

REQUEST FOR BOARD ACTION / CONTRACT CONTROL FORM

Tracking Number: 5.

Date of Request: August 24, 2007

Date Request Received: August 24, 2007

Board Meeting Date Requested: September 4, 2007

Board Meeting Date Assigned: September 4, 2007

Short Title: Approve The Minutes For The August 20, 2007 Regular Meeting.

Request Status:

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

Background:

Specific Action Requested: Review and approve the minutes.

(Administrative Use Only)

Requested by: Lori Brill
Department: County Manager
Title:
Contact Phone: 910-259-1200
Contact Fax:

CONTRACT TYPE

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

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

Date Sent: Signed:

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

Date Sent: Signed:

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

Date Sent: Signed:

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

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

MONDAY, AUGUST 20, 2007

The Pender County Board of Commissioners met in regular session on Monday, August 20, 2007 at the Pender County Public Assembly Room, 805 South Walker Street, Burgaw, North Carolina.

MEMBERS PRESENT: Chairman F.D. Rivenbark, presiding; and Commissioners George Brown, Jimmy Tate and David Williams.

MEMBERS ABSENT: Vice Chairman Norwood Blanchard.

OTHERS PRESENT: Lori Brill, County Manager and Clerk to the Board; Paul Parker, Assistant County Manager; Trey Thurman, County Attorney; Glenda Pridgen, Deputy Clerk to the Board; other staff and members of the Press and public.

CALL TO ORDER

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

INVOCATION

Commissioner Tate offered the Invocation.

PLEDGE OF ALLEGIANCE

Commissioner Williams led the Pledge of Allegiance.

Mr. Williams made a motion to excuse Vice Chairman Blanchard who was away on business, Mr. Brown seconded the motion and it was unanimously approved.

PUBLIC INFORMATION

1. Ben David, District Attorney: Recognition for the \$5,000 Funding Provided for the Computer Cop Program.

Mr. David said he came to thank the Board for two things: 1) Working to modernize the Courthouse to make it the nicest facility possible – in appearance and safety/security. He said he and the County Manager and other officials had formed a committee to continue this project and make the Courthouse the best looking and safest one in the State. 2) Community Assistance – he thanked the Board for providing for the Computer Cop Program and said they will be distributing computer discs to the community that will give parents the ability to police their own homes, thereby providing protection for every child in the County. Mr. Rivenbark said this Board will be negligent if we don't recognize and thank Mr. David and his forty-five member staff for what they do for the Pender County.

2. Recognition of Student Athletes: Burgaw Dixie Softball Angel All-Star Team: North Carolina State Champions: 3rd Place in the World Series.

Mr. Rivenbark said that this team of twelve girls, ages 9 and 10, were undefeated in the district and state tournaments, posting a record of 9-0, and outscored their opponents in these two tournaments 116-20; that in the Dixie World Series tournament they came in 3rd place, posting a record of 3-2; and that their final loss came to undefeated Louisiana who went on to win the tournament. Mr. Rivenbark presented Coaches Stephen White and Scott Leach with certificates; Mr. White then individually presented each player a certificate from the Commissioners. Mr. White thanked the Board for helping sponsor the Dixie Youth trip and for supporting the Dixie Youth. He also recognized Coach John Coleman who was not present.

3. Certificate of Recognition to Union Rescue Squad for Excellence in Emergency Medical Services Since 1981.

Chief J.L. Gideon and other members of Union Rescue Squad came forth to receive a certificate read and presented by Commissioner Tate. Mr. Tate said it is one of his greatest moments he's had as a Commissioner to recognize these citizens who provide outstanding services. He noted that Union Rescue is in his district and said he attended the squad's Annual Rescue Appreciation Day and it was really impressive.

4. Overview of County's Beaver Management Efforts: Bob Murray, Beaver Management Specialist. Resolution Approving & Authorizing Execution of Cooperative Service Agreement: USDA (APHIS)-WS: Beaver Management Services: One Year FY 2007-08: \$71,500.

Ms. Brill said the County has participated in the Beaver Management Assistance Program (BMAP) since October 1994 and the program is administered through the USDA Animal and Plant Health Inspection Service (APHIS) – Wildlife Services (WS). Mr. Murray gave a brief history of the Beaver Management Program. He said that in 1939 the Wildlife Commission purchased 29 beaver from the State of Pennsylvania and released them in Moore County. The beaver were then trapped and moved to other places and this was a type of resource for citizens. Other facts Mr. Murray gave were: the current beaver population in North Carolina is approximately 500,000; he now has an intern working with him part-time who will be working full-time for four months; the intern will be working some of the private jobs while he'll devote all his time to the high priority watersheds – Burgaw Creek, Sills Creek, Moores Creek and Long Creek; his goal is always to have Burgaw Creek open by June 1st before the start of the hurricane season – he didn't this year because of the high number of private requests; goal right now is to get Burgaw Creek and Sills Creek before hurricanes start – the biggest problem he has is accessibility because of storm damage, aquatic weed invasion and vegetation still blocking from Hurricanes Fran and Floyd. Mr. Tate asked how much time will be devoted to each creek and Mr. Murray said it all evens out because some creeks are shorter than others, some longer ones have less beaver, etc. Mr. Murray said to clean out a watershed, USDA says it has to be complaint-driven – you can't go out and solicit. Mr. Tate said the Beaver Program is most effective if you do the whole creek and asked "what happens when you are unable to get permission from a property owner?" Mr. Murray responded that he can't do anything on a stretch of creek that he can't get permission but the property owner making the request can take the person saying "no" to court. Mr. Rivenbark asked Mr. Murray to clarify, for the benefit of newcomers, the process for registering a complaint about beaver activity in Pender County. Mr. Murray said all requests go through Cooperative Extension and he checks with them regularly to receive complaints. Mr. Tate asked if the Wildlife Association, who was originally responsible for the release of the beaver, provides funding for this program. Mr. Murray said the County does get funding from them, in addition to federal funding and funding from the State DOT. Mr. Tate asked if it costs our landowners anything and Mr. Murray responded "no." Mr. Tate made a motion to approve the Beaver Management Contracts in the amount of \$71,500, Mr. Williams seconded the motion and it was unanimously approved.

5. Mike Taylor, Library Director: Presentation on the Strategic Long Range Plan for Library Services.

Mr. Taylor said the Library applied for and received a \$15,000 Library Services and Technology Act (LSTA) grant in FY 2006-07 and the grant enabled the Library to contract with Dr. Robert Burgin, consultant, to lead the County through a community based process to develop a plan of library service priorities for the next five years. Mr. Taylor gave a Power Point presentation entitled "Pender County Public Library Strategic Long Range Plan 2007-2012" An Introduction and Overview August 20, 2007." The presentation included: Participants – Facilitator, Staff/Community Team Members; The Planning Process; Our Public Library's Mission; Adopted Services Responses; Goals and Objectives; Representative Activities to Support the Goals and Objectives; and Conclusion. There was no action required by the Board. A copy of the full presentation is on file with the permanent records in the County Manager's Office.

6. Jennifer Hedge, Human Resources Director: Introduction to the Flexible Spending Account Program.

Ms. Hedge said this is a new benefits program and thanked employees for indulging her. She said she feels the initial sign-up was very successful with a total of 58 employees enrolling. Ms. Hedge explained that with this program, each year employees are able to set aside pre-tax dollars into a spending account for out-of-pocket medical expenses and utilizes a flex debit card for convenient access to these pre-tax funds. Employees can use their account to pay for out-of-pocket medical expenses for themselves and their dependents. There was no action required by the Board.

CONSENT AGENDA

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

7. Approval of Minutes for the Regular Meeting of August 6, 2007.
8. Resolution Authorizing the Issuance of a Purchase Order to MPC-G for \$5,528.
9. Resolution Authorizing Purchase Orders for School Construction Projects Pursuant to 2005 School Bond Issue: Penderlea School: Playgrounds of the Carolinas: \$80,286.

RESOLUTIONS

10. Resolution Approving Contract Amendment with Holland Consultant Planners.

Planning Director Joey Raczkowski explained that Holland Consultant Planners have been providing contracted administrative services for three Pender County housing grant programs: FY04 CDBG Concentrated Needs-Fuller Lane; FY05 CDBG Scattered Site Housing Program; and 2005 Crisis Housing Assistance Funds (CHAF) Program. He said that each of the programs has encountered unexpected issues that have required additional consultant time and effort in order to resolve and that the consultant has proposed a contract amendment to cover the additional compensation due. He said additional total compensation of \$9600 will be covered within the existing budgets of all three active programs and no local funds or match is required. Mr. Williams made a motion to approve the resolution, Mr. Brown seconded the motion and it was unanimously approved.

11. Resolution Authorizing a Purchase Order to Centurion for Security Alarm System in Both the Main County Courthouse and the Courthouse Annex: \$10,571.

Sheriff Carson Smith said that this item actually falls under Mr. Parker's jurisdiction because it is a Capital Improvements Project. He said the Pender County Courthouse Renovation Committee has met many times over the past several months and has formulated a plan of action to improve functionality and security within the county courthouses. He said this item – consisting of installing panic buttons in the Courthouse – is one of the recommendations the Committee has made and said the Rural Court Commission recommended this as a first step to providing security in the Courthouse. Mr. Parker added that it also covers the Courthouse Annex, all offices and courtrooms in both facilities and that from 22 to 25 panic buttons will be installed. Mr. Brown made a motion to approve the resolution, Mr. Tate seconded the motion and it was unanimously approved.

12. Resolution Authorizing a Purchase Order to Fairway Ford for Vehicle Purchases: \$30,055.87.

Ms. Brill explained that these vehicle purchases are necessary because of the hiring of two additional employees in Environmental Health and Health Clinic in order to meet the needs of the Health Department on a daily basis and the territory being covered. She said the price given by Fairway Ford includes the North Carolina state contact price concession amounts and each vehicle purchase includes a 5-year or 100,000 miles Ford Premium Care Extended Service Plan. Mr. Tate made a motion to approve the resolution, Mr. Brown seconded the motion and it was unanimously approved.

MAPLE HILL WATER & SEWER DISTRICT

The Board convened as the Maple Hill Water & Sewer District at 5:01 p.m.

13. Resolution Authorizing a Purchase Order to Utility Service Co., Inc. for Annual Water Storage Tank Maintenance Contract for Maple Hill Water Tower: \$8,895.

Mr. Parker explained that this item and Item No. 16 are for routine annual maintenance for water towers and that the requests are to authorize the purchase orders for the contracts. It was noted that Item No. 16 would have to be voted on separately because it is for Rocky Point/Topsail. Mr. Williams made a motion to approve the resolution, Mr. Brown seconded the motion and it was unanimously approved.

ROCKY POINT/TOPSAIL WATER & SEWER DISTRICT

The Board convened as the Rocky Point/Topsail Water & Sewer District at 5:02 p.m.

14. Resolution Authorizing a Purchase Order to Engineered Fluid, Inc. for Technical Support of and Repairs to the Water System's SCADA System: \$10,000.

Mr. Parker explained that the Supervisory Control and Data Acquisition System (SCADA) monitors water flow in the system (pumps) and water levels in the water tower – and maintains consistent flow based on water usage. He said since the system relies on antennas attached to high towers, repairs are necessitated by occasional lightning strikes and this is the cost of the annual software technical support and some repair costs associated with lightning strikes. Mr. Williams made a motion to approve the resolution, Mr. Brown seconded the motion and it was unanimously approved.

15. Resolution Authorizing a Purchase Order to Ferguson Enterprises, Inc. for Water Service Installation Supplies: \$15,000.

Mr. Parker explained that due to major companies such as Ferguson Enterprises, Inc. buying out smaller companies, there are only two or three companies in the area that have enough water service installation supplies to meet these needs. He said Pender Utilities' staff is please with the products and service Ferguson provides. Mr. Williams made a motion to approve the resolution, Mr. Brown seconded the motion and it was unanimously approved.

16. Resolution Authorizing a Purchase Order to Utility Service Co., Inc. for Annual Water Storage Tank Maintenance Contract: \$27,265.

Mr. Parker explained that as mentioned above, this item is the same as Item No. 13 but the amount is larger because this is for three tanks instead of one. Mr. Williams made a motion to approve the resolution, Mr. Brown seconded the motion and it was unanimously approved.

The Board reconvened as the Pender County Board of Commissioners at 5:05 p.m.

DISCUSSIONS/MEMO/RESOLUTIONS

17. 2005 School Bonds/Strategy/Board Resolution

A – Summary Letter from Bond Counsel Outlining Required Steps to Sell \$20,875,000 in School Bonds

B – Resolution Authorizing the Sale of \$20,875,000 in School Bonds

C – Preliminary Official Statement

Ms. Brill recognized Mr. Bob Jessup, Bond Counsel, and Finance Officer David McCole invited Mr. Jessup to speak. Mr. Jessup said the \$20,875,000 School Bonds sale is the last of the \$55,875,000 approved by the voters of Pender County on May 3, 2005 and this action is to request formal authorization from the Board to sell the remainder of the bonds on September 5, 2007. He said the County had previously issued \$35,000,000 of such bonds. He said County staff and the School Board had done extensive work to make this a success. Mr. Jessup said the resolution does the following: 1) formally authorizes the sale of the remaining \$20,875,000 in school bonds; 2) formally pledges the County's taxing power to provide for payment on the bonds; 3) approves the proposed form of the bonds themselves; 4) approves the form of the draft official statement for use in offering bonds to investors; 5) states the County's agreement to comply with the relevant provisions of federal tax law; 6) states the County's agreement to comply with federal rules for continuing disclosure to the securities markets; and 7) authorizes County staff to complete the process of issuing the bonds, and approves the steps to that end previously taken. This includes authorizing the Board to determine the final principal payment schedule, and generally to take all appropriate action to close these bonds. Mr. Thurman thanked Mr. Jessup for his work with the School Bonds. He said Mr. Jessup is always helpful but he went "above and beyond" his duties this time. Mr. Williams made a motion to approve the resolution, Mr. Brown seconded the motion and it was unanimously approved.

18. Overview of 2007 State Appropriations Act Relating to Medicaid Relief and Local Revenue Option Components for Board Consideration and Action.

Mr. Rivenbark allowed Topsail Beach Mayor Butch Parrish to speak first on this item. Mr. Parrish thanked the Board for the \$225,000 contribution for the Topsail Inlet Dredging Project. Mr. Parrish requested that if a land transfer tax or sales tax is approved, that at least some of it, if not all, goes toward beach nourishment. He said beach nourishment is expensive and never-ending and something you have to do forever, and that the beaches are important to tourism and the tax base. Mr. Williams said he understands the position of Mayor Parrish but he supports the money going to education.

Mr. McCole reviewed the following scenario from the NCACC with respect to the State taking over Medicaid:
H1473 Medicaid Relief Components 2007-08

- State assumes 25% of county Medicaid costs beginning 10/1/07, at projected state cost of \$86.2 million
 - 25% set against last 8 months' payments (expenses incurred on or after 10/1)
- Counties forgo a portion of their ADM Fund monies, \$44.8 million
 - Medicaid relief > expected county ADM, loss in ADM fund = 60% of ADM fund
 - Medicaid relief < expected county ADM, loss in ADM fund = 60% of Medicaid relief
 - Relief targeted to replace lost ADM funds
- State sales taxes used to hold counties harmless if lost revenues exceed Medicaid savings; all counties guaranteed at least \$500,000, \$19.3 million

- State assures all counties benefit by at least \$500,000
- 90% of estimated hold harmless distributed by March
- Remaining trued up by August 15
- No impact on cities
- ***Net gain to counties = \$60.7 million***

2008-09

- State assumes 50% of county Medicaid costs beginning 7/1/08, for expenses incurred on or after, at projected state cost of \$271.2 million
- Counties and cities forgo ¼ cent per capita of Art. 44 beginning 10/1/08, \$184 million
 - Counties and cities receive last quarterly sales tax payment, \$61.3 million
 - Art. 44 transitional hold harmless kept in place
- State sales taxes used to hold counties harmless if countywide sales taxes, including municipal hold harmless, exceed Medicaid savings; all counties guaranteed at least \$500,000, \$4.9 million
 - State assures all counties benefit by at least \$500,000
 - 90% of estimated hold harmless distributed by March
 - Remaining trued up by August 15
- Counties replace city sales tax losses including growth, \$34.7 million
 - DoR reduces county Art. 39 allocation by city hold harmless amount & sends directly to cities
- ***Net gain to counties = \$153.3 million***

2009-10

- State assumes 100% of county Medicaid costs beginning 7/1/09, for expenses incurred on or after, at projected state cost of \$593.2 million
- Counties and cities forgo all of Art. 44 beginning 10/1/09, \$460.9 million
 - Counties and cities receive last quarterly sales tax payment, \$64.2 million
- Art. 42 ½ per capita converted to point of delivery
- Local sales 2% - 1.5% point of delivery, .5% per capita
- State sales taxes used to hold counties harmless if countywide sales taxes, including municipal hold harmless, exceed Medicaid savings; all counties guaranteed at least \$500,000, \$14.4 million
 - 90% of estimated hold harmless distributed by March
 - Remaining trued up by August 15
 - State assures all counties benefit by at least \$500,000
- Counties replace city sales tax losses including growth, \$106.3 million
- ***Net gain to counties = \$210.9 million***

After Medicaid was explained, Ms. Brill addressed the Commissioners to explain their options in regards to the land transfer tax and the sales tax referendum. She said as part of the 2007 State Appropriations Act, counties are authorized to two additional revenue streams for schools infrastructure. Ms. Brill said Pender County, upon approval of the voters, can enact either the land transfer tax or the sales tax, but not both. She said the additional revenue stream is essential to the future of Pender County in order to meet infrastructure demands for schools. She said this would make the County less dependent on property tax and would provide a balanced approach to taxation that would benefit the elderly. Using the 2005-06 Deed Stamps, Ms. Brill said the County stands to benefit by \$2.8 million in a land transfer tax and \$826,380 in a ¼-cent sales tax. She said we stand to gain much more by going with the land transfer tax. Ms. Brill also explained that a land transfer tax is a progressive tax, meaning the more expensive the home, the more the tax, and that the tax is usually passed from the seller to the buyer and is most commonly spread out over the life of the mortgage. She cautioned the Board that it is no secret that the real estate lobby will come out and fight this. Ms. Brill presented a Power Point presentation entitled "Alternative Revenue Streams for Counties." The presentation included: Why the need for Additional Revenue Streams?; What's in the Act?; Understanding the Revenue Requirement; Estimated Revenue Potential; What is a Land Transfer Tax?; Show Me the Numbers; other Counties that have Enacted and What is the Impact on them; How Have Schools Benefited?; November Ballot; and Recommendation for Board Consideration and Discussion. A copy of the full presentation is on file with the permanent records in the County Manager's Office. Ms.

Brill's recommendation to the Board was to place referenda for a 0.4% Land Transfer Tax on the November 2007 Ballot, to designate the proceeds for capital expenditures for public schools and to partner with the Board of Education to educate and inform the public regarding the tax. Mr. Brown said he supports the vote but is concerned if enough time is left to make everyone aware of the vote before November. He suggested the County meet with the Board of Education to help get the word out to the people. Mr. Williams concurred that the School Board can turn out voters. Mr. Williams said the people want another way to raise money instead of them being taxed out of their homes with property taxes. He said he definitely wants to enact a land transfer tax and wants it all to go to the Schools. Mr. Tate said he agrees with Mr. Williams. Mr. Tate thanked Ms. Brill for putting the presentation together and said her presentation was better than the one presented by the NCACC at their Annual Conference. Mr. Rivenbark said the vote needs to take place as soon as possible, as Pender is gaining an average of three to five people a day. Mr. Rivenbark said he believes that with the savings in Medicaid and a new land transfer tax, in the future the County will have additional money to help the beaches with renourishment. Mr. Rivenbark also said that the Board should hold a public hearing before any tax is enacted. Mr. Williams then made a motion to put on the November ballot a proposed 0.4% Land Transfer Tax in an advisory non-binding referendum, and if passed, the Board will enact the land transfer tax, designating all proceeds to go to school construction. Mr. Tate seconded the motion and it was unanimously approved.

19. ITEMS FROM THE COUNTY MANAGER

Ms. Brill presented the following: welcomed new IT Director Eric Harvey; will invite new Schools Superintendent Allison Sholar to the September 4, 2007 Board meeting; NC DENHR is giving the County a \$100,000 grant for the Black River cleaning project – the County match is based on how the grant is defined – if it is a navigation issue, the County will have to pay 80% of the project; State representatives will be down on Wednesday to evaluate the Black River; will look into receiving grants for Rockfish Creek – it appears the problem with Rockfish Creek issue is sedimentation and if so, will have to take a different approach; and wants to schedule a workshop for the Board to look at water and sewer issues and see where we stand and allow the Board to focus their attention on specific water and sewer issues. Mr. Tate asked if the \$100,000 grant for the Black River is for a study or actual dollars to use on the cleanout and Ms. Brill responded actual dollars. Mr. Williams asked if developers who are interested in partnering with the County for water or sewer can get on the workshop agenda and Ms. Brill said they would talk about public and private partnerships at the meeting and decide from there.

ITEMS FROM THE COUNTY ATTORNEY

Mr. Thurman said the Hampstead Pines issue will be coming back to the Board with contracts concerning the \$173,000 bond posted with the County many years ago. He said that basically, the developer just wants the County to handle the bond and the County is not involved in the project itself and no County funding will be expended. Ms. Brill added that this will bring closure to an issue that has been going on for a long time. Mr. Thurman said he also has an item for closed session.

ITEMS FROM THE COUNTY COMMISSIONERS

Mr. Tate said he attended the Annual Fire and Rescue Appreciation Day and it was very well coordinated. He asked that Emergency Management Coordinator Eddie King be given a round of his applause for his efforts in this function and the Board, staff and audience did so.

Mr. Brown concurred with Mr. Tate concerning the Annual Fire and Rescue Appreciation Day.

PUBLIC COMMENT

Mr. David Long, CEO of Pender Memorial Hospital, said the hospital will be going "Tobacco Free" on November 15, 2007, in conjunction with the Great American Smoke Out. Mr. Tate said he and Mr. Brown met with Mr. Long and Mr. Long presented a very well planned Strategic Plan.

Mr. Michael Nelson, a Topsail Beach resident and member of the Topsail Island Board of Realtors, spoke about the land transfer tax. Mr. Nelson warned the Board not to get too excited about the proposed \$2.8 million the tax would generate. He said that sales of property on the island and along the waterway in eastern Pender were significantly down.

Mr. Hiram Williams, a resident who does construction in eastern Pender County, said he wished the Board had listened to public comments before they made their decision on the land transfer tax, that he doesn't think the Board will ever hold a

public hearing on this and that everyone will pay more in ad valorem taxes. Mr. Williams thanked Mr. Tate for sitting on the Board of Health and for his input to the Board of Health.

Mr. David Williams said before the Board can enact any taxes, the public will be allowed to come and be heard.

Mr. Brown said the bottom line is it will be up to the voters to make the decision; this is just a formality to give citizens the chance to be heard.

CLOSED SESSION

At 6:25 p.m. Mr. Williams 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 to discuss the matter of Donald Sullivan vs. Pender County – 06-CVS-282. Mr. Brown seconded the motion and it was unanimously approved. At 7:05 p.m. Mr. Williams made a motion to come out of closed session, Mr. Brown seconded the motion and it was unanimously approved. There were no announcements made upon exiting the closed session.

PUBLIC HEARINGS: RESOLUTIONS/SPECIAL USE PERMITS/ZONING MAP AMENDMENTS

20. Public Hearing & Resolution to Amend the Pender County Fire Prevention and Protection Ordinance and Adoption of New Civil Citation Fees.

The Public Hearing opened at 7:05 p.m. Mr. King explained that the current Pender County Fire Prevention and Protection Ordinance was adopted in July of 1991 and that since that time, the North Carolina Fire Prevention Code has changed several times and is now based upon the International Fire Code. He said this revised ordinance reflects changes in the Fire Prevention Code as well as changes in enforcement of outdoor burning regulations. He said this request is also to reflect changes in the Fire Prevention Code Fee Schedule. Mr. Brown asked, with respect to Sec. 6.5. - Illegal Burning, what is illegal burning? Mr. King responded the only thing not considered illegal is vegetative debris created on the site it is being burnt on. Mr. Tate asked how the public will know about the changes. Mr. King said that basically, staff will continue to give warnings to first time offenders and they will also do some advertising. There were no public comments and the public hearing closed at 7:10 p.m. Mr. Tate made a motion to approve the resolution, Mr. Williams seconded the motion and it was unanimously approved. A copy of the complete Pender County Fire Prevention and Protection Ordinance and New Civil Citation Fees are on file with the permanent records in the County Manager's Office.

21. Public Hearing to Determine if the County Should Request that the NC DOT Abandon Magnolia Road, NC 1626, from the State Maintained System.

The public hearing opened at 7:10 p.m. Administrative Assistant Melinda Knoerzer, Code Enforcement Officer Ralph Kays and NC DOT County Maintenance Engineer Glenn Crews were present for explanations and to answer any questions. Ms. Knoerzer said they think this road was an access road constructed by DOT during construction of I-40. Ms. Knoerzer presented photos of new dumping of C&D waste that occurred after this item was discussed at the August 6, 2007 meeting. Mr. Crews said they can't abandon the road unless every adjoining property owner agrees to it. Mr. Todd Hodge said he is the owner of Circa Design, one of the adjoining properties, and said he objects to the road being abandoned and thinks there should be more policing of it. The public hearing closed at 7:17 p.m. Mr. Williams made a motion to request that NC DOT abandon Magnolia Road, NC 1626, from the State Maintained System, Mr. Brown seconded the motion and it was unanimously approved.

PUBLIC COMMENT

Mr. Rivenbark announced that Mr. Burt Millette, a Hampstead resident, had requested to speak after the Public Comment section had already taken place. Mr. Millette said he has lived in Hampstead for eighteen years and that over the years he had witnessed degeneration of the community as the result of Special Use Permits (SUP's). He said some people have given Hampstead the name "Sign City." Mr. Millette gave a Power Point presentation showing unsightly used car lots, abandoned car lots, an abandoned paint ball facility, abandoned vehicles and other unattractive facilities. He also noted that the Pender County Convenience Center on Hwy 17 is almost on the right-of-way. Mr. Millette asked the Board to give strong consideration to enacting a moratorium on SUP's until the Overlay District is in place. Mr. Williams said we do need small businesses, but maybe it's time to revoke some permits that are not in compliance. Mr. Williams said he can't say he doesn't agree with Mr. Millette, but he can't say that he fully agrees with him.

22. Presentation of Planning Project Priorities.

Mr. Raczkowski gave a Power Point presentation of Planning Project Priorities which staff will review and expects to take place over the course of the current fiscal year. The presentation included the following: Planning Priorities; Administrative Related Projects; Technical Review Committee; Development Project Tracking and Facilitation; Research Projects – including Special Use Permits, Nuisance Abatement Program; and Planned Development & Conditional Use Zoning; Overlay Districts – including Coastal Pender US Highway 17 Corridor, Flood Hazard Overlay District and Prioritization of other Areas for Potential Study; New Programs – including Countywide Stormwater Program; Preparing for future priorities; and Hampstead Planning Efforts. No Board action was required. The complete presentation is on file with the permanent records in the County Manager's Office.

23. Public Hearing & Resolution: Special Use Permit to Construct an Emergency Services Communication Communication Tower and Compound: Pender County Sheriff, Applicant.

Mr. Thurman swore in the witnesses. The public hearing opened at 7:25 p.m. Mr. Raczkowski explained that the project will consist of a 480 foot communications located on a 58.6 acre parcel of land owned by the Pender County Board of Education and is zoned B-2, Highway Business District. Mr. Raczkowski further noted that the County is requesting the following variances from the Ordinance: 1) variance from the 199 foot height limit; 2) variance from the requirement of a fall zone equal to the height of the tower; 3) variance from the collocation requirement; 4) variance from the requirement of a bond to cover the cost of demolishing the tower; and 5) variance from the requirement to show other towers owned by the applicant or other nearby towers. Sheriff Smith further explained that the tower will be used to provide law enforcement, fire, EMS and emergency management communication capabilities which current towers do not provide and that the tower is being funded by a Department of Homeland Security Grant. He said this tower and the radio equipment installed will complete the new VIPER network within the County, helping assure interoperable communications between in-county operations on a daily basis, as well as out-of-county resources as they respond to events in Pender County, and that the tower will also help cover radio dead spots in the County, as well as improving the ability of first responders to communicate and coordinate during times of emergency. Sheriff Smith said that because of the need to provide coverage, the areas in which the tower may be located are limited and the tower needs to be 480 feet tall; this height will provide the needed coverage while avoiding additional requirements which would be imposed on a tower over 500 feet tall. Sheriff Smith introduced Harold Meacombs, an Engineer for the Highway Patrol, who said they manage all forms of public safety. Mr. Rivenbark asked about lighting on towers and the proximity of nearby homes. Mr. Meacombs said they use daytime strobes and low red at night which don't affect nearby homes. Mr. Thurman asked if it his opinion that the standard 199 feet for towers won't be enough and Mr. Meacombs said that is correct and that the tower has to have enough height to be of benefit. He said this is a guy tower and it will never fall right over sideways and will never fall more than 50% from its base. There was discussion of co-location on the tower and Mr. Thurman said the lease is with the School Board but the Board of Commissioners will have control over who can co-locate. Mr. Brown asked about wind resistance and Mr. Meacombs said there are wind zones you have to go by and that if the tower blows down, then Homeland Security is not doing what they're supposed to do. The public hearing closed at 7:55 p.m. Mr. Williams made a motion to approve the Special Use Permit, Mr. Brown seconded the motion and it was unanimously approved.

24. Olde Point Village Planned Development Master Plan.

Mr. Rivenbark announced that this item is **NOT** a public hearing and that it was **NOT** advertised as a public hearing. Mr. Raczkowski said the Olde Point Village Planned Development Master Plan was tabled by the Planning Board at the May 1, 2007 meeting and was subsequently denied at the June 5, 2007 Planning Board meeting. He said the applicant is appealing this decision to the Board of Commissioners pursuant to Section 3.5C of the Pender County Zoning Ordinance, that the Board is requested to hear the appeal based on the facts presented at the May 1, 2007 and June 5, 2007 Planning Board meetings and that Planning staff is making no recommendations. Mr. Thurman said this is the first time he recalls one of these, that it is existing development and the Board should treat it as if they are a 'Court of Appeals', that the Board is to decide if there was enough evidence to warrant the Planning Board denying it and that this ends the inquiry if the Board does find there was evidence to support the Planning Board's decision. Mr. Tom Johnson of Ward & Smith, Attorney for the applicant, said the Board of Commissioners still has to make decisions based on the Land Use Plan and the CAMA Use Plan, that there was no sufficient evidence for the Planning Board to deny it, that this project constitutes cluster development and that the Land Use Plan highly encourages cluster development. He summarized by saying this denial is not at all supported by the Land Use Plan, that it is contrary to law by not supporting the Land Use Plan, and that no evidence was presented. Mr. Thurman disagreed with Mr. Johnson's findings. Ms. Cindy Wolfe, representative of Withers & Ravenel Architects, said she used the Pender County Zoning Ordinance and CAMA Land Use Plan for her

guidelines and that this type development is strongly encouraged by CAMA. Mr. Williams made a motion uphold the Planning Board's decision to deny it, Mr. Brown seconded the motion and it was unanimously approved.

25. Public Hearing & Resolution: Zoning Map Amendment: Withers & Ravenel, Applicant.

The public hearing opened at 8:40 p.m. Ms. Cindy Wolfe, Registered Landscape Architect for the applicant, thanked the Planning Board and Staff for evaluating each Planning request item by item. A break was taken from 8:41 to 8:46 p.m. and the public hearing resumed. Mr. Raczkowski explained that the applicant is requesting two tracts totaling 54.72 acres be rezoned from RA, Rural Agricultural District, to R-20, Residential District. He said the lots are currently split-zoned as a result of the 2003 countywide rezoning and said Planning Staff and the Planning Board recommended approval of this request. The public hearing closed at 8:52 p.m. Mr. Tate made a motion to approve the Zoning Map Amendment, Mr. Williams seconded the motion and it was unanimously approved.

26. Public Hearing & Resolution: Revision to Special Use Permit to Construct and Operate a Dry Boat Storage Facility: SHM Boat Storage, LLC, Applicant.

Mr. Thurman swore in the witnesses. The public hearing opened at 8:52 p.m. Mr. Raczkowski explained that this is an amendment of a Special Use Permit that was previously approved. Mr. Thurman noted that adjoining property owners Mary Beth Carlson and Gregg Carlson had filed a Motion to Dismiss the proposed Special Use Permit but advised the Board to deny the motion because it doesn't apply to this situation. David White, the owner, explained that there is no change in the original Special Use Permit; the changes are being proposed due to the fact that the original entranceway permit was denied by NC Department of Transportation and they have to do a realignment of it. Mr. Raczkowski noted Item #11 of the conditions, i.e., "Any violations of the conditions of this permit, confirmed by the Zoning Administrator shall result in this permit becoming void, if not corrected within 30 days of receipt of the notice of violation." Mr. Thurman said the Board can impose conditions on a special use and those conditions can be enforced. Mr. Williams asked if Item #11 was in the original special use permit and Mr. Raczkowski responded affirmatively. Mr. Thurman asked if all the materials presented are true and reflect the site plan and Mr. White responded affirmatively. Ms. Morgan said that the applicant moved the road to the other side and now they have to look at stacks of boats from their house, that this operation will decrease the value of the surrounding property, that she opposes spot zoning, and that it's a safety issue that boats will be pulling in and out. Mr. Thurman asked, with regard to property values decreasing, if Ms. Carlson had done any studies on this. Mr. Carlson said she had done a study during the original special use permit but Mr. Thurman wouldn't accept it because it wasn't notarized. Mr. Thurman said the property does have a ten foot berm and Ms. Carlson said that the ten foot berm is not tall enough and that they can hear the beepers when vehicles back up. Mr. White showed drawings of the buildings and said that this is a "state-of-the-art facility", that there will not be a lot of egress and ingress, that the buildings are close to the property line and that the buildings are one and two story only. The public hearing closed at 9:01 p.m. Mr. Williams made a motion to approve the special use permit revision, without addendum on conditions, Mr. Tate seconded the motion and it was unanimously approved.

27. Public Hearing & Resolution: Special Use Permit to Construct a Telecommunications Tower and Compound to a Height of 199 Feet: Crown Castle International, Applicant.

Mr. Thurman swore in the witnesses. The public hearing opened at 9:05 p.m. Mr. Raczkowski explained that the project will consist of constructing a 199 foot telecommunications tower located on a 115 acre tract of land zoned RA, Rural Agricultural. He said the 10,000 sq. ft. area of the tower is of sufficient size and structural integrity to allow three co-locations and their equipment shelters. Mr. Henry Campen, Jr., representing the applicant, said his client is in full compliance. Mr. Campen presented an exhibit which contained an Affidavit of Jon Chambers, Professional Engineer, and Impact Analysis by C. Battle Koonce, Jr. Mr. Thurman asked Mr. Chambers if his statements contained therein are true and Mr. Chambers responded affirmatively. Mr. Thurman asked Mr. Koonce if his report fairly and accurately represents the analysis and if he is qualified to do the analysis and Mr. Koonce responded affirmatively. The public hearing closed at 9:10 p.m. Mr. Brown made a motion to approve the Special Use Permit, Mr. Williams seconded the motion and it was unanimously approved.

28. Public Hearing & Resolution: Special Use Permit for a Trucking Service and Garage: Warren S. Robinson, Applicant.

Mr. Thurman swore in the witnesses. The public hearing opened at 9:12 p.m. Mr. Raczkowski explained that the property is located at the intersection of Hayes and Halfway School Road; that the property consists of 6.46 acres and is zoned RA, Rural Agricultural District; that only one acre of the property will be used in the development of the trucking

garage; that the garage site will be located in the rear of the property with a 30 foot wide vegetation buffer in the front of the site, ten foot vegetation buffers along either side of the site and the rear site will have the existing forest land as a buffer; and that the purpose of the garage will be to repair and maintain the cab and trailers of 18 wheel-type vehicle vehicles. Mr. Robinson added that the garage will maintain trucking and farming equipment, that storage of trucks and trailers will be only for ones under repair, and nothing will be sitting there for two or three months. The public hearing closed at 9:15 p.m. Mr. Tate made a motion to approve the Special Use Permit, Mr. Williams seconded the motion and it was unanimously approved.

29. Public Hearing & Resolution: Special Use Permit to Operate an Auto and Boat Sales Lot: Sandy F. Shirley, Applicant.

Mr. Thurman swore in the witnesses. The public hearing opened at 9:19 p.m. Mr. Raczkowski explained that the project will consist of a car and boat lot for the display and sale of autos and boats and that the property consists of three parcels totaling .79 acres and is zoned B-2, Highway Business District. Mr. Raczkowski noted that Ms. Shirley had received "ill advice" from a former employee and apologized to Ms. Shirley. Mr. Rick Biberstein, Attorney, spoke on behalf of the applicant and included the following: there will be no repair or mechanical work on site; Ms. Shirley and her brother Jason owns the site and it will be run by Josh Gore of Wilmington; the Board can impose any reasonable condition they see fit; the Shirleys will have as attractive lot as they can; Biberstein & Nunalee owns the lot across the street from them; there will be no traffic problems and no nuisances or hazards; a special use permit is not designed to eliminate a certain type of business which is permitted; and the Board shouldn't say "no we're not going to allow it" just because of what it is. Mr. Biberstein said he wants to admit into evidence whatever staff has already presented to the Board. Mr. Biberstein asked Ms. Shirley if all the facts she prepared and the book she passed out tonight are true and accurate and Ms. Shirley responded affirmatively. Mr. Paul Grimsley, a Hampstead realtor, said he wants to see the site occupied, that it's now unsightly and overrun with weeds and that he'll be delighted to have a well-run business on the site. Mr. Biberstein asked how long Mr. Grimsley had been in real estate and Mr. Grimsley replied since 1974 in Hampstead. Mr. Biberstein asked what was Mr. Grimsley's opinion of the impact on the surrounding land value and Mr. Grimsley said it would have a favorable effect. Mr. Tate asked if Mr. Grimsley has anything to do with this transaction and Mr. Grimsley said no, he's not the real estate agent in this. Mr. Gore showed several pictures of boats that would be sold and said none of the used vehicles to be sold will be over three years old. Mr. Burt Millette of Hampstead said this project won't meet the setbacks. Mr. Don Ellson of PenderWatch was concerned about the site being in a floodway and the fact that used cars would drop lots of used oil. He read the definition of a Conservation 1 classification - which includes land and water features where there are serious hazards, including floodways. Mr. Biberstein cross-examined Mr. Ellson. Mr. George Mara of Hampstead said "a used car lot is a used car lot." Mr. Mara said Mr. Raczkowski's overlay presentation would benefit all residents and would be a good plan. Mr. Biberstein asked Mr. Mara what type of car lot would be good at the site and Mr. Mara said "none." Mr. Al Freimark of Greater Hampstead Homeowners Association (GHHA) said he polled members of GHHA and they all objected to this project. Mr. Biberstein objected to Mr. Freimark presenting hearsay and Mr. Thurman overruled Mr. Biberstein's objection. Mr. Freimark said he's not repeating what others said, he's merely representing the GHHA. Mr. Freimark agreed that the Board should set a moratorium on special use permits. He said they met with Mr. Gore and listened to him but they don't need to have the lot in "Downtown Hampstead." He said they're trying to look for quality of life, not just quantity and that they've been "burnt" before and they should look at other people's track record. Mr. Thurman said the Board can't make a decision based on other people's track record. Mr. Biberstein asked what kind of car lot Mr. Freimark would like to see there and Mr. Freimark said he would prefer not to have one there. Mr. Biberstein asked what Mr. Freimark considers "Downtown Hampstead" and Mr. Freimark responded from Washington Acres to Sloop Point Road. Mr. Biberstein told the Board that even though there's opposition to the special use permit, it is a permitted use. Mr. Tate said he's not expressing an opinion, but just because a special use permit says an item does or does not meet criteria, doesn't mean that every spot is suitable. Mr. Ken Just of Hampstead asked if there would be boat repair at the site and Mr. Biberstein responded "no." Mr. Just said the proposal is totally out of character with the surrounding property, that the center turning lane is a "death trap" and a terrible hazard. Mr. Just suggested waiting until Mr. Raczkowski does his overlay and see what Planning staff and NC DOT can work out. Mr. Rivenbark asked if the special use permit was in process before Mr. Raczkowski and the response was negative. Mr. Biberstein asked Mr. Just if he remembers this site being a car lot at one time and Mr. Just responded "no." Mr. Biberstein asked what type of business would Mr. Just accept being there and Mr. Just responded nothing until after the overlay.

ADJOURNMENT

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

Respectfully Submitted,

Glenda Pridgen

Glenda Pridgen, Deputy Clerk to the Board

Reviewed By:

Lori Brill

Lori Brill, Clerk to the Board

Review of Planning Matters:

Joey Raczkowski

Joey Raczkowski, Planning Director