

MONDAY, APRIL 20, 2009

The Pender County Board of Commissioners met in regular session on Monday, April 20, 2009 at the Pender County Public Assembly Room, 805 South Walker Street, Burgaw, North Carolina.

MEMBERS PRESENT: Chairman Jimmy Tate, presiding; and Commissioners Norwood Blanchard and F.D. Rivenbark.

MEMBERS ABSENT: Vice Chairman George Brown and Commissioner David Williams.

OTHERS PRESENT: Rick Benton, 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 Tate called the meeting to order at 4:00 p.m. and thanked and welcomed all to the meeting.

INVOCATION

Commissioner Rivenbark offered the Invocation.

PLEDGE OF ALLEGIANCE

Commissioner Blanchard led the Pledge of Allegiance.

Mr. Tate said Mr. Brown and Mr. Williams are not here because of health reasons and asked that we remember them. Mr. Blanchard made a motion to excuse Mr. Brown and Mr. Williams, Mr. Rivenbark seconded the motion and it was unanimously approved by a 3-0 vote.

PUBLIC INFORMATION

1. Recognition of Pender High School JROTC for Implementing a Successful Recycling Program at Pender High, and for their Support of the Electronics Recycling Event.

Administrative Assistant Melinda Knoerzer explained Pender High School JROTC students implemented a successful Recycling Program at Pender High. She explained the following: Senior Army Instruction Chief Williams contacted Pender Solid Waste to indicate that the 2009 JROTC class would like to implement and manage a products recycling program within the school system; in conjunction with Waste Industries, a formal presentation was given to each of the JROTC classes showing them what and how to recycle; the program began on October 1, 2008; since implementation of the program, the JROTC has been responsible for diverting 2.24 tons of plastic/paper/glass and aluminum from the landfill; and the net savings on the solid waste bill to the Pender County Board of Education is \$167.40 per month, not including the tipping fee at the recycling center. Ms. Knoerzer explained that in addition, on March 28, 2009, the JROTC provided approximately twelve volunteers who assisted with the Electronics Recycling Event held at the old Topsail School, in which they carried and stacked monitors for reuse/refurbishing, other monitors/de-manufactured terminals, complete CPUs, incomplete CPUs, Peripherals/miscellaneous electronics, and televisions. Ms. Knoerzer said a total of 13,483 pounds of electronics were collected and noted that 100% of a computer is recyclable.

Mr. Rivenbark read and presented the students with a plaque. The Board and audience applauded the students.

2. Update on Pender Memorial Hospital: David Long, CEO.

Mr. Long delivered a Power Point presentation entitled "County Commissioner Updated April 2009 – Pender Memorial hospital Administrator's Report" which included: 1) People – including reducing employee turnover; 2) Quality – including achieving core measures; 3) Service – including increasing patient satisfaction mean score; 4) Finance – including achieving operating margin; 5) Growth – including maintaining growth in Home health service line; 6) Pender Memorial Hospital Transfers; 7) Old Lab vs. New Lab; 8) Pender Health and

Diagnostics – Rocky Point, NC – Radiology and Physical Therapy; and 9) Focus for April – Continued involvement and updates with Pender County and Towns and Communities, maintaining consistency with our services, delivering solid financial performance, and maintaining high levels of customer service. Mr. Long’s presentation also included a chart showing gains/(losses)/budget, and variance. Mr. Blanchard said that with respect to patients transferring to other hospitals, he is surprised that they would leave here to go to Wayne Memorial or New Bern instead of New Hanover Regional. Mr. Long said patients go where they can be close to family or they may have a family doctor there. Mr. Tate asked what he attributes Pender Memorial’s success in operating in the red the past few years to. Mr. Long said he attributes it to their collaboration with New Hanover Regional Medical Center and to the Hospital Board making good decisions. Mr. Long added the Hospital had gained two orthopedic surgeons and had been awarded a \$75,000 grant for life safety upgrades. Mr. Rivenbark, Hospital Board member, said it was a good report.

CONSENT AGENDA

Mr. Tate noted the County Manager had an additional item for the agenda. Mr. Rivenbark made a motion to add the item, Mr. Blanchard seconded the motion and it was unanimously approved by a 3-0 vote. Mr. Tate then presented the nine items on the Consent Agenda and asked for any further questions or discussion. There being none, Mr. Blanchard made a motion to approve the Consent Agenda as presented, Mr. Rivenbark seconded the motion and the Board voted unanimously to approve the Consent Agenda as follows, by a 3-0 vote:

3. Approval of Minutes for the Regular Session Meeting of April 6, 2009.
4. Resolution Approving Budget Ordinance Amendment Accepting 2008 NC Emergency Management Grant: \$15,619.
5. Resolution to Approve Motorola Radio Purchase: \$9,807.
6. Budget Ordinance Amendment Approving Administrative Funds for Food and Nutrition Services: \$32,077.
7. Budget Ordinance to Approve Increase in Health Department Revenues for Fiscal Year 2008-2009: Family Planning: \$2,800.00.
8. Budget Ordinance to Approve Increase in Health Department Revenues for Fiscal Year 2008-2009: Environmental Health: \$5,179.58.
9. Resolution Authorizing Purchase Order to Island Cable Construction, Inc., for Ten Directional Bores under State Maintained Highways - \$17,175.00.
10. Resolution Authorizing Administrative Services Contract (Amendment #1) with Holland Consulting Planners for Incubator Kitchen Project.
- 10a. Resolution by the Pender County Board of Commissioners to Approve the Filing of Applications with the State of North Carolina Public Water Supply Section and Construction Grants and Loans Section for Loan and/or Grant Assistance for Four Pender County Water and Sewer Projects.

RESOLUTIONS

11. Resolution Endorsing the Implementation of New Logos for the Pender County Utilities and Pender Solid Waste Departments.

Utilities Director Michael Mack explained that the primary purpose of creating distinguishing identities for the Pender County Utilities and Solid Waste Departments is to assist customers and citizens in visually recognizing the entities to contact directly to respond to their needs, questions and/or concerns regarding utilities and solid waste matters; that this direct association with a “brand/logo” will provide for a better level of customer service and response to citizens and should reduce the need for them having to “hunt” for the correct group to contact in the general Pender County Government listings; and that it should also reduce the number of phone calls and walk-in inquiries that have to be transferred from the Manager’s office because citizens aren’t sure who to contact for information or assistance regarding Utilities or Solid Waste issues.

Mr. Tate said he is really impressed with this project and said it is long overdue. Mr. Rivenbark made a motion to approve the resolution, Mr. Blanchard seconded the motion and it was unanimously approved by a 3-0 vote.

12. **Resolution by the Board of Commissioners to Support State Legislation to Delineate the Boundaries of the River Basins of North Carolina in Accordance with Senate Bill 833 and House Bill 802.**

Mr. Mack explained that these bills are intended to align the boundaries of Division of Water Resources (DWR) river basins with the Division of Water Quality boundaries, as recommended by the 2008 Report of the Water Allocation Study to the Environmental Review Commission (ERC). He explained that under the current program, transfer of more than 2,000,000 gallons of surface water per day from one river basin to another (including sub-basins) is prohibited unless an Interbasin Transfer (IBT) Certificate is first obtained from the NC Environmental Management Commission (NC EMC). He said that in a meeting with the DWR, County staff was informed that this process could take as long as five (5) years and cost up to \$1 million, yet it would be necessary if Pender County wants to increase the size of the current water treatment plant beyond 2 MGD. He said that passage of this legislation would remove the requirement for Pender County to pursue this lengthy and costly certification. Mr. Blanchard made a motion to approve the resolution, Mr. Rivenbark seconded the motion and it was unanimously approved by a 3-0 vote.

13. **Resolution by the Board of Commissioners Directing Pender County Utilities Staff on the Design of the Surface Water Treatment Plant.**

Mr. Mack explained that over the last several months, the information and updates that PCU staff had been providing to the Board on the Water Treatment Plant project included: the projected water demand of the plant by 2015; possible cost savings to upsize the plant production capacity during this phase of construction; and the regulatory hurdles that could and would be encountered. He said that staff and Brennan Buckley of CDM met with representatives of NCDENR – Division of Water Resources in Raleigh to conduct “fact finding” concerning the plant project, and the issue of Interbasin Transfer Certification for surface water transfers. He said DWR presented them facts and information concerning legislation which in short, they were told that Pender County’s water treatment plant project, if larger than 2 MGD, would require an IBT certificate which would not be a quick or easy process, and they would anticipate it taking five years and approximately \$1 million in studies and engineering fees to complete the application process, with no guarantee of obtaining the certificate. Mr. Blanchard asked if the purpose of the legislation is to discourage folks from building big plants or to use less water. Mr. Mack said the purpose is to police upstream water from downstream. Mr. Tate thanked Mr. Mack for getting information on the IBT and thanked him for his efforts and for going to Raleigh to seek this information directly from the source. Mr. Rivenbark made a motion to approve the resolution, Mr. Blanchard seconded the motion and it was unanimously approved by a 3-0 vote as follows: “that the Board direct PCU staff through the engineering firm of CDM to design and construct a 2 MGD surface treatment plant with a contingency, based upon cost, legislative changes, and future Board approval, to upsize to a 4 or 6 MGD Surface Water Treatment Plant.”

14. **Resolution to Approve Black River Snag and Drag Construction Award.**

Mr. Parker explained that Pender County was awarded a \$100,000 Grant from Division of Water Resources to perform a Snag and Drag Project on the Black River; that design and permitting for the project was awarded to Southern Engineering and after design was completed, and several meetings held with the Corps of Engineers and NC Wildlife, a permit was issued on March 23, 2009; that bid documents were prepared and submitted to contractors informally; that bids were opened April 14, 2009 and W.W. Grissett was the only bid; and that Southern Engineering is doing the due diligence and obtaining a security note. Mr. Rivenbark asked if this was widely advertised. He said he is concerned with receiving only one bid. Mr. Parker said they had a list of qualified bidders and informal bids were sent out to contractors they knew were bonded. He said another contractor couldn’t do the work because of back surgery but he sent in his bid anyway so he could be added to the County’s list. Greg Thompson, Engineering Consultant, said the project is \$95,000 so we met the legal requirements. He said they were trying to secure bids as fast as they could so we won’t lose the money and so that work could begin immediately. He added they had contacted several contractors. Mr. Parker said if a project is under \$300,000, you may award by informal bids. Mr. Blanchard asked if the contractor is ready to start the work now and Mr. Parker and Mr. Thompson responded “yes.” Mr. Blanchard made a motion to approve the resolution, Mr. Rivenbark seconded the motion and it was unanimously approved by a 3-0 vote.

15. Resolution Approving Professional Design Services Contract for Pender Commerce Park Infrastructure.

Mr. Benton explained that requests for proposals were solicited from McKim and Creed and Hobbs, Upchurch & Associates-two engineering firms with which the County currently works; that the scope of work presented was to design and permit the infrastructure in Pender Commerce Park; that the Board authorized award of the services to McKim & Creed, subject to successful negotiation of a contract; that the scope of work includes design of the following components: roadway design, water distribution design, wastewater distribution design, stormwater collection and management design, lighting plan design and pedestrian facilities; that the recommended contract fee is a not-to-exceed \$159,000 fee; and that Mr. Thurman is working with the company on some language and making some changes. Mr. Tate thanked Tony Boahn of McKim and Creed, who was in the audience. Mr. Blanchard made a motion to approve the resolution, Mr. Rivenbark seconded the motion and it was unanimously approved.

16. ITEMS FROM THE COUNTY MANAGER

Mr. Benton had requested Finance Officer David McCole make a presentation on the County's financial status. Mr. McCole's presentation included: Sales Tax Collections at 7 months – Articles 39, 40 & 42 less than last year; Tax Collections as of 3/31/09 – on target to collect what was budgeted for FY 08/09; Fees that are down: Inspections Fees, Planning fees, Register of Deeds and Excise Tax; and Budget Freeze – the County froze \$1.5 million of appropriations to offset the potential revenue shortfall. Mr. Blanchard asked if Article 39 drops, does the State drop Medicaid. Mr. McCole responded “no.” He said Article 39 money is reflective of what's going on in the County; Article 40 and 42 monies are put into a State account and distributed to counties on a per capita basis. Rivenbark asked if we dedicate Article 40 and 42 monies to Schools. Mr. McCole said part of it is mandated and we give them the rest.

Mr. Rivenbark asked if people losing their jobs will affect the tax rate next year. Mr. McCole said we may collect less, but we do budget very conservatively. Mr. McCole compared the collection rate of the fees collected to what was actually budgeted. He said in years past, we allocated more than was budgeted but because we froze the budget, it will offset what we are losing in fees. He said the low fee collection is indicative of the economy. Mr. McCole said Department Heads deserve a good deal of credit for being fiscally conscious. He said that at the end of the year what is left in their budgets reverts to fund balance because they do not try to spend it all out.

Mr. Blanchard asked if we are behind on our spending and Mr. McCole responded “yes.” He said each department is keeping in line and only spending what is necessary. He said they leave money on the table at the end of each year.

Mr. Tate asked what the greatest expense identified in departments' budgets is and Mr. McCole said “salaries.”

Mr. Tate asked if job duties have been reassessed and Mr. Benton said twenty positions have been frozen and that we continue to monitor positions.

Mr. McCole said the County is in good financial shape right now and again commended Department Heads for being fiscally responsible.

Mr. Rivenbark said they attended a meeting in Duplin County with other counties and after listening to them, Pender is in good shape.

Mr. McCole noted we don't rely on ADM money, sales tax, and some other State funds. There was discussion of State funds that are frozen; it was noted that some funds are still there – we just can't spend them.

ITEMS FROM THE COUNTY ATTORNEY

Mr. Thurman said he has an item for closed session.

ITEMS FROM THE COUNTY COMMISSIONERS

Mr. Rivenbark said it is noted in *County Lines* that the week of May 3-9, 2009 is County Government Week. He also said he has an item for closed session.

Mr. Tate said he would like to have a "State of the County Night" to invite staff, the community groups, and members of the public and press to inform them of what's going on in the County. He said he would like to hold this event on May 21st at 5:30 p.m., at the Courthouse.

Mr. Tate said the County was previously awarded a \$100,000 grant from the Division of Water Resources for the Snag and Drag Black River Project. He said the County was also awarded a state grant to fund drainage improvements on Sills Creek in the Penderlea area. Mr. Tate said we were awarded the Sills Creek grant because we had tools in hand and a plan in place. He said we need to lobby for other funds and we need to meet with Federal Legislators and have a similar plan in hand. Mr. Tate thanked Greg Thompson and County staff for putting this plan together.

PUBLIC COMMENT

A citizen, Ray Kennedy of Duplin County, distributed to the Board a resolution from Transylvania County entitled "Resolution 14-09 North Carolina Marriage Amendment." The resolution supports the theory that marriage is the union of one man and one woman at one time, and is against "same-sex" marriages. Mr. Kennedy explained that he represents a group of concerned parents supporting a marriage protective amendment. He said bills sponsoring this item have gone to Legislation but it is always passed to committees and nothing is ever done; and said some Legislators voted for it and some didn't. Mr. Tate said we have two Board members missing tonight and we want to give them the opportunity to review it before we make any decision on it. He said we will take in under consideration and get back with Mr. Kennedy. Mr. Jerry Autry of 11 Camp Kirkwood Road said the Board needs to pass it because marriage as we know it is danger. Mr. Blanchard said he wants input from the County Attorney and Mr. Thurman said it is really a State matter.

CLOSED SESSION

At 5:20 p.m. Mr. Rivenbark made a motion to enter into closed session pursuant to NCGS 143-318.11: (3) to consult an attorney employed or retained by the public body in order to preserve the attorney-client privilege; and (5) to establish or instruct the public body's staff or negotiating agents concerning the position to be taken by or on behalf of the public body in negotiating (i) the price or other material terms of a contract or proposed contract for the acquisition of real property by purchase, option, exchange, or lease; or (ii) the amount of compensation and other material terms of an employment contract or proposed employment contract. Mr. Blanchard seconded the motion and the Board unanimously approved going into Closed Session.

The Board came out of Closed Session at 5:45 p.m. There were no announcements made.

The Board recessed and took a dinner break at 5:45 p.m.

PUBLIC HEARINGS: RESOLUTIONS/SPECIAL USE PERMIT REQUESTS

17. **Public Hearing & Special Use Permit: Allen B. Williams, Applicant: Request to Operate an Entertainment Establishment Bar (Not including Adult Entertainment) Located at 21754 US Highway 17 North in the Topsail Landing Shopping Center, Hampstead, NC.**

Chairman Jimmy Tate reconvened the meeting at 7:00 p.m. Mr. Thurman swore speakers in. Planner Ashley Frank explained that this request is a request for a Special Use Permit. The applicant, Allen B. Williams, on behalf of the owners Donald and Joan Charland, is requesting approval of a Special Use Permit for the operation of an Entertainment Establishment Bar. (Not including Adult Entertainment). The staff report was reviewed, along with the application, zoning and permitted uses. Mr. Allen Williams, applicant, responded to questions from the Board. Mr. Blanchard asked the applicant about the ABC Licenses and noted that the ABC Board enforced a variety of regulations. Mr. Thurman noted to the Board that the county had no authority over the ABC rules and regulations. Mr. Williams testified to accuracy of his submission to be truthful to the best of his

ability. Mr. Tate noted that Commissioner Williams, although not present, was in favor of this request. The public hearing was closed. Mr. Blanchard made a motion to approve the Special Use Permit, Mr. Rivenbark seconded the motion and it was unanimously approved (3-0).

18. Public Hearing & Special Use Permit: Rosalind Smith, Applicant: Request to Operate a Community Center Located along Shaw Highway, Approximately 1.5 Miles North of NC Highway 210 just North of Granite Drive, Rocky Point, NC.

Ms. Frank explained that currently, the Pender County Zoning Ordinance requires a special use permit. The applicant, Ms. Rosalind Smith, on behalf of Pender County Training School/South Pender High School Alumni Association, is requesting approval of a Special Use Permit for the operation of a Community Center. The property is zoned R-20 Residential District and a Community Center is permitted in the R-20 Residential District via Special Use Permit. The applicant is requesting approval of a Special Use Permit for the operation of a community center to be located on Shaw Highway, just north of Granite Drive. On May 20, 2002, a Special Use Permit (SUP) was issued for this property and use, however a final zoning permit was never applied for, therefore the Special Use Permit expired on May 20, 2003. This is a new application with an amended site plan. The property consists of approximately two acres. The community building will consist of two mobile classrooms located on-site, which will be the headquarters for the Pender County Training School/ South Pender High School Alumni Association, Inc., monthly board meetings. The buildings will also be available to the community for a variety of activities, such as but not limited to, church conferences, after-school tutoring, adult education and small social events. The proposed hours of operation are 9 am to 5 pm and volunteers will be located on-site. The current CAMA 2005 Land Use Plan classifies the subject property as Rural Clusters. This land classification recognizes the small concentrations of distinct residential communities that may be associated with a church, other institutional or non-residential use in the Rural Areas. The primary purpose of this classification is to implement the County's Policy of "preserving existing viable residential neighborhoods." The public hearing was opened. Mr. Thurman swore in the witnesses. Ms. Smith, applicant, noted that other speakers would be representing the community center. Mr. Archie Lofton spoke to explain the community center would house the archeological and historical artifacts from the 1st Negro High School in Pender County. The association purchased 2 mobile units from the Pender County Board of Education. These units would be the home of the group's board meetings. Ms. Juanita Williams expressed interest in preserving history of the school and a need for a place to meet in Pender County. Mr. Cleveland Simpson stated the "need to preserve a legacy" and the Rocky Point location is not financially feasible; also had legal issues. Mr. Thurman asked if others wanted to indicate concurrence with other speakers rather than repeat the information. The following stated their support for the community center: Ms. W. Garrison, Baberia Williams, Katie Burns, James Williams, Lettie Clarida, and Vivian Smith. Ms. Susan Ross of 60 Granite Drive spoke on concerns about the damage the mobile units did to the private street. She also was concerned the community center may not have the funds to fix the building up so they look "nice." Ms. Ross asked what the community center would do to the property values of the residential area. In response to the concern about access on Granite Drive, Planner Ashley Frank stated a driveway permit was applied for. Also, there was a stop work order issued for the mobile units until the outcome of the Special Use Permit hearing. Mr. Justin Starks of 60 Granite Drive spoke next. Mr. Starks had similar concerns but asked how so much work could get completed without the proper permits; that the community center used the private road for access without permission. Mr. Starks stated he was not opposed to the community center- just wished they had communicated better to the Granite Drive area before the road was damaged. He too was concerned for the value of his home. Mr. Blake Amason of 40 Granite Drive spoke next. He was concerned about the location of the units, not the use itself. He entered pictures into evidence that the area is now residential. He noted when he purchased his property the Special Use Permit had expired. He also stated that Granite Drive is still "torn-up". He does not believe the community center is the right use in a residential area; he said it is in a "wrong location". Mr. Tate asked if the buildings were in the permanent location on the property? Mr. Lofton responded that they were in the general location. Mr. Amason asked for stringent landscaping to be required before approval. Mr. Darrell Weeks of 94 Granite Drive noted he has children that play outside with little worry about traffic. His concerns are that with commercial and social uses, this could negatively impact his property. Cleveland Simpson stated the community center is mindful of the neighbors' concerns and wants to be neighborly and work with the Granite Drive Neighborhood. Mr. Simpson stated the community center will not house intensive uses if the neighborhood has concerns about it.

He did offer to meet with neighbors and address their concerns. Ms. Rosalind Smith stated the sign for the community building has been located on the property since about 2002 and reiterated that they will be happy to meet with any neighbors. Mr. Blake Amason stated the sign was in the ditch when he purchased his property and he checked with the county office before he purchased his property and found out the Special Use Permit had expired. The public hearing was closed. Mr. Blanchard made a motion to approve the Special Use Permit with the following conditions besides the standard conditions on the permit: 1) Access via Shaw Highway only (NO access on Granite Drive; and 2) Community Center representatives, Granite Drive representatives with the assistance of Planning staff would need come up with a landscaping plan. The other conditions are located on the signed Special Use Permit. Mr. Rivenbark seconded the motion and it was unanimously approved (3-0).

Mr. Tate asked for a five (5) minute recess.

19. Public Hearing & Special Use Permit: Glenn Nester, Applicant: Request to Operate Retail Sales of Firearms, in Accordance with a Federal Firearms License, within Coastal Cash Exchange, Located at 14711 US Highway 17, Hampstead, NC.

The public hearing opened was opened. Mr. Thurman swore in the witness. Mrs. Frank explained the special use permit request for retail gun sales in an existing commercial retail sales business Coastal Cash Exchange. Andrew Miller, co-owner, attested that the information on the application was true and accurate to the best of his knowledge. Mr. Tate closed the public hearing. Mr. Blanchard made a motion to approve the request, Mr. Rivenbark seconded the motion and it was unanimously approved.

20. Public Hearing & Special Use Permit: Robert Moore, Applicant: Request to Establish a Family Cemetery, Located Northwest of 4926 Canetuck Road, Southeast of the Intersection of Buckle Road, Currie, NC.

Ashley Frank, Planner II explained that the property is located northwest of 4926 Canetuck Road, southeast of the Intersection of Buckle Road, Currie, NC. Ms. Frank mentioned that the property is currently zoned RA, Rural Agricultural, and that a Cemetery (all types) requires a Special Use Permit. Ms. Frank also stated that for preservation and protection of any future development encroachments, the cemetery would need to be properly surveyed and recorded. All conditions of the staff report were to be applicable. The public hearing was closed. Mr. Blanchard made a motion to approve the request, Mr. Rivenbark seconded the motion and it was unanimously approved.

ADJOURNMENT

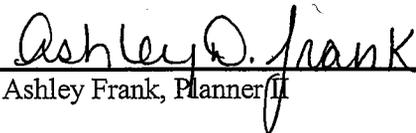
There being no further business, Mr. Blanchard made a motion to adjourn the April 20, 2009 meeting and the meeting adjourned at 8:30 PM.

Respectfully Submitted,



Glenda Pridgen, Deputy Clerk to the Board

Respectfully Submitted,



Ashley Frank, Planner II

Reviewed By:



Rick Benton, Clerk to the Board/Melinda Knoerzer, Deputy Clerk to the Board