



REQUEST FOR BOARD ACTION

ITEM NO. 14.

DATE OF REQUEST: February 2, 2009

REQUESTED BY: Ken Cornatzer, Town of Wallace.

SHORT TITLE: Resolution Approving and Consenting to the Town of Wallace Acquiring Land by Eminent Domain for the Wallace Airport (Henderson Field).

BACKGROUND: The Town of Wallace has requested the County's approval and consent to acquire land via eminent domain at one end of the runway for future expansion and to alleviate height obstructions. The land is owned by CNX 5 Trees, LLC, and the deed is recorded in Book 1891, Page 142 of the Pender County Registry. Wallace indicates they will make every effort to negotiate mutually agreeable terms of the sale with the owner. The statutes require that before a final judgment in a taking is entered, the County in which land is being condemned by another local government must have consented to the taking. Pender County is covered by this statute.

SPECIFIC ACTION REQUESTED: To adopt a resolution approving and consenting to the Town of Wallace acquiring land by eminent domain for the Wallace Airport (Henderson Field).

COUNTY MANAGER'S RECOMMENDATION

Respectfully recommend approval.

RB
Initial

RESOLUTION

NOW, THEREFORE BE IT RESOLVED by the Pender County Board of Commissioners that:

The attached resolution approving and consenting to the Town of Wallace acquiring land by eminent domain for the Wallace Airport (Henderson Field) is hereby adopted.

AMENDMENTS:

MOVED _____ SECONDED _____

APPROVED _____ DENIED _____ UNANIMOUS

YEA VOTES: Tate ___ Brown ___ Blanchard ___ Rivenbark ___ Williams ___

Jimmy T. Tate, Chairman Date

ATTEST Date

NORTH CAROLINA

PENDER COUNTY

WHEREAS, the Town of Wallace, (hereafter "Wallace"), a North Carolina municipal corporation is located in Duplin County, North Carolina, and owns and operates a municipal airport that is located entirely in Pender County, North Carolina; and,

WHEREAS, Wallace has recently enlarged the length of its runway, and is in the process of installing updated navigational/landing equipment, known as the "Precision Approach Pilot Indication System, (hereafter "PAPI"). As a result of the lengthening of the runway and installation of the PAPI System, the Federal Aeronautics Administration ("FAA") requires Wallace to maintain clearances of all obstructions within the designed glide slope pattern, because such obstructions constitute a potential danger to airplanes utilizing the Wallace airport and PAPI System; and,

WHEREAS, as shown on the attached drawings prepared by Bright and Talbert, Engineers, identified as Exhibit "A", 36.45 acres, more or less, of the land owned by CNX 5 Trees, LLC., (hereafter "CNX"), a North Carolina limited liability company with its principal place of business located in New Hanover County, North Carolina, is located within the PAPI glide slope pattern; and,

WHEREAS, the deed to CNX is recorded in Book 1891, Page 142, of the Pender County Registry, the portion of which is located within the PAPI glide slope pattern, already contains a number of trees that have grown to a height that interferes with the glide slope pattern. The portion that is located within the glide slope pattern is designated by the cross-hatched pattern shown upon Exhibit "A" attached; and,

WHEREAS, in that the portion of the CNX tract is covered by growing trees, Wallace has determined that it is in its best interest to acquire title to the entire portion located within the glide slope pattern, rather than file multiple condemnation actions to compel the owner to cut, top or remove offending trees as they grow into the glide slope pattern; and,

WHEREAS, under the provisions of N.C.G.S. §153A-15(a), prior to the entry of a final judgment of any eminent domain action by Wallace to acquire title to the portion of the tract of land owned by CNX, that is located within Pender County, the Pender County Board of Commissioners must have, by resolution, consented to the taking of the land by Wallace.

NOW, THEREFORE, BE IT:

RESOLVED: by the Board of Commissioners of Pender County that based upon the above premises and for good cause shown, the Board does hereby approve and consent to the Town of Wallace acquiring the above referred to portion of the land owned by CNX 5 Trees, LLC, the deed to which is recorded in Book 1891, Page 142, of the Pender County Registry, by eminent domain, should the Town be unable to negotiate mutually agreeable terms of sale with the owner.

Adopted by a vote of _____, this the ____ day of _____ 2009.

Chairman

I, Clerk of Pender County, do hereby certify that the above resolution is a true and correct copy of the resolution adopted by the Pender County Board of Commissioners on the ____ day of _____ 2009.

Clerk

pendwall.res