



Corolla Civic Association

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One voice to preserve, protect & enhance the Currituck Outer Banks for residents, owners, visitors & businesses

BACKGROUND of CCA Lawsuit Against Currituck County

Corolla and Carova, Currituck County's beach tourist areas, generate more than 60% of the County's property and sales tax revenue and virtually all of its Occupancy Tax (OT) revenue (>99%) but use less than 20% of county resources. Thus, all County residents are able to enjoy a high level of County services while paying one of the lowest property tax rates in the state.

After Hurricane Isabel caused widespread devastation to Currituck's beaches in 2003, the County asked the State of North Carolina for permission to raise the OT rate by 50% and allow use of the additional proceeds for beach nourishment. At the same time, the legislature also amended the OT applicable to Currituck County to "change the purposes" for which OT could be spent by removing certain previously allowed uses and imposing significant restrictions on expenditures in other areas.

For several years after the tax increase, beach property and business owners complained that the County was spending most of the additional OT revenue on projects far from the tourist areas, such as the YMCA (\$8.5M) and the 4H Horse Farm/ Rural Center (\$6.8M), that were unlikely to generate more than negligible tourist revenue. The County also used the proceeds to cover costs for Sheriff and EMS services and equipment at the beach, which were deleted from the permissible uses of OT by the 2004 amendment. Thus, while general property tax revenue pays for public safety elsewhere in the County, and Currituck Outer Banks (COBX) pays more than half of the property tax, most, if not all of public safety expenditures on the beach are paid with OT, even though COBX generates only about one in five Public Safety calls.

Meanwhile, little or no progress was made on critical projects in the tourist areas, such as safe "hike and bike" trails along NC12. And no money at all was spent on beach nourishment until 2015, when the County began allocating a few thousand dollars annually for dune grass planting subsidies (enough for one beach grass plant for every hundred feet of beach front). Of the \$40 million extra collected, less than \$40 thousand was spent on beach nourishment from 2005 to 2018.

These concerns and others led to the formation of Corolla Civic Association (CCA) in 2011 to represent the interests of residents, visitors, residential property and business owners in COBX. Among other things, CCA communicates community interests and concerns to the County and advocates for County actions on tourist safety along NC12, clean beaches, beach nourishment and other investments to make our beach tourism areas more attractive and lucrative. Enhancing the attractiveness of COBX keeps beach property values high, attracts additional investment and keeps taxes for all County residents low.

Shortly after its formation, CCA began meeting monthly with County management to discuss OT investment opportunities and community concerns. Initially, County management seemed receptive to CCA's ideas, and while progress was slow the County maintained it was due to budgetary constraints. Foot-dragging persisted -- despite CCA's continued pleas to extend a safe hike and bike trail along all of NC12, the County deferred action until three tragic pedestrian deaths in 2013 and 2014. To jumpstart this project, CCA organized

a meeting with county, state and NC DOT officials to demand safe hike and bike trails along NC12. Only then was a section of the path completed from Food Lion to Harris Teeter in 2016. Significant unsafe areas still remain today while up to 60,000 visitors and all the delivery and service trucks drive the winding, two-lane road each week during the tourist season.

Growing concerns and clamoring from the beach community prompted CCA to take a detailed, comprehensive look at how much OT had been collected and how these funds had been spent. The County audit reports and Tourism Development Authority minutes were examined in minute detail. This analysis indicated that, since 2005, the entire OT tax increase had been diverted for County general purpose use. Over a third of all OT funds were funneled through the general fund into mainland projects predominantly used for County residents rather than tourists.

In March of 2017, CCA presented a letter of concern to the County and met with the County attorney and several members of the Board of Commissioners to discuss its findings and to present a proposal for an open and robust business-like process for fairly investing future OT revenues consistent with the statutory requirements. CCA received a heated response from the County in this meeting, wherein the County asserted its right to spend OT however the elected Commissioners decided. Essentially, the County's position was that, as long as a few tourists or business travelers might benefit, the Commissioners had unfettered discretion to spend OT as they wanted; it was not necessary that there be a rational relationship or proportionality between the amount spent and the tourism dollars that were likely to be generated. CCA was stunned by this reaction. It believed that it was proactively offering a constructive framework for good government. Following this meeting, County management suspended its five-year tradition of almost monthly discussion meetings with CCA. Since then, CCA has sent several written communications on these issues to the County but has received no acknowledgment or reply other than a response to budget questions in 2018.

CCA then went to legal counsel for advice. After a review of the information provided by CCA, counsel confirmed CCA's concerns that the County was improperly interpreting the OT law. In January 2018, CCA's attorney submitted to the County a formal request under the NC Public Records Act in an attempt to validate the County claims that its processes properly supported its determinations on how to allocate OT funds.

In April 2018, CCA submitted a 70-page recommended budget plan for OT expenditures developed by the beach tourism community and asked for an opportunity to discuss this plan with the County. Development of this document was a data-driven exercise involving hundreds of hours of work. The County would not even acknowledge receipt of this submission and ignored CCA's request for a meeting to discuss.

Two months later, in June 2018, the County responded to the CCA public records request with almost 6,000 electronic records of emails and attachments, as well as two binders of hard copy information. A complete review of this information confirmed CCA's suspicions that the County has failed to follow both the letter and the intent of the OT statute in the manner it has spent over one-third of the OT collected.

Further, information provided by the County confirms that they were aware of these issues and asked the legislature to relax its new OT spending requirements and allow them to revert to past spending practices; but the legislature did not change the law (2007). Despite this rebuff by the NC legislature, the County continued to use OT funds for general county purposes to cover the County's rising general service costs in order to balance its budget without raising property taxes.

The State authorizes the County to collect OT on short-term rentals and directs the County's use of these funds to help the tourism industry, but the State does not monitor its use. Currituck's tourism industry is almost entirely centered on its beach areas where private investors, largely property owners, have invested more than \$3 Billion building rental homes with 20,000 bedrooms that host almost a million tourists annually in weekly rentals. Beach tourists spend an estimated \$400M per year at the beach generating almost \$12M in OT and \$6M in sales tax. Combined with beach property taxes of \$15M per year, beach tourism contributes 60% of all County tax revenue.

CCA has found that since 2005 the County has spent more than \$40M of OT dollars for projects that its legal counsel believes are in violation of the law:

- Sheriff and EMS services and equipment already paid by property tax >\$20M
- Non-tourism Economic Development, including \$4M to build the largely vacant Maple Commerce Park and to fund County Airport infrastructure
- Development of Parks and Recreation facilities far from tourist areas primarily for the benefit of County residents > \$20M (\$8.5M for YMCA, \$7M for baseball fields and soccer fields in Barco, \$6.8M for the Currituck Rural Center, >\$0.5M for Veterans Park, etc.)
- Loans and subsidies to Special Tax Service Districts, and a fire hydrant in Grandy - \$6M
- Restoration and Operation of Historic Sites far from Tourist areas almost \$1M

These questioned project payments from OT (instead of using General Tax revenues) have been at the expense of critical projects to keep pedestrians and bicyclists from being killed on NC12, to protect half of the entire County's property tax base from the effects of beach erosion and to provide opportunities to make the real tourist area more attractive, thereby growing property values and tax revenues. As a result of the County's misuse of OT, the following is true:

- beach rental income has stagnated – no real growth per home over the last decade
- beach property values continue to decline – down 15% over the last decade
- beach erosion has significantly reduced usable dry beach width by half
- a growing number of oceanfront homes are now within striking distance of the next “Hurricane Isabel” event

In response to CCA's inquiries, the County has rationalized its misuse of funds, attempting to interpret the OT statute to allow the County to use it for anything that the Board of Commissioners want as long as the word “tourist”, “park” or “historic” is applied and without regard to how, or how much, tourism and tourism revenues are increased. CCA believes that this is a flawed interpretation of the law. If the County's interpretation is allowed to stand, there will, in effect, be NO restrictions on the use of OT funds. If the current spending trends continue, the County's beach tourism business will continue to decline. Ironically, this is to the detriment of all County taxpayers, as the beach areas contribute about 60% of all County tax revenues, but use less than 20% of County resources compared to the rest of the County. The lower the value of beach property the greater the percentage of general property tax that mainland residents must pay.

We are asking the Court to review past behaviors as well as planned future projects, and to clearly define what can and cannot be done with the OT funds under the parameters imposed by the legislature. We are asking the Court to impose its interpretation of the statute or, alternatively, consent to interpretations CCA has put forward in its court filing, to govern future expenditures of OT proceeds. CCA's complaint also asks the Court to compel return of all past misspent OT funds to the Tourism Development Authority Fund to be used in accordance with the guidelines established by the Court.

It is our hope that with a reasonable interpretation of the law, all future OT funds will be used as intended by the legislature to invest in bona fide tourist destinations and attractions that grow tourism revenues. This will benefit the entire county by increasing tax revenue and jobs for the benefit of ALL County residents.

References:

<https://wtkr.com/2013/07/23/corolla-pedestrian-safety-examined-after-fatal-accident/>

https://pilotonline.com/news/article_72b3b005-22a8-5687-85bb-ef662029222c.html

Current statute:

<https://www.dropbox.com/s/jnxwppyyy9bb25h/current%20OT%20statute%20SL2004-95%3B%20HB%201721.pdf?dl=0>

Statute amendment attempt:

<https://www.dropbox.com/s/8do55ew6gtb0h2i/proposal%20to%20amend%20OT%202007%20H1102.pdf?dl=0>

Currituck County Occupancy Tax Use 2005-2019

(Source: Audit Reports, Current Budget)

