

MONDAY, SEPTEMBER 17, 2007

The Pender County Board of Commissioners met in regular session on Monday, September 17, 2007 at the Pender County Public Assembly Room, 805 South Walker Street, Burgaw, North Carolina.

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

MEMBERS ABSENT: None.

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.

PUBLIC INFORMATION

1. Update on Construction at Topsail High School: Allison Sholar, Schools' Superintendent, David Smith, Director of Auxiliary Services, & Richard Dutka, Construction Manager.

Mr. Tom Roper, Chairman of the Pender County Board of Education, introduced Board Member Kenneth Lanier; Superintendent Allison Sholar; Maintenance Supervisor David Smith; Project Manager Rick Dutka; and LS3P Architects Andy Aretakis, Roger Leeson and Charles Boney. Mr. Roper gave a Power Point presentation entitled "Pender County Schools-Bond Construction Update." The presentation included: Twelve Total Projects including Pender High School, Burgaw Elementary School, Topsail High School/Auditorium, West Pender, Penderlea, Burgaw Middle, Rocky Point Classroom Addition, Trask Auditorium and Topsail Middle; Brick Selection and Site Selection for Topsail High and the following Summary: Bond projects proceeding well/within budget; last project bids released soon; and student population for 2007-2008 school year has increased by more than 200 students.

Mr. Roper informed the Board that the Schools had gotten information that the cut in Low Wealth Funding from the state wasn't \$525,000 as was previously announced. He said the additional \$269,000 the Board had provided to the Schools could be returned to the County but he is asking the Board to let it remain with the Schools to purchase computers and computer equipment. The Board made no decision on this matter.

Mr. Blanchard said he is concerned about the brick situation – the gentleman that complained about the bricks being too expensive felt like he was dismissed and wasn't just unhappy that he didn't get the bid. Mr. Roper said he was misquoted and that the bricks they bought were within the budget. Mr. Blanchard said there is the general perception among citizens that the County overspent on the new Topsail High School Building. Mr. Roper said that we have an obligation to do "right things right" and that we must build buildings that are aesthetically pleasing and functional.

Mr. Tate asked about public schools taking advantage of grants for computers. Mr. Roper said it is not feasible for teachers and staff to apply for grants because it is very labor intensive and there are very stringent guidelines. There was some discussion of different types of grants and Mr. Roper said Pender is substantially funded for Title One grants which require free and reduced lunches. He said all schools don't qualify as Title One.

Mr. Blanchard made a motion to allow Ms. Sandi Harris, a citizen, to speak concerning the Steve Johnson automobile repair case, which was previously determined that it was "grandfathered" under the Pender County Zoning Ordinance.

Mr. Tate seconded the motion and it was unanimously approved. Ms. Harris asked the Board to reconsider opening the case because Mr. Johnson was not "grandfathered." She said that the County Attorney had lost sight of his obligation to the County; that he is unfaithful and his concern is for certain individuals only; that he should be relieved of his duties; that everyone in the County has a right to run a business but it should be run by ordinance; that Mr. Thurman misrepresented the County; that she is now taking the matter to the Attorney General; and asked why should one man be allowed to break the Zoning Ordinance. Ms. Harris distributed documents to the Board which are on file with the permanent records in the County Manager's Office. Mr. Williams asked hadn't Ms. Harris been to the Board three or four times before with this and Ms. Harris replied affirmatively. Mr. Rivenbark said we should refer the case back to Planning and then bring back to the Board. He said the case wasn't handled correctly from the beginning and we should look at Ms. Harris' additional findings. Mr. Brown said he wants to find out if mistakes were made in the case and find out what the problems are. Mr. Tate said he wants Planning to evaluate the case and the Board get Mr. Raczkowski's recommendations and said he is bothered by the comments made concerning Mr. Thurman.

CONSENT AGENDA

Mr. Rivenbark presented the four items on the Consent Agenda and asked for any questions or discussion. There being none, Mr. Blanchard 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:

2. Approval of Minutes for the Regular Meeting of September 4, 2007.
3. Resolution Approving Releases and Refunds to the Individuals Listed Herein.
4. Budget Ordinance to Approve Increase in Health Department Revenues & Expenditures for Fiscal Year 2007-2008: Family Planning: \$6,389.
5. Budget Ordinance to Approve Increase in Health Department Revenues & Expenditures for Fiscal Year 2007-2008: Bioterrorism: \$13,000.

RESOLUTIONS

6. **Resolution Authorizing Tax Assessor Coby S. Heath General Authority to Make Changes to the Abstract or Tax Records after the Adjournment of the Pender County Board of Equalization and Review for the Tax Year 2007 and Forward.**

Mr. Heath explained that this action is necessary to grant him general authority to make changes to the abstract or tax records as permitted by G.S. 105-325 (b) after the Board of Equalization and Review adjourns. Mr. Blanchard made a motion to approve the resolution, Mr. Tate seconded the motion and it was unanimously approved.

7. **Resolution Authorizing Approval of the 2008 Pender County Holiday Schedule.**

Ms. Brill explained that the 2008 Holiday Schedule is as conveyed in the adopted Pender County Personnel with a total of twelve paid holidays observed throughout the year. Mr. Blanchard made a motion to approve the policy resolution, Mr. Tate seconded the motion and it was unanimously approved.

8. **Resolution to Request Holding a Zoning Related Public Hearing at 10:00 a.m. on October 1, 2007 to Consider a Rezoning Request by Generation Development on Behalf of Country Club Road Assemblage, LLC.**

Planning Director Joey Raczkowski explained that due to staff oversight, the public hearing notice for this rezoning case to be heard by the Board of Commissioners on September 17, 2007 was not properly advertised and staff is now requesting that the case be moved for consideration at the October 1, 2007 Board meeting at 10:00 a.m. Mr. Williams made a motion to approve the resolution, Mr. Blanchard seconded the motion and it was unanimously approved.

APPOINTMENTS

9. **Discussion of Ms. Terry Lanning's Re-Appointment to the Pender County Parks & Recreation Board.**

Ms. Brill explained that the Board recently re-appointed Ms. Lanning to serve a three-year term on the Parks and Recreation Board with term to expire June 30, 2010. She said it was later discovered that in 2008, Ms. Lanning will reach the 10-year term limit set by the Board on February 16, 1998. Mr. Rivenbark said Ms. Lanning had been a member in good standing on the Parks and Recreation Board for as long as he had been a Commissioner. Mr. Blanchard made a motion to waiver the 10-year limit and let Ms. Lanning remain on the Board the full three years, Mr. Williams seconded the motion and it was unanimously approved.

10. Resolution Approving Appointment of Citizens to Various Boards, Commissions, Etc.

Ms. Brill explained that this resolution is to approve appointment of Robert Little to the Hampstead Kiwanis Park Board, Margaret Ciardella to the Nursing/Adult Care Home Advisory Committee and Barbara Smith to the Parks and Recreation Advisory Board. Mr. Williams said "kudos" to Mr. Little for his spirit of volunteerism to community functions. Mr. Williams made a motion to appoint Mr. Little, Mr. Tate seconded the motion and it was unanimously approved. Mr. Blanchard made a motion to appoint Ms. Ciardella, Mr. Williams seconded the motion and it was unanimously approved. Mr. Tate made a motion to appoint Ms. Smith, Mr. Williams seconded the motion and it was unanimously approved. The appointments approved were as follows:

BOARD/COMMITTEE/COMMISSION	NAME	TERM	TERM EXPIRATION	DISTRICT/ POSITION
Hampstead Kiwanis Park Board	Robert Little	New	9/17/07-6/30/10	Public Member
Nursing/Adult Care Home Adv. Comm.	Margaret Ciardella	New	9/17/07-6/30/09	Public Member
Parks & Recreation Adv. Board	Barbara Smith	New	9/17/07-6/30/10	District 4

11a. ITEMS FROM THE COUNTY MANAGER

There were no items of interest from the County Manager.

11b. ITEMS FROM THE COUNTY ATTORNEY/COUNTY

Mr. Thurman said he had been in court this morning with the Carolina Water case and Donald Sullivan case. With respect to the Carolina Water case, he said the Judge remanded it to have a new hearing because of the County not presenting evidence that was requested (the video tape). Mr. Williams asked if we are legally required to make videos of the meetings. Mr. Thurman responded "no" and said he told the Judge that it was a technical failure. He said the decision is not worth appealing. With respect to the Donald Sullivan case, Mr. Sullivan is saying he has the right to build a home without any permits except a sewer permit. Mr. Thurman said he had found out that Mr. Sullivan had transferred title to the property and he will look into it to see if he has standing to make a case. Mr. Thurman said he has the lease agreement between the County and the School Board for lease of the property for the VIPER tower and he and the School Board Attorney are making changes to minor typos. He said it is a twenty year lease with ten year renewals.

11c. ITEMS FROM THE COMMISSIONERS

Mr. Williams asked Ms. Brill to get with Code Enforcement Officer Ralph Kays to talk about stockpiling junk.

Mr. Brown said he had talked with Ms. Harris previously and she didn't tell him this had already gone to court. He asked what Planning can do if the decision had already been made in court.

Mr. Rivenbark said the unemployment rate in Pender County for July was only 4.5% and that is really good news and said he received a letter from the Clerk of Court with respect to visiting court facilities.

PUBLIC COMMENT

Mr. Antonio Powers and Ms. Nellie Fields of Highway 11 in Willard approached the Board on behalf of the Willard Outreach Program and asked the Board about assisting in funding for a fitness walking trail at the Outreach Center. They noted that residents in the area want to walk for fitness but the highway has heavy traffic and is dangerous for pedestrians. Mr. Williams said the Rails-to-Trails Organization will be making a presentation to the Board on October 15th and said maybe Willard Outreach could work in conjunction with them. Ms. Fields said the Board had recently contributed funds to Hampstead and Atkinson and should assist Willard Outreach. Mr. Tate said Willard Outreach had not previously asked the Board for funding. He said Atkinson Library approached the Board and brought in extensive information to back up their funding request. Mr. Powers and Ms. Fields were instructed to bring their information to the Board for the October 15th meeting.

**PUBLIC HEARINGS: RESOLUTIONS/SPECIAL USE PERMIT/ZONING MAP AMENDMENTS/
REZONING**

12. Public Hearing & Resolution to Consider Adoption of a Moratorium on the Issuance of Special Use Permits for any Property Located within Five Hundred Feet of the Centerline of U.S. Highway 17.

Mr. Raczkowski had prepared a presentation for the Board as guidance on setting a moratorium. The presentation included a map of the proposed moratorium area; a section entitled "Moratoria as Defined by State Statutes – A moratorium is essentially a zoning ordinance amendment for a temporary period of time"; and North Carolina General Statutes Concerning Moratoria, 153A-340 expressly states that any ordinance at the time of adoption has to have the following four elements: 1) a clear statement of the problems or conditions necessitating the moratorium, 2) a clear statement of the development approvals subject to the moratorium, 3) an express date for termination of the moratorium, and 4) a clear statement of the actions and the schedule of those actions, proposed to be taken by the County during the duration of the moratorium. The presentation also included: Extending a Moratorium; Moratoria and Local Regulations; Statutory Exceptions; Measuring Potential Impacts; Case Study: Town of Chapel Hill, NC; The Moratorium Process; and Moratorium Process Summary. The complete presentation is on file with the permanent records in the County Manager's office.

Mr. Blanchard asked Mr. Raczkowski, with respect to spending time on a moratorium, what Planning's current priorities are. Mr. Raczkowski said that among other things, Planning's priorities include stormwater, looking at several new ordinances, current special use permit evaluation, enforcement programs and administrative problems.

Mr. Williams said Mr. Burt Millette, a Hampstead resident, brought this to the Board's attention and said that there are a lot of displeasing sites on the Hwy 17 corridor but the enforcement factor needs to be addressed first. He asked "how can you justify a moratorium if you haven't covered enforcement?" Ms. Brill said they need to clearly define what the moratorium outcome will be and said that they can look at the need for additional code enforcement staff as being the problem. Mr. Brown said enforcement is not the only issue; people are concerned about what's going in their community. Mr. Tate asked how much additional code enforcement is needed and Mr. Raczkowski said at this point, he hasn't had time to fully research it. Ms. Brill said they are looking at a junk car ordinance and discarded mobile homes ordinance and they will need to have those in place before they know how much extra code enforcement is needed. Mr. Brown said that's why the residents asked for a moratorium – to get things under control until a permanent solution is found. He suggested having a meeting in Hampstead and listening to what the residents there have to say. Mr. Raczkowski said he is in the process of getting a meeting together with a facilitator from the Institute of Government, MPO representatives and Hampstead residents to begin asking them what the vision is they want for their community.

Mr. Millette said he brought this presentation to the Planning Board and the Board of Commissioners because of the state of the Highway 17 corridor through Hampstead; that the zoning overlay will take time and we need to do something in the interim; that a moratorium won't affect current special use permit applications and approvals; and that real estate and development people only come to Board meetings when they are against something.

Mr. Al Freimark, representing Greater Hampstead Homeowners' Association, said we're not "breaking new ground here" and read a news item on an example of a moratorium from the Town of Belville in Brunswick County. Mr. Freimark said their vision of what they want in Hampstead is to leave it better than they found it, and asked the Board if they are going to decide what is best for the people of Pender and not just for a few developers who have their own private agendas.

Mr. Mike Rokoski said he is not necessarily against a moratorium but he is concerned about the speed at which it's taking place. He said most of the Highway 17 corridor is already zoned PD, Planned Development, and that the comments he is hearing don't seem to be directed to a county board, but to a "non-existent" town.

Mr. Cameron Moore said a moratorium will affect the County economically and said some general statutes are being overlooked.

Mr. Stephen Carpenter said that the Board is not anywhere close to meeting the four requirements of a moratorium; that there's nothing said about looks in the ordinance; that the County's ordinances meet state requirements; that the

Town of Belville can't be compared to Pender County; that in essence, there's already a moratorium in Hampstead because there's no sewer; that a sixty-day moratorium will set Pender County back five years and that if you shut it down now, it will be tough to get back started; that currently a special use permit can be denied or revoked until they come into compliance; and that higher standards should be the priority instead of total restrictions.

Mr. Hiram Williams said that a moratorium takes away a person's right to do what they want to do with their land; that moratoriums "grow and grow and grow"; that the Board is the problem if special use permits are not being enforced; that the number one problem is the divide of the County – if a moratorium is done for Hampstead, it should be done for the entire county; and that we will lose a lot of sales tax if a moratorium is imposed.

Mr. Brown clarified that the moratorium would only affect B2, and not shut down the entire area.

Mr. Tate asked if a lot of complaints come from the western side of the County and Mr. Raczkowski said they get very little opposition from the western side. Mr. Tate said he has concerns about imposing a county-wide moratorium.

Mr. Williams said he has gotten a lot of calls against setting a moratorium and said he agrees with Mr. Hiram Williams that a moratorium will set the County back.

Mr. Rivenbark noted that Mr. Carpenter had previously worked for the County Planning Department and that he is seeing Mr. Carpenter's opinions from a different perspective.

Mr. Blanchard said he hasn't heard anything tonight to warrant a moratorium and said we need to be concerned with enforcement.

Mr. Tony Musolino said the Board approves special use permits; that the Board has not approved any B2 area special use permits in the corridor this year; that these are Code Enforcement Officer issues, and that the Board knows when to deny special use permits.

Mr. Al Sidbury said special use permit decisions should be made on individual requests and that he agrees with Mr. Musolino that great strides have been made to clean up in the corridor. He said Mr. Millette and Mr. Freimark do not represent a majority of the citizens of Hampstead and urged the Board to not impose a moratorium.

Mr. Dennis Capen said the group that oversees special use permits has a tough job but they do it. He said he had to "jump through hoops" just to move from one building to the next. He said he's amazed at what's going on and that the business people he knows just want to make their businesses better.

Mr. Ken Just said that there are other zoning districts on Hwy 17 than B2; that if we have a sixty-day moratorium it won't set up back five years; that a short moratorium will help clean up the Hwy 17 corridor until an overlay district can be done; and that there is a major difference in a moratorium and code enforcement. He said it is not just about used car lots, it's about how Hampstead looks.

Mr. Blanchard said he wants Mr. Raczkowski's priority to be to go into Hampstead and see what their vision is. Mr. Blanchard made a motion to direct the County Manager and Planning Director to investigate the situation on hiring additional code enforcement personnel, Mr. Williams seconded the motion and it was unanimously approved.

Mr. Raczkowski said the Planning Board wants to hold a public hearing to address the issue. Mr. Thurman made it clear that the Planning Board had not taken a position on the issue.

Mr. Williams said he asked that this be put on the agenda but after learning much about moratoriums, he wants to drop the resolution. Mr. Williams made a motion to drop the resolution, Mr. Blanchard seconded the motion and it was approved by a four-to-one vote, with Mr. Brown voting against it. When asked to clarify what the vote was, the Chairman indicated that it was 3-2 (himself and Commissioners Blanchard and Williams voting in favor), and Commissioner Tate indicated that he was uncertain of what the motion was. The public hearing closed at 8:30 p.m. Commissioner Tate later verified with the Deputy Clerk that he voted in favor of dropping the resolution.

13. Public Hearing & Zoning Map Amendment, McGee Building, Inc., Applicant.

The public hearing opened at 8:30 p.m. Mr. Raczkowski explained that this item is an amendment to the July 10th request for rezoning 13.515 acres from R-20, Residential District to B-2, Highway District. He said this area is planned for high net density so Planning staff is recommending a rezoning to a RT, Rural Transitional District, which is less intensive use in the district. Mr. Brown asked what kind of business can be put there and Mr. Raczkowski said an RT District is established as a district in which the principal use of the land is primarily for moderate density single-family residential and moderate intensity commercial activities. He said the Planning Board voted 4-2 to recommend approval of the rezoning request. The public hearing closed at 8:38 p.m. Mr. Blanchard made a motion to approve the rezoning request, Mr. Brown seconded the motion and it was unanimously approved.

14. Public Hearing & Zoning Map Amendment: Jonathan Arnn, Applicant.

The public hearing opened at 8:38 p.m. Mr. Raczkowski said the applicant is requesting one tract totaling 5.0001 acres be rezoned from RT, Rural Transition District to B-2, Highway Business District. Mr. Don Charland, an adjacent property owner, spoke on behalf of Mr. Arnn's request and said Mr. Arnn has to get this rezoning in order to be able to get a special use permit to sell motorcycles in his current repair shop. Attorney Kevin Heckart spoke on behalf of Mr. Arnn and gave a brief background of him. He said that he agrees with Mr. Charland, that Mr. Arnn is deserving of the zoning change and that he feels strongly for Mr. Arnn. Mr. Arnn thanked the Board and said he is available for any questions. The public hearing closed at 8:49 p.m. There being no questions, Mr. Williams made a motion to approve the amendment, Mr. Blanchard seconded the motion and it was unanimously approved.

15. Public Hearing for Approval of Amendment to an Existing Special Use Permit, All Carolina Crane Rental, LLC, Applicant.

After consultation with the County Attorney and attorneys for the applicant, Mr. Brown made a motion to table this item to the October 15, 2007 meeting, Mr. Tate seconded the motion and it was unanimously approved.

A recess was taken from 8:49 to 9:07 p.m.

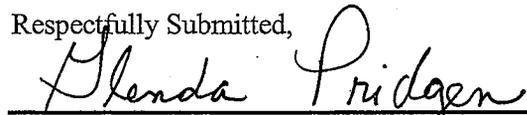
Mr. Thurman again mentioned the lease with the Board of Education and said the County will pay \$1 per year as the tenant. Mr. Blanchard made a motion to approve the lease, Mr. Tate seconded the motion and it was unanimously approved.

Mr. Tate commended Mr. Raczkowski and Planning staff on doing a good job.

ADJOURNMENT

There being no further business, the meeting adjourned at 9:10 p.m.

Respectfully Submitted,



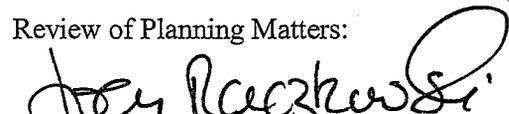
Glenda Pridgen, Deputy Clerk to the Board

Reviewed By:



Lori Brill, Clerk to the Board

Review of Planning Matters:



Joey Raczkowski, Planning Director