

MONDAY, MARCH 17, 2008

The Pender County Board of Commissioners met in regular session on Monday, March 17, 2008 at the Pender County Public Assembly Room, 805 South Walker Street, Burgaw, North Carolina.

MEMBERS PRESENT: Chairman James David Williams, Jr., presiding; Vice Chairman Jimmy Tate; and Commissioners Norwood Blanchard, George Brown and F.D. Rivenbark.

MEMBERS ABSENT: None.

OTHERS PRESENT: Al Greene, Interim County Manager and Clerk to the Board; Trey Thurman, County Attorney; Glenda Pridgen, Deputy Clerk to the Board; other staff and members of the Press and public.

CALL TO ORDER

Chairman Williams called the meeting to order at 4:00 p.m. and welcomed all to the meeting.

INVOCATION

Commissioner Tate offered the Invocation.

PLEDGE OF ALLEGIANCE

Commissioner Blanchard led the Pledge of Allegiance.

PUBLIC INFORMATION

1a. Recognition and Congratulations to Ms. Kay Henderson, Administrative Assistant, for over Forty-three Years of Service with North Carolina Cooperative Extension Service in Pender County.

Chairman Williams read a plaque and presented it to Ms. Henderson. He made special note of the fact that Ms. Henderson had served the County for over forty-three years. The audience applauded Ms. Henderson and Ms. Henderson thanked each Board member individually.

1c. Recognition and Congratulations to Mr. Wayne Briley, Town of Burgaw Chief of Police, for over Thirty-Five Years of Service to the Citizens of Burgaw, Pender County and North Carolina.

Mr. Rivenbark read a plaque and presented it to Mr. Briley. He said he and Mr. Briley "go way back" over thirty-five years.

1b. Recognition and Congratulations to Ms. Mary Ann Briley, Clerk of County, for over Thirty-Five Years of Service to Pender County Citizens.

Vice Chairman Tate read a plaque and presented it to Ms. Briley. He said that as a Junior Politician, there is no greater opportunity than to emulate Ms. Briley.

2. Resolution Authorizing Approval of Letter of Conditions with US Department of Agriculture Rural Development - for Financing Construction of a 2 MGD Water Treatment Plant on Highway 421 in Pender County.

Administrative Assistant Melinda Knoerzer explained that USDA will provide financing in the form of a \$16.5 million loan and \$1,000,000 in grants. She said USDA requires the County to approve the Letter of Conditions as part of the approval process. She said the County will provide \$89,000 to the project and repayment of the loan will be scheduled over a period of forty years. Mr. Ed Causey of USDA recognized Mr. Steve Smith and Ms. Judy Hunt of USDA and said the Letter of Conditions is merely a standard requirement. He said the interest rate on the loan is presently the lowest rate offered at 4 3/8% and indicated that this would be the highest the interest rate would be fixed at. Mr. Causey added that if the rate decreased between now and the time of closing, the County would be given the lower of the two rates. Mr. Rivenbark asked if the County Attorney had studied the documents and Mr. Thurman responded

affirmatively and said these are the standard documents required by USDA Rural Development. Mr. Rivenbark made a motion to approve the resolution, Mr. Blanchard seconded the motion and it was unanimously approved. Chairman Williams thanked USDA for their continued support of Pender County water projects.

3. Presentation on Voluntary Agricultural Districts: Jerry Dorsett, Working Lands Coordinator, NC DENR.

Mr. Don Rawls, Chairman of the Pender Soil and Water Conservation Board, introduced Mr. Dorsett. Mr. Dorsett's presentation included, among other things: Why Preserve Farmland; What are Farmland Preservation Districts; Who is Eligible for Membership on the Agricultural Advisory Board; What Defines a Voluntary Agricultural District; What is Meant by Qualified Farmland; How do I Apply to Enter My Farm in a Voluntary Agricultural District; What Are the Advantages of Belonging to an Agricultural District; and Can I Withdraw my Farm from a District at Anytime. Mr. Rivenbark noted he is proud to say his Brother-in-Law served on the Local Soil & Water Conservation Board for forty-six years.

4. Topsail Area Comprehensive Transportation Plan: Tyler Bray, NC DOT.

Mr. Bray had an emergency and was not able to attend the meeting. The item was tabled.

5. Cape Fear Area Rural Planning Organization Revised Memorandum of Understanding: Don Eggert, Transportation Planner, Cape Fear Council of Governments.

Mr. Eggert stated that in reference to Item Number 3, Brunswick County is now seeing the benefits of Voluntary Agriculture Districts. Mr. Eggert explained that with reference to the Memorandum of Understanding (MOU), the NC DOT has asked the Cape Fear Rural Transportation Organization (RTAC) and its member local governments to consider adoption of an updated MOU. He said that other than minor editorial changes, the principal differences are: 1) declaring an RTAC seat vacant if the member misses three consecutive meetings and not counting that person toward a quorum, but attendance at future meetings will reinstate the member; 2) clarifying the definition of a quorum (attendance by at least 51% of the committee members; and 3) requiring municipalities to adopt the revised MOU not less than 90 days after the county in which the municipality is located adopts it or wait until the following July 1st to join. He noted that Mr. Tate and Mr. Brown are members of the RTAC. Mr. Tate noted that when they met, they discussed lobbying legislators to get funding. Mr. Eggert said things are moving slowly on that but it hasn't been forgotten. Mr. Tate made a motion to approve the amended Memorandum of Understanding, Mr. Blanchard seconded the motion and it was unanimously approved.

CONSENT AGENDA

Mr. Williams presented the two items on the Consent Agenda and asked for any questions or discussion. There being none, Mr. Rivenbark made a motion to approve the Consent Agenda as presented, Mr. Tate seconded the motion and the Board voted unanimously to approve the Consent Agenda as follows:

6. Approval of Minutes for the Regular Session Meeting of February 18, 2008.
7. Budget Ordinance Amendment: DSS: Public Assistance: \$82,319.03 Increase.

RESOLUTIONS

8. Resolution Authorizing a Purchase Order for Connelly Tree Preservation in the Amount of \$6,800 for Removal of Six Trees.

Parks & Recreation Director Dee Turner explained that an ISA Certified Arborist conducted a tree inventory and assessment at the Courthouse Square and evaluated fifty-five trees. She said they recommended that six Oak trees be removed due to their hazardous condition showing extensive damage and decay. Ms. Turner noted that the resolution should read **\$6,900** instead of \$6,800. Mr. Rivenbark said removal of the trees should be publicized because some citizens might be upset about removing them. There was some discussion of how to make this item public before removing the trees. Mr. Greene suggested having a replanting/replacement plan in place, as Ms. Turner had mentioned at the Board Retreat. Mr. Blanchard said removing these trees would be for safety reasons, not sentimental reasons. Mr. Blanchard made a motion to approve the resolution, Mr. Brown seconded the motion and it was unanimously approved.

9. Resolution Approving Website/Brochure Re-Design and Authorizing Purchase Order to do the Work: \$17,225.

Wayne Batten of Cooperative Extension Service explained that he is presenting this item as a member of the Tourism Development Authority. He explained that the current Pender County Tourism Website and brochure have become outdated, that a website/brochure committee was formed to research and then create a scope of work to submit to different marketing companies, that the website/brochure committee accepted quotes from six design companies, that upon recommendation of the website/brochure committee, two companies out of the six were chosen to present a proposal to the TDA, and that the company that was chosen was Triovisions of Wilmington, NC. Mr. Batten said updating websites and brochures is very expensive. Mr. Williams said he's a member of the TDA and agreed with Mr. Batten that it is very expensive. Mr. Tate made a motion to approve the resolution, Mr. Rivenbark seconded the motion and it was unanimously approved.

ROCKY POINT/TOPSAIL WATER & SEWER DISTRICT

10. Resolution Authorizing Change Order #3 to McKim & Creed, P.A., for Phase 5, to Design System Upgrades to Accept Additional Water Flow from Town of Wallace: \$71,500.

Administrative Assistant Melinda Knoerzer explained that Pender County has an agreement with the Town of Wallace to provide 800,000 GPD of water to the Rocky Point/Topsail Water and Sewer District, with an option to take an additional 300,000 GPD. She said McKim & Creed has provided us with a proposal to design the necessary upgrades in order for our system to accept and pump this additional amount of flow and that staff recommends approval of this resolution contingent upon a determination that Wallace can deliver the additional flow at the necessary pressure. Ms. Kelly Hamm of McKim & Creed presented and explained the Change Order on engineering fees for the interim upgrades to the water program. Mr. Blanchard made a motion to approve the resolution, Mr. Rivenbark seconded the motion and it was unanimously approved. Mr. Williams had the new Utilities Director Michael Mack introduce himself. Mr. Mack did so and gave a brief summary of his experience. Mr. Williams thanked Ms. Knoerzer "and company" for serving as Interim and said they did a good job.

DISCUSSIONS

11. Requirement that Items that are Going to be Considered/Voted Upon by the Board of Commissioners are Listed on the Agenda.

Mr. Williams said this item was requested by Mr. Brown and had been tabled from the March 10, 2008 meeting. Mr. Brown said this item is important to him because it is a "trust" issue. He said the public should be able to see what's on the agenda before the meeting. He reiterated that in case of an emergency item, they could add a clause that says if an additional item is brought on, it would have to have a 5-0 vote to pass. Mr. Blanchard said he had polled some more people and they didn't see any problem with having additional items at meetings. After more discussion and general consensus of the Board, Mr. Rivenbark made a motion to approve the requirement for a six-month trial period, Mr. Tate seconded the motion and it was unanimously approved. Mr. Thurman requested, and the board agreed that additional items could be brought on by "unanimous" vote, should there be an occasion where one or more Commissioners was not present at a meeting.

12. Pender Adult Services: Request for Donation of the County Meal Transport Truck Previously Operated by the Pender County Sheriff's Department.

Mr. Blanchard explained that Executive Director Wes Davis of Pender Adult Services had initially contacted him concerning this item, due to one of their meal transport vehicles having mechanical problems. Mr. Blanchard said Mr. Davis had then contacted Sheriff Carson Smith and the Sheriff had no problem with it. Mr. Rivenbark made a motion to approve donating the County's meal transport truck to Pender Adult Services, Mr. Blanchard seconded the motion and it was unanimously approved.

13. Penderlea Homestead Museum New Deal Project & Historical Value it Offers.

Mr. Tate said he likes to see "living history" and that's what the Penderlea Museum is about. He said the Homestead New Deal Project was started by President Roosevelt after "Black Thursday" and Penderlea Museum is a tribute to the living history of that era. He said the Museum is now having financial difficulties. Ms. Patty Marks Ebert, the Treasurer, said June 14th is Homestead Day and it will mark the 75th anniversary of the New Deal project; that they have a three-year lease that ends in December, 2008; and that they have the option to buy the house and two acres of land for \$25,000 but they only have \$5,000 left in their budget. Mr. Williams noted the Museum already has brochures and said that typically, the Board is willing to help those who help themselves. Mr. Tate asked if there is any urgency on it and Ms. Marks said when the lease ends, if the museum has not exercised their "right of first refusal", the land

could be sold to anyone. Mr. Brown clarified that their lease does not run out until December. Mr. Tate said it was his understanding that they need to move on this quickly. Ms. Ann Cottle said the Museum has outbuildings that need to be taken care of, some of which have fallen into disrepair and some of which have termite problems. She said the Museum is wonderful for Penderlea School as the children can walk there for field trips. Mr. Tate said Penderlea School is one of the best schools in the County. Mr. Brown asked how many total acres are there and Ms. Cottle said forty-five. Mr. Brown asked if all the property could be purchased and Ms. Cottle responded affirmatively. Mr. Tate said he sees the opportunity for Pender County to preserve this piece of history and he doesn't want to wait until December. Mr. Tate made a motion to ask the County Manager to find \$20,000 now. Mr. Blanchard seconded the motion, with the amendment to give the museum the funds July 1, 2008, the beginning of the new fiscal year. It was unanimously approved. Mr. Greene clarified that the Board is approving \$20,000.

APPOINTMENTS

14a. Appointment of Citizens to Various Boards/Committees/Commissions.

It was clarified that all the appointments were re-appointments or replacements for resignations. Mr. Rivenbark made a motion to approve the appointments, Mr. Blanchard seconded the motion and the appointments were unanimously approved as follows:

BOARD/COMMITTEE/ COMMISSION	NAME	LENGTH OF TERM	TERM EXPIRATION	DISTRICT/ POSITION
Tourism Development Authority	Martin Beach	One-Year	8/31/08	Burgaw Chamber
	Allan Libby	One-Year	8/31/08	Topsail Chamber
	Carolyn Justice	Two-Year	8/31/09	At-Large
	Kathryn Cherry	Three-Year	8/31/10	Tax Collector
	Wayne Batten	Three-Year	8/31/10	Cooperative Ext.

14b. Request to Replace the Current Commissioner Position on the Tourism Development Authority with an At-large Position.

After clarifying that Mr. Williams is ok with this action, Mr. Blanchard made a motion to approve the request, Mr. Tate seconded the motion and it was unanimously approved.

15. ITEMS FROM THE COUNTY MANAGER/ COUNTY ATTORNEY/COUNTY COMMISSIONERS

Mr. Thurman said he wants clarification on the bonuses and raises to employees because he is concerned that some don't technically work for the County such as Cooperative Extension, and the Register of Deeds and Sheriff are elected officials. Mr. Greene said that in the past, Cooperative Extension employees received the bonus but not the raise. Mr. Tate asked how we justify not giving school employees the same equity and Mr. Williams said we have never made decisions on school employees' compensation. Mr. Greene said Cooperative Extension follows County Personnel procedures and they are clearly different from the School District as they relate to the State. Mr. Thurman noted the Schools already receive supplemental compensation from the County. Mr. Brown noted he had gotten numerous calls from school people inquiring why they didn't get the raise. Mr. Greene said that Schools' employees are not county employees and reiterated that giving Cooperative Extension employees the bonus is consistent with past practices. Mr. Tate made a motion to include the Sheriff, Register of Deeds and Cooperative Extension in the bonus. Mr. Rivenbark seconded the motion and it was unanimously approved. Mr. Tate made a motion to include the Sheriff and Register of Deeds in the 3% pay raise and the bonus. Mr. Rivenbark seconded the motion and it was unanimously approved.

Mr. Greene said Emergency Management Director Eddie King couldn't be here to update the Board on the storm damage of the past week-end. He distributed a report Mr. King had prepared which gave an update. Mr. Williams said Mr. King consulted with him that night and he advised that if they can't find him in an emergency, they are to contact Mr. Tate.

Mr. Thurman said he, Ms. Knoerzer and Mr. Greene are working on an agreement with the water plant engineers because of some contract issues, and he hopes to get the information back to the Board at the next meeting. Mr. Williams said it's time for the company to make a move or the County makes a move. He said he's getting nervous about the timeline and said the company had worked with USDA before. Mr. Thurman informed the Board that the

Court System won't need to use the Board's Meeting Room as previously stated because of a plea bargain in a murder trial. He said he has other matters in Court with Donald Sullivan.

Mr. Tate said he nominated Wayne Batten for the Aquatic Weed Program award and Mr. Batten won. He thanked Ms. Turner for meeting with the people in his neighborhood concerning the walking trail. Mr. Tate asked about the bond issue and community meetings. Mr. Thurman said they had made contact with Bob Jessup, Bond Counsel, and everything is under control. Staff was instructed to coordinate community meetings with Mr. Tate. Mr. Williams said he would go out with Mr. Tate to meetings.

PUBLIC COMMENT

Mr. Bob Constine said he was appointed to the N.C. Coastal Federation last week and he will send the Commissioners a copy of the meeting agenda for their information. He said they will hold an open forum two times in April. Mr. Tate said he heard that Mr. Constine had already talked to someone concerning Sills Creek. Mr. Williams said Mr. Constine is also on the Overlay District Committee and he will "keep things straight."

Mr. Williams noted he will not be here for the April 7th meeting and instructed Mr. Greene that if there is anything controversial, to hold it until the next meeting.

CLOSED SESSION

At 5:38 p.m. Mr. Rivenbark made a motion to enter into closed session pursuant to NCGS 143-318.11: (6) to consider the qualifications, competence, performance, character, fitness, conditions of appointment, or conditions of initial employment of an individual public officer or employee or prospective public officer or employee; or to hear or investigate a complaint, charge, or grievance by or against an individual public officer or employee. The Closed Session will not include discussion of the appointment of a member of the public body, or a vacancy on the public body, and any final action on appointment, discharge or removal by the public body will be made in open session. Mr. Blanchard seconded the motion and the Board unanimously approved going into Closed Session. The Board came out of Closed Session at 5:55 p.m. Upon exiting closed session, Mr. Blanchard made a motion to extend Mr. Greene's contract for ninety days, Mr. Rivenbark seconded the motion and it was unanimously approved. Staff was instructed to continue advertising for a permanent County Manager. Mr. Tate made a motion to make April 30th the cut-off date for accepting County Manager applications, Mr. Blanchard seconded the motion and it was unanimously approved.

PUBLIC HEARINGS: CDBG CLOSE-OUT/ORDINANCES/RESOLUTIONS/SPECIAL USE PERMITS/ZONING TEXT AMENDMENTS/ZONING MAP AMENDMENTS

16. Close-Out Public Hearing to Receive Public Comment on the County's Fiscal Year 2004 Concentrated Needs Program.

The public hearing opened at 7:09 p.m. Mr. Chip Bartlett of Holland Consulting explained that the program activities are complete and the County is in the process of closing out the program; that a public hearing is required at the close out of a CDBG Program to take public comment; and that the project had a total budget of \$700,000 and the majority of it has been expended. There was no action required to be taken by the Board.

18. Public Hearing & Zoning Map Amendment – Haden Stanziale, Applicant, on Behalf of Keith Avant, Owner: Requesting Rezoning of 25 Acres Located at the Corner of Country Club Drive and Mallard Bay Road, Hampstead, NC.

Mr. Thurman explained that the applicant wants to withdraw this item because they want to get a development agreement. He said they will give public notice when they get the development agreement and the item will go back to the Planning Board and then to the Board of Commissioners. Attorney Robert Kenan said the applicant wants the item withdrawn tonight but wants to be able to resubmit it if the development agreement is not approved, and be able to bring it back in less than the six months normally required for resubmission of an application.

17. Public Hearing & Zoning Map Amendment – Bernard Morris, Montague Woods, LLC, Applicant and Owner: Requesting Rezoning of 56.15 Acres Located at 7167 US Highway 421, Currie, NC.

Planner Ashley Frank explained that the applicant is requesting one tract totaling 50.21 acres and a portion of another tract totaling 5.96 acres – 56.15 total acres to be rezoned from RA Rural Agricultural District to R-20 Residential District; that the rezoning was tabled at the January 22 and February 18, 2008 Board of Commissioners meetings; and

that the property is located at 7167 US Highway 421, north of Richard Switch Road, Southeast of Currie. Ms. Frank read the Planning staff summary and recommendations and said the Pender County Planning Board unanimously denied a similar request at their December 4, 2007 meeting, and that it was denied by the Board of Commissioners in April, 2007 as well. The public hearing opened at 7:19 p.m. Attorney Rick Biberstein spoke on behalf of the project. He said Mr. Morris has gone in and tried to address the problems that were complained about before, which included noise and traffic issues; that there would be a buffer to Richard Switch Road; that the project would maintain a rural atmosphere; that it would provide no more density; that some adjacent conservation areas won't be developed; and that the original idea was to allow cluster so you won't have as much undeveloped. Mr. Tate asked how far this is from Blueberry Road Development and the response was 1 to 1 ½ miles. Mr. Brown asked why was it turned down before and Mr. Biberstein responded it was turned down before because it didn't meet Land Use Plan specifications. Mr. Brown asked if traffic would come out on Richard Switch Road and Mr. Biberstein said traffic would come directly onto Highway 421 and that only emergency traffic would exit onto Richard Switch. Mr. Ronnie Brinkley of Richard Switch Road spoke against the rezoning. He said the request had been denied twice by the Planning Board, that nothing has changed since it was first presented, that the community is concerned about their wells and animals, and that this area is one of the few areas in the county that is still rural and they would like to see it stay that way. Mr. Tate asked how many wells dried up recently and Mr. Brinkley said none on Richard Switch Road but some had dried up on Blueberry Road. Mr. Blanchard said he's a citizen too and whether we like it or not, people are coming to the County and we have to accommodate them and that we have to look at the big picture. Mr. Brinkley said if they want to move here, give them an acre per house. Mr. Brown said with water and sewer coming down Hwy 421, we'll need people to sign up, that he's not defending developers but people have a right to do what they want as long as they meet Planning and Zoning criteria. Mr. Tate said the concerned citizens are from his district; that he went over there and looked and the type of lifestyle they live is like he came from and he respects them for their concerns. The public hearing closed at 7:35 p.m. Mr. Brown made a motion to approve the Zoning Map Amendment, Mr. Blanchard seconded the motion and it was approved by a three-to-two vote, with Mr. Rivenbark and Mr. Tate voting in the negative.

19. Public Hearing & Zoning Map Amendment – Taylor Greene, Applicant, on Behalf of Topsail Humane Society: Requesting Rezoning of 12.13 Acres Located between Brickyard and Rowan Road on NC Highway 210, Hampstead, NC.

Mr. Williams said he would abstain from voting because his sister has a real estate interest in this item. Mr. Blanchard made a motion, Mr. Tate seconded and it was unanimously approved that Mr. Williams be excused from voting on this item. Mr. Williams said the Board has three choices: to vote for the original request, to vote down the original request or vote to approve it for RT, Rural Transition, as the Planning Board did. Planner Ken Vafier explained that the applicant is requesting one tract totaling 12.13 acres to be rezoned from R-20 Residential District, to B-1 Business (Neighborhood) District; that the property is located between Brickyard and Rowan Roads on NC Highway 210; and that the Planning Board voted 3-0 to approve staff's recommendation for RT, Rural Transition. The public hearing opened at 7:45 p.m. Mr. Thurman explained that the Planning Board's recommendation for RT means you would have to get a Special Use Permit. Mr. Taylor Greene spoke on behalf of the zoning map amendment request. He said that several of the opponents of the request are already illegally operating businesses out of their homes; that if B-1 is too intense he would ask the Board to approve it for RA; and if the Board doesn't approve either, he would ask them to approve it for RT, as the Planning Board did. Mr. Jason Saucier asked if any information was being offered into evidence and Mr. Thurman responded that only Special Use Permits accept evidence. A resident said he lives next door to the Topsail Humane Society and they are a good neighbor. Alton Lennon, Attorney for the opponents, read some of the Zoning Ordinance and said the Board should review the applicant's application before taking a vote. He said the application doesn't meet the Board of Commissioner's requirements and it needs to be re-advertised because the application doesn't show clear ownership. Mr. Thurman clarified that Mr. Lennon is saying that the property owner was improperly advertised. Mr. Williams asked Board members for their opinion. Mr. Blanchard said people are here tonight looking for an answer and we should give one; he said if it is appealed to Court, then so be it. Mr. Tate agreed with Mr. Blanchard. Mr. Brown said he wants to proceed with it and he had received much communication on it. He said he is tired of things going "back and forth." Mr. Rivenbark said he is sure the public is aware because he had gotten more calls and e-mails on this subject than ever in his twelve-year career as a commissioner. Mr. Thurman said the public was well informed and it doesn't matter who the owner is. Mr. Lennon said the Board needs to look at all uses that can be covered in B-1 and said it needs to stay R-20 because citizens built their homes there based on R-20. Real Estate Appraiser Ben Herring said changing the zoning would have an adverse affect and would certainly bring property values down. Ms. Kathy Lewis, Director of the Topsail Humane Society,

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.

The public hearing opened at 9:18 p.m. Planner Jeff Jowett explained that the property consists of .5 acres and is zoned R-20, Residential District; that normal operating hours will be from 9:00 a.m. to 5:00 p.m.; that there will be up to five employees employed on-site; that a modular building will be used for the real estate office; that there is an existing septic system and well already installed on-site; that there will be direct access to NC Hwy 210 west and Peanut Rd. and that the property is classified as Urban Growth. The public hearing closed at 9:21 p.m. Mr. Blanchard made a motion to approve the special use permit, Mr. Tate seconded the motion and it was unanimously approved.

22. Public Hearing & Zoning Map Amendment – Mike Nadeau, Applicant, on Behalf of SENCA Properties, LLC, Requesting 9.02 Acres to be Rezoned, Located at the Intersection of US Highway 17 and Scotts Hill Loop Road, Hampstead, NC.

Ms. Frank explained that the proposal consists of rezoning three tracts totaling 9.02 acres from R-20C, Conventional Residential District, to B-3, Business District; that the parcels are currently split zoned by the county boundaries; that the property adjoins the Scotts Hill Medical Park which was approved by New Hanover County; that the existing land use of the area consists of commercial development to the north and northeast, institutional to the east, vacant and single family to the south and vacant and institutional to the west; and that the proposed rezoning is consistent with the Pender County 2005 CMA Land Use Plan. The public hearing opened at 9:31 p.m. Mr. Thurman swore in the witnesses. Mike Nadeau, the applicant, explained SENCA Properties is owner of the property and said it is a traffic generator but most of the traffic will go directly to a doctor's office. He said it will save people from having to deal with Market St. and 17th St. traffic. Mr. Rivenbark said he has already dealt with this as a member of New Hanover Regional Medical Center Board and they see it as a good move and that it will save traffic going down Market St. The public hearing closed at 9:31 p.m. Mr. Rivenbark made a motion to approve the zoning map amendment, Mr. Brown seconded the motion and it was unanimously approved.

23. Public Hearing & Special Use Permit – Greenbuilt Homes, LLC, Applicant, on Behalf of Ellen Elder, Requesting Approval for the Construction of an Office Complex Located on Highway 17, Hampstead, NC.

Mr. Jowett explained that the office complex will be utilized as a multi-tenant Art Studio and Gallery; that it will be known as ArtExposure and will consist of twenty studio spaces available for lease to artists; that regular weekly and weekend classes will be offered for children and adults; that summer art and theater camps will be offered for children; that a large open community space will be available for the public to rent for special events such as wedding, receptions, fundraisers conferences, reunions and meetings; and that the building will be a modular 5,000 square foot one story building on 1.02 acres with direct access onto Highway 17. The public hearing opened at 9:36 p.m. The owner, Ms. Ellen Elder, spoke and said this has always been a dream for her, that it will be an attractive building and will be a real asset to the community. The public hearing closed at 9:36 p.m. Mr. Tate made a motion to approve the special use permit, Mr. Rivenbark seconded the motion and it was unanimously approved.

24. Public Hearing & Special Use Permit – Alexandria Davis, Applicant, Requesting Approval to Allow a Child Day Care Facility for Six or More Children Located at 215 Boyce Rd. in Rocky Point, NC.

The public hearing opened at 9:36 p.m. Mr. Jowett explained that the applicant is owner/operator of Davis Daycare which has been in operation for seven years; that the applicant operates with five children per shift; that the daycare operates 24 hours a day, seven days a week and that Ms. Davis needs to obtain more spots to acquire more children on each shift. The public hearing closed at 9:38 p.m. Mr. Brown made a motion to approve the special use permit, Mr. Rivenbark seconded the motion and it was unanimously approved.

25. Public Hearing to Consider a Text Amendment to the Zoning Ordinance to Raise the County Height Limit for all Dry Storage Boat Facilities via Special Use Permit.

Planner Ken Vafier explained that the request consists of amending the current Pender County Zoning Ordinance 8.10 – Schedule of District Requirements; Section 9 – Supplementary District Regulations and Section 15 – Special Uses. He said this amendment proposes that Dry Storage Boat Facilities may request a height that exceeds the thirty-five foot current limit by applying for a Special Use Permit, being granted by the Board of Commissioners. He said the Zoning Ordinance currently does not allow structures to exceed the height of thirty-five feet, only with the exception of Section 10.3 – Height Limit Exceptions. Mr. Vafier said they did have a specific applicant that went to the Planning Board and the Planning Board unanimously denied the request at its March 4, 2008 meeting. He said it was later brought to the Commissioners and staff was instructed to take it back to the Planning Board. The public hearing

opened at 9:39 p.m. Mr. Glenn Lewis said it would be nice for the Board to consider 50' but he appreciates them considering 48'. Mr. Tony Musolino said this could be a moneymaker for the County by having dry storage boat facilities for people from Raleigh and other areas to store their boats. Mr. Bob Constine said the Board should consider leaving 50' out of PD because PD is high density. Mr. Chuck Wilson of the Greater Hampstead Homeowners Association spoke in opposition of the amendment. Mr. Wilson was concerned about putting these type facilities close to residences. Mr. Williams said they had basically heard no opposition from citizens. He said they're not proposing to put boat storage where it's not already; they're only talking about adding 13 feet to existing facilities. Mr. Vafier said what Planning staff is recommending is just a draft; they will accept any suggestions. Mr. Constine asked if you would have to apply again for a special use permit and Mr. Thurman responded affirmatively. The public hearing closed at 10:04 p.m. Mr. Blanchard made a motion to approve the text amendment to raise the height limit to 48', Mr. Rivenbark seconded the motion and it was approved by a four-to-one vote, with Mr. Brown voting in opposition.

ADJOURNMENT

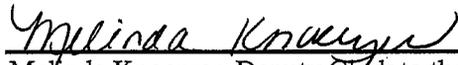
There being no further business, the meeting adjourned at 10:30 p.m.

Respectfully Submitted,



Glenda Pridgen, Deputy Clerk to the Board

Reviewed By:



Melinda Knoerzer, Deputy Clerk to the Board

Review of Planning Matters:



Planning Staff