

# REQUEST FOR BOARD ACTION / CONTRACT CONTROL FORM

**Tracking Number:** 18.

**Date of Request:** April 9, 2008

**Date Request Received:** April 9, 2008

**Board Meeting** April 21, 2008

**Board Meeting** April 21, 2008

**Date Requested:**

**Date Assigned:**

**Short Title:** Items From County Manager/County Attorney/County Commissioners

**Request Status:**

- Request is proceeding to Board of Commissioners
- More information is needed – see attached
- Request on hold – no further information needed
- Other:

**Background:**

**Specific Action Requested:** Review Items from County Manager/County Attorney/County Commissioners

Requested by: Al Greene  
Department: County Manager  
Title:  
Contact Phone: 910-259-1200  
Contact Fax:

*(Administrative Use Only)*

## CONTRACT TYPE

- Renewal
- For Service(s)
- Intergovernmental – County as Grantee
  - Federal Grantor
  - State Grantor
  - Grant or
- County as Grantor
  - County Funds
  - Other Funds:
- Revision
- For Equipment

## PURCHASING

Date Rec'd: Budgeted Item:  Yes  No  
 Reviewed and Approved  
 Comments on Reverse

Date Sent:

Signed:

## ATTORNEY

Date Rec'd:  Reviewed and Approved  
 Legal Problem(s)  
 Comments on Reverse

Date Sent:

Signed:

## FINANCE

Date Rec'd: Sufficient Funds  Available  Not Available  
 Budget Amendment Necessary  
 Budgeted Amendment is Attached  
 Comments on Reverse

Date Sent:

Signed:

## CLERK

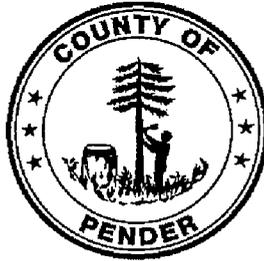
Signature(s) Required:  
 Board Chairman/County Manager  
 Other:

Date Rec'd Approved by Board:  Yes  No  
At meeting on

## County of Pender

**Board of Commissioners**  
James David Williams, Jr. Chairman  
Jimmy T. Tate, Vice-Chairman  
Norwood Blanchard  
George Brown  
F.D. Rivenbark

Al Greene, Interim County Manager



**County Manager's Office**  
Post Office Box 5  
805 South Walker Street  
Burgaw, NC 28425

Telephone: (910) 259-1200  
Facsimile: (910) 259-1402

To: Chairman & Members of the Board

From: Al Greene, Interim County Manager *AG*

Subject: Items of Interest

Date: April 21, 2008

1. Letter from Time Warner Cable with update on developments affecting the cable television system serving the community.
2. Copy of letter from Area Agency on Aging with respect to programmatic compliance monitoring.
3. Letter from N.C. Department of Transportation with respect to request for maintenance of drainage outfalls.

Eastern Carolina Division  
2206 Wrightsville Avenue  
Wilmington, NC 28403  
Tel (910) 763-0004  
Fax (910) 762-3641



VIA CERTIFIED / RETURN  
RECEIPT REQUESTED

March 26, 2008

Ms. Lori Brill  
County Manager  
Pender County  
PO Box 5  
Burgaw, NC 28425

Dear Ms.Brill:

I am writing in our ongoing efforts to keep you apprised of developments affecting the cable television system serving your community.

Our agreements with programmers to carry their services routinely expire from time to time. We are usually able to obtain renewals or extensions of such agreements and carriage of programming services is discontinued only in rare circumstances. Our agreements with the following channels are due to expire soon, and we may be required to cease carriage of these stations in the near future:

A&E HD  
The History Channel HD  
Sports Illustrated on Demand  
Sci-Fi Channel

If you have any questions or concerns, please do not hesitate to call me.

Sincerely,

Marty Feurer  
Director  
Government and Public Affairs  
Eastern Carolina Division  
(910) 772-5746



# Area Agency On Aging

*Cape Fear Council of Governments*

April 3, 2008

Mr. Wes Davis, Director  
Pender Adult Services  
P. O. Box 1251  
Burgaw, NC 28425

Dear Mr. Davis:

In compliance with the Older Americans Act, Section 307 (4), OMB Circular A-133, Section 308 of the AAA Policies and Procedures Manual, I, Holly Henderson the Family Caregiver Support Specialist, made an on-site visit on March 10, 2008. During this visit, I conducted a programmatic compliance monitoring for the 2007-2008 Family Caregiver Support Program Grant services by focusing on funds utilization.

The assessment reviews specific aspects of the services provided including 14 compliance criteria defined for each fund source. The assessment process included a review of compliance with the NC Division of Aging and Adult Services and the Region O Area Agency on Aging Performance Review for the Family Caregiver Support Program and verification of compliance with the conflict of interest policy requirement required in G.S. 143-6.1.

The assessment report is designed to:

1. identify those items which are commendable or show high achievement;
2. identify compliance or non-compliance with the applicable 14 compliance criteria and the requirement that non-profit entities have a notarized policy addressing conflict of interest;
3. identify the items not in compliance with the NC Division of Aging and Adult Services and Region O Area Agency on Aging Performance Review for the Family Caregiver Support Program that must be addressed in a corrective action plan; and
4. document any technical assistance offered by the Area Agency on Aging to further improve the service provided.

The results of the monitoring visit are as follows:

**Fund Source: Title III-E Grant for National Family Caregiver Support Program**

**CFDA: #93.052 Program Name(s): Family Caregiver Support Program**

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An Equal Opportunity/Affirmative Action/ADA Employer/Program

<u>Compliance Supplement Criteria Requirement</u>	<u>Compliance Supplement Criteria</u>		
a. Activities Allowed or Unallowed:	Yes		
b. Allowable Cost/Cost Principles:	Yes		
c. Cash Management:			N/A
d. Davis-Bacon Act:			N/A
e. Eligibility:	Yes		
f. Equipment and Real Property Management:			N/A
g. Matching, Level of Effort, Earmarking:			N/A
h. Period of Availability of Federal Funds:	Yes		
i. Procurement, and Suspension and Debarment:	Yes		
j. Program Income:	Yes		
k. Real Property Acquisition and Relocation Assistance:			N/A
l. Reporting:	Yes		
m. Subrecipient Monitoring:			NA
n. Special Tests and Provisions:	Yes		
o. Conflict of Interest:	Yes		

**Description of Non-Compliance Findings:**

**Family Caregiver Support Program**

***Programmatic and Funds Utilization***

None

**Comments, Technical Assistance and Recommendations:**

**Comments**

I reviewed the following during the monitoring visit: client records, activity reports, reimbursement requests, employee time records, support group sign in sheets and consumer contributions informational sheet. All of the above were organized and on target with the Family Caregiver Support Program Grant contractual agreement.

**Commendations**

The Family Caregiver client records were in order and ready for review. Connie Bell and Shirley Sidbury track the client hours/services together to make sure they stay within the contractual agreement and have their reports in on time each month. I really appreciate their dedication to the program.

I want to thank you and your staff for your assistance during the assessment visit. If you have any questions, please do not hesitate to contact me. I have enclosed the completed monitoring tool used during my visit. Thank you for your continued service to the older adults and their caregivers in Pender County.

Sincerely,

A handwritten signature in cursive script that reads "Holly Henderson". The signature is written in black ink and is positioned above the typed name.

Holly Henderson, Family Caregiver Resource Specialist  
Cape Fear Area Agency on Aging

Enclosures

CC: Jane Jones, Cape Fear Area Agency on Aging Director (letter only)  
Al Greene, Pender County Manager (letter only)  
James David Williams, Jr., Pender County Board of Commissioners Chairman (letter only)



STATE OF NORTH CAROLINA  
DEPARTMENT OF TRANSPORTATION

MICHAEL F. EASLEY  
GOVERNOR

DIVISION OF HIGHWAYS

LYNDO TIPPETT  
SECRETARY

April 11, 2008

Mr. Al Greene  
Interim County Manager  
County Manager's Office  
Post Office Box 5  
Burgaw, North Carolina 28425

Dear Mr. Greene:

Thank you for your letter and the Board of Commissioner's Resolution requesting the Department of Transportation to rescind its decision to discontinue the maintenance of drainage outfalls and take necessary steps to implement an effective system of drainage outfall maintenance in Pender County. I understand that District Engineer Robert Vause of the Jacksonville District Office has a meeting scheduled with you to discuss the issue in the very near future.

As you may know, the Department is currently undergoing a transformation from reactive management to preventative management of the assets that make up our transportation system. Part of this transformation includes evaluating the Department's available resources and how they can best be utilized to maintain the assets. Maintenance of storm/surface drainage just within the rights of way of the highway system consumes a considerable portion of our available resources. Due to this fact, and the increasingly stringent rules and regulations relative to environmental stewardship, the Department has for many years now removed itself from the routine maintenance of drainage outfalls outside of the rights of way and have looked more to the downstream property owner to maintain his/her drainage accordingly and as required by civil law.

This is not to say the Department has no interest in outfall ditches beyond the right of way, but for the Department to utilize resources on outfall maintenance not on highway right of way or permanent easement, it must be cost versus benefit justified and directly related to the maintenance of the highway asset. Another option includes legal actions,

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Mr. Al Greene  
April 11, 2008  
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but the Department typically would only utilize this option in cases where the safety of the travelling public is involved.

In light of the above, I trust you can understand why the Department cannot commit to nor implement an effective system that addresses the maintenance of all storm/surface ditches beyond the highway rights of way in Pender County. I have enclosed copies of a brochure developed by the Department to help explain the Department's position relative to storm/surface drainage for you and the Board's review.

Again, thank you for your interest and understanding in this matter. If I may be of further assistance, please let me know.

Sincerely,



H. Allen Pope, P. E.,  
Division Engineer

HAP/dlt

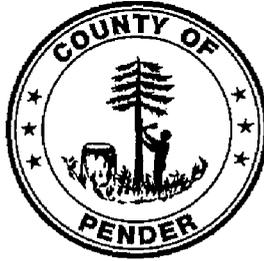
Enclosures

Cc: Lanny T. Wilson, Member, Board of Transportation  
Jon Nance, PE, Director of Field Operations  
R. A. Vause, PE, District Engineer

## County of Pender

**Board of Commissioners**  
James David Williams, Jr. Chairman  
Jimmy T. Tate, Vice-Chairman  
Norwood Blanchard  
George Brown  
F.D. Rivenbark

Al Greene, Interim County Manager



**County Manager's Office**  
Post Office Box 5  
805 South Walker Street  
Burgaw, NC 28425

Telephone: (910) 259-1200  
Facsimile: (910) 259-1402

To: Chairman & Members of the Board

From: Trey Thurman, County Attorney *JT*

Subject: Items of Interest

Date: April 21, 2008

1. Reconsider Findings of Fact on Special Use Permit that was denied at the March 17, 2008 meeting; findings were tabled at April 7, 2008 meeting.

**Special Use Permit for Salvage Yard/Scrap Processing**

**SUBJECT:**    **CASE NO:** 08-03-17-08  
**PROPERTY RECORD NO:** 2279-54-3549-0000  
**APPLICANT:** James R. Faircloth  
**OWNER:** Same

**ACTION REQUESTED:** Approval of Special Use Permit for the operation of salvage and scrap metal processing.

**HISTORY/BACKGROUND:**

**Project Location:** The property is located approximately 1.6 miles northwest of the intersection of NC Highway 53 W and US Highway 421. The property address is 16222 US 421 N, Burgaw, NC. (See attached vicinity map).

**Project Description:** The project consists of the operation of salvage and scrap metal processing. The proposed project is located on 16.17 acres. Currently there is a single-family dwelling located on the south side of the property which will be utilized for restrooms. The project will utilize the homeowners as the only employees. According to the site plan, a separate area (northwest) will be utilized for the accumulation of the metal to be processed. Large collection bins will be located on the working site for collection and sorting of the goods. When these bins are full, the applicant will place them on a truck and haul them away. Access will be provided to the site via US Hwy 421, and according to the applicant's narrative, two (2) – three (3) truck loads will be brought in or hauled off on an average working day. The hours of operation are proposed to be seven days a week from 7:00 a.m. – 7:00 p.m.

**EVALUATION:**

- A) Public Notifications:** Advertisements for the proposal have been placed in the Topsail Voice and Pender Post. Adjacent property owners were notified by first class mail. Special Use Permit signs were posted on or near the proposed site.
- B) Basis for Granting SUP:** See attachment A for approval procedures (15.3, Zoning Ordinance) and revocation procedures (15.4, B, Zoning Ordinance).
- C) Zoning Ordinance Compliance:** This property is zoned RA, Rural Agricultural District, and *Salvage Yard, Junkyards, Scrap Processing* are permitted via Special Use Permit.
- D) Land Use Plan Compliance:** This property is classified as Rural Area. *The Pender County Future Land Use Plan* describes *Rural Area* to allow home-based businesses. The northwest corner of the property is classified as Conservation Area I. The placement of bins will be crucial for the protection of this area from any deposits that may leak from the accumulation of scrap metal (See attached CAMA Land Use map).
- E) Existing Land Use in Area:** The property is in a rural area. There are some single family homes to the south, there is farmland to the north and west, across from US Highway 421.
- F) Site Access Conditions:** The property has direct access to US Highway 421 for ingress and egress.
- G) Conditions To Consider In Issuing A Special Use Permit For This Project:**
1. Unless approved otherwise as a condition of the permit, a Special Use Permit shall expire and become void, if a final zoning permit has not been issued for the project within 12 months.
  2. The following shall be submitted prior to issuance of the zoning permit as contained in the Commercial Site Plan Review Standards:
    - a. Approval of a current Sediment & Erosion Control Plan by NC Land Quality, if applicable.
    - b. Approval of a current Stormwater Management Plan by NC Water Quality, if applicable.
    - c. Certification of a drainage plan by licensed professional on a form provided by the County.
  3. The project shall comply with all requirements of the Commercial Development Standards and Site Plan Review, Section 9.14 of the Pender County Ordinance. This will include parking and landscaping requirements that will be in compliance with Sections 13 and 14 of the Pender County Zoning Ordinance.

4. A separate Permit must be obtained for any proposed signs. Signs shall be in accordance with Section 16 of the Pender County Zoning Ordinance.
5. Hours of operation, all seasons:
  - 7:00 a.m. – 7:00 p.m. Seven days a week.
6. Any flood or spotlights shall be oriented away from the street. Such lights shall also be oriented away from adjacent properties or shielded to prevent direct light from shining on such properties. This provision does not apply to normal area lights (non-directional).
7. No junk, debris, trash or inoperable vehicles, recycled or salvaged materials shall be stored on the site outside an approved bin.
8. All access areas leading into the development shall be constructed and maintained to NCDOT secondary road standards.
9. The obligations imposed by this permit will be the responsibility of the property owner and operator and shall continue in affect for the duration of this permit.
10. The project shall be developed and maintained in accord with the applicant's final revised site plan as approved by the Zoning Administrator, the Zoning Ordinance and the conditions contained in this permit.

**RESOLUTION: NOW, THEREFORE, BE IT RESOLVED**, that on March 17, 2008, the Pender County Board of Commissioners (~~approved, modified,~~ denied) a Special Use Permit for James R. Faircloth as described herein and James David Williams, Jr., Chairman, is authorized to execute the order implementing this resolution and provide notice to the applicant of the action taken herein.

**AMENDMENTS: Special Use Permit denied pursuant to Subsection 15.3(b) based upon the following findings of fact:**

1. The proposed SUP would result in loud and piercing noise inconsistent with the rural and residential neighborhood.
2. The use of heavy vehicles on the roadway given the limited sight distance would create a risk to the safety of the community.
3. The proposed buffers would be inadequate to prevent sight pollution inconsistent with the rural residential nature of the community and immediate neighbors of the property.

MOVED Tate SECONDED Brown

APPROVED \_\_\_\_\_ DENIED X UNANIMOUS \_\_\_\_\_

YEA VOTES: Williams X Tate X Blanchard \_\_ Brown X Rivenbark X



James David Williams, Jr.,  
CHAIRMAN

3/17/08  
DATE



ATTEST

3/17/08  
DATE

stated she was told not to discuss exactly what the project is, only to discuss the request for the change. Mr. Thurman asked if they have a contract on the property and Ms. Lewis responded affirmatively. The public hearing closed at 8:27 p.m. Mr. Blanchard made a motion to approve the zoning map amendment as RT, Rural Transition, Mr. Brown seconded the motion and it was approved by a three-to one vote, with Mr. Rivenbark voting against it.



**20. Public Hearing & Special Use Permit – James R. Faircloth, Applicant, Requesting Approval of Operation of Salvage and Scrap Metal Processing Located on US 421 N., Burgaw, NC.**

Planner Ashley Frank explained that the special use permit request is for salvage yard/scrap processing; that it is zoned RA, Rural Agricultural District; that the property is located approximately 1.6 miles northwest of the intersection of US Highway 421 and NC Highway 53; that the conditions include 7:00 a.m. – 7:00 p.m. hours of operation; and that no junk, debris, trash or inoperable vehicles, recycled or salvaged materials shall be stored on the site outside an approved bin. The public hearing opened at 8:45 p.m. Mr. Thurman swore in the witnesses. Attorney Rick Biberstein spoke on behalf of the applicant. He said the applicant had been engaged in the collection of metals and taking it down to sell, but now wants to have three bins at his home to separate the metal before he takes it to sell, which will make it more profitable. He said the woods provide 100' buffers on three sides and the applicant's house is on the fourth side; that there will be no employees, minimal noise, and no light or chemical pollution. Mr. Biberstein distributed pictures for the Board to see. Mr. Williams asked is it fairly consistent to have 100' buffers on all sides and Mr. Faircloth responded affirmatively. Mr. Biberstein asked that the application and pictures be introduced for the record. Mr. Thurman asked if the pictures accurately identify Mr. Faircloth's property and Mr. Faircloth responded affirmatively. Mr. Faircloth said that it will not be a junkyard, that he had talked to the neighbors and that he won't take anything in there that's going to cause any problems. Mr. Williams asked Mr. Faircloth if he is familiar with all the conditions and Mr. Faircloth said he's not familiar with all but he's willing to do what he's told to do. Ms. Julia Nixon of Highway 421 said that her property across the road from the site is not all farmland as had been previously stated and said she sells the lots for her income. She said they don't need any more noise and she has a problem with dump trucks turning around in her driveway. Ms. Nixon also had concerns about polluting Moores Creek. Mr. Jeremy Rodgers said the driveway comes right by his house, that there's a school bus stop there, that trucks will be coming and going at all times, and that there is no fire access. Ms. Autumn Rodgers said there are already three to four entrances a day. Ms. Armentha Bryant said she lives directly behind the site and she is concerned about the noise, that she agrees with Ms. Nixon about Moores Creek and that she doesn't want to have to wake up and have to look at a junkyard. Mr. Tate asked if he puts in a buffer will that appease her and Ms. Bryant said her main concern is drinking water and rodents. Mr. Tate asked can staff require a buffer and Mr. Vafier said that can be a condition to put in a fence/buffer. Mr. Tate asked if environmental soil testing can be required periodically and Mr. Thurman said it can be done as a conditional requirement. Ms. Jaki Pace said that she didn't come to speak tonight but she is speaking on behalf of her aunt who has a chronic disease. She said that there are women ages 62-68 living alone in four houses next to the site; that there is a dead man's curve right there that you can't see around, that there is noise and that there is natural vegetation around the site but it is not heavily wooded. Mr. Thurman said he wants to disclose that Ms. Pace is a County employee that works in Planning and Inspections and that she is a good employee. Mr. Biberstein said they shouldn't consider Ms. Pace's testimony any more or less for the fact that she is a County employee. Mr. Tim Jordan said he has nothing against Mr. Faircloth but he is concerned about the impact on the environment. He said he's concerned about the noise and he has heard an excavator sound there before. He asked the Board members to consider how they would feel about it if it was next door to them and said this is not a good place for this type business. As a rebuttal Mr. Biberstein asked Mr. Faircloth if he has an excavator, about contamination and how far the creek is from his property, and about traffic. Mr. Faircloth said he does have an excavator but he hardly ever runs it, that the creek is not on his property – it is 100' and that he doesn't have traffic all the time but he does have an occasional dump truck. Mr. Tate asked Mr. Faircloth to define "occasional" and Mr. Faircloth said two to three times a day. Mr. Tate said he is all for small businesses but he has heard from the citizens. Mr. Biberstein requested a reason the Board would have for not approving the application. Mr. Williams read Number 15.3(B) of the Procedures for Reviewing Applications, ie. "The requested use will not impair the integrity or character of the surrounding or adjoining districts, nor adversely affect the safety, health, morals, or welfare of the community or of the immediate neighbors of the property." The public hearing closed at 9:18 p.m. Mr. Tate made a motion to deny the special use permit, Mr. Brown seconded the motion and it was approved by a four-to-one vote, with Mr. Blanchard voting in opposition.

**21. Public Hearing & Special Use Permit – Donald & Sandra O'Neil, Applicant, Requesting Approval for a Single Office (Real Estate) Located at the Intersection of Peanut Rd. Hwy 210, Hampstead, NC.**