

MAY 19, 2008

The Pender County Board of Commissioners met in a regular session on Monday, May 19, 2008 at 4:00 p.m., in the Pender County Commissioners meeting room, 805 S. Walker Street, Burgaw, NC 28425.

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

STAFF PRESENT: Paul Parker, Interim County Manager, Trey Thurman, County Manager, Melinda Knoerzer, Deputy Clerk to the Board, other staff and members of the public.

Chairman Williams called meeting to order at 4:00 p.m.

Commissioner Tate gave the invocation.

Commissioner Blanchard led the Pledge of Allegiance.

PUBLIC INFORMATION

1. Presentation on Digital Television Transition in the Wilmington Area: Dan Rumelt: Consumer & Governmental Affairs Bureau: Federal Communications Commission, Washington DC

Dan Rumelt, FCC Transition Coordinator for Pender County made a brief presentation regarding the digital conversion that will take place in September of 2008. He said that due to the expedited schedule for rolling out digital in this area, he has been assigned to Pender County. He said that after the conversion, there will be no more analogue transmissions. He said TV stations such as WWAY TV 3, WSFX (Fox) and WECT- Channel 6, as well as others will participate in the early conversion.

Mr. Rumelt said this is being undertaken because digital is more efficient and for public safety purposes; it permits the ability to multi-cast. He said that folks who are Cable TV or Satellite subscribers should be all set and those intending to continue using antenna service may order online or call to request up to two (2) coupons to purchase converter boxes at \$40 each. He said the FCC is committed to insuring that Americans are aware of this conversion and know what they need to do. He provided posters for display throughout the County and thanked the Board for their time.

2. Presentation on Ditch Maintenance in Pender County: Jerry Lindsay: NC Department of Transportation

NCDOT local Maintenance Engineer, Glenn Crews, Jerry Lindsay, head of statewide ditch maintenance, and District Engineer, Mr. Robert Vause were present to discuss DOT' role in roadway and ditch maintenance.

Mr. Lindsay shared information from a national cooperative research program on the definition of surface water. He cited civil rules governing storm water runoff with regard to drainage that require owners of lower lands to receive the natural flow of water from upper lands without altering the drainage flow. He explained a standard of "reasonable and substantial damage" and explained that it is difficult, if not impossible, to apply this standard to everyone's satisfaction. He said the NC Division of Highways' drainage policies attempt to make reasonable use of land and roads through sound, reasonable and acceptable engineering practices. He said that as a major property owner, the Division of Highways must adhere to all environmental rules and regulations, both federal and state.

Mr. Lindsay said that when Division of Highways determines whether or not to clean out a ditch outside of their immediate right of way, they must evaluate: 1) is there sufficient benefit to be gained to warrant the costs? and 2) is this work required to correct a problem or condition created by the Division of Highways? He said they are not required to eliminate problems on private property. He said that they must maintain "adequate drainage", which means keeping the travel lanes clear, but beyond draining the roadway, this is not their responsibility. He said that if there is not an imminent threat to the motoring public or damage threat to the highway itself, it will not be a priority for them.

He said that when a drain is blocked below the highway, they would take reasonable measures to remove the blockage, but where it might occur downstream and it is of no consequence to them and if there is no damage threat to the roadway, it is not their responsibility. He said that when the Division of Highways accepts roads into the state maintained system, they accept the roads "as is", drainage problems and all, yet the responsibility for other storm water maintenance programs, including ponds, ditches, etc. will remain with the property owner. He said they have no responsibility for subsurface drainage or altering water levels and indicated that DOT guidelines for hydraulic design can be found at <http://www.ncdot.org/doh/preconstruct/highway/hydro>.

Mr. Williams said the County used to get lots of calls from folks to clean outfall ditches, but he now understands that DOT will clean these only to keep highway pavement dry. Mr. Lindsay concurred, saying that funding is waning and regulations keep increasing the cost of projects, thus they can no longer do the extra things they used to do.

Mr. Tate said he understands that many issues are out of the control of the state, and that drainage is still a major problem with our ditches. He asked, rather than hearing what DOT can NOT do, what CAN they do to help alleviate the drainage problems in the County. He said that because primary ditches have not been maintained, the secondary ditches are backing up. He asked if inmate labor could be used to clean these out. Mr. Lindsay said he works in the area of "technical" and not "financial" support; however he would urge legislators to find funding to undertake these projects.

Mr. Vause said that the inmates' labor availability has changed over the years, and they are currently under a directive to pick up trash 80% of the time, leaving little extra time for maintenance. He said that in those areas where they could go into a ditch and clean it out, since it is determined to be a benefit, they need permission from property owners and need they environmental clearance. He said that in cases where there is flooding of the highway, they could go in, but only on a case by case basis and not where it is expensive and cumbersome environmentally. Mr. Vause said he is not aware of any available funding. Mr. Tate asked what would happen in the event of another hurricane and Mr. Vause said while it is unfortunate, it will flood, "and that is just the way it works". Mr. Tate said that this is a serious issue and he cannot justify to citizens that it cannot be addressed. Mr. Vause said that as landowners and stakeholders, DOT must manage the water that passes down from one to another and they often have to upsize drainage pipes to accommodate the increased flow. Mr. Tate asked Mr. Thurman to see if pending legislation could be modified to help with our drainage issues in this area. Mr. Vause said that even if the laws were to be changed, the Department of Transportation does not have the resources and they would need an outside agency to get involved.

Mr. David Thomas, Maintenance Division Engineer, said that drainage is a huge challenge in this part of the state. He said that he too is a resident of Pender County and as such, he too is affected. He said the Department simply cannot handle the kind of program that Pender is asking for. He said that in Brunswick County, Beaver Control and Mosquito/Rodent control was done and provided a good benefit to the County, however, due to regulatory agencies increasing the requirements for working in wetlands, they are not longer able to keep going. He said the primary responsibility for DOT is roadway ditches, and beyond that, it will take efforts of the State/County/local government and individual property owners as well as recognizing that some problems are not solvable. Mr. Williams said the County may need to look at establishing drainage districts and folks will have to step up and pay. Mr. Lindsay said there are some coastal counties that have stormwater sections, and they tax properties, similar to a drainage district.

Mr. Rivenbark said he requested this item so that this information could be aired in public and so the folks in the County know what DOT has been telling the County. He said Pender too had a Mosquito Control/Ditching program, but had to drop program due to regulations. He suggested that every person in the county needs to contact their state and congressional delegation to see cooperation like we have seen in the past. He noted that the average elevation in Pender County is 12 ft. above sea level, thus drainage has always been a problem.

Mr. Tate asked the Board to direct staff to put a task force together to study drainage problems in Pender County, to identify how we can collectively work on a solution. The DOT indicated that they would be willing to serve on that task force and Mr. Parker agreed to begin work on that as soon as he assumes the Interim County Manager position in early June. Mr. Williams thanked the DOT for their information.

3. **Presentation on Recycling Program & Request for Feedback and Direction to Continue the Program: Eric Machado & Quentin Jonathan Malpass- Pender Early College: Did not attend**

4. **Hampstead Volunteer Fire Department: Request for Resolution to Apply for Tax Exempt Loan for Permanent Financing of New Rosenbauer Fire Truck: David C. Lee, Chairman, Board of Directors**

Mr. Lee said they are following up on approval they received last year when they acquired temporary financing. He said they have now found the best deal with First Citizen's Bank with terms of 10 years at 3.85% fixed rate, with no penalty for early payout. He said the financing is contingent upon the approval of the Commissioners approving the loan. He said that USDA offered 4.635% for 20 years but this is their preference. Upon the motion of Mr. Rivenbark and second by Mr. Brown, the Board unanimously approved item #4.

CONSENT AGENDA

Mr. Williams presented the Consent Agenda and asked for any discussion. Mr. Thurman asked the Board to revisit the minutes of April 21, 2008 with respect to item # 1A and 1B because, while not currently reflected in the minutes, a motion, second and vote outcome of the Board must be recorded in the minutes. Upon the motion of Mr. Rivenbark, and second by Mr. Blanchard, the Board voted unanimously to approve this item as follows:

1A: Bond Order Authorizing the Issuance of General Obligation Refunding Bonds in the Maximum Amount of \$3,500,000,

1B: Resolution for the Sale of General Obligation Refunding Bonds in the Maximum Amount of \$3,500,000

Thereupon, Mr. Rivenbark made a motion to approve the Consent Agenda as revised. Mr. Blanchard seconded the motion and it carried unanimously. The Consent Agenda was approved as follows:

5. Approval of Minutes for the Regular Meeting of April 7, 2008 and April 21, 2008
6. Proclamation by the Pender County Board of Commissioners Recognizing Penderlea Homestead Museum Day 2008 for Commemorating the 75th Anniversary of President Franklin D. Roosevelt's New Deal Program
7. Proclamation by the Pender County Board of Commissioners Recognizing the Month of May as Mental Health Month: 2008

With respect to item #6, Mr. Tate asked if it would be possible to pay the funding promised to the Penderlea museum earlier, to coincide with their Founder's Day event, so he could present the check to the Museum Board at that time. Since this funding was committed from the FY 2008-09 budget, Finance Officer McCole indicated that it would not be fiscally prudent to spend money ahead of the budget being implemented.

RESOLUTIONS:

8. **Resolution authorizing the issuance of a purchase order to Federal Locking Services for installation of one new door and upgrade of four existing jail doors for security purposes: \$8,870**

Captain Samenthia Jones presented this item on behalf of Sheriff Smith and indicated that these needed to be replaced and installed for security purposes. She said this is a budgeted item. Upon the motion of Mr. Blanchard and second by Mr. Rivenbark, the Board unanimously approved item #8.

9. **Resolution approving production video presentation for marketing and authorizing purchase order to do the work**

Vicki Morrison, Interim Tourism Director said her department is in the process of creating a new and improved marketing plan. She said the process has already begun with Triovisions and she is now requesting approval of the purchase order for the video component, which is a major part of their marketing plan. She said they will produce 10 to 90 second commercials for Topsail TV and other video outlets as well as a seven (7) minute attraction video.

She said this expenditure had already received the approval of the Tourism Development Authority. Upon the motion of Mr. Blanchard and second by Mr. Brown, the Board unanimously approved item #9.

10. Resolution to submit a letter of request to the Town of Burgaw to close several street right-of-ways to accommodate the planned expansion of Pender Memorial Park

Ms. Dee Turner said that she has been in contact with the Town of Burgaw because several streets have been plotted but not built, and the process requires a County Board request to the Town Board to close them in order for the County to continue with plans to expand the park. She said that portions of Vann, McCullen, Johnson and Williams Streets are requested to be closed. She said that by General Statute, they can still retain a right-of-way for utility easements. She said that if the Board approves, the County will send a letter and the Town will hold a public hearing to determine if they should be closed. Upon the motion of Mr. Rivenbark and second by Mr. Brown, the Board voted unanimously to approve item #10.

11. Resolution Authorizing Purchase Order to Basinger's Mobile Welding for repairs to the waste hopper at the Transfer Station: \$19,200

Mr. Michael Mack said this item is for routine maintenance for this hopper. He said that Waste Industries has worked with this company before and they are familiar with the equipment and are willing to work during shutdown periods. He said this is a fully comprehensive repair that will be conducted over four (4) to five (5) weekends and will include all aspects of the project. Mr. Blanchard asked if this is exempt from formal bidding rules. Mr. Thurman said anything under \$300,000 does not require a formal bid; however it has been the county policy to seek 3 bids where possible. Mr. Mack said the timing of this project and Basinger's familiarity with the Transfer Station made them the logical choice. Upon the motion of Mr. Blanchard and second by Mr. Brown, the Board unanimously approved item #11.

12. Resolution authorizing signature authority for public water supply extensions, permit applications and owner's certifications on behalf of Pender County Utilities

Mr. Mack presented this item and said that these documents have historically been signed by the County Manager or Assistant County Manager (formerly also the Public Utilities Director). He said in order to expedite, staff recommends also giving authority to the Utilities Director and the Operator in Responsible Charge (ORC) of the water system. Mr. Brown asked if this would mean any one of the four (4) can sign on behalf of the owner and Mr. Mack affirmed. Upon the motion of Mr. Tate and second by Mr. Blanchard, the Board unanimously approved item #12.

Chairman Williams convened as the Board of the Rocky Point Topsail Water & Sewer District

13. Resolution authorizing a separate "meter only" fee for addition to the Rocky Point/Topsail Water & Sewer District fee schedule

Mr. Mack said staff requests approval of this item and it would be applied in cases where the developer has expensed thousands of dollars to build a water system and has already made the taps required along the system. In this case, he proposed, staff would only charge a \$135 meter fee, which represents the actual cost of the meter and not the full \$850, which also includes labor to make the tap. Mr. Williams asked if we would then set a precedent for having to refund those who have already paid. Mr. Thurman said they can request, but we would not be able to refund. Upon the motion of Mr. Blanchard and second by Mr. Brown, the board unanimously approved item #13.

Chairman Williams then reconvened the regular meeting of the Pender County Board of Commissioners

14. Resolution presenting proposed Water and Sewer Ordinance for the Pender County Water and Sewer Districts and asking the Board to authorize a public inspection period and set a public hearing for June 16, 2008

Mr. Mack said the Utilities Department is presently operating with policies and procedures; however, it has grown to the point where these should be formalized by ordinance and codified as law.

Mr. Mack reviewed the proposed ordinance including 14 articles. After a brief discussion Mr. Rivenbark made a motion to set the public hearing for June 16, 2008. This motion was seconded by Mr. Blanchard and carried unanimously.

DISCUSSION

15. Town of Burgaw Board of Commissioners: Request to the Pender County Commissioners to allow the town to expand its extraterritorial jurisdiction (ETJ) up to two (2) miles beyond the corporate limits of the town

Town of Burgaw Planning Administrator, Chad McEwen presented this item and said that the Town of Burgaw is asking approval to expand their ETJ up to two (2) miles beyond the city limits. He said they held several public hearings on this to receive public comment and have drafted a new map showing the original boundaries, the legally permitted boundaries and the exact boundaries the Town is requesting. Mr. Blanchard indicated that he had attended two (2) of the hearings to hear the opinions. He noted that several folks on the western side of the proposed expansion who spoke against the expansion have been removed. He asked if this was a case of the "squeaky wheel" getting removed. Mr. McEwen responded that 90% of the residents who objected were taken out. Mr. Brown asked what benefit this gives to the Town. Mr. McEwen said they would like planning and zoning jurisdiction. Mr. Brown asked if anyone who offered resistance did NOT get removed, and Mr. McEwen said "yes". He said this matter would have to be resolved by the NC Legislature, but it would likely not occur during the short session. Mr. Thurman advised that the County Commissioners should hold a public hearing of their own on this matter and decide after the hearing. It was determined that since there are so many issues pending at the County level at this time, the public hearing would be held in the next budget year. Mr. McEwen indicated that would be fine with them.

16. ITEMS FROM THE COUNTY MANAGER/COUNTY ATTORNEY/COUNTY COMMISSIONERS Chairman Williams welcomed Mr. Parker back and thanked David McCole, currently acting Interim County Manager and Mr. Parker for keeping things afloat.

Mr. Thurman said that in one of many matters involving Donald Sullivan, at the last session, Judge Faison allowed summary judgment against Mr. Sullivan on property taxes which Mr. Sullivan has said he will appeal. Mr. Thurman advised the Board that since the DSS attorney has resigned to accept a full time position with New Hanover County and Dr. Shiver has secured the services of another attorney, he has been filling in where the other attorney has a conflict. He noted that the DSS staff is doing an excellent job and have thus far while he has been involved, won every case they have presented. Mr. Williams noted that the DSS attorney is a contract attorney, just like the County Attorney.

Mr. Tate noted that he attended Fire and Emergency Responders event and will speak at another similar function this week. He said he admires and is humbled by all the work they do. He commended Friendly Community Baptist Church for a great event honoring law enforcement. Mr. Williams said that Pender County is fortunate with Fire and EMS in this county because residents get a lot for what they spend.

Mr. Blanchard indicated he would like to revisit a discussion he had with former (and now returning) Assistant County Manager, Paul Parker regarding the Wallace water treatment plant. He said these comments were made by Mr. Williams at the prior meeting. Mr. Williams said his comments contained no names of individuals involved. Mr. Blanchard asked Mr. Parker to recount the events of that discussion. Mr. Parker said that both Mr. Blanchard and Mr. Rivenbark had come to visit him that day while he was acting Interim County Manager. Mr. Williams cut off the discussion. Mr. Parker then indicated he would be happy to discuss that event with the Board in closed session. Mr. Blanchard indicated that he was "not happy with tone of the comments made."

PUBLIC COMMENT

Greg McNeill from the Upper Union community said there are many beaver problems in his area, including stopped up creeks along Englishtown Road. He said there are holes in the highway and he has heard there is an 8 foot alligator in the stream now. He said the damage is taking a toll in prime timber and farmland. Mr. Tate noted

that he is aggressively trying to establish a task force to address these issues and Mr. Parker has agreed to make this a priority.

Theatures Kea of the Columbia Township said he moved back to this area two (2) years ago. He said he has a 98 year old grandmother who cannot come out due to mosquitoes drawn in by stagnated water. He said he was disappointed in the DOT, but was pleased to hear that the County is supportive of a drainage task force. He said we really need to get something done about this.

Hiram Williams said that the drainage problems started with undue regulations being placed on wetlands. He said that if you work in wetlands properly you can still have good drainage, but the only way the restrictions will be removed is through legislation. He said the people have to rise up and say we do not want it, and that we need to take back control of our own property. Mr. Tate indicated that it would be important to this task force to have Mr. Hiram Williams on it.

CLOSED SESSION

Mr. Rivenbark made a motion to enter into closed session pursuant to NCGS 143-318.11 (3) and (6), Mr. Brown seconded the motion and it carried unanimously.

PUBLIC HEARINGS: CDBG APPLICATION/CDBG CLOSE-OUT/ZONING MAP AMENDMENT/SPECIAL USE PERMIT REQUEST

17. Public Hearing to Receive Public Comment on the County's Intention to Apply for FY2008 CDBG Scattered Site Program Funding under Title I of the Housing and Community Development Act.

The public hearing opened at 7:00 p.m. Holland Consulting Representative Reed Whitesell said he has worked with Pender County on the past two HUD projects. He described the CDBG Program and explained that they already have thirty applications for the program. He said they asked staff to advise the Board to upgrade from double-wides to small, single family modular or frame-built homes; that the application is due in Raleigh on July 31, 2008; that no County contribution is required; that they have closed out the two previous projects; and that it will take twenty to twenty-four months for completion of the project. Mr. Tate asked what factors are considered in mobile homes versus houses and Mr. Whitesell said there are many factors, including price and quality. He said there's a \$10,000 to \$15,000 difference between a modular frame-built home and a mobile home if no land cost is involved, and that affordability is the main factor. Mr. Tate asked did the County look at other geographical locations and Mr. Williams said "yes, scattered site housing is in different locations." Mr. Whitesell said scattered site is at-large and the highest points are wherever homes are needed most. Mr. Blanchard asked how do you reach out to get applicants and Mr. Whitesell said they advertise in local papers and at local churches. He said the State sped up the process, that they already have thirty applications, and they might re-advertise but will advise staff to go with the existing list. Mr. Rivenbark noted a previous project was done in Rocky Point. Mr. Whitesell said municipalities can no longer do scattered site applications, that they must submit through the County. Mr. Tate asked if there are any requirements on behalf of the applicants once they receive homes, with respect to code compliance and Mr. Whitesell said homeowners have to sign a Deed of Trust, the house has to be insured, the State does not require monitoring, and they try to provide the best product up front. Mr. Whitesell said they educate people on proper use of heaters and maintenance. Mr. Williams asked for any sign-ups to speak and Mr. Thurman said there aren't any. The public hearing closed at 7:15 p.m. Mr. Tate made a motion to approve application for the FY2008 CDBG Scattered Site Program, Mr. Blanchard seconded the motion and it was unanimously approved.

18. Close-Out Public Hearing to Receive Public Comment on the County's Fiscal Year 2005 Scattered Site Program.

The public hearing opened at 7:15 p.m. Mr. Whitesell said this is the required public hearing for close-out of the 2005 Scattered Site Project and it is the same type project as the one we're getting ready to apply for. He said there was one rehabilitation and four double-wides with site clearing – one in Atkinson and three in Burgaw; that everything is complete except the close-out; that the project will be closed out before Raleigh receives the new application; that the project had a total budget of \$400,000; and that the close-out was difficult because of staff turnover. There were no questions from the Board and no sign-ups for public comment. The public hearing closed

at 7:20 p.m. Mr. Blanchard made a motion to approve close-out of the project, Mr. Rivenbark seconded the motion and it was unanimously approved.

19. Public Hearing & Zoning Map Amendment, TOG Properties, Applicant: Request to Rezone 1,532.11 Acres from RA, Rural Agricultural District and FA, Flood Hazard Area, to PD, Planned Development District, Located between Sapps Road and Godfrey Creek Road, Hampstead, NC.

At the request of the applicant, Mr. Tate made a motion to continue this item, Mr. Blanchard seconded the motion and it was unanimously approved to continue it to the June 16, 2008 meeting.

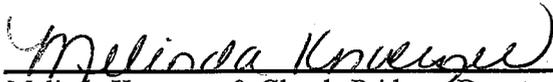
20. Public Hearing & Special Use Permit: Ray Blackburn, Applicant: Request for an Indoor Kennel, Located at 1955 NC Highway 210 East, between Brickyard Road & Rowan Road, Hampstead, NC

The application was withdrawn by the applicant.

ADJOURNMENT

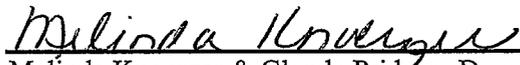
The meeting adjourned at 7:30 p.m.

Respectfully Submitted,



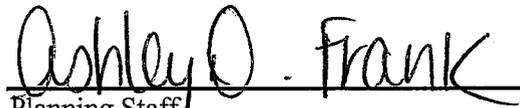
Melinda Knoerzer & Glenda Pridgen, Deputy Clerks to the Board

Reviewed By:



Melinda Knoerzer & Glenda Pridgen, Deputy Clerks to the Board

Review of Planning Items:



Planning Staff