

## MONDAY, JUNE 16, 2008

The Pender County Board of Commissioners met in regular session on Monday, June 16, 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:** Paul Parker, 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

Chairman Williams offered the Invocation.

### PLEDGE OF ALLEGIANCE

Commissioner Blanchard led the Pledge of Allegiance.

### PUBLIC INFORMATION

Chairman Williams said Congressman Mike McIntyre and U.S.D.A. Rural Development representatives were present earlier to present a check to the County in the amount of \$17 Million for the County's Water Treatment Plant to be located on U.S. Highway 421. Mr. Rivenbark added that Congressman McIntyre also visited Pender Memorial Hospital's new surgical center and sends his regrets that he couldn't stay for the Board meeting.

Chairman Williams said he and Mr. Tate attended a luncheon in which Pender County was honored, along with others, with a 2008 State Employment Security Commission (ESC) Award. Mr. Williams showed the plaque that was presented to the County.

#### 1. **Presentation of U.S. Flag & Certificate of Appreciation to Pender County Government: TSgt Pleshette C. Pridgen, Pope AFB, Fayetteville, NC.**

TSgt Pridgen's mother, Glenda Pridgen, introduced her. Ms. Pridgen said that her daughter had been in Iraq for the past six months and that she wanted to thank the Board and all of Pender County who supported her and her family while she was away. TSgt Pridgen presented the Board with a flag which had been flown in a hostile area (Baghdad, Iraq) on May 8, 2008 in Pender County Governments' honor, and a certificate of appreciation for the County's support to the men and women of the United States Military and Coalition Forces. Board members commended TSgt Pridgen for her patriotic duty and thanked her for the flag and certificate.

#### 2. **Recognition of Outstanding Pender County Student Athletes.**

The Board recognized and commended outstanding Pender County Student Athletes. Chairman Williams Mr. Rivenbark, Administrative Assistant Melinda Knoerzer and respective coaches presented the certificates and county pins as follows:

#### Pender High School Women's Basketball Team – Runner Up in the NCHSAA 1A Championship

Sequoya Bland  
Shianne Daniels

April James  
Leah Mackley

Whitney Eakins                      Jakia Murphy  
JaQuetta Gresham                Natalya Newkirk  
Nyasha Hicks                      Jannetta Robinson  
Latasha Holmes                  Anslee Scott  
Saresa Hudson                    Muriel Seabrooks  
Head Coach: Gary Battle        Assistant Coaches: Bevin Toomey & Hazel Keaton  
Managers: Jessica Bordeaux, Chandra Holley & Nicole Dias

**Pender High School 300 Meter Hurdles in Track & Field – 2<sup>nd</sup> in the State**

Saresa Hudson

**NCSHAA State Athlete of the Year**

Jannetta Robinson

**Men's Golf – State Runner-Up Team**

David Donovan                      Joe Ondish  
David Kostal                        Ryan Ortego  
Pat Morris                            Josh Whitehead  
Coach: Roman Kelley

**Topsail Cross Country Individual State Champion**

Zatha Loewen

**Topsail Cross Country State Champions Team**

Kelsey Davis                        Kerry Walsh  
Zatha Loewen                        Alexis Waters  
Christina Nietzey                  Alexandra Wilson  
Megan Szakasits  
Coaches: Julie Capps & David Capps

**Topsail Wrestling – State Runner-Up Team**

Jacob Allen                         Aric McCutcheon  
Jon Broadbridge                  Brian Nadeau  
Pat Broadbridge                  Stuart Nadeau  
Trevon Brooks                      Kyle Proulx  
David Croft                         John Roper  
Joe Diana                          Josh Schaeffer  
Brock Jaeger                        Stevie Semken  
JT Johnson                         Jamil Tuck  
Bradley Lutterloah                Ryan Williams  
Coaches: Buddy Batson, Kevin Martin, CD Merritt, Jake Pence & Ian Roper

Mr. Tate said last week was Child Abuse Prevention Week and this week is Elder Abuse Prevention Week and recognized Department of Social Services' Workers for their accomplishments. Mr. Williams commended DSS workers.

Ms. Jean Rawls of Cooperative Extension Services reminded everyone of the upcoming Blueberry Festival and distributed blueberries to Board members.

**3. Presentation on Cape Fear Community College: Surf City Campus: Surf City Mayor A.D. (Zander) Guy & Cape Fear Community College President Dr. Eric McKeithan.**

Due to miscommunication of the time, this presentation was made later in the meeting.

## CONSENT AGENDA

Chairman 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:

4. Approval of Minutes for the Closed Session Meeting of April 24, 2008; Regular Meeting of May 19, 2008; Budget Work Session of June 2, 2008; and Regular Meeting of June 2, 2008.
5. Resolution Declaring June 20 and June 21, 2008 as North Carolina Blueberry Festival Days in Burgaw and all of Pender County.
6. **FISCAL YEAR 2008-2009 BUDGET ORDINANCE: Budget Ordinance for the Fiscal Year Beginning July 1, 2008.**

Chairman Williams introduced this item and said two work sessions and the public hearing had previously been held. Mr. Brown expressed concern about giving \$100,000 towards a Cape Fear Community College Campus in Surf City and not giving the public schools sufficient funding. Mr. Brown requested that this item be delayed until the Board could hear the presentation from Mayor Guy and Dr. McKeithan; other members of the Board agreed to this. The vote on the Budget Ordinance was held later in the meeting after the presentation from Mayor Guy and Dr. McKeithan.

## RESOLUTION

7. **Resolution Stating Intent to Proceed with General Obligation Water Bond Elections for the Columbia-Union Water and Sewer District: \$50,000,000.**

Utilities Director Michael Mack explained that voters of the Columbia-Union Water and Sewer District defeated a \$44,000,000 Bond Referenda in 2006 that would have allowed the construction of a backbone water system; that staff and others had since met with citizens of the area and they were very receptive to the idea of having a chance to vote on it again; that the Board has instructed staff to take steps to appropriately place this bond referenda on the ballot for the November 4<sup>th</sup> election; that since the \$44,000,000 cost estimate was based on 2006 numbers, staff requested the Engineer to update the estimate and the figure now is closer to \$50,000,000; that Bond Counsel has indicated that this sets the "maximum" amount of bonding authority and in no way prevents the County from borrowing and bonding for less; that this doesn't obligate the County to sell \$50,000,000 in bonds; that this is the first in a number of required steps in order to place this on the November ballot; and that this action authorizes the Clerk to the Board to proceed with the public notice. Mr. Tate made a motion to approve the resolution, Mr. Rivenbark seconded the motion and it was unanimously approved.

## DISCUSSIONS

8. **Future Options for Extending Water down Factory Road in Hampstead, NC.**

Chairman Williams explained that he asked Mr. Mack to give a summary for the record, that there's not a sufficient number of sign-ups at this time and that when we get capacity issues straight, we will ask the Board to look at this item again. Mr. Mack said that the extension of a water distribution main down Factory Road from US Highway 17, across Broadview Lane, and westward along Howards Channel Drive was originally designed in the Phase III portion of the Rocky Point/Topsail Water Distribution Project but at that time, sign-ups were insufficient to meet the density goal of 15 customers per mile required to generate the revenue necessary to construct the entire length of Factory Road; that the construction of the water main on Factory Road was terminated at the intersection of Lea Drive; that the current cost estimate to complete the extension of approximately 6,285 linear feet is \$157,125; that there are approximately 47 individually owned properties that could be serviced by completing the remaining Factory Road portion of the original design, in addition to 2 mobile home parks that front Factory Road and Howards Channel Drive; that there are currently nine sign-ups on record for the remaining section of Factory Road, Broadview Lane and Howards Channel Drive; that the Phase III project has been closed out and the balance of funds were transferred over to complete 14 additional street segments known as Phase III-A; and that water supply to meet the peak demand for this project area is estimated to be 50,000 gallons per day. There was no action required by the Board.

**9. Continued Discussion of Water Capacity Fees.**

Utilities Director Michael Mack explained that at the June 2, 2008 meeting, the Board requested additional information during a discussion of the issue; that as previously mentioned, the Board established county-wide water and wastewater capacity fees in August of 2005; that these fees are imposed against new connections in order to generate revenue for funding or recouping the costs of capital improvements or facility expansions attributable to the new connections; that the fees had been subsequently increased in three separate resolutions; that the fees were originally charged only to developers developing subdivisions; that the actual method of collection was not defined in any of the resolutions or by policy and did not implicitly include individual lots or preclude them, but rather was the philosophy of management and at the discretion of the Utilities Department; that while the Utilities Department sent invoices out to the developers of subdivisions for the pre-payment of Capacity Fees at the time their water extension applications were approved, most were ignored; and that the application form has since been corrected and there is a clearly delineated procedure established for collection of these fees. Mr. Brown again asked about waiving the impact fees for those individuals wanting to hook into the county water system and setting a new date to start collecting them and giving rebates to those individual homeowners who had already paid. He said his concern is that the people weren't given enough notification of the Capacity Fees. Mr. Brown said he had been getting complaints from residents who wanted to hook into the system but were told along with the \$850 tap fee, they now had to pay an impact fee, which in most cases cost around \$1,440. Mr. Williams said he was satisfied that the impact fees were properly advertised. Mr. Brown asked what problems would be created by reimbursing those who had already paid and setting a new date to impose the fees and Mr. Thurman said it would not be a reimbursement but the board could decide to return the charges based on any reason it decided. He also warned that it could lead to a rush of people signing up for County water. Mr. Williams said not paying the impact fees is a reward to the people who signed up and helped get the system off the ground. He said half the people that are now complaining had the opportunity to sign up at the beginning and pay the \$120 sign-up fee. Mr. Brown said he doesn't disagree but those who initially signed up knew the tap fee would increase but didn't know there would be an impact fee. Mr. Williams said this was a business decision and said that many areas have mandatory sign-ups for water. Mr. Tate said he has also heard complaints in his area of the County about the capacity fee and asked how it was advertised and how was the public to know. Mr. Mack said that typically people find out when their wells run dry and they come into sign up for County water. No decision was made at this time.

**APPOINTMENTS**

**10. Resolution Approving Appointment/Re-Appointment of Citizens to Various Boards/ Committees/ Commissions.**

Mr. Williams introduced the resolution. Mr. Brown clarified with the Deputy Clerk that none of the appointments would be replacing anyone. Upon motion by Mr. Blanchard and second by Mr. Rivenbark, the Board unanimously approved re-appointing George Mara to serve a three-year term on the ABC Board representing District 1 and Appointing Frances Councilman to serve a three-year term on the ABC representing District 2. Upon motion by Mr. Blanchard and second by Mr. Brown, the Board unanimously approved re-appointing Roy Brandenburg, Jr. to serve a three-year term on the Parks & Recreation Board representing District 2. All the appointments expire June 30, 2011.

**11. ITEMS FROM THE COUNTY MANAGER/ COUNTY ATTORNEY/COUNTY COMMISSIONERS**

Mr. Parker said the design stage has begun on the DSS Building repairs and said he hopes to start on the Courthouse after the start of the new fiscal year.

Finance Officer David McCole gave an update on the Classification & Compensation Study being done by Springsted, Inc. He said that all the employee questionnaires had been sent to Springsted, that the goal is to get all job descriptions delivered to us by July 1<sup>st</sup> and we get them back to Springsted by July 10<sup>th</sup>, and we have the report in our hands by mid September through the 1<sup>st</sup> of October. Mr. McCole said this is a "best case" scenario. He said Springsted is surveying surrounding areas and read a list of the cities and counties they're basing the study on. Mr. McCole said we want to get the study done as soon as possible, but we want it done right. Mr. Tate thanked Mr. McCole and asked if we're going to have a "sub-list" of counties since we are a coastal county and said we have to take into consideration tax base, population and growth, among other things.

Mr. Thurman said he is still assisting DSS with Child Protective Services since their attorney went full-time to New Hanover County and said DSS staff is very professional and caring and that he is very impressed with them. Mr. Thurman also said he has an item for closed session.

Mr. Rivenbark said he has a closed session item concerning personnel.

Mr. Tate thanked the Board for supporting Penderlea Homestead Museum Day; thanked staff for their participation in a successful community meeting; and said he would be speaking at a Group Focus Meeting on teen pregnancy to be held in Rocky Point.

Mr. Brown said he has a personnel item for closed session.

It was the consensus of the Board to hear Mayor Guy & Dr. McKeithan's presentation at 7:00 p.m.

#### **PUBLIC COMMENT**

Mr. Tony Musolino of Hampstead said he had received several calls from residents asking him about the water issue. He said the public was properly informed and the County should not go back, but move forward. He said the Board should not put a moratorium on the impact fees or refund the money already paid.

Ms. Eileen Curinga of Hampstead said she didn't know about the impact fees or the increase in tap fees until she went to sign up for County water. She said her well was drying up and she and her husband saved up the \$600, went to the County office and was told the tap fee was now \$850, was unsure where they would get the extra \$250 but proceeded, but then was told there would be a tap fee. She said she didn't know what to do because she was not able to pay the tap fee. Ms. Curinga said no one knew about this until she put a letter to the editor in the *Topsail Voice* and people began calling her asking what the fee was for. She said Pender is a poor county and asked what people are going to do when their wells run dry and they can't afford to pay the impact fees. She said the County needs to have a program in place to help people because people need water.

Mr. Leon Lewis of Rocky Point suggested the Board give people 30 days or some time to get the impact fees and said they need to figure out a solution and move on.

Mr. Ivey Reaves of Rocky Point said the fees increased drastically -- from \$625 to \$2,315. He said a letter should have been sent out before the fees went up. Mr. Williams said a letter couldn't be sent out to every house in the County and said the people that received letters were already customers.

#### **CLOSED SESSION**

At 5:40 p.m. Mr. Rivenbark made a motion to enter into closed session pursuant to NCGS 143-318.11: (3) to consult an attorney employed or retained by the public body in order to preserve the attorney-client privilege; and (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. Tate seconded the motion and the Board unanimously approved going into Closed Session.

Before the 7:00 portion of the meeting began, Mr. Williams announced that the Commissioners would vote at the July 7, 2008 meeting, on a moratorium and refunding the money to those individuals who had already paid the impact fee. Mr. Williams said that if the motion passes, the moratorium would last from July 7, the afternoon of the meeting, until Friday, August 1<sup>st</sup>; that until the vote is taken, those signing up for water would have to pay the capacity fee but it would be refunded if the motion passed; that during the moratorium residents would only be required to pay the \$850 tap fee; and that the "we are trying to show as much compassion as possible, but we have to have the fees for the overall health of the system."

**3. Presentation on Cape Fear Community College: Surf City Campus: Surf City Mayor A.D. (Zander) Guy & Cape Fear Community College President Dr. Eric McKeithan.**

Mayor Guy and Dr. McKeithan both gave a presentation about the benefits of a Surf City campus and distributed additional written information to the Board. Mr. Guy said that this is good clean industry; that the County would not be the only investors – that Surf City would also be investing money into the project as well as getting the land; that in Surf City's budget this year they put \$168,000 toward the project and will do that the next three years and will look at it again in the fourth year; that they are negotiating for 25 acres to be donated for this project; and that Surf City is working on this very hard. Dr. McKeithan said that the Burgaw campus offers 132 adult classes and is the home of the Pender County Early College High School; that the early college will soon take up the majority of space at that campus, forcing them to ask the Commissioners next year to provide funding for mobile classes; that there was a significant drop in enrollment from Hampstead residents after the Hampstead campus closed; that using only Hampstead zip codes (excluding North Topsail Beach and Surf City), enrollment from the area since 2004 has dropped 79 percent; that those polled said they stopped attending because of daycare issues and the commute time to either the Burgaw or New Hanover County campuses; and that they would start with a metal building that would eventually be placed behind a different building should the enrollment warrant additional construction of more buildings.

After the presentation, the Board discussed the budget. Mr. Brown said he appreciates all Surf City is trying to do but he could not support giving them \$100,000 when the public schools need \$175,000. He offered a compromise that would allow the County to give the Schools the \$100,000 and when a \$200,000 allocation of money to the Department of Social Services was returned in the fall, a portion of that money could go toward the community college. He said he can't in good conscience give \$100,000 to the project when the public schools need \$175,000 more. Mr. Blanchard pointed out that the public school system had received a 30 percent increase in funding over the past two years. Mr. Williams said he agrees with Mr. Brown that more needs to be done for the school system but proposed giving the money to the community college now and using the DSS money later to help the schools. Mr. Rivenbark then made a motion to approve the Fiscal Year 2008-2009 Budget Ordinance as presented, Mr. Tate seconded the motion and it was approved by a four-to-one vote, with Mr. Brown casting the dissenting vote.

**PUBLIC HEARINGS: ORDINANCE/ZONING MAP AMENDMENTS/SPECIAL USE ERMIT REQUESTS**

**13. 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.**

Attorney R.V. Biberstein said his clients had asked this item be continued last time and wants to continue it again until they can get outlets to Highway 210. Mr. Blanchard made a motion to continue this item, Mr. Tate seconded the motion and it was unanimously approved.

**12. Public Hearing and Adoption of Water & Sewer Ordinance to become Chapter 13 of the Pender County Code of Ordinances.**

The public hearing opened at 7:40 p.m. Mr. Brown asked how this affects what we did earlier and the answer was that there would be no affect. Mr. Rivenbark asked if Mr. Thurman had perused it and Mr. Thurman said it looks solid to him and it has his stamp of approval. Since no one signed up to speak, the public hearing was closed at 7:42 p.m. Mr. Blanchard made a motion to adopt the Water & Sewer Ordinance, Mr. Rivenbark seconded the motion and it was unanimously approved.

**14. Public Hearing & Zoning Map Amendment, Martin Evans, Applicant: Request to Rezone Four Tracts Totaling 4.99 Acres from B-2, Business District (Highway), to R-20 C, Residential District (Conventional Housing), Located at the Intersection of Interstate 40 & US Highway 117 N, Willard, NC.**

The public hearing opened at 7:42 p.m. Planner Kyle Breuer explained that the applicant is requesting four tracts totaling 4.99 acres be rezoned from B-2 Business District (Highway), to R-20 C, Residential District (Conventional Housing); that the property is located along the southeast side of Johnson Nursery Road, approximately ½ miles

southwest of the intersection of Interstate 40 and US Highway 117 in Willard; that the 2005 CAMA Land Use Plan classifies this property as Rural Areas with a small portion of Conservation Area I overlaid along the small tributary along the southern boundary; that Rural Areas provide for very low net density residential development; and that at its May 7, 2008 meeting, the Planning Board recommended denial of the rezoning request. Mr. Blanchard asked why the Planning Board denied the rezoning. Mr. Breuer said it didn't quite meet the five acre rule in the Zoning Ordinance and they wanted to turn it back to residential. Mr. Williams said the Ordinance was approved in 2003 and the Board can go back and make changes. The public hearing closed at 7:47 p.m. Mr. Tate made a motion to approve the Zoning Map Amendment, Mr. Brown seconded the motion and it was unanimously approved.

**15. Public Hearing & Special Use Permit: Pender Properties, LLC, Applicant: Request for Approval of a Wastewater Treatment Plant, Located Approximately 1 Mile West of US Highway 421 off of Blueberry Road, within the Moore's Landing Subdivision, Currie, NC.**

The public hearing opened at 7:47 p.m. Mr. Thurman swore in the witnesses. Mr. Breuer explained that the applicant is requesting to construct and operate a wastewater treatment plant on the property located within the Moore's Landing Subdivision; that the plant will provide wastewater service to a planned residential development on the surrounding ±362 acres which is currently zoned PD, Planned Development District; that it will consist of a treatment plant and collection system throughout the development for 750,000 gallons per day (GPD); that onsite activities will include the continuous receipt and processing of wastewater as well as monitoring, cleaning, sampling, and maintenance as necessary; that operations personnel will be onsite as required for such systems; and that all operations will be regulated by the appropriate agencies. Mr. Biberstein said that the wording in Condition # G9 is confusing because it looks as if there would have to be a hearing first. Staff was instructed to change the wording to read "In any case where the Special Use Permit or the conditions of a Special Use Permit have not been or are not being complied with, the Zoning Administrator may initiate a notice of violation for the provisions of this ordinance and the conditions of the Special Use Permit not in compliance or the Zoning Administrator, may initiate notice of a public hearing to consider revocation of the permit by the Board of Commissioners or both actions may be initiated. Procedures for notice of such hearing shall be the same as procedures for consideration of an initial application for a Special Use Permit and the permittee shall be notified." Mr. Thurman asked Mr. Biberstein if everything in the application is true and accurate to his knowledge and Mr. Biberstein responded affirmatively. The public hearing closed at 7:56 p.m. Mr. Blanchard made a motion to approve the Special Use Permit, Mr. Rivenbark seconded the motion and it was unanimously approved.

**16. Public Hearing & Special Use Permit: Cellco Partnership d/b/a Verizon Wireless, Applicant: Request for Approval to Construct a 199 Feet Monopole Telecommunications Tower & Related Ancillary Structures, Located at 131 Bear Creek Dr., Hampstead, NC.**

The public hearing opened at 7:56 p.m. Mr. Thurman swore in the witnesses. Planner Jeff Jowett introduced the Special Use Permit request. Mr. Thurman said that years ago he was instructed by the Board to compile a detailed Telecommunication Tower Ordinance and it seems that everything in the Ordinance is addressed here. An adjoining property owner, Mr. Robert Beatty, asked how this tower would affect other phone systems, TV communication, etc. and how would it affect his property. Attorney Lisa Goode said she represents Verizon; that this tower won't cause any interference with TV or phone communication; that if it does interfere, they'll shut it down and find out the problem; that they can't continue to operate if they are causing interference; and that the ordinance states a tower has to have so much fall space. Mr. Thurman asked if Mr. Beatty is satisfied with the answers and Mr. Beatty responded "yes." Mr. Thurman asked Ms. Goode if everything in the application is true and accurate to her knowledge and Ms. Goode responded affirmatively. The public hearing closed at 8:05 p.m. Mr. Blanchard made a motion to approve the special use permit request, Mr. Tate seconded the motion and it was unanimously approved.

**ADJOURNMENT**

There being no further business, the meeting adjourned at 8:07 p.m.

Respectfully Submitted,

*Glenda Pridgen*

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Glenda Pridgen, Deputy Clerk to the Board

Reviewed By:

*Melinda Knoerzer*

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Melinda Knoerzer, Deputy Clerk to the Board

Review of Planning Items:

*Patricia Dwyer*

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Planning Staff