

NORTH CAROLINA
CURRITUCK COUNTY

IN THE GENERAL COURT OF JUSTICE
SUPERIOR COURT DIVISION
File No. 18-CVS-228

SANDRA SCHNEIRLA, individually)
as an Aggrieved Person; and, THE)
VIRGINIA FOUR WHEEL DRIVE)
ASSOCIATION, INC., a Virginia)
not-for-profit corporation,)
Plaintiff,)
v.)
COUNTY OF CURRITUCK,)
Defendant.)
_____)

FILED
2018 JUL 27 P 3:00
CURRITUCK COUNTY CLERK

**DEFENDANT COUNTY OF CURRITUCK'S MEMORANDUM OF
LAW IN OPPOSITION TO PLAINTIFFS' MOTION FOR
PRELIMINARY INJUNCTION**

Defendant, County of Currituck, North Carolina, (the "County"), respectfully submits this memorandum of law in opposition to the Plaintiffs' motion for preliminary injunction.

STATEMENT OF FACTS

Defendant County is a county located in northeastern North Carolina with approximately twenty-three miles of frontage on the Atlantic Ocean. Approximately eleven miles of Atlantic Ocean frontage is accessible only by four wheel drive vehicles with the ocean beach as

the travel way to access approximately 3,000 platted lots, (the “Off-Road Area”). The Off-Road Area beach travel way is also heavily populated and used by persons recreating on the ocean beach. (Exhibit 1, *Affidavit of Daniel F. Scanlon, II*)

Since 1989 the County’s board of commissioners has enacted and maintained ordinances regulating the operation and use of motorized vehicles on the Off-Road Area beach. Enactment of ordinances regulating the operation and use of motorized vehicles on the County’s ocean beach is under authority granted by the General Assembly of North Carolina pursuant to S.L. 1985-875 as amended by S.L. 1998-64 and S.L. 2001-33, in addition to other statutory authority. (Exhibit 2) S.L. 1985-875 provides that a county may by ordinance regulate, restrict, and prohibit the use of dune or beach buggies, jeeps and any other form of power-driven vehicle on the county’s foreshore, beach strand and barrier dune system.

Over time motor vehicle traffic and the number of people recreating on the Off-Road Area beach has increased. With the increase in traffic and recreational use on Off-Road Area beach, conflict and dangerous interaction of motor vehicles and persons, who are in essence

recreating on a highway, is occurring. (Exhibit 1, *Affidavit of Daniel F. Scanlon, II*). In response to community demand for increased safety on the north beach, the County's board of commissioners proposed an amendment to Section 10-64 of the Code of Ordinances, Currituck County, North Carolina, (the "Code"), to require permits for persons parking on the Off-Road Area Beach. (Exhibit 1, *Affidavit of Daniel F. Scanlon, II*; Exhibit A).

On February 19, 2018 the County's board of commissioners considered an amendment to Section 10-64 of the Code, (the "Ordinance Amendment"). (Exhibit 3, *Affidavit of Leeann Walton*; Exhibit A). Prior to discussing the Ordinance Amendment, the board of commissioners received comments from ten people. Of the ten, five supported the County's efforts to improve safety on the Off-Road Area beach. Plaintiff Sandra Schneirla asked whether the board of commissioners would consider providing for a daily parking permit and require parking permits only during the peak tourist season as her organization used the Off-Road Area beach outside the tourist season. (Exhibit 3, *Affidavit of Leeann Walton*; Exhibits B, C).

After receiving comments from the public the board of commissioners discussed the rationale for a parking permit and the need to enhance the public's safety on Off-Road Area beach by reducing the number of motor vehicles on the Off-Road Area beach through the implementation of a parking permit program. In response to comments received from the public, including Plaintiff Schneirla, board of commissioners then voted 5 to 1 in favor of adopting the Ordinance Amendment with modification to require the beach parking permit only between the Friday before Memorial Day and Labor Day. (Exhibit 3, *Affidavit of Leeann Walton*; Exhibit B). The Ordinance Amendment also provided, among other things, that County residents and non-resident property owners could obtain a parking permit with no fee required and that others could obtain a parking permit upon payment of a fee. The Ordinance Amendment did not require a permit to drive on Off-Road Area beach or to access residential property on the west side of the dune line. Because the Ordinance Amendment was not adopted unanimously it was required to be voted on a second time.

On March 5, 2018 the Ordinance Amendment was again considered by the County's board of commissioners. During

consideration of the Ordinance Amendment, members of the County's board of commissioners stated that the Ordinance Amendment was intended to promote and increase public safety and protection of visitors, guests and residents. Following discussion the County's board of commissioners adopted the Ordinance Amendment on its second reading, as modified at the board of commissioners' February 19, 2018 meeting, by a vote of 6 to 1. (Exhibit 3, *Affidavit of Leeann Walton*; Exhibits D, E). The effective date of the Ordinance Amendment was May 1, 2018. The issuance of parking permits began on or about May 1, 2018. Plaintiff Sandra Schneirla obtained a parking permit on May 23, 2018. (Complaint, Exhibit B). Thereafter, the Plaintiffs filed their complaint on June 21, 2018.

ARGUMENT

Preliminary Injunction – Standard of Review

“As a general rule, a preliminary injunction is an *extraordinary* measure taken by a court to preserve the *status quo* of the parties during litigation.” *Ridge Community Investors, Inc. v. Berry*, 293 N.C. 688, 701, 239 S.E.2d 566 (1977) (emphasis added). A preliminary injunction will be issued only (1) if a plaintiff is able to show likelihood of success on the

merits of his case and (2) if a plaintiff is likely to sustain irreparable loss unless the injunction is issued, or if, in the opinion of the court, issuance is necessary for the protection of a plaintiff's rights during the course of litigation. *A.E.P. Industries, Inc. v. McClure*, 308 N.C. 393, 401, 302 S.E.2d 754, 759 (1983). An injunction will not be granted when there is a full, adequate and complete remedy at law just as practical and effective as the equitable remedy. *City of Durham v. Public Ser. Co. of N.C., Inc.*, 257 N.C. 546, 557, 126 S.E.2d 315, 323-24 (1962). "The burden is on the plaintiffs to establish their right to a preliminary injunction." *Pruitt v. Williams*, 288 N.C. 368, 372, 218 S.E.2d 348, 351 (1975).

I. PLAINTIFFS' MOTION FOR PRELIMINARY INJUNCTION SHOULD BE DENIED BECAUSE THEY ARE UNLIKELY TO SUCCEED ON THE MERITS OF THEIR CASE.

In their complaint the Plaintiffs allege that the Ordinance Amendment requiring "non-county residents" to pay a fee for a parking permit "yet not require any payment from residents of Currituck County amounts to an unconstitutional private emolument to the residents of Currituck County who park upon the beaches of the county" is prohibited by Art. I, §32 of the North Carolina Constitution. For the following reasons plaintiffs are unlikely to succeed on the merits of their

case.

A. Plaintiff Association Lacks Standing.

N.C. Gen. Stat. §1A-1, Rule 9(a) states:

Any party not a natural person shall make an affirmative averment showing its legal existence and capacity to sue. Any party suing in a representative capacity shall make an affirmative averment showing his capacity and authority to sue. . . .

In what appears to be Plaintiff Association's attempt to establish capacity to institute the pending action in its own right, the Association alleges in the complaint that it "is an organization that is incorporated in the State of Virginia" and that it "is an aggrieved entity suffering from the violations of the North Carolina Constitution by Defendant." (Complaint, ¶3). In what appears to be Plaintiff Association's attempt to establish representative capacity to institute the pending action on behalf of others, the Association alleges in the complaint that the "Association is also an advocacy group for its members and their hobby described above." (Complaint, ¶11). Both allegations fail to make an affirmative averment showing the Association's capacity to sue in its own right or authority to sue in a representative capacity as required by

N.C. Gen. Stat. §1A-1, Rule 9(a). Therefore, the Association does not have standing to bring suit in this matter or apply to this Court for a preliminary injunction and is not likely to succeed on the merits of this case. (See *N. Iredell Neighbors for Rural Life v. Iredell County*, 196 N.C. App 68, 73-75, 674 S.E.2d 436, 440-41 (2009)).

B. The Ordinance Amendment Is Not Unconstitutional

Plaintiffs allege that the Ordinance Amendment violates the Exclusive Emoluments Clause of the North Carolina Constitution. Art. I, § 32 of the North Carolina Constitution is the Exclusive Emoluments Clause that provides “[n]o person or set of persons is entitled to exclusive or separate emoluments or privileges from the community but in consideration of public service.” The Plaintiffs allege that the Ordinance Amendment grants County residents and non-resident property owners a special privilege or exclusive emolument because they are not required to pay a fee to acquire a beach parking permit but non-county residents are required to pay a fee to acquire a beach parking permit.

When determining whether an ordinance is constitutional it is presumed that:

. . .an act passed by the Legislature is constitutional, and it must be so held by the courts unless it appears to be in conflict with some constitutional provision. The legislative department is the judge, within reasonable limits, of what the public welfare requires, and the wisdom of its enactments is not the concern of the courts. As to whether an act is good or bad law, wise or unwise, is a question for the Legislature and not for the courts – it is a political question. The mere expediency of legislation is a matter for the Legislature, when it is acting entirely within constitutional limitations, but whether it is so action is a matter for the courts.

Emerald Isle v. State, 320 N.C. 640, 653-54, 360 S.E.2d 756, 764 (1987) (citing *Lowe v. Tarble*, 312 N.C. 467, 470-71, 323 S.E.2d 19, 21 (1984)).

Our Supreme Court has also held that “not every classification which favors a particular group or persons is an ‘exclusive or separate emolument or privilege’ within the meaning of the constitutional provision. *Id.* at 652, 360 S.E.2d at 764 (citing *Lowe v. Tarble*, 312 N.C. 467, 470, 323 S.E.2d 19, 21 (1984) (statute providing for the assessment of prejudgment interest only against defendants covered by liability insurance does not grant exclusive emolument); *Lamb v. Wedgewood South Corp.*, 308 N.C. 419, 302 S.E.2d 868 (1983) (statute of repose protecting certain building industry groups from liability does not grant unconstitutional exclusive emolument); *State v. Knight*, 269 N.C. 100, 152 S.E.2d 179 (1967) (statute exempting certain occupations from jury

duty does not violate constitutional prohibition against exclusive emoluments). A statute with exemptions that benefit a particular group of persons is not an exclusive emolument under the North Carolina Constitution if: “(1) the exemption is intended to promote the general welfare rather than the benefit of the individual, and (2) there is a reasonable basis for the legislature to conclude the granting of the exemption serves the public purpose.” *Emerald Isle* at 654, 360, S.E.2d at 764.

In this case the requirement to obtain a beach parking permit is clearly intended to promote the general public welfare. As early as 2011 a citizens group studied and determined that an unsafe condition existed on Off-Road Area beach due to the increasing numbers of motor vehicles interacting with an increasing numbers of persons recreating on the Off-Road Area beach. (Scanlon Affidavit, Exhibit A). During public comments on February 19, 2018 and March 5, 2018 the County’s board of commissioners heard concerns regarding safety issues on Off-Road Area beach. Members of the County’s board of commissioners expressed the intent and need for the Ordinance Amendment to reduce the numbers of motor vehicles and persons on Off-Road Area beach in

order to create and maintain a safe environment for travel and recreation.

Further, it was not unreasonable for the County's board of commissioners to determine that County residents and non-resident property owners should not be required to pay a fee for a beach parking permit. As taxpayers, County residents and non-resident property owners are defraying, through payment of property taxes, the cost associated with managing and enforcing the beach parking permit program. It was not unreasonable for the County's board of commissioners to conclude that those already defraying the cost of the beach parking permit program through their taxes should not be required to pay more and that those not contributing should be required to pay a reasonable fee for the privilege of parking motor vehicles on the Off-Road Area beach in a safe environment.

The primary purpose for the Ordinance Amendment was the promotion of the general public safety and welfare and not a private interest. The County's board of commissioners reasonably concluded that a distinction between County residents and property owners was a valid one and that the public welfare would be best served by the

classification. Therefore, the Ordinance Amendment does not violate Art. I, §32 of the North Carolina Constitution.

C. The Plaintiffs Claim for Monetary and Punitive Damages Have No Basis in Law or Fact.

In their complaint, Plaintiffs allege that they have suffered actual damages and the County's action adopting the Ordinance Amendment justifies an award of punitive damages. The Plaintiffs' claims are without basis in law or fact and they will be unable to succeed on the merits of their damage claims.

First, our Supreme Court has long held that monetary damages are not an appropriate remedy for State constitutional violations where there is a less intrusive remedy recognized by State law. *Corum v. University of North Carolina*, 330 N.C. 761, 413 S.E.2d 276 (1992). Our courts do not recognize damages as a remedy where State law, as here, provides for an adequate remedy through a final judgment that might strike the County resident and non-resident property owner exemption from payment of the beach parking permit fee, allow non-county residents to acquire a beach parking permit without a fee and refund any fee paid by the Plaintiffs. If the Plaintiffs are correct, which they are not, then the sole remedy is to give them what they asked for in

their “declaratory judgment” action and the proper remedy afforded them under well- established North Carolina law.

Second, the Plaintiffs allegation and prayer for punitive damages is not an available remedy. Our Supreme Court has held that “in the absence of statutory provisions to the contrary, municipal corporations are immune from punitive damages.” *Long v. City of Charlotte*, 306 N.C. 187, 208, 293 S.E.2d 101, 115 (1982).

II. PLAINTIFFS’ MOTION FOR PRELIMINARY INJUNCTION SHOULD BE DENIED BECAUSE THEY CANNOT SHOW IRREPARABLE LOSS.

As stated above, a preliminary injunction will be issued only if the plaintiff shows that the plaintiff is likely to suffer irreparable harm if the preliminary injunction is not granted. In this case the Plaintiffs cannot show irreparable harm.

On its face, the Plaintiffs make a bare allegation that they will suffer irreparable harm if the County is allowed to continue requiring beach parking permits to be required of non-county residents as “time cannot be reversed.” (Complaint, ¶14). There is no allegation in the complaint that the Association has applied or paid anything to obtain a beach parking permit or that the Association is being denied any use of

the Off-Road Area beach. Plaintiff Schneirla obtained a beach parking permit on May 23, 2018 and has the ability to park on the Off-Road Area beach as she desires. If any “harm” can be shown, which it cannot, it is the payment of the beach permit parking fee that can be simply refunded to Plaintiff Schneirla should she prevail and the court enter a judgment to that effect.

The Plaintiffs’ claim that they will suffer irreparable harm without entry of a preliminary injunction is also feckless and belied by the Plaintiffs delay in seeking a preliminary injunction. The extraordinary remedy of “[a] prohibitory injunction is granted only when irreparable injury is real and *immediate*.” *United Tel. Co. v. Universal Plastics, Inc.*, 287 N.C. 232, 235, 214 S.E.2d 49, 51 (1975) (emphasis added). A significant measure of the need for protection from immediate and irreparable harm is the haste with which the moving party seeks injunctive relief. *See N. Iredell* at 79, 674 S.E.2d at 443 (affirming trial court’s finding of no irreparable harm where two months elapsed without any contention by plaintiffs of an urgent threat of irreparable harm); *Southtech Orthopedics, Inc. v. Dingus*, 428 F.Supp.2d 410, 420 (E.D.N.C. 2006) (six to nine week delay between

plaintiff's discovery of defendant's activities and filing suit weighs against injunctive relief); *Quince Orchard Valley Citizens Ass'n v. Hodel*, 872 F.2d 75, 80 (4th Cir. 1989) (a particular period of delay may not rise to the level of laches and bar a permanent injunction, but it may still indicate an absence of irreparable harm required to support a preliminary injunction); *John Lemmon Films, Inc. v. Atl. Releasing Corp.*, 617 F. Supp. 992, 996 (W.D.N.C. 1985) (more telling of the absence of convincing proof that the plaintiff would suffer irreparable harm is plaintiff's delay in seeking an injunction).

In this case, the County's board of commissioners adopted the Ordinance Amendment on March 5, 2018 with an effective date of May 1, 2018. The County began accepting applications for beach parking permits and issuing the permits on or about May 1, 2018. Plaintiff Schneirla was issued a beach parking permit on May 23, 2018. (Complaint, Exhibit B). There is no allegation in the complaint that Plaintiff Association acquired a beach parking permit. The Plaintiffs did not file their complaint until June 21, 2018 and did not place a hearing on their motion for preliminary injunction on a court calendar until July 30, 2018. From the date the Ordinance Amendment was

adopted to the date of the preliminary injunction hearing almost five months have elapsed. Almost three months elapsed from the effective date of the ordinance to the date of the preliminary injunction hearing. Through their own delay the Plaintiffs have shown that there is not an urgent threat of irreparable harm to them. In any event, beach parking permits will not be required in just over one month from the date of the preliminary injunction hearing further defeating Plaintiffs' claim of irreparable harm if a preliminary injunction is not issued. Lastly, during the February 19, 2018 meeting of the County's board of commissioners, Plaintiff Schneirla stated that:

“we have been coming down here, last October was our tenth year. In October we host, one of our local clubs, that's also from Hampton Roads, we come down every year and we do a beach clean. . . . In October we host, one of our local clubs, that's also from Hampton Roads, we come down every year and we do a beach clean. There's photos on our Facebook page if anybody is on Facebook. And, one of the concerns we have is this permit system; one, could there be a day permit, could it be for specific times of the year, when it's busier, perhaps Memorial Day to Labor Day, and how will it affect our beach clean.

(Exhibit ____)

There is no showing of harm, irreparable or otherwise, when the Plaintiffs' admitted use of the Off-Road Area beach is a time of the year

when a beach parking permit is not required.

III. PLAINTIFFS' MOTION FOR PRELIMINARY INJUNCTION SHOULD BE DENIED BECAUSE THEY HAVE AN ADEQUATE REMEDY AT LAW.

Even if this court determines that Plaintiffs show a likelihood of prevailing on the merits of their case and irreparable harm, the court must still weigh whether a preliminary injunction should issue when Plaintiffs have an adequate remedy at law. “An injunction will not be granted where there is a full, adequate and complete remedy at law. *Providence Volunteer Fire Dep't. v. Town of Weddington*, 800 S.E.2d 425, 435, 2017 N.C. App. LEXIS 278, 24 (2017). Here, the Plaintiffs have an adequate remedy at law. They have commenced their declaratory judgment action that, if they prevail, will provide them with a full, adequate and complete remedy at law. In accordance with the law of equity, the Plaintiffs' motion for preliminary injunction must be denied.

CONCLUSION

Based on the foregoing authority and the facts of this case, the Plaintiffs cannot succeed on the merits of their complaint. The Plaintiffs' request for a preliminary injunction should be denied in as much as they seek to change the *status quo* pending a hearing on the merits of their

case. The *status quo* is Plaintiffs' possession of a beach parking permit that allows her to park on the beach in the County's off-road area and is not required after September 3, 2018. If the court somehow determines that Plaintiffs have a likelihood of success on the merits, the preliminary injunction should nevertheless be denied since the Plaintiffs will not be irreparably harmed by denial of a preliminary injunction and have an adequate, easily measured remedy at law. The County prays that the court deny the Plaintiffs' motion for a preliminary injunction.

Respectfully submitted the 27th day of July, 2018.

COUNTY OF CURRITUCK,
NORTH CAROLINA

BY: 

Donald I. McRee, Jr.
Currituck County Attorney
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153 Courthouse Road, Suite 210
Currituck, NC 27929
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CERTIFICATE OF SERVICE

This is to certify that the undersigned has this date served the foregoing Memorandum of Law in Opposition to Plaintiffs' Motion for Preliminary Injunction upon all parties to this cause by:

☐ Hand delivering a copy hereof to the attorney for each said party, or leaving a copy at the office of said attorney with a person in charge thereof.

☒ By electronic mail transmission to:

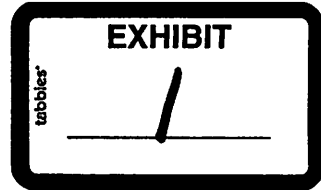
Edwin M. Hardy, Esq.
hardylaw2@gmail.com

☐ Depositing a copy hereof, postage pre-paid, in the United States mail, properly addressed to the attorney for each said party as follows:

This the 27th day of July, 2018.

BY: _____


Donald I. McRee, Jr.



NORTH CAROLINA
CURRITUCK COUNTY

IN THE GENERAL COURT OF JUSTICE
SUPERIOR COURT DIVISION
File No. 18-CVS-228

SANDRA SCHNEIRLA, individually)
as an Aggrieved Person; and, THE)
VIRGINIA FOUR WHEEL DRIVE)
ASSOCIATION, INC., a Virginia)
not-for-profit corporation,)
Plaintiff,)

v.)

COUNTY OF CURRITUCK,)
Defendant.)
_____)

AFFIDAVIT OF
DANIEL F. SCANLON, II

NOW COMES the Affiant Daniel F. Scanlon, II, after having been first duly sworn, and having personal knowledge of the facts stated herein, and states:

1. I am the County Manager of Currituck County, North Carolina and have been serving in the position of County Manager since 2001.

2. Currituck County, North Carolina is a county located in the northeaster portion of North Carolina. Approximately twenty-three miles of the county front the Atlantic Ocean. Of those twenty-three miles, approximately eleven miles are only accessible by four-wheel drive motor vehicles traveling along the ocean beach in an area known as the off-road area of the county.

3. There are approximately 3,000 platted lots located in the off-road area of the county.

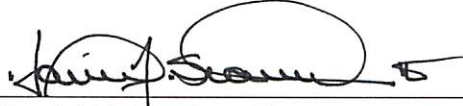
4. Particularly between Memorial Day and Labor Day, the off-road area of the county attracts a large number of motor vehicles and persons recreating on the off-road area beach.

5. Due to the number of motor vehicles and recreating persons interacting on the off-road area beach the county has recognized an increased hazard to public health, safety and welfare. The concern has been so great that the county's board of commissioners in 2011 appointed a committee of citizens to identify concerns regarding motor vehicle and recreational use of the off-road area beach.


6. The committee, known as the "Beach Driving Committee", conducted a survey of traffic on the beach in May and July 2011, held committee meetings and public meetings to identify off-road beach issues and recommend solutions. Attached to this affidavit as Exhibit A are true and accurate copies a traffic survey, minutes of meetings and recommendations to the county's board of commissioners from the Beach Driving Committee.

Further the affiant sayeth not.

This the 27th day of July, 2018.

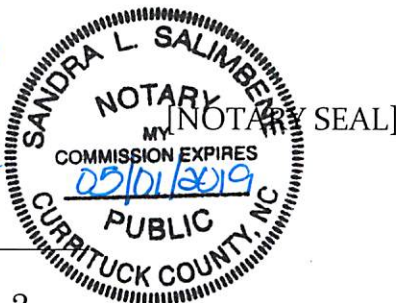

Daniel F. Scanlon, II

Sworn and subscribed before me
this 27th day of July, 2018.

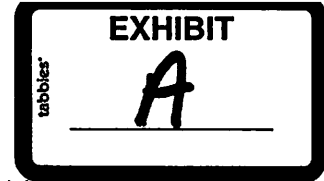

Notary Public


Printed Name

My Commission expires: _____



BEACH DRIVING RECOMMENDATIONS



The beach driving committee identified three issues: 1. Congestion, 2. Education, 3. Public Safety. These recommendations address each issue. Short term recommendations are intended to be implemented in 1-3 years and long term ones in 3 or more years. Budget impacts are classified as: \$0, Low (<\$20,000), or High (>\$20,000).

CONGESTION

RECOMMENDATION	SHORT TERM	LONG TERM	BUDGET IMPACT
Promote Beach Access in Corolla			
Install directional signage (direct to parking lots)	✓		Low
Improve Parking Lots & Accesses in Corolla (Lighthouse, Corolla Bay & Whalehead)			
Provide port-a-johns, water & waste receptacles	✓		Low
Construct bathhouse(s)		✓	High
Permit System¹ Complete a feasibility study for seasonal beach permitting			
Phase 1: Evaluate feasibility with a Local Committee	✓		\$0
Phase 2: Hire a Consultant to conduct a professional study	✓		High

EDUCATION

RECOMMENDATION	SHORT TERM	LONG TERM	BUDGET IMPACT
Convey Consistent Messages			
Update radio message, website, & Channel 12	✓		\$0
Prepare an educational video on beach driving to be used by County website, tourism website, visitor's center, rental companies, etc.	✓		\$0
Install educational signage	✓		Low
Provide yearly updates for Rental Companies	✓		Low
Emphasize the Importance of Airing Down			
Provide quality information (brochure, signage)	✓		Low
Provide temporary air-up station on County property north of Corolla Bay	✓		Low
Install permanent air-up station		✓	High
Market the Message			
Hire a marketing consultant to effectively convey rules	✓		High

PUBLIC SAFETY

RECOMMENDATION	SHORT TERM	LONG TERM	BUDGET IMPACT
Emphasize Traffic Patterns²			
Change ordinance language to accurately reflect the desired driving & parking areas & beach conditions (Provide graphic)	✓		\$0
Require area around beach accesses to remain clear	✓		\$0

PUBLIC SAFETY (continued)

RECOMMENDATION	SHORT TERM	LONG TERM	BUDGET IMPACT
Implement a Consistent Speed Limit			
Research a safe consistent speed limit for peak season	✓		\$0
Make Access Ramp Safer			
Improve maintenance of ramp (schedule)	✓		Low
Improve pedestrian access at ramp	✓		Low
Work with DOT to add pull-off lanes for airing down		✓	Low
Permit System¹ Complete a feasibility study for seasonal beach permitting			
Phase 1: Evaluate feasibility with a Local Committee	✓		\$0
Phase 2: Hire a Consultant to conduct a professional study	✓		High

¹The majority of the committee supports a permit system. As a compromise the committee agreed to conduct a feasibility study for a permit system. There is minority concern about: 1. restricting the current free access to the beaches and subdivisions, 2. enforcement of a permit system.

²There is a minority opinion from a public safety standpoint that dividing the parking area from the recreation area by a driving lane is dangerous. Driving at the dune line is not a popular idea among the committee as citizens, contractors, service providers and some public safety persons are not in favor.

REVIEW OF CURRENT CODE OF ORDINANCES REGULATING BEACH DRIVING

Beach strand means that area of the beach extending from the dune line to the waters edge

Foreshore means the area from the water's edge to a wash line created by the previous high tide; specifically, the hard-packed sand strip adjacent to the water's edge.

Sec. 10-58. - Speed limits.

The maximum speed limit for vehicles, mopeds, motorcycles and motor vehicles on the Outer Banks, except on Ocean Trail where higher speed limits may be posted, shall be 35 miles per hour, except that, when driving on the foreshore or beach strand, such vehicles shall not exceed 15 miles per hour when located within 300 feet of pedestrians, sunbathers, swimmers, fisherman, or other persons using the beach or beach strand or foreshore. Whenever possible, such vehicles so operated shall pass by such persons using the beach and foreshore at a distance of at least 100 feet.

Sec. 10-62. - Blocking foreshore.

- a. No person shall block the foreshore in such a manner that would prohibit vehicular travel along the foreshore.
- b. All vehicles parked on the beach strand shall be parked in the area east of the dune line and west of the hard packed sand strip adjacent to the waters edge such that vehicular traffic may pass without obstruction adjacent to the dune line and adjacent to the waters edge. There shall be no lawn chairs, coolers, fishing lines or any other items allowed to block the beach strand in any manner that would restrict vehicular movement in a north-south direction along the dune line or along the waters edge.
- c. 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.

VEHICLE COUNT (by STATE & OFF-RD TOURS) Saturday, May 29, 2010 Time: 6:00 AM – 8:00 PM

TIME	NC	VA	OTHER	TOURS	JEEP RENTALS	VEHICLE TOTALS	PASSENGERS
6-8 AM	16	6	5	1	0	28	63
8-10 AM	39	26	15	7	3	90	243
10-12 N	55	61	61	3	5	185	531
12-2 PM	61	96	72	4	7	240	667
2-4 PM	64	68	119	5	4	260	773
4-6 PM	53	38	89	6	0	186	537
6-8 PM	29	36	68	1	2	136	334
TOTALS	317	331	429	27	21	1125	3108

VEHICLE COUNT (by STATE and JEEP/ LG. VEH. TOURS) Date July 22, 2010 Time: 6:00 AM – 8:45 PM

TIME	NC	VA	OTHER	TOURS	JEEP RENTALS	VEHICLE TOTALS	PASSENGERS
6-8 AM	10	12	23	0	1	46	92
8-10 AM	26	23	46	35	22	152	435
10-12 N	36	36	114	8	20	214	630
12-2 PM	38	56	112	14	22	242	850
2-4 PM	22	36	63	14	10	145	468
4-6 PM	27	35	40	10	20	132	456
6-8:45 PM	25	35	109	35	39	243	592
TOTALS	184	233	576	116	133	1242	3523

**Notes from
Beach Driving Committee
April 21, 2011, 10:00 am – 11:30 am**

Vision statement

"The off-road area represents a unique beach experience that is safe for tourists and recreational users, and remains a viable transportation route for service providers and residents."

Comments:

- Safe for Horses & the Natural Environment
- Include Education
- Pleasant Experience
- Family Environment

Constants

- | | |
|--------------------------------|--|
| • Must drive on beach | • No commercial transactions |
| • Traffic | • Public safety |
| • People recreating | • Commercial traffic |
| • Oblivious parents & children | • Narrowing beach width |
| • Parking on beach | • Pedestrian conflicts at ramps/accesses |
| • Impact of tides | • US Fish & Wildlife Service |
| • Weather conditions | • No parking first 8/10 mile |
| • Ramp congestion | • Tourism |
| • Crowding around horses | |

Thoughts on Current Beach Driving Situation

Positives

- Parking in middle of beach
- Driving on foreshore
- Signage
- Citations for beach infractions
- Enforcement
- Increased presence of law enforcement
- Increased education by realty companies
- Community commitment

Negatives

- Too many cars
- Too many people
- Uninformed realty companies (North & South Beaches)
- Day trippers not educated
- Message on County Radio Station
- Improved Signage
- No public facilities (trash, restrooms)
- Ramp design/layout
- Changes in speed limit
- Unpredictability of foreshore
- Public safety (traffic on both sides of beach-goers)
- Limited alternatives to driving on beach
- Congestion at all ramps
- Condition/maintenance of ramps
- Hatteras ramps
- Not enough enforcement
- Inconsistent enforcement
- Poor county ordinances
- Not properly airing down
- Lack of education
- Lack of information station before ramp

The next meeting will be on May 12, 2011 at 2:00pm at the Corolla Satellite Office. We will discuss policy considerations.

**Notes from
Beach Driving Committee Meeting
May 12, 2011, 2:00 pm – 4:00 pm**

Update from Mike Hoff, US Fish & Wildlife and Discussion:

USFW recently had meetings with the Army Corps about cleanup of the Navy Munitions Area (the first reserve). The clean up zone is from the southernmost point of the first reserve northward to milepost 14. The public must be kept out of the munitions area and the recommendation is to keep the area closed to public access. The committee is concerned that people are allowed to park and recreate on the beach in front of the reserve. Beginning as early as Memorial Day 2011 USFW will post signs at the beginning and end of the reserve (about .08 miles) that indicate it is a no parking and no stopping zone. No parking signs will also be placed along the dune line of the reserve area. A judicial order to enforce USFW boundary of mean high tide is possible. If the boundary is enforced, at times beach travel would not be possible. The northern USFW property will be unaffected.

There is a County ordinance (enforced by the Sheriff's Department) that prohibits parking for the first ½ mile from the access ramp and USFW is requiring an additional mile of prohibited parking and stopping.

Concerns are that this will increase density of beach use in other areas.

Beach Driving Committee in conjunction with USFW may make a recommendation to the BOC to enforce no parking or stopping on the first 1 ½ miles of beach.

Education is important as currently there is bad information regarding the current ½ mile no parking ordinance. (i.e. radio, brochures)

Discussion Topics:

Prioritization of the beach driving positives and negatives was discussed and the following three major issues need to be addressed:

1. Congestion
2. Education
3. Public Safety

Short Term and Long Term Recommendations are needed.

Recommendations and Discussion:

1. Seasonal Beach Permitting

Recommend that a committee be formed for a feasibility study on seasonal beach permitting.

There are numerous implementation and enforcement issues. (i.e. who will enforce, how it will be funded, etc.)

Land Acquisition may be necessary for a turn around spot as well as an air-down station.

2. Promote Corolla Beaches

As an alternative to driving on the beach an effort can be made to direct visitors to the existing parking lots in Corolla with better signage. Also improvements to existing parking areas and accessways including bath house construction may help day trippers choose Corolla beaches vs. 4x4 beaches.

Another suggestion is to make certain areas of 4x4 beaches "no driving" blocks where traffic is routed behind the dunes.

We need to identify **alternatives to a permitting system** to address the three major areas of concern: 1. Congestion, 2. Education, 3. Public Safety

The next meeting is scheduled for May 23, 2011 at 9:30 am at the Corolla Satellite Office.

**Notes from
Beach Driving Committee Meeting
May 23, 2011, 9:30 am – 11:00 am**

Discussion of the three identified major issues: Congestion, Education, and Public Safety

CONGESTION

1. Promote Beach Access in Corolla

- Improve Corolla parking lots and accesses (i.e. Whalehead, Lighthouse Access)
- Provide upkeep & maintenance of lots and accesses
- Install signage to direct beach-goers to these underused parking areas
- Improve existing facilities by providing port-a-johns, water, and waste receptacles
- Improve parking area at the Lighthouse Access (used to be gravel with wheel stops and larger parking areas)

2. Land Acquisition in Off-Road Area

- Find lots in off-road area to accommodate parking
- Establish sand parking areas west of the dune
- Require traffic to be off the beach in areas where parking is provided

3. Seasonal Partitioning of Beach

- Partition the beach into areas to encourage a specific user group (i.e. fishing, recreating, family-friendly, no-driving areas)
- Alter traffic patterns in these areas (i.e. all traffic by the dune line or west of the dunes)
- Attention should be given to the condition of the beach in these areas as some parts of 4x4 areas are more conducive to driving by the dune line than others
- Make improvements to the roads and provide regular maintenance

4. Permits

- Recommend that a committee be formed for a feasibility study on seasonal beach permitting

EDUCATION

1. Organize and Convey Consistent Messages (Radio, Signage, Website, Video, Channel 12)

- Use all types of social media to convey the beach driving rules
- Create a video regarding beach driving for the County Website and RE Companies to use
- Study and provide good information about airing down vehicles (infrastructure is needed for airing up that is close to the ramp)
- Identify and correct the existing inconsistent information regarding beach driving rules and air-down practices – an effort should be made to be consistent
- Develop a standardized talk sheet regarding beach driving rules

2. Pre-season updates

- Provide training for Real Estate Companies in order to present updates to rules that affect beach-goers

3. Consultant

- Hire a consultant to recommend and help the County convey a clear concise message
- Suggest a method to improve signage and help the public grasp the rules (“NO” signs may not be the most effective way to educate)

PUBLIC SAFETY

1. Alter Traffic Patterns

- Require parking by the foreshore and driving by the dune line or behind the dunes “in season” during peak hours of the day
- Separation of the recreation area and parking area by a driving lane is dangerous
- Find a balance between recreation and commercial use of the beach

2. Speed limit enforcement

- Improve enforcement of speed limit

3. Improvements to the paved road at the ramp

- Work with DOT to add a lane for cars to pull over and air down

The next meeting will be a public comments session. The committee will conduct an open house at the Carova Fire Department. The open house is scheduled for Wednesday, June 15, 2011 from 5:00pm – 7:00pm. All Beach Driving Committee members are encouraged to attend and help receive comments from attendees.



GENERAL ASSEMBLY OF NORTH CAROLINA
1985 SESSION

CHAPTER 875
SENATE BILL 941

AN ACT TO PERMIT THE COUNTY OF CURRITUCK TO REGULATE MOTOR
VEHICLES OPERATION ON PUBLIC BEACHES.

The General Assembly of North Carolina enacts:

Section 1. Chapter 153A of the General Statutes is amended by adding a new section to read:

"§ 153A-139.1. Regulation of motor vehicles at beaches.—(a) A 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 governing body of the county on the foreshore, beach strand, and the barrier dune system. Violation of any ordinance adopted by the governing body pursuant to this section is a misdemeanor, punishable by a fine of not more than fifty dollars (\$50.00), or by imprisonment for not more than 30 days, or both in the discretion of the court.

(b) A county shall not prohibit the use of the specified vehicles from the foreshore, beach strand, and the barrier dune system by commercial fishermen for commercial activities. Commercial fishermen, however, shall abide by all other regulations or restrictions duly enacted by counties pursuant to this section.

(c) Notwithstanding G.S. 153A-122, a city may not take any action to limit the applicability of any ordinance adopted pursuant to this section on land within the county that is also within the city limits."

Sec. 2. This act applies to Currituck County only.

Sec. 3. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 3rd day of July, 1986.

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 1997

SESSION LAW 1998-64
HOUSE BILL 1549

AN ACT TO INCREASE THE FINE FOR DRIVING A VEHICLE ON THE BEACH
IN CURRITUCK COUNTY.

The General Assembly of North Carolina enacts:

Section 1. G.S. 153A-139.1(a), as enacted by Chapter 875 of the 1985 Session Laws, reads as rewritten:

"§ 153A-139.1. Regulation of motor vehicles at beaches.

(a) A 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 governing body of the county on the foreshore, beach strand, and the barrier dune system. Violation of any ordinance adopted by the governing body pursuant to this section is a misdemeanor, punishable by a fine of not more than ~~fifty dollars (\$50.00)~~, five hundred dollars (\$500.00), or by imprisonment for not more than 30 days, or both in the discretion of the court."

Section 2. This act becomes effective December 1, 1998, and applies to offenses committed on or after that date.

In the General Assembly read three times and ratified this the 27th day of July, 1998.

s/ Dennis A. Wicker
President of the Senate

s/ Harold J. Brubaker
Speaker of the House of Representatives

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2001**

**SESSION LAW 2001-33
HOUSE BILL 768**

AN ACT TO MAKE VIOLATIONS OF CURRITUCK COUNTY BEACH DRIVING
ORDINANCES ENFORCEABLE IN THE SAME MANNER AS STATE
TRAFFIC STATUTES AND TO MAKE THE VIOLATION PROVISION OF THE
ACT CONSISTENT WITH STRUCTURED SENTENCING.

The General Assembly of North Carolina enacts:

SECTION 1. Section 1 of Chapter 875 of the 1985 Session Laws, as amended by S.L. 1998-64, reads as rewritten:

"Section 1. Chapter 153A of the General Statutes is amended by adding a new section to read:

"§ 153A-139.1. Regulation of motor vehicles at beaches.

(a) A 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 governing body of the county on the foreshore, beach strand, and the barrier dune system. Violation of any ordinance adopted by the governing body pursuant to this section is a Class 2 misdemeanor, punishable by a fine of not more than five hundred dollars (\$500.00), or by imprisonment for not more than 30 days, or both in the discretion of the court.

(b) A county shall not prohibit the use of the specified vehicles from the foreshore, beach strand, and the barrier dune system by commercial fishermen for commercial activities. Commercial fishermen, however, shall abide by all other regulations or restrictions duly enacted by counties pursuant to this section.

(c) Notwithstanding G.S. 153A-122, a city may not take any action to limit the applicability of any ordinance adopted pursuant to this section on land within the county that is also within the city limits.

(d) For purposes of this section, a violation of any ordinances issued pursuant to subsection (a) of this section may be enforced in the same manner as a violation of a provision of Article 3 of Chapter 20 of the General Statutes."

SECTION 2. This act applies to Currituck County only.

SECTION 3. This act becomes effective October 1, 2001, and applies to offenses committed on or after that date. Prosecutions for offenses committed before the effective date of this act are not abated or affected by this act, and the statutes that would be applicable but for this act remain applicable to those prosecutions.

In the General Assembly read three times and ratified this the 23rd day of April, 2001.

s/ Beverly E. Perdue
President of the Senate

s/ Joe Hackney
Speaker Pro Tempore of the House of Representatives

NORTH CAROLINA
CURRITUCK COUNTY

IN THE GENERAL COURT OF JUSTICE
SUPERIOR COURT DIVISION
File No. 18-CVS-228

SANDRA SCHNEIRLA, individually)
as an Aggrieved Person; and, THE)
VIRGINIA FOUR WHEEL DRIVE)
ASSOCIATION, INC., a Virginia)
not-for-profit corporation,)
Plaintiff,)

v.)

COUNTY OF CURRITUCK,)
Defendant.)
_____)

AFFIDAVIT OF
LEEANN WALTON

NOW COMES the Affiant Leeann Walton, after having been first duly sworn, and having personal knowledge of the facts stated herein, and states:

1. I am the Clerk to the Board of Commissioners for Currituck County, North Carolina. In my capacity as Clerk to the Board of Commissioners I am the custodian of county records.

2. Attached to this affidavit as Exhibit A is a true and accurate copy of the Ordinance of the Currituck County Board of Commissioners Amending Section 10-64 of the Currituck County Code of Ordinances Regulating Parking On The County's Ocean Beach that was before the Board of Commissioners at its February 19, 2018 meeting.

3. Attached to this affidavit as Exhibit B is a true and accurate copy of the minutes from the February 19, 2018 meeting of the Board of Commissioners pertaining to the Ordinance of the Currituck County Board of Commissioners Amending Section 10-64

of the Currituck County Code of Ordinances Regulating Parking On The County's Ocean Beach that was before the Board of Commissioners at its February 19, 2018 meeting.

4. Attached to this affidavit as Exhibit C is a true and accurate copy of a transcript of a portion of the public comments and the Board of Commissioners discussion pertaining to the Ordinance of the Currituck County Board of Commissioners Amending Section 10-64 of the Currituck County Code of Ordinances Regulating Parking On The County's Ocean Beach that was before the Board of Commissioners at its February 19, 2018 meeting.

5. Attached to this affidavit as Exhibit D is a true and accurate copy of the Ordinance of the Currituck County Board of Commissioners Amending Section 10-64 of the Currituck County Code of Ordinances Regulating Parking On The County's Ocean Beach that was before the Board of Commissioners at its March 5, 2018 meeting.

6. Attached to this affidavit as Exhibit E is a true and accurate copy of the minutes from the March 5, 2018 meeting of the Board of Commissioners pertaining to the Ordinance of the Currituck County Board of Commissioners Amending Section 10-64 of the Currituck County Code of Ordinances Regulating Parking On The County's Ocean Beach that was before the Board of Commissioners at its March 5, 2018 meeting.

Further the affiant sayeth not.

This the 27th day of July, 2018.

Leeann Walton
Leeann Walton

Sworn and subscribed before me
this 27th day of July, 2018.

Sandra L. Salimbene
Notary Public

Sandra L. Salimbene
Printed Name

My Commission expires: _____





Currituck County Agenda Item Summary Sheet

EXHIBIT	A	5.B

Agenda ID Number – (ID # 2102)

Agenda Item Title

Consideration of an Amendment to Chapter 10 of the Currituck County Code of Ordinances
Establishing a Permitting System for Beach Parking

Brief Description of Agenda Item:

Planning Board Recommendation:

Board will consider an ordinance that establishes a beach parking pass system for Currituck County beaches.

Board Action Requested

Action

Person Submitting Agenda Item

Leeann Walton, Clerk to the Board

Presenter of Agenda Item

1 AN ORDINANCE OF THE CURRITUCK COUNTY BOARD OF
2 COMMISSIONERS AMENDING SECTION 10-64 OF THE CURTITUCK
3 COUNTY CODE OF ORDINANCES REGULATING PARKING ON THE
4 COUNTY'S OCEAN BEACH

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

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

17 WHEREAS, pursuant to Section 1 of Chapter 875 of the 1985 Session Laws,
18 as amended by S.L. 1998-64 and S.L. 2001-33 the county may by ordinance
19 regulate, restrict, and prohibit the use of dune or beach buggies, jeeps, motorcycles,
20 cars, trucks, or any other form of power-driven vehicle specified by the county's
21 governing board on the foreshore, beach strand and barrier dune system.

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

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

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

27 (a) This section shall be applicable for those areas of Currituck County, including,
28 but not limited to, the beach strand and foreshore areas, located from the
29 Dare/Currituck line to the North Carolina/Virginia line.

30 (b) County residents and property owners desiring to operate a moped, motorcycle
31 or off-road vehicles, including but not limited to, all-terrain vehicle, utility vehicle,
32 recreational off-highway vehicle, multipurpose off-highway utility vehicle, or other
33 off-road vehicle, ("ORV"), on the areas covered by this section shall obtain a permit
34 from the county manager or his county manager's designated representative.
35 Permits may be obtained ~~at the satellite office in Corolla or at the county manager's~~
36 ~~office during normal business hours and at such other times and places as may be~~
37 designated by the county manager.

Attachment: Ordinance Amending Section 10-64 parking permit 021918 v2 (Beach Parking Pass Ordinance)

1 Any person parking a motor vehicle, other than a moped, motorcycle or ORV,
 2 on the area covered by the section shall have first obtained from the county
 3 manager or county manager's designated representative a parking permit which
 4 must be prominently displayed when parking on the area covered by this section.
 5 Parking permits may be obtained at times and places designated by the county
 6 manager.

7 (c) County residents may obtain at no fee a maximum of two annual permits for
 8 operation of a moped, motorcycle or ORV owned by them upon making application
 9 as provided in subsection (b) above and upon showing proof of liability insurance
 10 and ownership for the moped, motorcycle or ORV. Non-resident property owners
 11 may obtain at no fee a maximum of two annual permits for operation of a moped,
 12 motorcycle or ORV owned by them upon making application as provided in
 13 subsection (b) above and showing proof of liability insurance and ownership for the
 14 moped, motorcycle or ORV. Liability insurance coverage on the moped, motorcycle
 15 or ORV shall be maintained continuously throughout the term of the permit.

16 County residents and non-resident property owners may obtain at no fee a
 17 parking permit for each motor vehicle, other than a moped, motorcycle or ORV,
 18 owned by them for terms adopted by the board of commissioners upon making
 19 application as provided in subsection (b) above, showing proof of current ownership
 20 and current liability insurance for each motor vehicle for which a parking permit is
 21 issued and written acknowledgement that they have read and are familiar with
 22 county beach driving ordinances. Each permit shall be assigned to a specific motor
 23 vehicle. Liability insurance on the motor vehicle shall be maintained continuously
 24 throughout the term of the permit.

25 Persons other than county-residents and non-resident property owners may
 26 obtain a parking permit for each motor vehicle, other than a moped, motorcycle or
 27 ORV, owned by them upon payment of a fee and term adopted by the board of
 28 commissioners and making application as provided in subsection (b) above, showing
 29 proof of current ownership and current liability insurance for each motor vehicle for
 30 which a parking permit is issued and written acknowledgement that they have read
 31 and are familiar with county beach driving ordinances. Each permit shall be
 32 assigned to a specific motor vehicle. Liability insurance on the motor vehicle shall
 33 be maintained continuously throughout the term of the permit.

34 Persons who own property located north of the North Beach Access Ramp that is
 35 in a rental program may obtain two parking permits at no fee for each property
 36 owned by them for terms adopted by the board of commissioners upon making
 37 application as provided in subsection (b) above and verification that the property is
 38 registered with the county tax administrator for occupancy tax administration.

39 (d) County residents and property owners, operating mopeds, motorcycles or ORV's
 40 shall ensure that these vehicles have a valid permit prominently displayed at all
 41 times while operating, or parked, on the Currituck County outer banks, beach
 42 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 a 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.

(i) This section shall not apply to:

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

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

3. Commercial fishermen;

4. Hunters possessing valid hunting licenses while engaged in an active hunt or State or federal property located on the Currituck outer banks; or

5. Outdoor tour operators with a valid license issued under Article IV, Chapter 8 of this Code.

PART II. 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 III. This ordinance is effective May 1, 2018.

ADOPTED this _____ day of _____, 2018.

Bobby Hanig, Chairman

ATTEST:

Leeann Walton, Clerk to the Board

APPROVED AS TO FORM:

Donald I. McRee, Jr., County Attorney

Date adopted: _____

FIRST READING

Motion to adopt by Commissioner _____

Second by Commissioner _____

Vote: _____ AYES _____ NAYS

SECOND READING

Motion to adopt by Commissioner _____

Second by Commissioner _____

Vote: _____ AYES _____ NAYS

Impact/Low Cost Road Program to fund a shoreline stabilization project on North Carolina Highway 615.

ADOPTED this the 19th day of February, 2018.

Bobby Hanig, Chairman

ATTEST:

Clerk to the Board

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

B) 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, Swan Beach resident, discussed the proposed beach parking pass and thanked the Board for their efforts to reduce traffic on the off-road area. She referred to letters from local community groups which noted their concerns, one being more time for public input. She questioned how permits would work for residents who live on the off-road.

Darcie Messina, Bells Island, discussed the parking pass and expressed concerns with safety. She suggested vehicles will now park behind the dunes. She said signage and additional law enforcement would be needed, and she talked about increased hazards on North Carolina Highway 168 as vehicles stop to get passes at Visitor Centers. She asked the Board to allow more community input.

Linda Lloyd of Moyock and a Carova property owner discussed the beach parking pass and commended the Board for attempting to solve the problems in the off-road area. She, too, expressed concerns with safety and people choosing to park behind the dunes. She asked the Board to meet with the community and to hold off implementation until 2019. She suggested forming a committee.

Edward Ponton of Corolla and a Twiddy employee discussed the beach parking pass. He said the chance to educate guests for the upcoming season is over. He noted some questions still need to be answered regarding the issuance and said he wants to see the

implementation go well. He asked the Board to allow for more time and community input.

Clark Twiddy of Twiddy and Company said he wants to work with the Board to create a great parking permit system that will enhance the visitor experience. He stressed the importance of safety and applauded the Board's wanting to implement safety measures on the off-road.

Steve Shawgo of Moyock talked about the increased litter on county roads and the North Carolina Department of Transportation's Adopt a Highway program. He thanked Commissioner Hall and Commissioner Payment for their help with their project clean ups along Tulls Creek Road. Mr. Shawgo distributed a flyer and announced the next pick-up, scheduled for March 10, 2018. He asked for the Board's help to provide funds for signage to post littering fines.

Paul Gilbert of the Virginia Four Wheel Drive Association said a \$50.00 fee is excessively high and asked the Board to take a look at the ordinance again.

TJ English of Knotts Island asked how the beach parking ordinance would address a Limited Liability Company as an owner of property.

Derek Kinney, a Monterey Shopping Center business owner, said his shoulder season business may suffer if beach parking permits are instituted.

Stuart Baldwin of Grandy discussed the beach parking permit saying he is in favor of making the beach safer. He questioned administration and types of passes, and said he fishes during off-season, typically seeing no police presence at that time.

Sandy Schneirla, Vice-President of the Virginia Beach Four Wheel Drive Association, asked if the Board would consider a day pass while making the permit during peak-season. She discussed her group and the beach cleanup they perform on the off-road.

John Snowden of Maple expressed his concerns with beach driving permit and noted the low taxes we pay are a benefit we receive from visitors to our beaches.

With no one else signed up nor wishing to speak, Chairman Hanig closed the Public Comment period.

C. Consideration of an Amendment to Chapter 10 of the Currituck County Code of Ordinances Establishing a Permitting System for Beach Parking

County Attorney, Ike McRee, began by addressing some misconceptions stated in many email comments received by the Board regarding the proposal. He explained that North Carolina Highway 12 does not extend to the Virginia line as assumed, and he said the county has jurisdiction over its beaches through North Carolina General Statutes. Statutes were reviewed by Mr. McRee.

Mr. McRee reviewed the ordinance amendment proposed for institution of a parking permit system on the beach, detailing specific items as needed. He said Limited

Liability Companies (LLC) are treated as one entity for the purpose of issuing ATV permits, and we would need to work through how LLC's would be treated for parking permits. He said an exception for outdoor tour operators would be added to Section I, Item 5, to state "while actively engaged in a tour" and explained tour operators are already licensed, pay a significant annual fee to operate, and are regulated in other ways through county ordinances. He confirmed beach access is not impeded. He reviewed how counties can restrict parking should parking behind the dunes become an issue.

Board discussion ensued. Commissioner Gilbert proposed permits be required only from the Friday before Memorial Day through Labor Day.

Regarding issuance, Mr. Scanlon said although he does not see applicants being able to print their own passes, those wanting a pass could submit paperwork via email, mail or fax for processing, similar to ATV permitting of which many are mailed or held for pickup.

Commissioner White asked for discussion on how to handle visitors and guests of those who are permanent residents of the off-road. Commissioner Beaumont suggested allowing residents to obtain passes similar to those that will be used by vacation rental guests. Commissioner Gilbert reiterated that guest passes should be available to residents only, not all property owners.

Commissioner Beaumont recalled his recent conversation with law enforcement who expressed confidence in their ability to continue to enforce beach ordinances. He talked of his attendance at a Carova resident community meeting where he and Commissioner Hall fielded questions about the parking pass. He said the ordinance was read at the meeting, after which the majority of attendees approved of the permit system. He said concerns were related to making an on-line application process available.

Commissioner Hall discussed additional parking and other changes recently implemented for Corolla and the off-road area and said he would like time to assess what works and what doesn't. Although the Board is moving in the right direction, he does not believe a parking pass should be implemented this season and suggested waiting until May of 2019.

Commissioner Payment thanked everyone who weighed in either to support the ordinance or to express concerns. In a conversation he recalled, he was told by a visitor that traffic was more of a deterrent to visiting than a parking fee.

Commissioner White said he has had discussions with homeowners and believes the parking fee is not as big a physical deterrent to tourism as people have eluded.

Commissioner Gilbert said the Board has been talking about safety on the off-road for all of her eight years as a Commissioner. She said it does not need to be put off for another year, and it is a simple thing to increase safety for visitors.

Commissioner Etheridge also received many comments, both pro and con, and said many suggested the fee is only a money maker for the County. She said the Board is

truly concerned with safety, and she highlighted the need to get the information out to the public. She likes the suggestion that permits will be required only during the busy season and said it needs to move forward.

Chairman Hanig addressed Facebook postings he was told about that questioned what fees would be used for. He explained fees would be required to pay for services on the off-road area such as fire, Emergency Medical Services and beach cleanup. When asked, Mr. Scanlon said money can be used to maintain roads in the service district. Communities outside the existing district would have to create a district or be placed into the existing district to access funds for roads.

Chairman Hanig addressed the opportunities for public participation and noted only one person attended an advertised work session on the topic. He said residents asked that safety measures be implemented on the off-road, and he believes the area will be improved and will allow for a safe and enjoyable time on the beach. He compared the cost of a parking pass with paying to park in a parking lot at the water park for a day. Chairman Hanig said it is a privilege to park on the beach and that Commissioners understand tourism and want people to come. No ordinance is perfect, he said, and if something isn't working it can be modified. He said the Board should move it forward.

Chairman Hanig moved to approve the Ordinance. Commissioner Gilbert seconded, with inclusion of the following changes:

- Line 1, Page 2 will read "between the Friday before Memorial Day through Labor Day"
- Line 24 will include language stating "further, county residents may obtain at no fee two additional parking permits that are not assigned to a specific vehicle."
- Line 34, Page 3, will state "while actively engaged in an outdoor tour."

The ordinance passed its first reading on a vote of 6-1, with Commissioner Hall voting against. The Ordinance will be brought forward at next meeting for a second reading at which time it may pass by simple majority.

Chairman Hanig called a brief recess at 8:00 PM to allow attendees to exit the meeting room. The meeting reconvened at 8:04 PM.

RESULT:	ORDINANCE PASSED FIRST READING [6 TO 1]	Next: 3/5/2018 6:00 PM
MOVER:	Bobby Hanig, Chairman	
SECONDER:	Marion Gilbert, Commissioner	
AYES:	Bobby Hanig, Chairman, Mike H. Payment, Vice Chairman, Paul M. Beaumont, Commissioner, Mary "Kitty" Etheridge, Commissioner, Marion Gilbert, Commissioner, Bob White, Commissioner	
NAYS:	Mike D. Hall, Commissioner	

D) Board Appointments

1. Carova Beach Road Service District Committee

BOC Meeting February 19, 2018: Beach Parking Permit

PAUL GILBERT: Paul Gilbert I'm out of Suffolk, Virginia. I'm the land use coordinator for Virginia 4 Wheel Drive Association. We've been monitoring your future decision as much as we can across the border and we're a little disheartened by hearing that there will be a toll effectively implemented for beach parking. I do understand as well as a lot of the board members that there is a lot of traffic involved, but please weigh your options. This proposed \$50 fee to park there seems excessively high. Living in Suffolk I can drive up to Dover, Delaware across the Chesapeake Bay Bridge twice and still be under the cost to park on the beach. The, a lot of us love going down or, coming down here to go to the beach. I've been coming down here for the better part of 20 years. Yes, I'm a day tripper, but I also spend money when I come down here. I'm getting fuel, I'm getting food, I'm getting souvenirs. I'm talking with locals and I'm enjoying my time down here. But if I have to spend \$50 just to come down here, I'm going to look at spending that money elsewhere. So please take a look at this ordinance and if we can help we will gladly do that. Thank you for your time.

SANDRA SCHNEIRLA: Good evening everyone my name is Sandy Schneirla. I am from Virginia Beach, Virginia and I am the VP of Virginia 4 Wheel Drive Association. A couple of things that Mr. Gilbert didn't touch on, we have been coming down here, last October was our 10th year. In October we host, one of our local clubs, that's also from Hampton Roads, we come down every year and we do a beach clean. In fact Twiddy Realty in the past has been very gracious to allow us to use their dumpsters and we have collected tons and tons of garbage off of the beaches. We do it in October, off season, and some of our members, last year I'm going to say we had around 70 people. There's photos on our Facebook page if anybody is on Facebook. And, one of the concerns we have is this permit system; one, could there be a day permit, could it be for specific times of the year, when it's busier, perhaps Memorial Day to Labor Day, and how will it affect our beach clean. We come down here to help Currituck, we've loved it. We've used the beaches for years. Since I've was an itty-bitty thing, I've been coming down here Again, day tripper, don't own property down here. Wish I did, but haven't ever purchased. So those are things that we have concerns with as well. Those 70 people we have come down, 50 rigs park on the beach, we cook lunch and clean up the beaches from North Carolina to Virginia. We're not going to get those people if they have to pay \$50 for a pass, for a 10 day pass when they are only going to be here for the day. So, we would like to help the board. I know Beach Buggy; we have been talking to Beach Buggy for the last two weeks about this. I know they have written a formal letter to you guys. We would love to be part of helping to remedy the problem. So anything that we can do, please let us know. Thank you.

COMMISSIONER GILBERT: Mr. McRee on line 33 of the outdoor tour operators they already under that code having to purchase and have permits their operating vehicles correct?

COUNTY ATTORNEY: That is correct. Outdoor tour operators of course I believe there are 10 licenses that the County has provided for, for operation by the tour operators on the North Beach. They have to pay a rather significant annual fee for the privilege of receiving that license and then they are under other regulations that are required for maintaining that license.

COMMISSIONER GILBERT: And they are decaled and it is an annual process?

COUNTY ATTORNEY: Each of their vehicles have an identifying decal on the vehicle.

COMMISSIONER GILBERT: Thank you.

COMMISSIONER PAYMENT: Mr. McRee so currently right now if this gets adopted its everyone whether you're a tourist or whatever can still access to the beach to drive up and down it, sight see, whatever they want to do. This is not impeding this current accessiblilty this is strictly just if you are going to stop and spend the day.

COUNTY ATTORNEY: That is correct.

COMMISSIONER PAYMENT: Everybody, anybody can still drive up and down the beach.

COUNTY ATTORNEY: That is correct. These parking permits only apply to those persons who intend to come and park on the beach. And, typically as we see those persons who are there to spend a significant amount of time during the day on the beach. Whether it be for fishing, or other recreational activity, but if someone wanted to come onto the beach to drive up behind the dunes, up to visit persons or just to drive behind the dunes there would be no permit required. If someone wants to drive up and down the beach there would be no permit required for that access. It is simply a parking permit for the privilege of parking and then utilizing the beach.

COMMISSIONER WHITE: Mr. McRee one of the speakers brought up parking on the streets up there as that it was in fact, allowed to be to occur up there. Is that true or is that something we can address?

COUNTY ATTORNEY: Well first of all with regards to parking regulations Counties in North Carolina may only adopt parking ordinances and enforce parking ordinances within communities that have requested by resolution that the local board of county commissioners adopt an ordinance regulating parking on their streets. So those communities that are already provided for in our code of ordinances with regard to parking regulation all came in and requested board of commissioners, different boards over the years to adopt that regulation for that community, for their community. That includes Whalehead, I think Ocean Sands, and some of the other communities in Corolla. It would be possible for a community on the north beach if they found this to become problematic with persons parking along their rights-of-way to themselves if their community association if they actually own their streets and roads. Although I think we've identified that most of the streets and roads are owned by original development corporations, but upon their request this board of commissioners would be authorized to enact parking regulations along those streets and roads.

COMMISSIONER WHITE: So the actual owner of the road would have to come forth not the community is that what you said?

COUNTY ATTORNEY: Yes.

COMMISSIONER BEAUMONT: Mr. Scanlon one of the things the Mr. McRee brought up was that the County Manager could designate places by which those permits could be obtained, I have received significant communications by folks that are trying to figure out ways that can be complied with yet with some of the burdens or challenges by geographic, be it a remote owner, or something along those lines. It would be possible in time to set up an online capability of being able to apply for and get those permits. Is that correct?

COUNTY MANAGER SCANLON: that is correct.

COMMISSIONER BEAUMONT: So that would be fairly easy to implement as part of this.

COUNTY MANAGER SCANLON: we do it now for the ORV permits so there is already a place, a process that we would mimic for these passes also.

COMMISSIONER GILBERT: Mr. McRee one other item I'd like to recommend in the legalities of this amendment is it's got the effective date of May 1 and I would propose to add the ordinances effective the Friday of Memorial Day through the Monday of Labor Day.

COUNTY ATTORNEY: Well now understand that under part 3 the effective date actually is the effective date of this ordinance. You can certainly add a section that the language that creates this regulatory framework, and requires parking, beach parking permits would only be applicable from the dates you just stated.

COMMISSIONER GILBERT: So do you just need to add that in a separate line or?

COUNTY ATTORNEY: It could certainly be added as a separate section or paragraph.

COMMISSIONER GILBERT: But, can it be done so it can be part of the reading tonight?

COUNTY ATTORNEY: Sure

COMMISSIONER GILBERT: So whatever section I would propose that we add the Friday of Memorial Day through the Monday of Labor Day, annually.

COMMISSIONER PAYMENT: And the rest of the year anybody can park wherever they want.

COUNTY ATTORNEY: That's correct

COMMISSIONER GILBERT: And that would I think resolve some of the concerns that we have heard from a tremendous amount of our constituents and our renters.

COUNTY ATTORNEY: That was from the Friday before

COMMISSIONER GILBERT: That would allow for the beach cleanup in the fall

COUNTY ATTORNEY: That was from the Friday before Memorial Day to

COMMISSIONER GILBERT: The Friday of Memorial Day through the Monday of

COMMISSIONER WHITE: The Friday of Memorial day through every Tuesday after

COMMISSIONER GILBERT: No through Monday

COMMISSIONER WHITE: Through Monday

COMMISSIONER GILBERT: Tuesday, I mean

COUNTY ATTORNEY: Through Labor Day, ok so I would suggest you want to add that language that you would do that on page 2, line 1 the beginning of that paragraph so that would read between the Friday before Memorial Day to Labor Day, any person parking a vehicle, etc.

COMMISSIONER GILBERT: Correct

COMMISSIONER HANIG: So for clarity, in case anyone is confused, which is probably me, for clarity this ordinance will only be effective from the Friday before Memorial Day to the Monday after Labor Day the rest of the season, the rest of the year, you can come and park on our beach at no charge. Is that correct?

COUNTY ATTORNEY: That's right. The ordinance that I just walked you through would not apply other than between those dates.

COMMISSIONER HANIG: Mr. Scanlon we had spoke about and there has been some concern about how hard it is going to be about getting a pass and so on by going to the outlets, the ability to get a pass online, to either get a pass online and download it yourself, or get a pass online that you can pick up or what's or mail to you. What are the abilities of that?

COUNTY MANAGER SCANLON: I don't see the ability to be able to get it online and you print your own pass.

COMMISSIONER HANIG: Print, correct, correct.

COUNTY MANAGER SCANLON: But you will be able, which we do now for the ORV's. These people will submit the information electronically either because they have scanned it in and emailed it or because they faxed it in or they have actually mailed the documentation so any way that you get the information in to the county we can process the application and depending on the time we can mail the permit back to you or we can hold it in reserve and you can pick it up when you come through.

COMMISSIONER HANIG: Thank you.

COMMISSIONER WHITE: I guess the only comment I have that was brought to light tonight and we kind of hit on it when we were working on our work session was how to deal with our visitors to homeowners in the area and if someone comes up, Ms. Overstreet brought that up and if someone comes up to her house and she has someone come in and she only has one vehicle, they come up in their vehicle, is there an opportunity for her to get them a visitor pass without paying for it? Without paying a penalty because she lives in the 4 wheel drive area. We've kicked it around a little bit and I just think it is worthy of a little more discussion tonight as we work through this and different things are brought to life if there is any appetite for allowing a resident of Carova or the 4 wheel drive area to get a visitor pass, short term visitor pass at no cost.

COMMISSIONER HANIG: Open for discussion.

COMMISSIONER PAYMENT: Well I mean I guess if you're living up there and you're a property owner a lot of people are going to have out of town family or visitors come and I don't see the reason why we couldn't come up with some kind of visitor pass, I mean you know the citizens they own property and if you've got a lot of family that comes out there seems to be some way to accommodate that and I mean it's going to be short term.

COMMISSIONER WHITE: And to that end, I'm not suggesting that we give them 50 passes no one's going to do that, but we've said 2 per rental property, you know just say you can have a couple in a week's time period or 10 day period as you suggested for the length of it and so that's kind of where I'm at it just I wanted to see what the appetite was for the Board to do that for them since this came to light.

COMMISSIONER HALL: What I'm gathering on page 2 line 16 is that if there are 5 people living in my house and we all have vehicles, and we're all residents, and their all in our own names we can get 5.

COMMISSIONER HANIG: Correct

COMMISSIONER HALL: Then I look at Ms. Overstreet who has one vehicle, she doesn't have 2 or 3 or 4 and doesn't have anybody else there why she couldn't at least have 1 that could be assigned to the house as we were saying here so instead of being to a vehicle it could be 1 or 2 or however many we decided that would be assigned to the house

MALE: Visitor pass

COMMISSIONER BEAUMONT: How about this as a suggestion, we're already allowing houses that are in a rental program, right? The homeowner, the owner, the property owner gets a pass for every registered vehicle, correct? And then they get 2 passes for free that are part of the rental program, correct? Because they are not assigned to specific vehicles

COMMISSIONER WHITE: Well yeah, if you're a homeowner you would get an additional 2

COMMISSIONER BEAUMONT: Right so

COMMISSIONER WHITE: So it could mimic

COMMISSIONER BEAUMONT: So could we not mimic that and say if you're a property owner and a resident that you get 2 guest passes, if you will, that are assigned to the house itself. So each vehicle plus 2 guest passes.

COMMISSIONER GILBERT: And I would define that a little further that a resident, because there are people that

COMMISSIONER BEAUMONT: Correct

COMMISSIONER GILBERT: Have property that have no home

COMMISSIONER BEAUMONT: Correct

COMMISSIONER GILBERT: So I would say resident

COMMISSIONER BEAUMONT: And again what I think the goal of this is not necessarily to prevent anybody from going to the beach per say, but to try and help reduce the volume of traffic that has been on the beach, historically, during the busy season. A couple of folks out here have mentioned a concern over law enforcement and the strain that it is going to put on law enforcement. I actually did speak with the sheriff's department, and for the record, I did not talk to the sheriff, but I did speak with the sheriff's department as far as an enforcement perspective and the conversation was in fact centered on what kind of a drain, what kind of a system impact is having this ordinance enforced from existing law enforcement. And I was reminded that we have typically 4 deputies east of the dune line and their exact purpose on that beach is to enforce our beach ordinances. So, the net result of that was, I'm sorry there is also 4 deputies typically assigned west of the dune line and enforcing laws and enforcing you know safety behind the dunes. That the net comment was he was confident that there would be no impact to law enforcement's capability of enforcing the actions.

COMMISSIONER WHITE: So basically no impact

COUNTY MANAGER SCANLON: For point of clarification back on the amendment on page 2, lines 34, 38 was the recommendation that we strike the reference that is in a rental program so that basically persons who own property located north of the north beach access ramp may be entitled to 2 passes? I'm trying to make, trying to make sure that I understood what the suggestion was.

COMMISSIONER HANIG: Actually residents

COMMISSIONER WHITE: Residents, well I guess we're suggesting that we mimic what we the language we put in her for the rental programs to the residents so that Ms. Overstreet, for instance, or myself even, I would receive 2 passes, 2 annual permits for visiting persons to use while they are at my residence.

COUNTY MANAGER SCANLON: We would add another class that would mimic 34, 38

COMMISSIONER WHITE: Ike

COUNTY ATTORNEY: Unintelligible (microphone not on) At not fee we could add line 24... at no fee for passes

COMMISSIONER WHITE: Ok

COMMISSIONER HANIG: Any further discussion?

COMMISSIONER BEAUMONT: There is something else I'd like to bring up. Commissioner Hall and I both attended, we were invited and attended basically a town hall if you will at the Carova Fire Department, can you hear me now, and I would suggest to you that that was a quite a substantial turnout of folks that showed up. I'm kind of bad with numbers. My initial gut was it well north of 60. I've also heard estimates that it was about approximately 120 individuals that

attended, and you know the stage was set very well in that the first, Don, basically put out to the folks that attended the meeting, the residents of Carova were the ones that were asking for the county to come in and try and help with their overcrowding situation during the prime season. Kimberly Hoey then went through and read the ordinance as it had been at that point in time and then Mike and I fielded questions for approximately an hour and a half of concerns about residents. I would suggest that the vast majority of the concerns were addressed once the ordinance had been read to the folks rather than get whatever was running around on Facebook, which is of the devil. And so, in general, I'm sure there were probably people that were in attendance that were not in approval of the parking permit. However, I spoke to, personally at least 20 people none of which had an issue with the way the evening ended. So I think the community still had a little question from an implementation thing, I think online access, or the ability to apply and receive passes online would've alleviated probably 80% of the concerns of the people that still had concerns, but by far the community was in support of this permit system.

COMMISSIONER HALL: If I might, he's correct, I've looked at Facebook on 2 occasions this year which is about the same amount as I do for all of last year. I've looked at the emails that I get, I've look at the phone calls, I've looked at the fact when I'm at Food Lion or anywhere else I've ended up talking with folks and I've enjoyed it. The 4x4 meeting you're right, I think we're on the right track. But we've added signs in Corolla for additional beach parking, we've added spaces, we've added bathhouses telling people hey there's more places to park, more places you can go to the beach in Currituck, on the Outer Banks. We've added signs in a lot of places, I mean just trying to get people to tell them hey we want you to come, but we are going to give you alternatives to where you can go, including the off-road. We've also added new driving on the off-road, we've added signage telling everybody where the ramps are so if you are going to a beach house, you don't go past it and have to all of the sudden try to double back so you're not on the beach any more than you need to be. I was just on the beach again, one of the many times the other day and some of the ramps were in deplorable shape, some were in great shape, some were barely wide enough for one vehicle. So that's why we're trying to get it where everyone knows where the ramps are. I've heard comments from a lot of folks out there that have said hey the first 4 ramps you come to are in pretty good shape, the 4th one all the locals know don't use it because it's in bad shape. Well that doesn't help with renters. They get stuck, so then we go we've got all these signs, we've got all these things going on and we're going to add more things to it. I don't think we're quite ready to put this in place, but I think we're in the right direction. I'd like to see it wait until the May of 19, 2019 that is to be implemented. I'd like to see if these other things we've done work, and we can take and say hey we can adjust them, we can fix them, we can tweak them as to the words that have been used. But we add this other thing in there and we don't know what worked and what didn't. What solved the problem and what didn't solve the problem. And that's my 2 cents worth.

COMMISSIONER PAYMENT: I'd like to add that I want to thank everyone who took the time to send the emails and phone calls in support and had concerns with the ordinance. I've talked to a lot of people, I've talked to a lot of locals that have lived here a long time, you know, calling me, no I'm not going to say I grew up in Currituck, you know there was some confusion at first the way the media put this out there and they were up in arms on what was going on, but once it was explained to them and really they understood it, the next comments out of the mouths

were oh I can support that or yeah this is long overdue. I was out of the area this weekend up in Virginia talking to a gentleman about the beaches, and he's like oh yeah I go down to the Outer Banks beaches and all that. and I'm said we're looking at doing this parking ordinance. What do you think? His first words out of me was I could care less about a parking fee. What's going to keep me from going to the beach is the doggone traffic going down there. When's the Mid-County bridge gonna get built. So that was his concern. He said once that's built it alleviates everything else. So, well that was the least of his concerns, it was the traffic, which I kind of agree with that.

COMMISSIONER WHITE: It's funny you said that, I was out of town this weekend to so my apologies for not being in Carova, I was on the last weekend of skiing probably for the year at Massanussan. And I happened to run into in the family friendly section of the bar, a homeowner in Corolla Light and he wasn't that upset about it. They had a rental property here. And, I talked to another gentleman and their family goes and stays at the Inn at Corolla Light every summer. And, his comment to me was that I would absolutely pay \$50 for the convenience of being able to go to that beach. And a, so he, just to put some of that in perspective the fee is what it is or isn't that we are proposing, but I spent \$30 to go tubing per person, for 2 hours. My wife and I went one time because that was enough. But, you know my son was out there til he was drenched for 2 hours. You know if there is a hang-up on the fee or the implementation of the fee, I just I don't think it's as big a deal as people are making it out to be. Because we do so many things and pay extra to have that access to that and this is probably the last area or if not the last area that would charge to drive on the beach. You know I travel a lot during the winter because I can and have been plenty of places and paid to go on the beach. So I don't see it as as big of a physical deterrent to tourism as people have alluded to, and I think we'll be just fine.

COMMISSIONER GILBERT: I just want to make a couple of comments to follow up on what Mr. Hall said as far as implementing this and wanting to put it off for another year. I've served on this board, this is my eighth year and we have talked about trying to put some type of implementation at the off-road area and kind of control the safety. So at this point and time this is something we have put forth and putting it off for another year is not feasible. We need to go ahead and implement something, and like Commissioner White said when I vacation I pay for day trips, I pay for different, I mean if you go on a cruise you are going to go into town, if you go to a resort, you are going to pay amenities and extra things and this is a simple thing that we can do for the safety and well-being of our citizens. We've already implemented a different driving pattern, so I think incorporating all this together this year would make sense. So putting it off for another season I don't feel that that's the right thing to do at this point.

COMMISSIONER ETHERIDGE: Mr. Chairman, I too have received a lot of comments pro and con for it and I really think that a lot of people think we are just trying to make money off of it, but I think the board really is concerned about safety. I'm like Commissioner Gilbert go ahead and put it out the main thing is get the information out so people know. There's signs, there's signage about where you drive and everything so I really think we need to go ahead and try to get it implemented this year and I do like the fact that we just doing during the busy season.

COMMISSIONER HANIG: There were a couple of questions raised in the Facebook melee which I did not read, I was told. A big discussion was about fees, what are the fees used for. By state statute the fees have to be used for services that are provided for on the 4x4 area. We cannot

take those fees and use them somewhere else in the county. It has to go the Public Safety, Fire, EMS, clean-up, whatever it may be. It is not a money maker, by no stretch of the imagination. Just to ease that a little bit. That is not the intention.

COMMISSIONER WHITE: Mr. Scanlon, I heard somebody say roads. Could the funds from this be used to go towards the service district in Carova for roads or is that kinda?

COUNTY MANAGER SCANLON: If it's gonna go for roads, it can only where the service district is in place. Unless those other communities want to come in and petition and have a service district created over their road system. But that's a different statute, but

COMMISSIONER WHITE: Right, right someone I heard them yell it and wanted.

COUNTY MANAGER SCANLON: It would have to be a road currently in a district or a road that's placed into a district.

COMMISSIONER HANIG: Another question came up or a concern came up about participation from the public. We have been talking about things like this for a year. We have advertised, when we had our retreat that we would be discussing this, we had work session letting folks know we would be discussing this. Through both of those we had one person in attendance. One. So, at the very last hour when things are getting moved forward, that's when folks want to speak up because that's when it becomes real to them. So it isn't that we not asking for participation, we put it out there and we don't get participation. We feel a very strong need that safety and concern that safety is a concern in the 4x4 area. The residents of the 4x4 area have asked us to step up and take control and take charge of the 4x4 beach. And, as a board I think we are all doing that. I think we are implementing great things. I think we are really moving forward to a safe and enjoyable time on the 4x4 beach. It's worse if you go on the 4x4 beach, and everyone is stuck and everyone is in disarray, and no one has a good time. They're not coming back. You have more a chance of that than someone complaining about paying a \$50 fee. When you go to a waterpark, you pay \$15 to park at a waterpark and you only have to walk 20 feet. It is a privilege to park on our beach. We have beautiful beaches and we want folks to come to them. We know what tourism is. We know the golden egg. We know that and we took those things into consideration. No ordinance is perfect. You can sit here for 5 years and have meeting after meeting after meeting, draft an ordinance and you're gonna find something wrong with it. I think we are a board that is very well connected, and when we implement things we want to know how they are being handled. We want to know that it's working or if it is not working. We're not afraid to say we made a mistake. So as these things, well one or two of us are, but that's ok. But it's important to us when things get implemented that we follow up with them and we pay attention to how it's being done. If something isn't working we can change it in 48 hours.

COMMISSIONER PAYMENT: See so this ordinance is adjustable and we can make changes to
COMMISSIONER HANIG: That's correct, that's correct.

COMMISSIONER PAYMENT: So as we get feedback and we see things that can be adjusted, tweaked, whatever we need to do, we can make it even better.

COMMISSIONER HANIG: So, with that thought I'm in strong belief that this should move forward this evening. And I will make that motion.

COMMISSIONER GILBERT: I second that motion.

COMMISSIONER WHITE: Are we going to put any of the changes we talked about into that

COMMISSIONER PAYMENT: With the changes that we passed.

COUNTY ATTORNEY: Well as you've talked about it we've included it but just to be clear, that will be with the addition in line 1 page 2 between the Friday before Memorial Day to Labor Day at the beginning of that sentence on line 1. And, with the addition at line 24 with the following language "further County residents and non-resident property owners may obtain, at no fee 2 additional parking permits that are not assigned to a specific motor vehicle. Oh and I'm sorry

COMMISSIONER WHITE: as to the 4x4, it's residents

COMMISSIONER PAYMENT: residents, not property owners

COUNTY ATTORNEY: I'm sorry it should be county residents may obtain and then also adding at line 34 on page 3 language, while actively engaged in an outdoor tour so that will read outdoor tour operator s with a valid license issued under Article 4 Chapter 8 of this code while actively engaged in an outdoor tour.

COMMISSIONER HANIG: We have a motion and a second, any further discussion? All in favor?
6 Ayes

COMMISSIONER HALL: No

COMMISSIONER HANIG: The vote is 6 to 1. The motion will be held over to the next meeting which at that time it will just need a majority vote.



Currituck County Agenda Item Summary Sheet



Agenda ID Number – (ID # 2102)

Agenda Item Title

Consideration of an Amendment to Chapter 10 of the Currituck County Code of Ordinances
Establishing a Permitting System for Beach Parking

Brief Description of Agenda Item:

Planning Board Recommendation:

Board will consider an ordinance that establishes a beach parking pass system for Currituck
County beaches.

Board Action Requested

Action

Person Submitting Agenda Item

Leeann Walton, Clerk to the Board

Presenter of Agenda Item

1 AN ORDINANCE OF THE CURRITUCK COUNTY BOARD OF
 2 COMMISSIONERS AMENDING SECTION 10-64 OF THE CURRITUCK
 3 COUNTY CODE OF ORDINANCES REGULATING PARKING ON THE
 4 COUNTY'S OCEAN BEACH

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

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

17 WHEREAS, pursuant to Section 1 of Chapter 875 of the 1985 Session Laws,
 18 as amended by S.L. 1998-64 and S.L. 2001-33 the county may by ordinance
 19 regulate, restrict, and prohibit the use of dune or beach buggies, jeeps, motorcycles,
 20 cars, trucks, or any other form of power-driven vehicle specified by the county's
 21 governing board on the foreshore, beach strand and barrier dune system.

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

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

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

27 (a) This section shall be applicable for those areas of Currituck County,
 28 including, but not limited to, the beach strand and foreshore areas, located
 29 from the Dare/Currituck line to the North Carolina/Virginia line.

30
 31 (b) County residents and property owners desiring to operate a moped,
 32 motorcycle or off-road vehicles, including but not limited to, all-terrain vehicle,
 33 utility vehicle, recreational off-highway vehicle, multipurpose off-highway
 34 utility vehicle, or other off-road vehicle, ("ORV"), on the areas covered by this
 35 section shall obtain a permit from the county manager or his county manager's
 36 designated representative. Permits may be obtained ~~at the satellite office in~~
 37 ~~Corolla or at the county manager's office during normal business hours and at~~
 38 ~~such other times and places as may be designated by the county manager.~~

1 (c) Any person parking a motor vehicle, other than a moped, motorcycle or
2 ORV, on the area covered by this section from the Friday before Memorial Day
3 to Labor Day shall have first obtained from the county manager or county
4 manager's designated representative a parking permit which must be
5 prominently displayed when parking on the area covered by this section.
6 Parking permits may be obtained at times and places designated by the county
7 manager.

8
9
10 (d)(e) County residents may obtain at no fee a maximum of two annual
11 permits for operation of a moped, motorcycle or ORV owned by them upon
12 making application as provided in subsection (b) above and upon showing proof
13 of liability insurance and ownership for the moped, motorcycle or ORV. Non-
14 resident property owners may obtain at no fee a maximum of two annual
15 permits for operation of a moped, motorcycle or ORV owned by them upon
16 making application as provided in subsection (b) above and showing proof of
17 liability insurance and ownership for the moped, motorcycle or ORV. Liability
18 insurance coverage on the moped, motorcycle or ORV shall be maintained
19 continuously throughout the term of the permit.

20
21 (e) County residents and non-resident property owners may obtain at no
22 fee a parking permit for each motor vehicle, other than a moped, motorcycle or
23 ORV, owned by them for terms adopted by the board of commissioners upon
24 making application as provided in paragraph (b) of this section, showing proof
25 of current ownership and current liability insurance for each motor vehicle for
26 which a parking permit is issued and written acknowledgement that they have
27 read and are familiar with county beach driving ordinances. Each permit shall
28 be assigned to a specific motor vehicle. Liability insurance on the motor
29 vehicle shall be maintained continuously throughout the term of the permit.

30
31 (f) County residents residing north of the North Beach Access Ramp may
32 obtain at no fee two additional parking permits that are not issued to a motor
33 vehicle upon making application as provided in paragraph (b) of this section.

34
35 (g) Persons other than county-residents and non-resident property owners
36 may obtain a parking permit for each motor vehicle, other than a moped,
37 motorcycle or ORV, owned by them upon payment of a fee and term adopted by
38 the board of commissioners and making application as provided in paragraph
39 (b) of this section, showing proof of current ownership and current liability
40 insurance for each motor vehicle for which a parking permit is issued and
41 written acknowledgement that they have read and are familiar with county
42 beach driving ordinances. Each permit shall be assigned to a specific motor

1 vehicle. Liability insurance on the motor vehicle shall be maintained
2 continuously throughout the term of the permit.

3 (h) Persons who own property located north of the North Beach Access
4 Ramp and that is in a rental program may obtain two parking permits at no
5 fee for each property owned by them for terms adopted by the board of
6 commissioners upon making application as provided in subsection (b) above
7 and verification that the property is registered with the county tax
8 administrator for occupancy tax administration.

9
10 (i)(d) County residents and property owners, operating mopeds, motorcycles
11 or ORV's shall ensure that these vehicles have a valid permit prominently
12 displayed at all times while operating, or parked, on the Currituck County
13 outer banks, beach foreshore or beach strand.

14
15 (j)(e) Any sworn law enforcement officer with jurisdiction is authorized to
16 take possession of any permit issued pursuant to this section upon expiration,
17 revocation, cancellation, or suspension thereof, or which is fictitious, or which
18 has been unlawfully or erroneously issued, which has been unlawfully used or
19 upon issuance of citation for violation of section 10-59 of this Code. Any law
20 enforcement officer who seizes a permit pursuant to this section shall report
21 the seizure to the county manager's office within 48 hours of the seizure and
22 shall return the permit to the county manager's office within seven business
23 days of the seizure.

24
25 (k)(f) The county manager or county manager's designee shall refuse
26 issuance of an permit under this section for a period of one year following
27 seizure of a permit by a law enforcement officer pursuant to this section.

28
29 (l)(g) An appeal of seizure of a permit under this section shall be made to the
30 county manager by filing a written notice of appeal, specifying with
31 particularity the grounds upon which the appeal is made, no later than ten
32 days from the date of the permit seizure. The county manager or county
33 manager's designee shall fix a reasonable time for the hearing of the appeal,
34 shall give due notice to all parties and shall render a decision within a
35 reasonable time.

36
37 (m)(h) The county manager is directed and authorized to establish forms,
38 procedures, and directives as may be required to implement this permit system
39 and ensure that it is run in an effective, safe, and fair manner.

(n) This section shall not apply to:

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

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

(3) Commercial fishermen;

(4) Hunters possessing valid hunting licenses while engaged in an active hunt or State or federal property located on the Currituck outer banks; or

(5) Outdoor tour operators with a valid license issued under Article IV, Chapter 8 of this Code when actively engaged in an outdoor tour.

PART II. 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 III. This ordinance is effective May 1, 2018.

ADOPTED this _____ day of _____, 2018.

Bobby Hanig, Chairman

ATTEST:

Leeann Walton, Clerk to the Board

1 APPROVED AS TO FORM:

2 _____
3 Donald I. McRee, Jr., County Attorney

4
5 Date adopted: _____

6
7 FIRST READING

8 Motion to adopt by Commissioner _____

9 Second by Commissioner _____

10 Vote: _____ AYES _____ NAYS

11
12 SECOND READING

13 Motion to adopt by Commissioner _____

14 Second by Commissioner _____

15 Vote: _____ AYES _____ NAYS

16

Attachment: Ordinance Amending Section 10-64 parking permit 030518 2nd Reading (Beach Parking Pass Ordinance)



**CURRITUCK COUNTY
NORTH CAROLINA**

March 5, 2018
Minutes – Regular Meeting of the Board of Commissioners

WORK SESSION

1. 5:00 PM Solar Array Ordinance Review

The Currituck County Board of Commissioners held a 5 PM work session in the Historic Courthouse Conference Room to hear a review of the proposed Solar Array Ordinance. Currituck County Planner, Tammy Glave, distributed a copy of the draft ordinance and reviewed the changes which had been requested by the Board at their January, 2018, Retreat. Commissioners discussed various pieces of the ordinance in more detail and specifically addressed road setbacks, facility separation, screening opacity and location, value protection plan requirements and zoning. Maps were presented to show different setback distances and screening locations and the Board directed staff to institute a 500 foot setback requirement from North Carolina Department of Transportation (NCDOT) major arterials, a 300 foot setback from NCDOT secondary roadways, and require 100 percent opacity for both. The Board directed that plantings are to be installed prior to the start of construction on the solar project. Plantings can be installed within the setback area. Adjacent properties would require a minimum 300 foot setback or the required setback based on the zoning of the adjacent parcel, whichever is greater. At the close of the work session, the Board asked staff to bring back language related to area saturation and distance requirements between facilities along with a map denoting varying degrees of separation for solar facilities. There was no further discussion and the work session concluded at 5:48 PM.

6:00 PM CALL TO ORDER

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

Attendee Name	Title	Status	Arrived
Bobby Hanig	Chairman	Present	
Mike H. Payment	Vice Chairman	Present	
Paul M. Beaumont	Commissioner	Present	
Mary "Kitty" Etheridge	Commissioner	Absent	
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 Frank Custer, Mt. Zion United Methodist Church

Reverend Frank Custer attended to offer the Invocation and lead the Pledge of Allegiance.

B) Approval of Agenda

Commissioner White moved for approval of the agenda. The motion was seconded by Commissioner Hall and passed unanimously.

Approved agenda:

Work Session

5:00 PM Solar Array Ordinance Review

6:00 PM Call to Order

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

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) Report of Unpaid 2017 Real Estate Taxes & Order of
Tax Lien Advertisement

Public Hearings

A) **PB 18-02 LIZA BROOKE:** Text Amendment to Section 4.3.2 of the Unified Development Ordinance to Allow Housing for Poultry as an Accessory Use to a Single-Family Dwelling in the General Business Zoning District

Old Business

A) Consideration of an Amendment to Chapter 10 of the Currituck County Code of Ordinances Establishing a Permitting System for Beach Parking

New Business

A) Resolution - Criteria for Design-Build on the Public Safety Center

B) Resolution Expressing the Currituck County Board of

Commissioners' Opposition to Offshore Drilling and Seismic Testing**C) Board Appointments**

1. Board of Adjustment

D) Consent Agenda

1. Approval Of Minutes for February 19, 2018
2. Budget Amendments
3. Resolution of the Currituck County Board of Commissioners Asking North Carolina Governor Roy Cooper to Examine the Current Membership of the North Carolina Marine Fisheries Commission
4. Resolution of the Currituck County Board of Commissioners Opposing Any Adverse Change in the Definition of a Commercial Fishing Operation
5. Job Description Revision-Assistant County Manager

E) Commissioner's Report**F) County Manager's Report****Adjourn****Special Meeting of the Tourism Development Authority**

TDA-Budget Amendment

Adjourn Meeting of the TDA**Special Meeting of the Ocean Sands Water and Sewer District**

Closed Session pursuant to G.S. 143-318.11(a)(3) to Consult with the County Attorney and to Preserve the Attorney-Client Privilege in the Matter Captioned: Coastland Corporation v. Ocean Sands Water and Sewer District

Adjourn Meeting of the OSWSD Board

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

Sandra Schneirla of the Virginia 4-Wheel Drive Association spoke about the Beach Parking Permit Ordinance on the agenda. She said "parking" needs to be defined and questioned both the ownership of beach area roadways and whether the County has authority to institute parking permits.

Kathryn Christian, a Corolla Property owner, spoke about the Beach Parking Permit Ordinance and questioned the intention of fees and discussed the economic impacts of instituting a parking pass.

Edward Ponton, a Corolla resident, said there are still many unanswered questions related to the parking pass and asked the Board to allow more time before implementing the system.

Mark Mormando, a Virginia Beach resident and Tidewater Broncos member, said there should be a fee for entering the beach but does not agree with a parking permit system. He questioned who has ownership of the beach.

Jim Wheeler of Moyock said he doesn't know why the parking permit is being instituted. Regarding safety, he said it would make more sense to put a gate at the fence and charge a driving fee, as parked cars are not a danger.

Mike Brigham, a resident of Newport News, says he is a long-time visitor who visits often and spends a lot of money on the Outer Banks. He wants to see the beach remain free.

Lawrence Mason, a Chesapeake resident and member of multiple off-road vehicle organizations, noted his participating in various fundraiser and cleanup events through the organizations. He said Currituck is the only remaining free site in the area for off-roading and believes further planning is needed. He said a day pass should be considered.

Christine Beaumont of Shawboro and a Corolla property owner, spoke about the Resolution on the agenda related to off-shore drilling and seismic testing. She said Currituck County has not had ample opportunity to research the issue to oppose off-shore drilling at this time. Ms. Beaumont provided statistical data and compared the high cost and low job creation that result from renewable energy projects with the significant job creation and financial contribution through royalties and taxes paid by the oil and gas industry.

Paul Gilbert of Suffolk, Virginia and a member of the Virginia Four-Wheel Drive Association, asked the Board to take their time and provide specificity within the ordinance. He posed questions related to traffic at permitting locations, policy and process, costs, and economic impacts.

With no others signed up nor wishing to speak, Chairman Hanig closed the Public Comment period.

ADMINISTRATIVE REPORTS

A. Report of Unpaid 2017 Real Estate Taxes & Order of Tax Lien Advertisement

Tracy Sample, Currituck County Tax Collector, reviewed the process for tax collection for delinquent property taxes. He provided collections data and noted a current balance of approximately \$780,000, currently at a 97.3% collection rate. He discussed collection methods and departmental procedures and reviewed default remedies.

He responded to Board questions. He said the County has a collection rate of about 99.9% which puts Currituck in the top 20 among counties in North Carolina.

After discussion, Commissioner Gilbert moved to put the order in for the Tax Collector to advertise the tax liens. Commissioner Payment seconded the motion and the motion passed unanimously.

**Report of Unpaid 2017 Real Estate Taxes
and
Order of Advertisement of Tax Liens**

To: Board of County Commissioners
From: Tracy Sample, Tax Administrator
Date: February 7, 2018

Report of Unpaid 2017 Real Estate Taxes:

As of February 7, 2018, there is \$1,380,160.25 in unpaid taxes that are a lien on real estate for fiscal year 2017-2018.

North Carolina General Statute 105-369 requires that unpaid real estate tax liens be advertised in one or more newspapers having a general circulation in the county and by posting a notice of the tax liens at the county courthouse. This statute requires that the Board of Commissioners order the tax collector to advertise the tax liens.

Order to Tax Collector to Advertise Tax Liens

WHEREAS, N.C.G.S. 105-369 requires the County Tax Collector report to the Board of County Commissioner, the total amount of unpaid taxes for the current fiscal year that are a lien on real property; and

WHEREAS, N.C.G.S. 105-369 also requires that upon receipt of the report, the Board of Commissioners must order the Tax Collector to advertise the tax liens by posting a notice of the liens at the county courthouse and by publishing each lien at least one time in one or more newspapers having general circulation in the taxing unit; and

WHEREAS, the time and content the tax lien advertisement are dictated by N.C.G.S 105-369(c); and

WHEREAS, the report of unpaid taxes for unpaid taxes for the current fiscal year that are a lien on real property has been received;

NOW, THEREFORE BE IT RESOLVED by the Currituck County Board of County Commissioners that the Currituck County Tax Collector is hereby ordered to advertise the tax liens for unpaid taxes for the current fiscal year that are a lien on real property, in accordance with N.C.G.S. 105-369(c).

THIS, the _____ day of _____, 20_____.

THE CURRITUCK COUNTY BOARD OF COMMISSIONERS

BY: _____ (SEAL)
Chairman

Attest:

Clerk to the Board

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

PUBLIC HEARINGS

A. PB 18-02 LIZA BROOKE:

PB 18-02
Liza Brooke

Amendment to the Unified Development Ordinance Chapter 4: Accessory Use Standards, to allow housing for poultry in the GB (General Business) zoning district.

BE IT ORDAINED by the Board of Commissioners of the County of Currituck, North Carolina that the Unified Development Ordinance of the County of Currituck be amended as follows:

Item 1: That Chapter 4 is amended by adding the following bold underlined language in Section 4.3.2 Table of Common Accessory Uses:

Table 4.3.2.E: Table of Common Accessory Uses

P = Permitted by-right	Z= Zoning Compliance Permit	U = Use Permit	MP = Allowed with master plan	blank cell = Prohibited												
Accessory Use Type	Zoning District												Additional Req. (4.3.____)			
	RC	AG	SFM	SFO	SFR	SFI	MXR	GB	LB	CC	VC	LI	HI	PD-R	PD-M	PD-O
Housing for																
PoultryHousing for																
Poultry																
	P	P				P	P	P						MP	MP	3.L

Item 2: Statement of Consistency and Reasonableness:

The requested zoning text amendment is consistent with the 2006 Land Use Plan because:

- It will not increase demand on public infrastructure, facilities, or services. (LUP POLICY PP2)

The request is reasonable and in the public interest because:

- It will allow the same right to house poultry as accessory use to a single-family dwelling whether the dwelling is in a residential zoning district or the GB zoning district. Housing for poultry is currently allowed by right in the Agricultural (AG), Single-Family Mainland (SFM), and Single-Family Isolate (SFI) zoning districts according to the regulations in Chapter 4 of the UDO.

Item 3: The provisions of this Ordinance are severable and if any of its provisions or any sentence, clause, or paragraph or the application thereof to any person or circumstance shall be held unconstitutional or violative of the Laws of the State of North Carolina by any court of competent jurisdiction, the decision of such court shall not affect or impair any of the remaining provisions which can be given effect without the invalid provision or application.

Item 4: This ordinance amendment shall be in effect from and after the __ day of __, 2018.

To: Board of Commissioners

From: Planning Staff

Date: February 26, 2018

Subject: PB 18-02 Liza Brooke, Text Amendment

The enclosed text amendment submitted by Liza Brooke is intended to revise Section 4.3.2 Table of Common Accessory Uses of the Unified Development Ordinance (UDO) to allow 'Housing for Poultry' as an accessory use to a single-family dwelling in the General business (GB) zoning district. The text amendment will allow the same right to house poultry as an accessory use to a single-family dwelling whether the dwelling is in a residential zoning district or the GB zoning district. Housing for poultry is currently allowed by right in the Agricultural (AG), Single-Family Mainland (SFM), and Single-Family Isolate (SFI) zoning districts according to the regulations in Chapter 4 of the UDO.

For Reference Purposes Only

Current Definition and Standards - Housing for Poultry

HOUSING FOR POULTRY

Enclosures, coups, and fenced areas intended for the care and keeping of small domestic poultry as an accessory use to a single-family dwelling unit.

4.3.3 SPECIFIC STANDARDS FOR CERTAIN ACCESSORY USES

L. Housing for Poultry

Except within the AG district, the housing of poultry shall comply with the following standards:

- (1) No more than eight birds may be housed per lot;
- (2) Roosters are prohibited;
- (3) On-site slaughter of birds is prohibited;
- (4) All birds shall be housed within a covered enclosure or coup;
- (5) No enclosure shall be located closer than 25 feet to any residential structure or lot line; and
- (6) Birds shall be kept within a fenced enclosure at all times.

Laurie LoCicero, Planning and Community Development Director, reviewed the application for the text amendment which would allow the keeping of chickens at residential dwellings located in the General Business zoning district. Ms. LoCicero said the Planning Board recommended approval. She responded to Board questions after review and clarified that the text amendment would not override restrictive covenants within subdivisions. Standards for the housing of poultry were reviewed.

Chairman Hanig opened the Public Hearing. No one was signed up nor wished to speak and the Public Hearing was closed.

Commissioner Beaumont moved for approval of PB 18-02: Liza Brooke. The motion was seconded by Commissioner Gilbert and passed unanimously.

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

OLD BUSINESS**A. Consideration of an Amendment to Chapter 10 of the Currituck County Code of Ordinances Establishing a Permitting System for Beach Parking**

Ike McRee, County Attorney, presented the second reading of the ordinance for the institution of a beach parking permit system. In response to earlier public comments, he reviewed the county's ability to adopt the ordinance through acts taken by the North Carolina General Assembly (NCGA) granting the County authority to regulate beaches, including parking, and he specifically referred to local acts of the NCGA adopted in 1985, 1998 and 2001. He explained the ordinance represents only a regulatory framework that intentionally omits details that will be included in the policy for administration of the program.

Mr. McRee reviewed the changes requested by the Board at the first reading on March 5, 2018. In lieu of a year-long pass, parking permits would be required from the Friday

before Memorial Day through Labor Day. Additional discussion suggested setting the expiration for 11:59 PM on Labor Day; the ordinance would include language that provides for permanent, full-time residents of the off-road area north of the access ramp to receive two additional guest passes at no cost; language would be added to clarify law enforcement actions that are allowable pertaining to the return of a seized permit.

Mr. McRee and Mr. Scanlon responded to Board questions and addressed concerns about the establishment of the administrative process, both noting the effective permit process for all-terrain (ATV) and off-road vehicles (ORV). Mr. Scanlon reviewed the permit's likely design and issuing procedure. Mr. McRee said an administrative process would be built and returned to the Board for consideration and adoption.

Mr. McRee reviewed the process for communities who wish to prohibit parking or establish parking regulations behind the dune line.

Board discussion began with Commissioner White responding to some of the comments and questions raised in emails and at public comment. He said the intent of the permit system is to increase safety. He recalled a recent jeep club visit to Corolla's off-road beach that consisted of 70 vehicles as an example as to why the Board needs to get a handle on the traffic problem now. In addition, he noted he did not see one of those vehicles stop to patronize a Corolla business upon leaving the beach and addressed comments related to the permit system harming the local economy. He spoke of many comments received from visitors to Dare County and encouraged those visitors to instead stay in Currituck County. He spoke of prior discussions on beach driving and said suggestions from a beach driving committee, formed years ago, are part of the ordinance.

Commissioner Hall said the Board is not trying to discourage day trippers, and he noted the increased signage directing visitors to area attractions and alternatives for parking and public beach access in Corolla. He said he is not sure we are ready for a permit system this year and would like to see the effects of these other options, along with the other changes adopted by the Board, before implementation.

Commissioner Beaumont reiterated the policy is to promote the safety and protection of visitors, guests and residents, and was asked for by residents of Carova beach. He said no additional law enforcement personnel will be needed and issuing parking permits would be similar to what the County is already doing for ATV permits. Commissioner Beaumont encouraged people to report any problems noted with the system. He said fees collected will be used to service the community.

Commissioner Payment noted the change on the off-road area over the years. He said he appreciated comments and feedback from both sides and said the Ordinance can be adjusted and modified as needed.

When asked, Mr. McRee said law enforcement would have discretion as to defining "parking".

Commissioner Gilbert also addressed the beach driving committee, created in 2011, and said recommendations from that committee were put into place. She mentioned the

difficulty in placing signage in the off-road area. She said signage would be installed in the area before the ramp. She also reiterated the fact that the Ordinance can be modified as needed.

Chairman Hanig offered his thanks to citizens for their participation in the discussion. He said this has been years in the making and the Board will monitor the process and will listen to feedback from the community. He said the recent changes to the ordinance were made based on recommendations from citizens. Chairman Hanig commended staff and thanked Commissioners for their work.

There was no further discussion and Commissioner White moved to approve with the proposed changes as presented.

Commissioner Gilbert seconded the motion. The motion passed 5-1, with Commissioner Hall voting opposed.

AN ORDINANCE OF THE CURRITUCK COUNTY BOARD OF COMMISSIONERS AMENDING SECTION 10-64 OF THE CURRITUCK COUNTY CODE OF ORDINANCES REGULATING PARKING 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, as amended by S.L. 1998-64 and S.L. 2001-33 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 10-64 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, 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~~ county manager's 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) Any person parking a motor vehicle, other than a moped, motorcycle or ORV, on the area covered by this section from the Friday before Memorial Day to Labor Day shall have first obtained from the county manager or county manager's designated representative a parking permit which must be prominently displayed when parking on the area covered by this section. Parking permits may be obtained at times and places designated by the county manager.

~~(d)(e)~~ 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 for the 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 upon making application as provided in subsection (b) above and showing proof of liability insurance and ownership for the moped, motorcycle or ORV. Liability insurance coverage on the moped, motorcycle or ORV shall be maintained continuously throughout the term of the permit.

(e) County residents and non-resident property owners may obtain at no fee a parking permit for each motor vehicle, other than a moped, motorcycle or ORV, owned by them for terms adopted by the board of commissioners upon making application as provided in paragraph (b) of this section, showing proof of current ownership and current liability insurance for each motor vehicle for which a parking permit is issued and written acknowledgement that they have read and are familiar with county beach driving ordinances. Each permit shall be assigned to a specific motor vehicle. Liability insurance on the motor vehicle shall be maintained continuously throughout the term of the permit.

(f) County residents residing north of the North Beach Access Ramp may obtain at no fee two additional parking permits that are not issued to a motor vehicle upon making application as provided in paragraph (b) of this section.

(g) Persons other than county-residents and non-resident property owners may obtain a parking permit for each motor vehicle, other than a moped, motorcycle or ORV, owned by them upon payment of a fee and term adopted by the board of commissioners and making application as provided in paragraph (b) of this section, showing proof of current ownership and current liability insurance for each motor vehicle for which a parking permit is issued and written acknowledgement that they have read and are familiar with county beach driving ordinances. Each permit shall be assigned to a specific motor vehicle. Liability insurance on the motor vehicle shall be maintained continuously throughout the term of the permit.

(h) Persons who own property located north of the North Beach Access Ramp and that is in a rental program may obtain two parking permits at no fee for each property owned by them for terms adopted by the board of commissioners upon making application as provided in subsection (b) above and verification that the property is registered with the county tax administrator for occupancy tax administration.

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

(j)(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.

(k)(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.

(l)(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.

~~(m)(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.

(n) This section shall not apply to:

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

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

(3) Commercial fishermen;

(4) Hunters possessing valid hunting licenses while engaged in an active hunt or State or federal property located on the Currituck outer banks; or

(5) Outdoor tour operators with a valid license issued under Article IV, Chapter 8 of this Code when actively engaged in an outdoor tour.

PART II. 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 III. This ordinance is effective May 1, 2018.

ADOPTED this _____ day of _____, 2018.

Bobby Hanig, Chairman

ATTEST:

Leeann Walton, Clerk to the Board

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

RECESS

To allow some of attendees to exit the Board Room, Chairman Hanig called a recess at 7:20 PM. The meeting reconvened at 7:25 PM.

NEW BUSINESS

A. Resolution - Criteria for Design-Build on the Public Safety Center

Dan Scanlon, County Manager, reviewed the Resolution to establish the design-build process for bidding on the County's Public Safety Center project. He responded to Board questions related to subcontractor bidding and advertising.

After discussion, Commissioner Gilbert moved to approve the Resolution. Commissioner Payment seconded and the motion passed unanimously.

RESOLUTION OF THE CURRITUCK COUNTY BOARD OF COMMISSIONERS ESTABLISHING CRITERIA FOR A DESIGN-BUILD DELIVERY METHOD FOR CONSTRUCTION CONTRACTS AND APPROVAL OF USING THE DESIGN- BUILD DELIVERY METHOD FOR THE PUBLIC SAFETY CENTER PROJECT

WHEREAS, pursuant to NCGS 143A-128.1A, a county may utilize the design-build delivery method for construction contracts; and,

WHEREAS, in order to utilize the design-build delivery method, the governmental entity is to establish in writing the criteria used for determining the circumstances under which the design-build method is appropriate for this project; and,

WHEREAS, the criteria proposed and its application to the Public Safety Center project is the following:

Criteria 1 - The extent to which the County can adequately and thoroughly define the project requirements prior to the issuance of the request for qualifications for a design-builder. Through the Engineering Department, the County has professional personnel that are both qualified and experienced to thoroughly define project requirements and develop an a request for qualifications.