

**MONDAY, NOVEMBER 5, 2007 – 10:00 A.M.**

The Pender County Board of Commissioners met in regular session on Monday, October 15, 2007 at the Pender County Public Assembly Room, 805 South Walker Street, Burgaw, North Carolina.

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

**MEMBERS ABSENT:** Chairman F.D. Rivenbark.

**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**

Vice Chairman Blanchard called the meeting to order at 10:00 a.m.

**INVOCATION**

Commissioner Tate offered the Invocation.

**PLEDGE OF ALLEGIANCE**

Commissioner Brown the Pledge of Allegiance.

**PUBLIC INFORMATION**

**1. Proposal to Pender County to Purchase Town of Burgaw Wastewater Treatment Plant: Burgaw Mayor Pete Cowan & Town Manager Martin Beach.**

Mr. Cowan said he's not here to try to sell anything – he's just here to give the Board an update on the status of the Town's application for a Clean Water Trust Fund Grant to run a line to Wallace; the grant application has been approved. He said they will receive bids this month and expect construction to begin in late spring or early summer of 2008. He said some Commissioners had indicated they don't want the Town to do away with its discharge permit and he wants the Town and the County to work together. Mr. Cowan said the plant could be utilized to take wastewater to the Rocky Point area. He said this will benefit all citizens, not just the citizens of Burgaw – whatever benefits the Town will eventually benefit the County and vice versus. Mr. Cowan thanked the Commissioners and said he looks forward to working with them. Mr. Beach said Mr. Cowan came to him with this proposal and they're trying to help the County out. He said the Rocky Point area has problems and this could possibly be a solution. Mr. Beach gave a presentation entitled "Proposal to Sell Burgaw WWTP: October 1, 2007." The presentation included: Burgaw WWTP; Why Would Burgaw Sell WWTP; Facts Bearing on the Issue; the Math; and Cost per Gallon. The Complete presentation is on file with the permanent records in the County Manager's Office. Mr. Williams asked if you can "moth ball" the plant – if it closes, can you open it back up in a few years. Mr. Beach said when it comes time to renew the permit they'll ask what you are going to do. Mr. Parker said you can "moth ball" it but you have to have a plan in place when it comes time to renew the permit. He added that the Stevco Knit Plant in Wallace did it in 1998. No action was taken on this item.

Mr. Blanchard announced that Chairman Rivenbark is out-of-town in training for the Hospital Board. Mr. Tate made a motion to excuse Mr. Rivenbark, Mr. Williams seconded the motion and it was unanimously approved.

**2. Pender EMS & Rescue: Pender EMS Draft Model System Plan: Woody Sullivan, Chief, Pender Volunteer EMS & Rescue Inc.**

Mr. Sullivan explained that changes have been made to the Pender County EMS System Plan in the pursuit of Model System status with the North Carolina Office of Emergency Medical Services. He said it had been their goal all along to achieve Model System status. Mr. Williams asked if this status makes the EMS favored upon for grants and Mr. Sullivan responded "yes." Mr. Tate thanked Mr. Sullivan for all his hard work and thanked J.L. Giddeons for his hard work with EMS in the Union Rescue district.

### **3. Update on Sill's Creek: Wayne Batten, Pender Cooperative Extension Director.**

Mr. Batten gave a presentation entitled "Sill's Creek Update – November 5, 2007." Mr. Batten noted that right now there is one key word to summarize the condition of Sill's Creek and others: "drought." The presentation included: Emergent Alligatorweed; Johnson's Nursery Pond – started Alligatorweed treatment in 2004; Alligatorweed Flea Beetle – flea beetles did a good job; Johnson's Nursery Pond in 2006; Johnson's Nursery Pond – no Alligatorweed in 2007; Project Basics; Pender County/SE NC IPM Project; Sill's Creek – so thick Beaver Trappers cannot work; Sills' Creek 2005 – project started; Sill's Creek 2006 – things opened up due to release of Flea Beetle and hurricane wash-out; Sill's Creek 2007; Chemical Spray Trials – chemicals were donated but there's nowhere to put a boat in; and Conversations with Bob Murray – Beaver Trapper. Mr. Batten said the most contributing factors to the condition of Sill's Creek are the severe drought and no hurricanes this year. Mr. Williams asked about chemical treatment and Mr. Batten said chemical treatment is excellent but there are irrigation restrictions. Mr. Tate asked if we are getting more beetles and Mr. Batten said the Florida beetles normally arrive in May of each year, but NC beetles, that have adapted and wintered over are trapped and released by staff throughout the season. Mr. Tate asked when "peak season" for beaver is over, and Mr. Batten said they exist all year long but under these unique drought conditions most of the beaver in Sill's Creek have moved to Rockfish Creek. Mr. Tate asked if an extra person had been hired for beaver trapping and Mr. Batten responded "yes." Mr. Tate thanked Mr. Batten for his presentation and asked him to please continue to work on the problem.

### **CONSENT AGENDA**

Mr. Blanchard presented the nine 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. Tate seconded the motion and the Board voted unanimously to approve the Consent Agenda as follows:

4. Approval of Minutes for the Water & Sewer Workshop of September 28, 2007 & Regular and Closed Session Meetings of October 15, 2007.
5. Resolution Approving the Releases and Refunds to the Individuals Listed Herein.
6. Resolution Authorizing Purchase Order for Purchase of a Hydraulic Boom Mower: \$8,300.
7. Budget Ordinance Amendment: Criminal Justice Partnership Program (CJPP): Recognize Additional State Funding: \$9,063 Increase.
8. Resolution Authorizing Purchase Order to Carolina Window Coverings for Installation of Window Blinds for West Pender Middle School Pursuant to 2005 School Bond Approval: \$9,970.
9. Resolution to Approve a Joint Regionalized Public Health Preparedness Coordinator for Fiscal Year 2007-2008: \$13,195.
10. Resolution Approving Recruitment of a Grant Funded Part-Time Individual to Serve as Recruitment Worker for Adoption Unit for a Six-Month Period from January 2008 until June 2008: \$25,000.
11. Interlocal Agreement with New Hanover County to Share Costs of Engineering Studies Relating to Wastewater Treatment Plant on Highway 421.
12. Proclamation by the Pender County Board of Commissioners: Family Caregivers Month November 2007.

### **RESOLUTIONS**

#### **13. Resolution Authorizing Purchase Order to ESC Carolinas, LLP for Change Order #2 to the Existing Contract on New Topsail High School: \$25,000.**

Administrative Assistant Melinda Knoerzer explained that the original estimate for testing for the new high school was \$100,000, that the Board previously approved a \$54,757 contract with ESC Carolinas, that on September 4, 2007 Change Order #1 was approved in the amount of \$18,000 and that this \$25,000 Change Order will bring the total to \$97,757. Ms. Knoerzer said David Smith with Pender County Schools Maintenance said he doesn't anticipate any more charges. Mr. Williams made a motion to approve the resolution, Mr. Tate seconded the motion and it was unanimously approved.

#### **14. Resolution to Grant Approval of a Late Application for Exemption of Property Taxes for the Faith Harbor United Methodist Church & the Wesleyan Chapel United Methodist Church.**

Tax Assessor Coby Heath explained that state law requires that eligible religious organizations that want to apply for tax exemptions must do so during the listing period. He said an application for exemption filed after the close of the listing period and the adjournment of the Board of Equalization and Review may be approved by the Board of County Commissioners, upon showing of good cause by the applicant for failure to make a timely application.

Mr. Heath said these two churches weren't aware they had to make application. Mr. Williams made a motion to approve the resolution, Mr. Tate seconded the motion and it was unanimously approved.

**15. Consideration of Request for Easement across County Property by the Town of Burgaw for Osgood Canal Trail & Greenway Project.**

Parks and Recreation Director Dee Turner explained that the Town of Burgaw has recently completed the preliminary design of the Osgood Canal Greenway and Urban Trail. She said the trail will run along the eastern portions of County owned property where the Howard Holly Building and the York House are located. Ms. Turner said the Town plans to apply for a Parks and Recreation Trust Fund (PARTF) grant for the project and in order to be considered for the grant, they must have tentative agreements in place with the property owners affected by the project. She said staff is proposing three options for the Board's consideration: 1) give the Town fee simple ownership through selling or donating the property; 2) give the Town a perpetual easement; or 3) give the Town a lease for a minimum of 25 years. Mr. Williams said this is a great project and confirmed with Ms. Brill that the County has no plans to expand the parking lot at the Howard Holly Building. Mr. Chad McEwen, Planner for the Town of Burgaw, said the Town initially preferred fee simple ownership by donation but since finding out that when one government entity donates property to another government entity, it cannot be used as a match for PARTF Grant funds and an easement will be sufficient. Ms. Brill added that it is a worthwhile project and said she recommends option number 2 or 3. Mr. Williams made a motion to approve Option No. 3, ie. Give the Town a lease for a minimum of 25 years. Mr. Tate seconded the motion and it was unanimously approved.

**16. Resolution Accepting Bid Proposal and Issuing a Purchase Order to Visionair, Inc., for Implementation of New Public Safety Software Suite; \$235,685.**

Sheriff Carson Smith explained that the Sheriff's Office has been utilizing the Open Software Solutions, Inc. (OSSSI) software since 1999 and that they now recognize that there are functional needs that are no longer being met by this software. He said this coupled with a continuous year-to-year increase in maintenance costs and the desire to implement a mobile network for use by responders in the field has led the Sheriff's Office/911 Center to seek a more comprehensive software package. He said that after the required bid process, Visionair was chosen by a panel made up of emergency agencies. Sheriff Smith said this new system will provide a completely integrated software solution, including the new mobile component, that will be utilized by county/city law enforcement, fire, EMS, an Emergency Management. He said it has been budgeted in the FY07-08 Budget: \$136,859.00 – 510-404500; \$43,571.70 – 25-404500; and \$53,254.30 – 251-404500. He said they will be coming back to the Board for approval of hardware, and are planning to use E-911 funds where they can be used. 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 from 10:59 a.m. to 11:03 a.m.**

**17. Resolution Authorizing the Approval of Change Order #5 to Herring Rivenbark for Construction of Phase IIIa - Rocky Point/Topsail Water & Sewer District: \$526,553.80.**

Utilities Director Paul Parker explained that Phase IIIa consists of road extensions to fourteen roads in the original Phase III project area that were not done in Phase III. He said the additional streets can be added due to savings from Phase III. He said USDA granted permission to have the project completed by via change order by Herring Rivenbark, who was the Phase IV contractor. Mr. Parker said service to the homes in Phase IIIa is projected to be activated in the Spring of 2008. Mr. Williams said he had heard that folks on Factory Road that don't have service are saying their money is going somewhere else. Mr. Parker said those people that don't have service can certainly be refunded their \$120 fee. He said the \$120 fee was initially charged in order to assure there would be enough sign-ups to meet loan requirements. Mr. Parker said there is no money left in Capital to extend that line. Mr. Williams mentioned the possibility of residents doing a door-to-door campaign to get enough folks to sign up, as was done in Sloop Point. Mr. Williams made a motion to approve the resolution, Mr. Brown seconded the motion and it was unanimously approved.

**Mr. Blanchard requested that Item No. 19 be moved up on the agenda before the Planning items are discussed.**

## **APPOINTMENTS**

### **19. Resolution Approving Appointment of Citizens to Various Boards, Commissions, Etc.**

Mr. Blanchard said he can't make a motion to appoint the applicant for the Board of Adjustment, Ms. Mary James, but he certainly recommends her appointment. Mr. Thurman added that Ms. James had attended the Board of Adjustment Training Workshop held last week and she made a very good impression. Mr. Williams made a motion to appoint Ms. Mary James to the Board of Adjustment in an Alternate position, to serve the remainder of the unexpired term of Mr. Larry Johansen, term to expire January 4, 2010. Mr. Tate seconded the motion and it was unanimously approved.

A break was taken from 11:05 a.m. to 11:11 a.m.

Mr. Brown said that District Attorney Ben David is present and asked that he be allowed to speak at this time. Mr. David said the Computer Cop software has arrived and he wants the Commissioners to be the first to receive it in Pender County because of their commitment to help achieve this goal. Mr. David said this software will put parents in charge of what goes on in their homes with respect to home computers and that copies are available for the public in various places in the County. He said the purpose of this program is to prevent crimes committed on the Internet and that prevention is more effective than punishment after something happens. Mr. David said he'd like to personally thank the Board and said this wouldn't have been made possible without them. Mr. Tate said he and Mr. Brown attended a meeting with the City of Wilmington on racial relations that it went really well; he thanked Mr. David for his efforts in this meeting.

## **PRESENTATIONS/RESOLUTIONS: PLANNING ITEMS**

### **18a. Planning Priorities FY 07-08 Update.**

Planning Director Joey Raczkowski made a detailed presentation on Planning priorities and noted these priorities were set by the Planning Board. The presentation included: Factors Affecting Planning Priorities; Factors that Continue to Affect Planning Priorities; A New Direction for Planning in Pender County; Planning Priorities – Administrative Related Projects which include Development Project Tracking and Facilitation, Educational Efforts and Technical Review Committee; Research Projects which include Special Use Permits, Nuisance Abatement Program, Planned Developments & Conditional Use Zoning; Overlay Districts which include Transportation Overlay District for Coastal Pender County-US 17, Overlay Districts-Coastal Pender US Highway 17 Corridor, Kick-Off Meeting Highway 17 Corridor Overlay, Flood Hazard Overlay District, and Prioritization of other Areas for Potential Study; New Programs; Miscellaneous Issues; Identification of Future Priorities and Hampstead Area Planning Efforts. The complete presentation is on file with the permanent records in the County Manager's Office.

### **18b. Special Use Permit Inventory Update.**

Mr. Raczkowski made a detailed presentation on Special Permit Inventory Update and said this is a result of concerns over the existing special use permit process by staff, Planning Board, Board of Commissioners and the general public. The presentation included the following: Special Use Permit Inventory, which includes files dating back to July 1988; Special Use Permit Process; Special Use Permit Process Recommendations; and Special Use Permit Process: Resources Needed. The complete presentation is on file with the permanent records in the County Manager's Office.

### **18c. Code Enforcement Program Report and Recommendations.**

Mr. Raczkowski made a detailed presentation on the Code Enforcement Program which included: Current Code Enforcement Program (staff of one); Duties of the Code Enforcement Officer; Challenges Facing Code Enforcement Program; What is an Effective Code Enforcement Program; Recommendations; and Code Enforcement Program Staffing Options. Ms. Brill asked if the Board has any direction in staffing. Mr. Williams said at the very least, Code Enforcement needs to have more man power next fiscal year. Mr. Blanchard said we should revisit the issue after the first of the year (2008) and Ms. Brill said that is a good idea. The complete presentation is on file with the permanent records in the County Manager's Office.

### **18d. Request to Approve Dissemination of a Request for Proposal (RFP) to Update the County Growth Management Plan and Create a Unified Development Ordinance.**

Mr. Raczkowski explained that staff is asking the Board to consider approval of disseminating the Request for Proposal to update the county growth management plans, and for the creation of a Unified Ordinance. He said the County has existing plans and policies but not in a comprehensive plan and said staff would like to be able to get responses for RFP's in December and proceed with a recommendation on a qualified consulting firm at the second Commissioners meeting in January 2008. He said the Request for Proposals consist of Comprehensive Growth Management Plan which is the first phase, and Unified Development Ordinance which is the second phase. Mr. Raczkowski made a detailed presentation which included: Staff Recommendations; What is a Growth Management Plan; Comprehensive Growth Management Plan Process; Results of Comprehensive Growth Management Plan Process; What is a Unified Development Ordinance – including commercial appearance and community appearance; Why has Staff Proposed such a Comprehensive Approach; Project Recommendations; Necessary Resources; Other Options; and Proposed Project Summary. The complete presentation is on file with the permanent records in the County Manager's Office. Mr. Raczkowski noted that this project has not been budgeted in the current fiscal year budget, and will be costly. However, Mr. Raczkowski stated that he is quite sure that any chosen consultant will work with the county on funding the project over multiple budget cycles. Mr. Williams said we need to move forward with this because of all the new growth in the County. Mr. Williams made a motion to approve staff's request to approve dissemination of a Request for Proposal, Mr. Tate seconded the motion and it was unanimously approved.

**18e. Presentation on Development Agreements.**

Mr. Raczkowski suggested that due to the time, that this item be put on the November 19, 2007 agenda; the Board generally agreed to table this item to November 19, 2007.

**18f. Highway 17 Overlay Community Meeting Announcement.**

Mr. Raczkowski said Planning staff has obtained consultant assistance from the Cape Fear Council of Governments to assist with the Highway 17 Corridor Overlay Project and said the first public meeting is scheduled for Thursday, November 15, 2007 from 6-8 p.m. at Topsail High School.

**20. ITEMS FROM THE COUNTY COMMISSIONERS**

Mr. Tate said he received a letter he doesn't know how to respond to and will refer it to the County Attorney.

Mr. Brown said he has an item for Closed Session.

Mr. Blanchard said he realizes his friend Mr. Al Freimark can be very persuasive but we must follow Planning's Priority List. He said we wasted hours back in the summer chasing a moratorium on Special Use Permits and some citizens raised concern about this. Mr. Blanchard said we need to stay on board and that Mr. Raczkowski serves all the citizens of the County, not just a select few.

**PUBLIC COMMENT**

Mr. Al Freimark, a Hampstead citizen, said Coastal Pender residents have lots of challenges but no authority. He said what we saw today is progress and he applauded Mr. Raczkowski's efforts. He said he had criticized the Planning Department from time to time but it was constructive criticism and it seems to have had some effect. He said when the Board looks at Mr. Raczkowski's plans they should plan to "bite off and enforce," and not just plan for it.

School Board Vice Chairman Tom Roper distributed a report on Pender County Planned Developments by Planning jurisdiction and gave some information on what effect these new developments would have on the Schools. He said the Board of Commissioners and others approved these new homes without any input from the Board of Education and said no one ever consults the Board of Education. Mr. Thurman said he knows that in the case of new development in Surf City, former Superintendent Dr. Ted Kaniuka had been advised. Mr. Roper quoted Representative Carolyn Justice speaking about traffic problems on Highway 17 in which she said officials are "aimlessly approving developments." Mr. Roper added that it is disturbing that the Schools are not on Planning's Priorities List and said "we've gotta have the Land Transfer Tax." Mr. Brown said he agrees that the Schools need to be integrated with Planning Priorities.

Mr. Chuck Wilson of Hampstead noted the meeting with DOT and county staff. He said there are now 30,000 trips per day on Highway 17 and with all this development, 200,000 new trips will be added which will create real issues.

#### **ITEMS FROM THE COUNTY MANAGER**

Ms. Brill referred to Mr. Roper's presentation and said we need to plan for a technical committee to discuss what the needs are, which should include the School Board, DOT, Planning and others. She agreed the Schools should be integrated into the Planning Priorities.

#### **ITEMS FROM THE COUNTY ATTORNEY**

Mr. Thurman said with regard to developments, if they meet technical requirements, they have to be approved. Mr. Brown, referring to Mr. Roper's earlier comments, asked about who should be on who's ordinance. Mr. Raczkowski said it works two ways – that the Board of Commissioners need to receive the Schools' Long-Range Plan as part of development. Mr. Thurman said that as a follow-up to some of Mr. Raczkowski's items: 1) some enforcement actions are going to court in the morning and Code Enforcement Officer Ralph Kays needs to attend; and 2) with respect to a specific CDBG project, presently the County is in 3<sup>rd</sup> lien position and the participant wishes to refinance, which would leave the County in 2<sup>nd</sup> position. He asked the Board to approve a proposed subordination agreement prepared by attorney Robert Kenan to accomplish this. Mr. Williams made a motion that the County Manager be authorized to execute Subordination Agreements, Mr. Brown seconded the motion and it was unanimously approved. Mr. Thurman said that with respect to the land transfer complaints, neither Ms. Brill nor the Board had done anything improper. He said Ms. Brill reviewed the presentations with him first and she had done absolutely nothing wrong. Mr. Williams said he and School Board Chairman Ken Lanier made a presentation, speaking as parents, not as officials.

#### **CLOSED SESSION**

At 12:35 p.m. Mr. Brown 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. Mr. Brown asked that the County employees in the room please remain.

At 1:00 p.m. Mr. Tate made a motion to exit Closed Session, Mr. Williams seconded the motion and it was unanimously approved. There were no announcements made upon exiting the closed session.

#### **ADJOURNMENT**

Mr. Tate made a motion to adjourn the meeting, Mr. Brown seconded the motion and it was unanimously approved. The meeting adjourned at 1:00 p.m.

Respectfully Submitted,



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Glenda Pridgen, Deputy Clerk to the Board

Reviewed By:



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Lori Brill, Clerk to the Board