

**MONDAY, AUGUST 3, 2009**

The Pender County Board of Commissioners met in regular session on August 3, 2009 at the Pender County Public Assembly Room, 805 South Walker Street, Burgaw, North Carolina.

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

**MEMBERS ABSENT:** None.

**OTHERS PRESENT:** Rick Benton, County Manager and Clerk to the Board; Trey Thurman, County Attorney; Glenda Pridgen, Deputy Clerk to the Board; other staff and members of the Press and public.

**CALL TO ORDER**

Chairman Tate called the meeting to order at 10:00 a.m. and thanked and welcomed all to the meeting.

**INVOCATION**

Commissioner Williams offered the Invocation.

**PLEDGE OF ALLEGIANCE**

Commissioner Blanchard led the Pledge of Allegiance.

**PUBLIC INFORMATION**

1. **Presentation by Patrice Roesler, Deputy Director of the North Carolina Association of County Commissioners: Presentation of Award to Hunter Clemmons, Pender Early College High School Student: Winner of NCACC 2009 County Government Essay Contest.**

Ms. Roesler said she is here to acknowledge work well done by Ms. Hunter Clemmons. She said Ms. Clemmons has a 4.6 grade point average at Pender Early College High School and she plans to go into the medical field. Ms. Clemmon's History Teacher, Jonathan Grubbs, said Ms. Clemmons volunteered to participate in the NCACC's Program "What County Government Means to Me" and she won. Mr. Donald Czynsz of NCACC said this is the second year of the program, which has five goals to help citizens understand what County Government does. He said they developed the Essay Contest and Ms. Clemmons won out of 190 students that applied. He said both Ms. Clemmons and Mr. Grubbs will receive \$500 each. Mr. Tate and Mr. Williams made remarks, thanked Ms. Clemmons, thanked Mr. Grubbs and congratulated Ms. Clemmons on behalf of the County. Ms. Clemmons thanked the NCACC, her teacher for submitting her application and thanked the Board of Commissioners.

2. **Presentation by Cameron Moore, AICP, Director of Governmental Affairs, Business Alliance for a Sound Economy: Update on Coastal Insurance Legislation.**

On behalf of BASE, Mr. Moore provided the Board with an update on where Pender and other counties and municipalities stand as it pertains to the Coastal Homeowners issue, and with respect to House Bill 1305. Mr. Moore said HB 1305 recently passed the House and currently resides in the Senate, where it has been referred to the Senate Commerce Committee; from there it may again be referred to Finance, or potentially go straight to the Floor. He said Representatives offered the following amendments: Representative Bill Owens: an amendment that would tie the current 1% deductible to a named storm – because of this amendment coastal residents will not pay a 1% deductible if they have any damage from an afternoon thunderstorm or related wind event, it would have to be a named storm; Representative Danny McComas: an amendment that stripped the unnecessary and onerous Flood Insurance requirement out of the bill; and Representative Dewey Hill: an amendment that would have restored the \$750,000 Beach Plan home coverage limit back to its original amount of \$1.5 million – the House Finance Committee rejected this

amendment and decided to keep what is currently in the bill, keeping the maximum at \$750,000. Two other amendments were introduced, but were not successful, that would have lowered the 10% catastrophic assessment recoupment limit down to a mandated 5%, and reduce the 10% surcharge for separate wind and hail coverage, and 20% for wind and hail for homeowners coverage down to 5% and 15%. Mr. Moore said some of the amendments failed because they are dealing with coastal areas versus western areas. He said BASE will continue to work with the NC20 coalition on this bill. Mr. Williams said the last several years, the State has spent more on ice storms than hurricanes. Mr. Rivenbark said he serves on the State Education Committee. He said they tried to change how lottery proceeds are distributed but failed, and this insurance situation is the same as lottery proceeds – it is a matter of east versus west. Mr. Moore said the positive aspect of the bill as passed by the House are: more public information and input in the rate making process; a 1% named storm deductible; mitigation credits; an installment payment program; a grant program; and the assurance that the Beach Plan surplus will be retained so the fund can grow and be in a position to cover losses should an event occur. Mr. Tate thanked Mr. Moore for his leadership in this matter.

**3. Presentation by Allie Sheffield, PenderWatch: Proposed Carolinas Cement Plant in Castle Hayne, NC.**

Mr. Williams noted this item and the next would not be up for debate. He said each side is going to present their case and the Board will move on; and this is not a public hearing. Ms. Sheffield said PenderWatch is extremely involved in the Titan issue. On behalf of PenderWatch, Ms. Sheffield provided oral and written information to the Board and said PenderWatch's main concern is to ask the Commissioners to ask the Governor to direct the Department of Environment and Natural Resources (DENR) to conduct a SEPA study (environmental impact study) about Titan's proposed kiln and quarry. Ms. Sheffield said DENR now claims that SEPA does not apply to Titan and PenderWatch thinks they are "dead wrong." She said they are not asking the Board to oppose Titan; they just want them to get involved to ask the Governor to reverse DENR's decision. Ms. Sheffield read Titan's response to inquiries from Senators. Mr. Tate asked have any legislators visited any Titan site and Ms. Sheffield responded she is not aware of them visiting any. Mr. Brown asked if the information she gave is included in the document she distributed and Ms. Sheffield responded affirmatively. The document is on file with the permanent records in the County Manager's Office.

**4. Presentation by Bob Odom, General Manager, Carolinas Cement Company: Proposed Carolinas Cement Plant in Castle Hayne, NC.**

Mr. Odom provided oral and written information to the Board on behalf of Titan. Mr. Odom clarified some misunderstandings regarding the project. His main point was why Carolinas Cement (the company that owns Titan) does not fall under SEPA guidelines. Mr. Odom said SEPA is required only if projects meet the following three conditions: an action by a state agency (issuing permits); an expenditure of public money or private use of public land; and a potential detrimental environmental effect upon natural resources and public health. Mr. Odom invited the Board to visit the plant site and to talk to adjoining neighbors. There were no questions or comments from Board members. The document is on file with the permanent records in the County Manger's Office.

**CONSENT AGENDA**

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

5. Approval of Minutes for the Regular and Closed Session Meetings of July 20, 2009.
6. Resolution Approving Tax Releases and Refunds.
7. Resolution Approving a Purchase Order to Fairway Ford for One Used Vehicle Purchase: \$11,700.
8. Resolution Authorizing Contracts and DSS Purchase Orders for Fiscal Year 2009-2010.
9. Resolution Authorizing a Purchase Order to Mason Corporation, in the amount of \$5,480.49 for Materials and Installation of Walkway Covering at Penderlea School.

10. Resolution Authorizing Purchase Orders to McCall's Hurricane Fence Co., in the Amount of \$18,993 for Fencing at the New Topsail Elementary School.
11. Resolution Authorizing Purchase Orders to Various Vendors as Listed for Painting, Plumbing and Flooring Work at West Pender Middle: \$34,942.36.
12. Resolution Approving NC Supplemental Retirement Plan Third Party Administrator Agreement.

## RESOLUTIONS

**13. Resolution Adopting Pender County Drainage Management Policy and FY 09/10 Action Plan.** Facilities and Property Manager Paul Parker and Greg Thompson of Southern Engineering presented this item. Mr. Tate thanked Mr. Parker, Mr. Thompson, Mr. Benton and Mr. Thurman for their work on this project. He asked if we had addressed funding outside of grants and the \$50,000 the Board allotted in the budget for the project. Mr. Parker said they hadn't addressed it, but it will be addressed in Section 5 of the Drainage Management Policy-Funding Resources. Mr. Parker explained one of the objectives of the Board of Commissioners' FY 09-11 Action Plan is to prepare and implement a Drainage Management Policy; the Board has recently approved a Drainage CIP outlining major drainage issues; the new policy sets forth objectives, responsibilities, common issues, and funding resources regarding drainage management for Pender County; the Action Plan sets forth specific objectives and strategies to be implemented in the coming year; Mr. Parker will be responsible for implementing the action plan in coordination with Mr. Thompson; the Policy and Action Plan were reviewed by Mr. Thurman, Mr. Benton and Chairman Tate; and the adoption of this resolution will formalize the Drainage Management Policy and FY 09/10 Action Plan. Mr. Parker explained the objectives of the Policy which are listed on the first page of the Policy. The complete Pender County Drainage Management Policy and Drainage Management Policy Action Plan are on file with the permanent records in the County Manager's Office. Mr. Brown asked, with respect to Section 3. – Responsibilities, will individuals have to pay for cleaning ditches and culverts and Mr. Parker responded "no, this is referring to future development." Mr. Tate asked if there were any studies of what other counties do with respect to charging fees and Mr. Thompson said we could charge impact fees, like utility fees. Mr. Tate asked what the Board's take on impact fees is and Mr. Williams said we can't take this action at this time. Mr. Tate said we can look at State laws regarding fees and said we can't call them impact fees. Mr. Williams said we need to get a plan on the books if we are going to try to get funding, and we need to pursue whatever is legal. Mr. Tate said other areas have created "Drainage Districts" and everyone in the district contributes. Mr. Thompson clarified that he didn't mean to imply that the County would be charging impact fees; he was just using the word as a utility. Mr. Brown asked about using the plan in Planning development and Planning Director Patrick Davenport said the new UDO will address drainage for new development, but older homes are a "hard fit." Mr. Brown asked if it would be required to have Drainage Districts to apply for funding and Mr. Tate responded "no." He said Drainage Districts focus on people who benefit from them. Mr. Blanchard said with respect to a Drainage District that is in Bladen County, some folks that are paying for it are not benefitting from it. He said Pender County charges no fee for beaver control, Duplin County does, and we should look at folks who are benefitting from beaver management paying part of the costs. Mr. Tate said we need to look to Federal Legislation to help with beaver funding, since they are the ones that brought them to Pender County in the first place. Mr. Brown said he is not in favor of citizens having to pay for beaver control. He said Lyons Swamp right across the County line has a Drainage District, and it only benefits some of the citizens. Mr. Tate said we appreciate Mr. Thompson working with Mr. Parker on this project. Mr. Williams made a motion to approve the resolution, Mr. Rivenbark seconded the motion and it was unanimously approved.

14. **Resolution Approving a Purchase Order and Contract to Port City Builders, Inc., for Renovations of the Courthouse for Security Improvements: \$396,057.**

Mr. Parker explained the final renovation design was approved by the Courthouse Renovation Committee in May, 2009; this is Phase 1 of the Courthouse project; 98% of the work is inside; there will be three parking spaces for the Sheriff Department; and Port City Builders was the lowest responsible bidder. In response to question, Mr. Parker said smoke detectors will be in all the rooms, including the Judges' Chambers. Mr. Blanchard asked if the bids came in lower than what they expected and Mr. Parker responded affirmatively.

Mr. Brown clarified with Mr. Parker that there would only be three parking places; he said four parking places were originally proposed and asked why the change. Mr. Parker said they made the parking places wider for the benefit of the Bailiffs and the Sheriff's Department because they needed more room. Mr. Tate said he is glad to see the Board moving forward on this project because the Courthouse is a historical building. He thanked Mr. Parker and the committee for their work on this. Mr. Blanchard made a motion to approve the resolution, Mr. Rivenbark seconded the motion and it was unanimously approved.

**15. Resolution Approving Revised Charter for the Topsail Island Shoreline Protection Commission.**

Mr. Blanchard explained that the revised charter is only "cleaning up" the old one and tidying up the process. He noted all three island towns in Pender County have approved the revised charter, and Pender and Onslow Counties are now being asked for their approval. Mr. Williams said he agrees 100% with the revision, and recognized Mr. Bill Morrison, Pender County Representative on the Topsail Shoreline Protection Commission. Mr. Blanchard made a motion to approve the resolution, Mr. Williams seconded the motion and it was unanimously approved.

**APPOINTMENTS**

**16. Resolution Approving Re-appointments to the Fire Commission, and Appointments to the 2010 Census Complete Count Committee.**

Ms. Pridgen explained that applications had been received from Robert Chace of the Town of Surf City Fire Department and Eddie Thomas of the Long Creek Fire Department to be re-appointed for three-year terms representing their respective districts; and applications were received from Patricia Matzke and Kathryn Wright to be appointed to the 2010 Census Complete County Committee. Mr. Rivenbark made a motion to re-appoint the Fire Commission appointments, Mr. Brown seconded the motion and it was unanimously approved that Mr. Chace be re-appointed for the Town of Surf City Fire Department representative, and Mr. Thomas be re-appointed to the for the Long Creek Fire Department representative on the Pender County Fire Commission Board, to serve three-year terms, with terms expiring on June 30, 2012. Mr. Blanchard said he has a delicate matter concerning a recent appointment to the Fire Commission, of which they have some concerns about the applicant. He said the Fire Commission voted unanimously to reconsider the appointment and the Fire Commission said they would do a better job of screening applicants in the future; and he doesn't know how to revisit the issue. Mr. Thurman said the Board can revisit the item. Mr. Blanchard said he would like the Board to reconsider the appointment and withdraw it. Mr. Williams said the Fire Commission should have provided Mr. Blanchard with an alternate and said he is concerned that the item is not on the agenda. Mr. Brown said he needs more information and said he is concerned about removing someone from a board. Mr. Tate asked if an appointment letter had been sent to the appointee and Ms. Pridgen responded negatively. Mr. Tate said regardless of whether an appointment letter had been sent or not, the gentleman was appointed by the Board. Mr. Tate asked Board members to recruit someone for the Census Committee by the next meeting. Mr. Brown asked what the Census Committee does and Mr. Benton said they educate citizens and try to get every citizen in the County to participate in the census count. Mr. Williams made a motion to appoint Patricia Matzke to the Census Complete Count Committee representing District 3, and Kathryn Wright to the Census Complete Count Committee representing District 4. Mr. Brown seconded the motion and it was unanimously approved.

**17. ITEMS FROM THE COUNTY MANAGER**

Mr. Benton said that after the Board of Commissioners' meeting in Maple Hill, staff and others had evaluated some of the issues presented by citizens at the meeting. He said Mr. Blanchard, Mr. Parker and Mr. Thompson went to Maple Hill and looked at some of the drainage situations. Mr. Thompson showed pictures he had taken and explained that most of them were driveway culvert issues. He said once a driveway is connected to the State highway, DOT will assume responsibility for it, but off-site ditches are not considered if they are off of the State right-of-way. Mr. Parker said they will take DOT representatives to Maple Hill and will notify individual property owners of what they need to do after DOT visits them. Mr. Blanchard said DOT is a big contributor to the problem. Mr. Williams said the local DOT does what it can

and said they don't have as much money as they used to. Mr. Tate said the Commissioners did a good job creating the Drainage Task Force and said they will go back to Raleigh unified with other agencies, to seek more funding. Mr. Tate thanked Mr. Williams for his work with the Wilmington Area Metropolitan Planning Organization-Transportation Division; thanked Mr. Blanchard; and thanked Lanny Wilson of the Board of Transportation. Mr. Williams thanked Mr. Tate for his support.

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

Mr. Thurman said he would have an item for closed session, referencing Items # 3, 5 & 6 of G.S. 143-318.11. Mr. Thurman said Cumberland County Attorney Grainger Barrett passed away last week from a stroke, and said Mr. Barrett had been a great advocate for government. Staff was instructed to send a sympathy card to Cumberland County.

#### **ITEMS FROM THE COUNTY COMMISSIONERS**

Mr. Williams spoke concerning a letter from Robert Simon of Scotts Hill Loop Road to Hampstead Volunteer Fire Department (HVFD), with respect to implementing a program to bring the Scotts Hill community under HVFD's umbrella of protection. He said Scotts Hill residents could become more involved in fire protection services and said we should plan to hold a public hearing in Scotts Hill to get citizen input and find out what they want for the future. Mr. Williams said Ogden Fire Department does a good job for fire protection for Scotts Hill, but we still need to get citizens' input.

Mr. Williams said there are folks here from Moores Landing interested in providing the County with property for potential public waterfront access. He said he told the property owners the County is exploring all options.

Mr. Tate thanked Board members for their feed-back on the County Manager and County Attorney evaluations and said he will report back to the full Board after he evaluates all their comments.

#### **PUBLIC COMMENT**

Mr. Cole Porter said: he owns property adjacent to the Moores Landing site; when Pender County was rezoned a few years ago it was zoned residential; two homes would have to be destroyed to put in a boat ramp; and the majority of the residents had signed a petition opposing using Moores Landing as a waterfront access site. Mr. Williams noted people from Moores Landing had been calling him to sell their property; he noted the County prefers the Lewis Road property.

Ms. Linda Dalrymple spoke on behalf of the water access site on the Moores Land property and said there are more advantages than disadvantages. She presented a petition to the Board signed by people in support of the site, and said 50 to 60 people had signed it.

Mr. Brown asked what the zoning is in the area and Mr. Williams responded some of it is residential, with a working boat ramp already there. Mr. Williams said we need to hear from Mr. Barbour of State Property Management and from N.C. Wildlife because he doesn't want to discount any work either side has done as far as getting their petitions together.

Ms. Theresa Clark said: she and some others had done research on the property and gave a history of it. She said it is a neighborhood for children; the children play in the water; she doesn't want to see the neighborhood destroyed; and if the folks in Pecan Grove want a boat ramp, why don't they build it in front of their homes. Mr. Williams noted the people in Pecan Grove have permitting issues.

Mr. Gary Webb said: he lives on Moores Landing Road; he wants to keep the beautiful community; the water there is not deep enough for boats and it would require extensive dredging; it would destroy the fishery there; and it would destroy the natural environment made for clam and oyster beds.

Mr. John Day said the Moores Landing site is only 300 feet from the Lewis Road site, and N.C. Wildlife said their site would be perfect for a boat ramp site.

Mr. Williams said it wouldn't do any good for us to try to acquire anything without Wildlife's approval, and reiterated that the County has to explore all options.

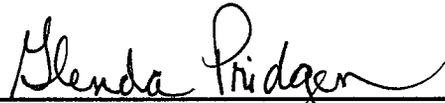
**CLOSED SESSION**

At 12:00 noon, 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 accordance in order to preserve the attorney-client privilege; (5) to establish, or instruct the public body's staff or negotiation 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; 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. Williams seconded the motion and the Board unanimously approved going into Closed Session. The Board went into Closed Session at 12:10 p.m. At 1:15 p.m., Mr. Rivenbark made a motion to come out of Closed Session, Mr. Williams seconded the motion and it was unanimously approved. There were no announcements upon exiting the Closed Session.

**ADJOURNMENT**

There being no further business, the meeting adjourned at 1:16 p.m.

Respectfully Submitted,



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Glenda Pridgen, Deputy Clerk to the Board

Reviewed By:



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Rick Benton, Clerk to the Board