ct., Ocean Sands, supports the district as a member of the stormwater committee. He believes a district to be the only solution. He said the majority of seats on the board of the property owners association are held by Coastland Corporation and the district would provide a broad based community way to address the flooding problem. He said financing needs to be through the district.

Mark Palsha, Section F, president of the Indian Summer homeowners association representing 30 owners. He said he acknowledges the stormwater problems but wishes to keep the costs down. He cited saturation and high groundwater as the cause of flooding. He questioned where water would be pumped and expressed concerns about expenses and infrastructure costs, believing other options should be explored.

Al Marzetti of Sea Oats Ct, Ocean Sands, is a member of the Ocean Sands Property Owners Association and on the Stormwater Committee. He spoke in support of the district and refuted arguments raised by Mr. Hill. Mr. Marzetti said commercial bank financing cannot compete with government bond funding and that Coastland is trying to delay. He said the special assessment proposed by Coastland, which requires 2/3 majority, would not pass, believing the community does not want Coastland Corporation in charge of the stormwater plan. Mr. Marzetti said the committee did communicate with Mr. Hill, and that the county had provided the required report after revising the draft the committee sent in. Rules and procedures were followed and adequate notice was provided. He agreed securing grant money is a good idea and would be part of the duties of the advisory board.

Ed Pence of Juniper Berry Court, spoke in support of the district. Mr. Pence talked about the preliminary study noting one solution presented was a groundwater lowering system similar to what was implemented in Whalehead subdivision. He reviewed the next steps, stating the committee would review solutions from others and he would be happy to meet with Mr. Hill next week. Mr. Pence noted the disagreement seems to be who is going to pay and who is going to facilitate the system. He asked for approval.

Chairman Griggs closed public hearing. He acknowledged the long term problem and noted the annual assessment would be in the range of \$180-\$200 dollars per property based on average home values. Commissioner Aydlett agreed, saying it is time to resolve the issue.

Commissioner Aydlett moved to approve the resolution establishment of the service district.

Commissioner Beaumont seconded and the motion carried unanimously.

<b>RESULT:</b>	<b>APPROVED [UNANIMOUS]</b>
<b>MOVER:</b>	O. Vance Aydlett, Vice Chairman
<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

## NEW BUSINESS

### A) Board Appointments

#### 1. Nominations for Initial Appointments to the Animal Shelter Advisory Board

Commissioner O'Neal asked that these appointments be continued to the next meeting so a consensus could be reached for all appointments.

Commissioner Gilbert seconded, suggesting a possible work session for discussion. The motion carried unanimously.

<b>RESULT:</b>	<b>CONTINUED [UNANIMOUS]</b>	<b>Next: 5/16/2016 5:00 PM</b>
<b>MOVER:</b>	S. Paul O'Neal, Commissioner	
<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	

#### 2. Game Commission

Commissioner Aydlett reappointed Steve Lewark to the Game Commission. Chairman Griggs seconded and the nominee was unanimously approved.

<b>RESULT:</b>	<b>APPROVED [UNANIMOUS]</b>
<b>MOVER:</b>	O. Vance Aydlett, Vice Chairman
<b>SECONDER:</b>	David L. Griggs, Board 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

#### 3. ABC Board

Commissioner Aydlett asked to continue this item to the next meeting. The request was approved unanimously.

<b>RESULT:</b>	<b>CONTINUED [UNANIMOUS]</b>	<b>Next: 5/16/2016 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 D. Hall, Commissioner, Mike H. Payment, Commissioner	

## B) Consent Agenda

Commissioner O'Neal moved to approve the consent agenda. Commissioner Gilbert seconded and the motion carried unanimously.

<b>RESULT:</b>	<b>APPROVED [UNANIMOUS]</b>
<b>MOVER:</b>	S. Paul O'Neal, Commissioner
<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

### 1) Approval Of Minutes

**April 18, 2016 Minutes**

### 2. Budget Amendments

Account Number	Account Description	Debit		Credit	
		Decrease Revenue or Increase Expense	Increase Revenue or Decrease Expense		
10795-536000	Uniforms	\$ 10			
10795-545100	Credit Card Fees	\$ 500			
10795-590000	Capital Outlay	\$ 4,000			
10795-511000	Telephone & Postage		\$ 260		
10795-576010	Cheerleading		\$ 250		
10795-576009	Youth Soccer		\$ 3,000		
10795-514800	Fees Paid to Officials		\$ 1,000		
		<b>\$ 4,510</b>	<b>\$ 4,510</b>		
<b>Explanation:</b>	Parks and Recreation (10795) - Transfer budgeted funds to credit card fees due to higher utilization of payment of youth recreation registration with credit cards. Transfer to capital outlay to purchase additional soccer goals.				
<b>Net Budget Effect:</b>	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
10531-514000	Travel	\$ 3,000	
10531-532000	Supplies	\$ 7,625	
10531-545000	Contracted Services	\$ 10,000	
10330-445000	Emergency Mgmt		\$ 20,625
		<b>\$ 20,625</b>	<b>\$ 20,625</b>

**Explanation:** Emergency Management (10531) - Increase appropriations for receipt of 2015 Emergency Management Planning Grant.

**Net Budget Effect:** Operating Fund (10) - Increased by \$20,625.

<u>Account Number</u>	<u>Account Description</u>	Debit	Credit
		Decrease Revenue or Increase Expense	Increase Revenue or Decrease Expense
66868-513000	Utilities	\$ 60,000	
66868-514500	Training & Education	\$ 248	
66868-532000	Supplies	\$ 8,000	
66868-533800	Chemicals	\$ 3,000	
66868-561000	Professional Services	\$ 1,335	
66360-470000	Utilities Charges		\$ 56,583
66868-531400	Equipment Fuel		\$ 5,000
66868-590000	Capital Outlay		\$ 11,000
		<b>\$ 72,583</b>	<b>\$ 72,583</b>

**Explanation:** Southern Outer Banks Water (66868) - Transfer funds for operations and increase appropriations for increasing utility costs.

**Net Budget Effect:** Southern Outer Banks Water Fund (66) - Increased by \$56,583.

<u>Account Number</u>	<u>Account Description</u>	Debit	Credit
		Decrease Revenue or Increase Expense	Increase Revenue or Decrease Expense
10445-532000	Supplies	\$ 400	
10445-511000	Telephone & Postage		\$ 400
		<b>\$ 400</b>	<b>\$ 400</b>

**Explanation:** Human Resources (10445) - Transfer funds for operations for the remainder of this fiscal year.

		Debit	Credit
<u>Account Number</u>	<u>Account Description</u>	Decrease Revenue or Increase Expense	Increase Revenue or Decrease Expense
10380 484001	Insurance Recovery		\$ 4,113
10530 516200	Vehicle Maintenance	\$ 4,113	
		<u>\$ 4,113</u>	<u>\$ 4,113</u>

**Explanation:** Emergency Medical Services (10530) - Increase appropriation to record insurance proceeds to repair EMS vehicle involved in an accident.

		Debit	Credit
<u>Account Number</u>	<u>Account Description</u>	Decrease Revenue or Increase Expense	Increase Revenue or Decrease Expense
64848-545000	Contracted Services		\$ 6,000
64848-590000	Capital Outlay		\$ 1,100
64848-533200	Lab Test		\$ 2,000
64848-553000	Dues and Subscriptions		\$ 500
64848-513000	Utilities		\$ 600
64848-531000	Gas	\$ 50	
64848-532000	Supplies	\$ 9,050	
64848-516000	Repairs and Maintenance	\$ 1,100	
		<u>\$ 10,200</u>	<u>\$ 10,200</u>

**Explanation:** Maple Commerce Park (64848) - Transfer funds for operations for the remainder of this fiscal year.

		Debit	Credit
<u>Account Number</u>	<u>Account Description</u>	Decrease Revenue or Increase Expense	Increase Revenue or Decrease Expense
61818-590000	Capital		\$ 20,500
61818-531000	Fuel		\$ 7,500
61818-557100	Software License Fees		\$ 172
61818-561000	Professional Services		\$ 3,000
61818-511000	Telephone and Postage		\$ 2,000
61360-471000	Tap and Connection Fees		\$ 14,828
61818-533800	Chemicals	\$ 2,000	
61818-545100	Credit Card Fees	\$ 5,000	
61818-532000	Supplies	\$ 25,000	
61818-533200	Lab Tests	\$ 1,500	
61818-513000	Utilities	\$ 14,000	
61818-514500	Training And Education	\$ 500	
		<u>\$ 48,000</u>	<u>\$ 48,000</u>

**Explanation:** Mainland Water (61818) - Transfer funds for operations for the remainder of this fiscal year and increase for increases in utility costs and utilization of credit cards by customers.

**Net Budget Effect:** Mainland Water Fund (61) - Increased by \$14,828.

<u>Account Number</u>	<u>Account Description</u>	Debit	Credit
		Decrease Revenue or Increase Expense	Increase Revenue or Decrease Expense
67878-513000	Utilities	\$ 2,000	
67878-516000	Repairs & Maintenance	\$ 2,000	
67878-533200	Lab Tests	\$ 2,000	
67878-533800	Chemicals	\$ 12,000	
67878-545000	Contract Services	\$ 8,500	
67878-511000	Telephone & Postage		\$ 75
67878-532000	Supplies		\$ 500
67878-545100	Credit Card Fees		\$ 2,000
67878-553000	Dues & Subscriptions		\$ 730
66878-557100	Software License Fees		\$ 39
66878-590000	Capital Outlay		\$ 2,157
67380-484001	Insurance Recovery		\$ 11,689
67360-470000	Utility Charges		\$ 9,310
		<u>\$ 26,500</u>	<u>\$ 26,500</u>

**Explanation:** Moyock Central Sewer (67878) - Transfer funds for operation and increase appropriations to record insurance recovery from storm damage and for chemicals.

**Net Budget Effect:** Moyock Central Sewer Fund (67) - Increased by \$20,999.

<u>Account Number</u>	<u>Account Description</u>	Debit	Credit
		Decrease Revenue or Increase Expense	Increase Revenue or Decrease Expense
68888-590000	Capital Outlay		\$ 6,500
68888-531000	Fuel		\$ 500
68888-532000	Supplies		\$ 2,500
68888-545000	Contract Services		\$ 2,000
68360-480700	Penalties & Interest		\$ 1,342
68888-516000	Repairs and Maintenance	\$ 5,500	
68888-533200	Lab Test	\$ 1,000	
68888-513000	Utilities	\$ 5,000	
68888-533800	Chemicals	\$ 532	
68888-553000	Dues & Subscriptions	\$ 810	
		<u>\$ 12,842</u>	<u>\$ 12,842</u>

**Explanation:** Walnut Island Sewer (68888) - Transfer for operations and increase appropriations for chemical and annual operation permit.

**Net Budget Effect:** Walnut Island Sewer Fund (68) - Increased by \$1,342.

Account Number	Account Description	Debit	Credit
		Decrease Revenue or Increase Expense	Increase Revenue or Decrease Expense
10512-503000	Salaries - Part-time	\$ 12,309	
10512-505000	FICA	\$ 942	
10512-513000	Fuel		\$ 1,000
10512-513000	Utilities		\$ 12,251
		<b>\$ 13,251</b>	<b>\$ 13,251</b>

**Explanation:** Animal Services and Control (10512) - Transfer funds for additional part-time employees hours needs for the initial start-up and move to the new facility.

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

Account Number	Account Description	Debit	Credit
		Decrease Revenue or Increase Expense	Increase Revenue or Decrease Expense
30850-507100	Law Enf Separation Allowance	\$ 4,500	
30850-505000	FICA	\$ 345	
30850-545000	Contract Services		\$ 4,845
		<b>\$ 4,845</b>	<b>\$ 4,845</b>

**Explanation:** Post-employment Benefits (30850) - Transfer funds to increase the Law Enforcement Separation Allowance due to additional retiree.

**Net Budget Effect:** Post-employment Benefits Fund (30) - No change.

<u>Account Number</u>	<u>Account Description</u>	Debit	Credit
		Decrease Revenue or Increase Expense	Increase Revenue or Decrease Expense
63320-413000	Tire Tax		\$ 10,000
63320-413600	Solid Waste Disposal Tax Revenue		\$ 11,000
63340-462000	Tipping Fees		\$ 25,000
63360-470000	Utilities Charges		\$ 45,000
63380-482300	Recycling - Co-Mixed		\$ 15,000
63390-499900	Appropriated Fund Balance		\$ 84,000
63838-513000	Utilities	\$ 400	
63838-545001	Contract Services - Collection	\$ 120,000	
63838-545002	Contract Services - Disposal	\$ 80,000	
63838-545800	White Goods Disposal	\$ 10,000	
63838-545900	Tire Disposal	\$ 6,000	
63838-558400	Solid Waste Disposal Tax	\$ 8,000	
63838-571501	Recycling - Electronics	\$ 30,000	
63838-514000	Travel		\$ 150
63838-514500	Training & Education		\$ 250
63838-516000	Maintenance & Repair		\$ 1,000
63838-545000	Contract Services		\$ 10,000
63838-571500	Recycling		\$ 53,000
		<b>\$ 254,400</b>	<b>\$ 254,400</b>

**Explanation:** Solid Waste (63) - Transfer funds and increase appropriations due to increases in cost of disposal and collection of solid waste.

**Net Budget Effect:** Solid Waste Fund (63) - Increased by \$190,000.

<u>Account Number</u>	<u>Account Description</u>	Debit	Credit
		Decrease Revenue or Increase Expense	Increase Revenue or Decrease Expense
10530-502100	Overtime	\$ 84,348	
10530-502200	Holiday	\$ 20,467	
10530-505000	FICA	\$ 8,019	
10530-507000	Retirement	\$ 12,735	
10530-511600	Uniforms	\$ 2,000	
10530-514000	Travel	\$ 1,000	
10530-514800	Fees pd to officials	\$ 500	
10530-553000	Dues and Subscriptions	\$ 500	
10530-561000	Professional Services		\$ 5,000
10530-590000	Capital Outlay		\$ 101,815
10541-502000	Salaries		\$ 16,000
10541-505000	FICA		\$ 1,224
10541-506000	Health Insurance		\$ 5,530
		<b>\$ 129,569</b>	<b>\$ 129,569</b>

**Explanation:** Emergency Medical Services (10530); Fire Services (10541) - Transfer budgeted funds for operations due to increased overtime and operating needs for the remainder of this fiscal year.

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

### 3. Resolution Pedestrian Plan Funding:

**RESOLUTION AUTHORIZING CURRITUCK COUNTY TO ENTER INTO AN AGREEMENT WITH THE NORTH CAROLINA DEPARTMENT OF TRANSPORTATION FOR DEVELOPMENT OF A PEDESTRIAN PLAN**

**Whereas**, Currituck County is committed to improving public safety, promoting public health and creating recreation opportunities for its citizens through pedestrian pathways; and

**Whereas**, the North Carolina Department of Transportation's Division of Bicycle and Pedestrian Transportation and the Transportation Planning Branch have created a matching grant program to encourage the development of comprehensive bicycle (and/or) pedestrian plans, which may serve as a component of the comprehensive transportation plan; and

**Whereas**, Currituck County has requested and has been awarded funding for a Comprehensive Pedestrian Plan in Currituck County, North Carolina; and

**Whereas**, Currituck County has requested that the Department of Transportation develop the Plan in coordination with the County; and

**Whereas**, Currituck County has agreed to participate in the funding of the Plan development at a cost of eighteen-thousand dollars (\$18,000).

**Therefore, Be It Resolved**, that the Board of Commissioners of Currituck County authorizes staff to enter into Agreement #6370 with the North Carolina Department of Transportation to develop the Comprehensive Pedestrian Plan and submit the County's portion of funding to the North Carolina Department of Transportation.

Adopted this the 2<sup>nd</sup> day of May, 2016.

**4. Dominion Power Right of Way Agreement**

**5. 2016-17 County Funding Plan Approval-NCDPS/Juvenile Crime Prevention Council**

**C) Commissioner's Report**

Commissioner O'Neal announced the National Day of Prayer gathering at Noon Thursday at the Judicial Center in Currituck.

Commissioner Gilbert reminded everyone be sure to recognize Mother's Day this Sunday.

**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.***

Mary Etheridge of Shawboro, republican candidate for the at-large seat, suggested the Board look into remote links so residents who live in outlying areas of the county have the opportunity to participate in government.

Will Craddock of Knotts Island addressed several school issues including the reduction of dual classes, county funding, the removal of the student cap, and the use of mobile trailers and suggested Commissioners look at the school's architectural study. He noted the appointment of John Snowden to the Economic Development Board was by consensus.

## ADJOURN

### **Motion to Adjourn Meeting**

With there being no further business, Commissioner O'Neal moved to adjourn. The motion was seconded by Commissioner Beaumont and carried unanimously. The meeting of the Board of Commissioners was adjourned.

<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