



**CURRITUCK COUNTY
NORTH CAROLINA**

November 20, 2017

Minutes – Regular Meeting of the Board of Commissioners

WORK SESSION - 4:30 PM

1. Moyock Park Site Plan Presentation

The Currituck County Board of Commissioners attended a 4:30 PM work session in the Historic Courthouse Conference Room to view conceptual design plans for the proposed community park project in Moyock. Jason Weeks, Director of Parks and Recreation, presented and reviewed the designs and amenities for the park which would be situated on a twenty-four acre county-owned parcel in Moyock and within walking or biking distance from two to three hundred homes. He reviewed the development process, with suggestions implemented into the design based on feedback gathered from community meetings. Mr. Weeks said ditching and water feature designs would provide stormwater relief for neighboring properties. Mr. Weeks reviewed a plan which included all of the features requested from community meetings with an estimated cost of \$5 million. A second, scaled down option would cost approximately \$3.5 million. The major expense for both plans would be in the site work, he said. He reviewed grant options and possibly the YMCA funding construction for a building that could be used as a community center in addition to their using it for summer camps. The Board would be prepared to discuss the various options further at their upcoming retreat.

2. Historic Jarvisburg Colored School Operations Discussion

Travel & Tourism Director, Tameron Kugler, along with Jill Landon, Curator, and Bill Jarvis, HJCS Board Member, were present to discuss the HJCS Board's desire to relinquish operations and management of the school to the County, citing difficulty in keeping the facility open. Ms. Kugler said all artifacts would be conveyed to the county and the HJCS Board members would participate by continuing to volunteer, with the Board serving in an advisory capacity. Ms. Kugler reviewed her management and operations plan for the facility, noting additional costs and staffing needs would be minimal. During discussion, Commissioner Etheridge suggested placing more emphasis on historical buildings, separating them from tourism. Commissioners authorized Ms. Kugler and Ms. Landon to move forward with the management and operations of the HJCS and assuming and cataloging the transfer of artifacts. Mr. Jarvis thanked the Board and said he wants the school to prosper.

The work session discussion concluded at 5:36 PM.

6:00 PM CALL TO ORDER

The Currituck County Board of Commissioners met at 6:00 PM for their regular meeting in the Board Meeting Room of the Historic Courthouse, 153 Courthouse Road, Currituck, North Carolina.

Attendee Name	Title	Status	Arrived
Bobby Hanig	Chairman	Present	
Mike H. Payment	Vice Chairman	Present	
Paul M. Beaumont	Commissioner	Absent	
Mary "Kitty" Etheridge	Commissioner	Present	
Marion Gilbert	Commissioner	Present	
Mike D. Hall	Commissioner	Present	
Bob White	Commissioner	Present	

Chairman Hanig called the meeting to order.

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

Reverend Walter Gallop was present to offer the Invocation and lead the Pledge of Allegiance.

B) Approval of Agenda

Commissioner White moved to approve the agenda. Commissioner Hall seconded the motion and the motion was approved unanimously.

Approved agenda:

Work Session - 4:30 PM

Moyock Park Site Plan Presentation

Historic Jarvisburg Colored School Operations Discussion

6:00 PM Call to Order

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

B) Approval of Agenda

Public Comment

Please limit comments to matters other than those appearing on this agenda as a Public Hearing. Public comments are limited to 3 minutes.

Administrative Reports

A) **1000 Four Program Presentation-Hatch****Old Business**

- A) **An Ordinance of the Currituck County Board of Commissioners Amending Sections 10-57, 10-62, 10-63, 10-64 and 10-129 of the Currituck County Code of Ordinances Regulating Driving and Certain Uses on the County's Ocean Beach**

New Business

- A) **Consideration and Action: PB 13-17 University Park - Planned Development: Norman Bibeau with Elan Vacations is requesting to amend the master plan and terms and conditions document for University Park located at 108 Amherst Drive, Tax Map 124J, Parcel OSP2, Poplar Branch Township. The request is to allow the maintenance of the 25' undisturbed vegetative buffer along the rear property line.**

B) Consent Agenda

1. Approval Of Minutes for November 6, 2017
2. Budget Amendments
3. Surplus Resolution-Cooperative Extension Vehicle and Printer
4. Job Description Revision-Customer Service Representative, Water & Wastewater Div.

C) Commissioner's Report**D) County Manager's Report****Closed Session**

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.

Adjourn

RESULT:	APPROVED [UNANIMOUS]
MOVER:	Bob White, Commissioner
SECONDER:	Mike D. Hall, Commissioner
AYES:	Bobby Hanig, Chairman, Mike H. Payment, Vice Chairman, Mary "Kitty" Etheridge, Commissioner, Marion Gilbert, Commissioner, Mike D. Hall, Commissioner, Bob White, Commissioner
ABSENT:	Paul M. Beaumont, Commissioner

PUBLIC COMMENT

Please limit comments to matters other than those appearing on this agenda as a Public Hearing. Public comments are limited to 3 minutes.

Chairman Hanig opened the public comment period.

Jane Overstreet, resident of the Corolla off-road area, said she reviewed the beach driving ordinance and suggested beginning the drive pattern shift on the Friday before Memorial Day and ending the shift pattern at milepost 16, a safer area, instead of 17. She supports taking more time to work through the details.

Sandra Barcroft, a Carova homeowner, asked the Board to consider the elderly residents and property owners who rely on the hard packed sand to get on and off the beach.

Don Hufnagle, a Corolla resident, asked for the beach driving item to be tabled to allow for community input. He cited safety issues with dune driving and said the changes will not improve safety. He gave statistics on traffic counts and submitted results of an online petition. Commissioner White asked for suggestions. Mr. Hufnagle said he was unsure what the Board was trying to achieve and that this change will swap one unsafe situation for another. Chairman Hanig said this discussion has been going on for twelve years, nothing has been done and this is a step toward implementing other measures to enhance beach safety.

Heidi and James White, Knotts Island residents, asked several questions related to the Knotts Island Volunteer Fire Department (KIVFD) and their ability to respond and fight fires. Mr. and Mrs. White described a 2014 fire next door to their home and said volunteers told them they were unable to act until paid firefighters arrived on scene. Commissioner Payment, a volunteer fireman, said he has always fought a fire upon arrival on scene. Mrs. White asked about the lapsed KIVFD contract and asked for paid firefighters on Knotts Island. Commissioners told the Whites there would be a public statement in the next day or two related to fire services on Knotts Island. Mrs. White was advised to voice her concerns to Currituck County Fire and EMS Chief Melton in the interim, who could provide her with information.

T.J. English, a Knotts Island resident and Carova Beach property owner and builder, also discussed the proposed changes to beach driving and was concerned that delivery trucks or waste management vehicles would struggle traveling at the dune line. He talked of enforcement and said there are many signs at the ramp already that no one reads. He said the change will cause confusion for drivers. He suggested enforcement through ticketing and putting the safe zone at the refuge area.

County Manager, Dan Scanlon, confirmed the county does not regulate when Waste Management accesses their sites. Commissioner White recalled earlier comments and offered his own experiences navigating the beach. He said the Sheriff was in favor of the plan. Signage and potential air-up and air-down locations were discussed. Commissioner White acknowledged the increased volume of traffic and said something has to be done, and reiterated it can be unwound very quickly if needed. Commissioners discussed the best milepost location for the lane switch.

Commissioner White, on a separate Knotts Island issue, reported that the North Carolina Department of Transportation (NCDOT) is working through the process for installation of speed limit signs on Wards Road.

With no one else wishing to speak, Chairman Hanig closed the public comment period.

ADMINISTRATIVE REPORTS

A. 1000 Four Program Presentation-Hatch

Zach Miller and George Arbogast of Hatch presented information on their 1000 Four program, an on-line, on-demand program that provides resources for those wanting to start or expand a business. The program is available to all businesses in Currituck County and features 24-hour access, questions and answers related to small-businesses, a small business support group, and downloadable resources and worksheets.

Mr. Miller responded to Board questions and said there are several dozen Currituck businesses currently enrolled and utilizing the program. He said there is no cost for businesses.

Information can be obtained by emailing zack@startwithhatch.com or calling 757-295-8635, or by contacting Larry Lombardi, Currituck County Economic Development Director.

OLD BUSINESS

A. An Ordinance of the Currituck County Board of Commissioners Amending Sections 10-57, 10-62, 10-63, 10-64 and 10-129 of the Currituck County Code of Ordinances Regulating Driving and Certain Uses on the County's Ocean Beach

County Attorney, Ike McRee, began with an explanation of the required second reading of the ordinance and reviewed the modifications to it as requested at the first reading. During review, Commissioner Etheridge noted earlier comments suggesting the shift begin on the Friday before Memorial Day. At the request of Commissioner White, Mr. McRee explained a Commissioner's duty to vote and said he did not believe it was necessary for Commissioner White to recuse himself.

Chairman Hanig said the change is being made for public safety purposes and that and Commissioners must prepare for the future and take necessary steps now. He said the Board will be implementing a parking permit system, with signage and air up/down stations to follow, along with an increased law enforcement presence.

Commissioner Payment suggested scheduling a meeting to gather feedback after the summer. Commissioner Gilbert suggested holding the public meeting earlier to assess the first few months, prior to the busy July 4th holiday.

Commissioner White moved to approve with a change to begin on the Friday before Memorial Day through Labor Day, keeping the rest of the language as is. Commissioner Etheridge seconded the motion. The motion passed with a 4-2 vote. Commissioners Gilbert and Hall were opposed.

AN ORDINANCE OF THE CURRITUCK COUNTY BOARD OF COMMISSIONERS AMENDING SECTIONS 10-57, 10-62, 10-63, 10-64 AND 10-129 OF THE CURTITUCK COUNTY CODE OF ORDINANCES REGULATING DRIVING AND CERTAIN USES ON THE COUNTY'S OCEAN BEACH

WHEREAS, pursuant to N.C. Gen. Stat. §153A-121 a county may by ordinance define, regulate, prohibit, or abate acts, omissions, or conditions detrimental to the health, safety, or welfare of its citizens and the peace and dignity of the county; and

WHEREAS, pursuant to N.C. Gen. Stat. §153A-145.3 a county may, by ordinance, define, prohibit, regulate, or abate acts, omissions, or conditions upon the State's ocean beaches and prevent or abate any unreasonable restriction of the public's right to use the State's ocean beaches; may regulate, restrict, or prohibit the placement, maintenance, location or use of equipment, personal property, or debris upon the State's ocean beaches; and may otherwise enforce any ordinance adopted pursuant to this section or any other of provision of law upon the State's ocean beaches located within the county's jurisdictional boundaries; and

WHEREAS, pursuant to Section 1 of Chapter 875 of the 1985 Session Laws the county may by ordinance regulate, restrict, and prohibit the use of dune or beach buggies, jeeps, motorcycles, cars, trucks, or any other form of power-driven vehicle specified by the county's governing board on the foreshore, beach strand and barrier dune system.

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

PART I. The Code of Ordinances, Currituck County, North Carolina is amended by rewriting Section 10-57 of the Code of Ordinances to read as follows:

Sec. 10-57. - Registration; plates; decal.

Any vehicles, motorcycles or motor vehicles operated on the Outer Banks shall be registered and have current license plates and an inspection decal for the state in which the vehicle is registered. This section shall be effective ~~for~~ from the Dare County line to the ~~southside North Beach Access Ramp at North Beach Access Road~~ Virginia state line.

PART II. The Code of Ordinances, Currituck County, North Carolina is amended by rewriting Section 10-62 of the Code of Ordinances to read as follows:

Sec. 10-62. - Blocking foreshore.

(a) No person shall block the foreshore in such a manner that would prohibit vehicular travel along the foreshore. This paragraph shall not apply between 9:00 a.m. and 5:00 p.m. from the Friday before Memorial Day to Labor Day in that area one and one-half miles north of the north beach access ramp to Mile Post 17.

(b) All vehicles parked on the beach strand shall be parked in the middle of the beach strand area east of the dune line and west of the hard-packed sand strip adjacent to the water's edge such that vehicular traffic may pass without obstruction adjacent to the dune line and, except between 9:00 a.m. and 5:00 p.m. from the Friday before Memorial Day to Labor Day in the area extending one and one-half miles north of the north beach access ramp to Mile Post 17, adjacent to the water's edge. There shall be no lawn chairs, coolers, fishing lines or any other items ~~allowed to block~~ blocking the beach strand in any manner that would restrict vehicular movement in a north-south direction along the dune line, ~~or~~ There shall be no lawn chairs, coolers, fishing lines or any other items blocking the foreshore in any manner that restricts public safety and emergency response vehicular movement in a north-south direction along the water's edge.

(c) Notwithstanding paragraphs (a) and (b) of this section, no vehicle shall travel in the area extending one and one-half miles north of the north beach access ramp to Mile Post 17 in a north or south direction between 9:00 a.m. and 5:00 p.m. from the Friday before Memorial Day to Labor Day except in an area bounded on the west by the toe of the dune line and extending

eastward to the middle of the beach strand. This section shall not apply to public safety and emergency response motor vehicles.

~~(e)~~ (d) No vehicle of any type shall be allowed to be parked on the beach strand in an area extending from the north beach access ramp northward for one-half mile. Violators shall be towed.

PART III. The Code of Ordinances, Currituck County, North Carolina is amended by rewriting Section 10-63 of the Code of Ordinances to read as follows:

Sec. 10-63. - Restricted areas.

(a) Where there is an improved all-weather road, dedicated to public use, and running generally north and south and parallel to the beach strand, all vehicles, mopeds, motorcycles or motor vehicles on the foreshore and beach strand are prohibited between May 1 and September 30. This section shall apply specifically to, but is not limited to, the foreshore and beach strand extending from the Dare County line to the north side of the North Beach Access Ramp at North Beach Access Road.

(b) All commercial activities involving motor vehicles, mopeds and horses shall be prohibited from operating on the beach foreshore and the beach strand. This includes vehicles used to tow hang gliders.

(c) The provisions of subsections (a) and (b) of this section do not apply to the following:

~~(1) Delivery, placement and pickup of recreational equipment, umbrellas and chairs and collection of solid waste between the hours of 6:00 a.m. and 7:30 a.m. and 5:30 p.m. and 7:00 p.m. by (i) commercial entities that are delivering, placing and picking up recreational equipment, umbrellas and chairs for customers renting such equipment prior to its delivery, placement and pickup and that maintain a base of operation within the county provided that each motor vehicle is permitted in the manner provided for by section 10-64 of this Code and (ii) management of planned unit development communities adjacent to the Atlantic Ocean or with ownership of the beach foreshore and beach strand, provided that each motor vehicle is permitted in the manner provided for by section 10-64 of this Code;~~

~~(2)~~ (1) Activity under a Coastal Area Management Act (CAMA) permit requiring access to the beach and authorized by the county local permitting officer;

~~(3)~~ (2) County employees, county contractors, county vehicles or emergency vehicles or the drivers thereof, which may be required to enter upon the beach in the performance of their duties or a governmental agency, its employees, agents, contractors and subcontractors and their vehicles when engaged in beach restoration or protection work or conducting scientific research or animal preservation studies or operations;

(4) (3) The use of a motor vehicle between the hours of 7:30 a.m. and 5:30 p.m. by management or contractor of a planned unit development community within that area of the beach strand between the southern right-of-way line of Shad Street northward to the northern right-of-way line of Corolla Village Road (SR 1152) provided that a motor vehicle used pursuant to this subsection may travel across the Shad Street and Corolla Village Road rights-of-way onto the beach strand only between the hours of 6:00 a.m. and 7:30 a.m. and 5:30 p.m. and 7:00 p.m. and the motor vehicle is permitted in the manner required by section 10-64 of this Code;

~~(5) The use of a motor vehicle between the hours of 7:30 a.m. and 5:30 p.m. by management of a planned unit development community within that area of the beach strand between the northern boundary line of Pine Island Planned Unit Development northward for a distance of 130 feet provided that a motor vehicle used as provided by this subsection may travel across the dune line onto the beach strand only between the hours of 6:00 a.m. and 7:30 a.m. and 5:30 p.m. and 7:00 p.m. and the motor vehicle is permitted in the manner required by section 10-64 of this Code;~~

~~(6)~~ (4) The use of a motor vehicle between the hours of 7:30 a.m. and 5:30 p.m. by management or contractor of a planned unit development community within that area

of the beach strand between the southern boundary line of Pine Island Planned Unit Development as shown on that plat recorded in Plat Cabinet G, Page 111 of the Currituck County Registry and the northern boundary line of Pine Island Planned Unit Development as shown on that plat recorded in Plat Cabinet E, Page 96 of the Currituck County Registry provided that a motor vehicle used as provided by this subsection may travel across the dune line onto the beach strand only between the hours of 6:00 a.m. and 7:30 a.m. and 5:30 p.m. and 7:00 p.m. and the motor vehicle is permitted in the manner required by section 10-64 of this Code;

- (7) (5) The use of a motor vehicle between the hours of 7:30 a.m. and 5:30 p.m. by management or contractor of a planned unit development community within that area of the beach strand between the southern boundary line of Villages at Ocean Hill Planned Unit Development as shown on that plat recorded in Plat Cabinet D, Page 357 of the Currituck County Registry and the northern boundary line of Villages at Ocean Hill Planned Unit Development as shown on that plat recorded in Plat Cabinet F, Page 1 of the Currituck County Registry provided that a motor vehicle used as provided by this subsection may travel across the dune line onto the beach strand only between the hours of 6:00 a.m. and 7:30 a.m. and 5:30 p.m. and 7:00 p.m. and the motor vehicle is permitted in the manner required by section 10-64 of this Code; and
- (8) (6) The use of a motor vehicle between the hours of 7:30 a.m. and 5:30 p.m. by management or contractor of a planned unit development community within that area of the beach strand between the southern boundary line of Buck Island Planned Unit Development as shown on that plat recorded in Plat Cabinet G, Page 111 of the Currituck County Registry and the northern boundary line of Buck Island Planned Unit Development as shown on that plat recorded in Plat Cabinet D, Page 245 of the Currituck County Registry provided that a motor vehicle used as provided by this subsection may travel across the dune line onto the beach strand only between the hours of 6:00 a.m. and 7:30 a.m. and 5:30 p.m. and 7:00 p.m. and the motor vehicle is permitted in the manner required by section 10-64 of this Code.

(d) Overnight camping of any type is prohibited on the Currituck County Outer Banks, the beach foreshore and the beach strand.

PART IV. The Code of Ordinances, Currituck County, North Carolina is amended by rewriting Section 10-64 of the Code of Ordinances to read as follows:

Sec. 10-64. - Permit system (county residents and property owners only).

- (a) This section shall be applicable for those areas of Currituck County, including, but not limited to, the beach strand and foreshore areas, located from the Dare/Currituck line to the North Carolina/Virginia line.
- (b) County residents and property owners desiring to operate a moped, motorcycle or off-road vehicles, including but not limited to, all terrain vehicle ("ATV") , utility vehicle, recreational off-highway vehicle, multipurpose off-highway utility vehicle, or other off-road vehicle, ("ORV"), on the areas covered by this section shall obtain a permit from the county manager or his designated representative. Permits may be obtained at the satellite office in Corolla or at the county manager's office during normal business hours and at such other times and places as may be designated by the county manager.
- (c) County residents may obtain at no fee a maximum of two annual permits for operation of a moped, motorcycle or ORV owned by them upon making application as provided in subsection (b) above and upon showing proof of liability insurance and ownership ~~on for~~ for the ATV moped, motorcycle or ORV. Non-resident property owners may obtain at no fee a maximum of two annual permits for operation of a moped, motorcycle or ORV owned by them ~~per lot, tract or parcel of property~~ upon making application as provided in subsection (b) above and showing proof of liability insurance and ownership ~~on for~~ for the ATV moped, motorcycle or ORV. Liability insurance coverage on the ATV moped, motorcycle or ORV shall be maintained continuously throughout the term of the permit.

(d) County residents and property owners, operating mopeds, motorcycles or ~~ATV's~~ ORV's shall ensure that these vehicles have a valid permit prominently displayed at all times while operating, or parked, ~~or being trailered~~ on the Currituck County banks, beach foreshore or beach strand.

(e) Any sworn law enforcement officer with jurisdiction is authorized to take possession of any permit issued pursuant to this section upon expiration, revocation, cancellation, or suspension thereof, or which is fictitious, or which has been unlawfully or erroneously issued, which has been unlawfully used or upon issuance of citation for violation of section 10-59 of this Code. Any law enforcement officer who seizes a permit pursuant to this section shall report the seizure to the county manager's office within 48 hours of the seizure and shall return the permit to the county manager's office within seven business days of the seizure.

(f) The county manager or county manager's designee shall refuse issuance of an permit under this section for a period of one year following seizure of a permit by a law enforcement officer pursuant to this section.

(g) An appeal of seizure of a permit under this section shall be made to the county manager by filing a written notice of appeal, specifying with particularity the grounds upon which the appeal is made, no later than ten days from the date of the permit seizure. The county manager or county manager's designee shall fix a reasonable time for the hearing of the appeal, shall give due notice to all parties and shall render a decision within a reasonable time.

(h) The county manager is directed and authorized to establish forms, procedures, and directives as may be required to implement this permit system and ensure that it is run in an effective, safe, and fair manner.

PART V. The Code of Ordinances, Currituck County, North Carolina is amended by rewriting Section 10-57 of the Code of Ordinances to read as follows:

Sec. 10-129. - Unattended property on beach.

(a) It shall be unlawful for any person to leave unattended between the hours of sunset and sunrise any property, including, but not limited to, volleyball, badminton and tennis nets, poles, tents, horseshoe stakes, croquet courses, grills, umbrellas and recreational equipment, cabanas, canopies, or any other personal property items on the beach. All property unattended and remaining on the beach strand between sunset and sunrise shall be considered litter and may be subject to removal and disposal.

(b) This section does not apply to life guard stands ~~and or accessory uses regulated by the Currituck County Unified Development Ordinance~~ containers for storage of rental items intended for use on the beach strand if the containers are:

(1) placed at the toe of the dune line;

(2) do not exceed four feet in height, four feet in width and eight feet in length;

(3) are approved annually by a property owners association of a planned unit development community adjacent to the Atlantic Ocean or that is the owner of a portion of the beach strand; and

(4) do not contain signage exceeding eight square feet in size.

PART VI. Severability. All ordinances or parts of ordinances in conflict with this ordinance are hereby repealed. Should a court of competent jurisdiction declare this ordinance or any part of this ordinance to be invalid, such decision shall not affect the remaining provisions of this ordinance or the Code of Ordinances of the County of Currituck, North Carolina.

PART VII. This ordinance is effective upon adoption.

ADOPTED this 20th day of November, 2017.

Bobby Hanig, Chairman

ATTEST:

Leeann Walton, Clerk to the Board

RESULT:	APPROVED [4 TO 2]
MOVER:	Bob White, Commissioner
SECONDER:	Mary "Kitty" Etheridge, Commissioner
AYES:	Bobby Hanig, Chairman, Mike H. Payment, Vice Chairman, Mary "Kitty" Etheridge, Commissioner, Bob White, Commissioner
NAYS:	Marion Gilbert, Commissioner, Mike D. Hall, Commissioner
ABSENT:	Paul M. Beaumont, Commissioner

NEW BUSINESS

A. Consideration and Action: PB 13-17 University Park - Planned Development: Norman Bibeau with Elan Vacations is requesting to amend the master plan and terms and conditions document for University Park located at 108 Amherst Drive, Tax Map 124J, Parcel OSP2, Poplar Branch Township. The request is to allow the maintenance of the 25' undisturbed vegetative buffer along the rear property line.

Parties were sworn and Laurie LoCicero, Planning and Community Development Director, reviewed the application. The applicant is requesting an amendment to conditions of a use permit to allow maintenance of an undisturbed buffer area.

After review, Ms. LoCicero responded to Board questions. She clarified information in the application, discussed the buffer area and the original intent of the undisturbed buffer area as agreed to for issuance of the use permit. Contentions between Mr. Bibeau and the McMillans, neighboring property owners and hog farmers, were discussed.

Norm Bibeau, the applicant, addressed the Board. He said his request is to maintain and enhance the buffer area by removing dead, diseased and damaged trees. He said they replanted after an earlier violation was issued by the county, and recent storms have created fallen trees, some which have fallen on the McMillan's property. He referred to a letter from the Forest Service that supported cleaning out the buffer. He challenged the "undisturbed" language, saying it was never used nor was it agreed to at the original permit approval. He said it is a matter of safety.

Mr. Bibeau responded to Board questions. He confirmed he did not appeal a determination made by the Board of Adjustment related to the issue. Installation of a fence at the boundary was discussed, with some disagreement related to costs and the type of fence required.

Crouse Gray, an attorney representing the McMillans, asked the Board not to approve the request. He said the plat, prepared by Mr. Bibeau's engineer, includes the "undisturbed" buffer language. He said many of the trees the applicant wants to remove were cut down. He talked of the contention between the parties and said there have

been discussions in an attempt to come to an agreement, but new conditions are added after agreements are made. He responded to Commissioner questions and clarified the parties are still talking but no agreement has been reached.

Greg Wills, Attorney for the applicant, said no trees were cut down they were blown down and his client believed he had the right to go in and remove the downed trees. He reiterated the applicant is asking to remove dead, dying and diseased trees. He spoke of Forest Ranger statements, who said new growth is promoted with removal of dead trees. He provided a history of the University Park project from the approval of the original use permit, which occurred three days after the McMillans purchased their property. He referred to the Unified Development Ordinance (UDO) as it relates to residential buffers and bona-fide farms and the land use disputes that arose between the parties. He said he believes he and Mr. Gray will be able to work out the issues related to manure and hogs, in a court of law if necessary.

Commissioner Payment recalled the initial project approval and noted the inclusion of the undisturbed buffer as part of that approval.

In response to Mr. Wills comments, Mr. McRee explained this was a quasi-judicial decision with conditions placed on the permit that included an undisturbed buffer, and was not a policy issue. He said the Board of Adjustment defined "undisturbed" and that their decision was not appealed and is binding. He said the Board may choose to allow the amendment as requested, but they are not required to modify a conditional use permit that has been granted based on conditions.

Responding to questions, Ms. LoCicero said the first report of violation was April 11, 2016, with the notice sent May, 2016. Hurricane Matthew was in the fall of 2016, which clarified the disturbances took place prior to Hurricane Matthew.

Crouse Gray returned to the podium and said the McMillans spoke at the public hearing and told the Board they would be operating a hog farm. He said staff correspondence included language that states many trees were cut.

Commissioner Hall recalled the original hearing where the word undisturbed was not stated in the motion, although it was written on documentation. He disclosed a visit to the property and noted his observations at that time. Commissioner Hall motioned to approve the amendment that the existing master plan, the plat terms and conditions be amended to allow for removal of dead, dying and diseased or naturally fallen trees within the 25 foot undisturbed buffer based on a written recommendation and determination by a certified arborist with the North Carolina Forestry Service prior to approval from the county. The Board may also wish to consider replacement requirements for the trees. The motion died for lack of second.

Commissioner Payment moved to deny the applicant's request for the amendment. The motion was seconded by Commissioner Gilbert. The motion passed with a vote of 5-1, with Commissioner Hall opposed.

Memorandum

To: Board of Commissioners
From: Planning Staff
Date: November 13, 2017
Re: University Park - Amended Master Plan and Terms & Conditions Document

The applicant is requesting to amend the master plan and terms and conditions document for University Park regarding the 25' undisturbed vegetative buffer along the western property line. The applicant is asking to maintain the vegetative buffer by being allowed to remove fallen, dead, or diseased trees from the buffer.

Upon advice of the NC Forest Service (See Attached Memo), staff supports this request as it is consistent with other tree maintenance regulations in the UDO. For example, Section 7.2.3 Protection of Heritage Trees exempts the following activities:

- The removal of dead or naturally fallen trees;
- The removal of diseased trees posing a threat to adjacent trees;

Staff is requesting that the proposed language be amended by adding the following bold and underlined language to clarify that the tree experts would designate trees for removal and not county staff. Staff will still document the expert's findings with photos prior to removal:

“That the existing Master Plan and Plat Terms and Conditions be amended to allow for the removal of dead, dying, diseased, or naturally fallen trees within the 25' undisturbed buffer based on written recommendation **and delineation** by a certified Arborist or the NC Forrest Service and prior approval from the county.”

Finally, the board may also wish to consider replacement requirements for trees removed. For example, “Removed trees shall be replaced at a 1:1 ratio with trees recommended for use in Currituck County as called out in the Administrative Manual.”

THE APPLICATION AND RELATED MATERIALS ARE AVAILABLE ON THE COUNTY'S WEBSITE

RESULT:	MOTION PASSED-ITEM DENIED [5 TO 1]
MOVER:	Mike H. Payment, Vice Chairman
SECONDER:	Marion Gilbert, Commissioner
AYES:	Bobby Hanig, Chairman, Mike H. Payment, Vice Chairman, Mary "Kitty" Etheridge, Commissioner, Marion Gilbert, Commissioner, Bob White, Commissioner
NAYS:	Mike D. Hall, Commissioner
ABSENT:	Paul M. Beaumont, Commissioner

B) Consent Agenda

Commissioner Gilbert moved to approve the consent agenda. The motion was seconded by Commissioner Etheridge and carried unanimously.

RESULT:	APPROVED [UNANIMOUS]
AYES:	Bobby Hanig, Chairman, Mike H. Payment, Vice Chairman, Mary "Kitty" Etheridge, Commissioner, Marion Gilbert, Commissioner, Mike D. Hall, Commissioner, Bob White, Commissioner
ABSENT:	Paul M. Beaumont, Commissioner

1) Approval Of Minutes for November 6, 2017

1. Minutes for November 6, 2017

2. Budget Amendments

		Debit	Credit
<u>Account Number</u>	<u>Account Description</u>	<u>Decrease Revenue or Increase Expense</u>	<u>Increase Revenue or Decrease Expense</u>
10660-561000	Professional Services	\$ 21,000	
10320-411000	Article 39 Sales Tax		\$ 21,000
		<u>\$ 21,000</u>	<u>\$ 21,000</u>
Explanation:	Planning (10660) - Increase appropriations for Kimly-Horn Contract for the Currituck Station Project.		
Net Budget Effect:	Operating Fund (10) - Increased by \$21,000.		

3. Surplus Resolution-Cooperative Extension Vehicle and Printer

RESOLUTION		
<p>WHEREAS, THE Board of Commissioners of the County of Currituck, North Carolina during its regularly scheduled meeting authorized the following, pursuant to G.S. 160A and 270(b) that the property listed below will be sold at auction, negotiated sale or will be disposed of if not sellable.</p>		
County		
Asset Tag	Description	Serial Number
5424	2001 Ford 15 passenger van	1FBSS31L21HB41561
6100	HP Color Laserjet Printer 4650N	JPKAD53350
<p>NOW, THEREFORE, BE IT RESOLVED, that the Board of Commissioners of the County of Currituck reserves the right to reject any and all bids.</p>		
<p>ADOPTED, this 20th day of November, 2017.</p>		

4. Job Description Revision-Customer Service Representative, Water & Wastewater Div.

C) Commissioner's Report

Commissioner Hall attended a Veterans Day event at the American Legion and thanked them for the invitation. He cautioned everyone to drive safely over the holiday season.

Commissioner White discussed two recent articles, one about the state seeking internet connectivity and the other about federal grant money available for expansion of internet service. He also wished everyone safe travel over the holiday.

Commissioner Gilbert announced the county parade will be held December 1st. She wished everyone a safe and blessed holiday.

Commissioner Etheridge wished everyone a Happy Thanksgiving and reminded us to be thankful for our great country.

Commissioner Payment encouraged citizens to attend Tuesday night's meeting in the Board Room at 7 PM to discuss the county's 350th anniversary celebration preparations. He asked citizens to support local fire stations through participation in the auxiliaries or volunteering. He wished everyone a Happy Thanksgiving.

Chairman Hanig wished all a Happy Thanksgiving.

D) County Manager's Report

Mr. Scanlon reported that there are maps showing internet coverage in Currituck County but they are incorrect. He said people can find their location on the map, which will be posted on the county website, and enter whether their residence has coverage or not. Mr. Scanlon said this action will make the maps more accurate and can help the county to secure grant funding for internet expansion.

CLOSED SESSION

1. 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.

Chairman Hanig moved to enter into closed session pursuant to G.S. 143-318.11(a)(3) to consult with the County Attorney and in order to preserve the attorney-client privilege.

Commissioner White seconded, the motion passed unanimously, and the Board of Commissioners entered closed session.

RESULT:	APPROVED [UNANIMOUS]
MOVER:	Bobby Hanig, Chairman
SECONDER:	Bob White, Commissioner
AYES:	Bobby Hanig, Chairman, Mike H. Payment, Vice Chairman, Mary "Kitty" Etheridge, Commissioner, Marion Gilbert, Commissioner, Mike D. Hall, Commissioner, Bob White, Commissioner
ABSENT:	Paul M. Beaumont, Commissioner

ADJOURN

Motion to Adjourn Meeting

The Board returned from closed session and had no further business. Commissioner Payment moved to adjourn and the motion was seconded by Commissioner White. The motion passed unanimously and the regular meeting of the Board was concluded.

RESULT:	APPROVED [UNANIMOUS]
MOVER:	Mike H. Payment, Vice Chairman
SECONDER:	Bob White, Commissioner
AYES:	Bobby Hanig, Chairman, Mike H. Payment, Vice Chairman, Mary "Kitty" Etheridge, Commissioner, Marion Gilbert, Commissioner, Mike D. Hall, Commissioner, Bob White, Commissioner
ABSENT:	Paul M. Beaumont, Commissioner