

**MONDAY, AUGUST 17, 2009**

The Pender County Board of Commissioners met in regular session on August 17, 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 4:00 p.m. and thanked and welcomed all to the meeting.

**INVOCATION**

Commissioner Brown offered the Invocation.

**PLEDGE OF ALLEGIANCE**

Commissioner Blanchard led the Pledge of Allegiance.

**ADDITIONAL ITEMS: PENDER COUNTY BOARD OF EDUCATION**

Mr. Benton noted there are two additional items from the Board of Education: 1) Resolution Authorizing an Application for up to \$2.5 Million in Qualified School Construction Bonds (QSCB) to Supplement Other Capital Funding to Construct the Heide Trask High School Auditorium and Gymnasium Capital Project; and 2) Resolution Authorizing Funding for a School Resource Officer for FY 09/10. Mr. Rivenbark made a motion to approve adding the two items to the agenda, Mr. Brown seconded the motion but no vote was taken. Mr. Blanchard said he would like to discuss the items and hear what they are about before adding them to the Agenda. Mr. Thurman said it is proper to have a discussion before the vote is taken. Mr. Benton explained the items are a result of the Priority One Committee meeting held on August 14, 2009. Mr. Rivenbark again made a motion to approve adding the items and Mr. Brown seconded the motion, but no vote was taken at this time. Mr. Benton explained the two items in further detail. Mr. Tate, who is a member of the Priority 1 Committee, said they met with the School Board and decided on two issues they needed; there is some urgency to the items; he is to blame for the second item- he requested it because Penderlea and West Pender Schools don't have full-time School Resource Officers; and during the FY 09-10 Budget Process the Board designated the Sheriff a certain amount and told him to work with it-the Sheriff's budget didn't include enough to add another School Resource Officer. Mr. Williams, who is also a member of the Priority 1 Committee, elaborated on Mr. Tate's statements and said they made no promises to the School Board, but he and Mr. Tate told them they would present the two items to the full Board. He said there were several factors involving why this item was late coming to the Board, including timing. Mr. Rivenbark asked where the money is coming from for the SRO position and Mr. Benton said from the Contingency fund. Mr. Benton explained that the urgency of approving the QSCB financing application is due to the deadline for applying for the stimulus loan is August 26<sup>th</sup>, and the Board won't have another meeting before then. Mr. Blanchard asked when we received the application and Mr. Benton said several weeks ago; he said July 31<sup>st</sup> was the original deadline for the application. Mr. Blanchard asked if the School Board applied at that time and Mr. Benton said no, because they didn't know what they were going to do about this project (Heide Trask Auditorium & Gym) at that time. Mr. Brown said it is bond money, the School Board had a public meeting to receive public input and residents were in favor of it; and there is a need for a gym and auditorium in Rocky Point. Superintendent Allison Sholar said that as before, the School Board was only

given a month to apply for the funding, and they just recently found out about the extension. Ms. Sholar thanked the Board for considering adding the items to the agenda. Mr. Rivenbark said he is in favor of putting the items on the agenda because it will bring equity to the County. Ms. Sholar introduced Architect Charles Boney who demonstrated on a map the proposed auditorium and gymnasium. Ms. Sholar distributed the proposed budget that showed how they came to the total cost of \$4,399,960. Mr. Williams asked School Board Vice member Kenneth Lanier to refresh the Board with the history of how we got to this point. Mr. Lanier explained how C. Heide Trask High School originally was approved by the 2005 School Bond to have a Performing Arts Center, however, that was cut due to cost overruns on other school projects. Ms. Sholar distributed a copy of the projected cost of the building. Mr. Williams said even though the stimulus loan would be interest free, it still has to be paid back. He asked Finance Director David McCole to explain the funding. Mr. McCole said this is a good deal and that using the \$2 million in bond money, the \$1.5 million from interest from that money, the \$1.5 million the County has in the lottery/ADM money and \$2.5 million from the interest-free loans, the County would not need to use tax dollars or dip into fund balance. He said the County would make the payments on the no-interest loans, estimated at \$120,000 a year over the next 12-15 years. He said in the past, he budgeted the lottery/ADM to pay back previous bond debt, but it was never used because there were always surpluses. Mr. McCole said if we use that money for this, it will not be there next year, and the State said it will not fund ADM the next two years, so it will come from the lottery but not the ADM. Mr. Williams said the plan is creative but he is concerned that the Board of Education would be back in a few months asking for money to pay salaries (in light of the yet-unknown state budget). Ms. Sholar explained that lottery/ADM money could not be used for anything other than capital projects, and it could not be used to pay salaries. Mr. Lanier said he thinks it is a "good deal at a bad time." There was more discussion on accrued interest on bonds; the amount of interest we have to give back (arbitrage); State cuts on ADM; other reductions from the State to the Schools; stimulus money; other avenues to pay down the bond; teachers and teachers' assistant positions; space problems at Rocky Point Schools; how much tax increase it would take to fund teaching positions; and the worst case of what it would cost to pay back the loan each year if we don't have ADM monies. Mr. Tate asked if they had given any consideration of cutting Central Office staff and Ms. Sholar said they have not filled some positions and are looking to remove others. She said last Friday, the Governor made a statement concerning cutting 5% more. Mr. Williams pointed out that Pender County is about the only system around that didn't cut the School's budget. He said we have to have our budget ready by June 30<sup>th</sup> or the State will take over us; he asked who is going to take over them. Mr. Tate asked Ms. Sholar to clarify that they are not asking for support for personnel tonight and Ms. Sholar said "no. She said what is before them tonight is only a request for authorization to seek stimulus money. Mr. Tate asked Mr. Blanchard to please concede to adding the items to the agenda and Mr. Blanchard said he would make the motion. It was noted that a motion had already been made by Mr. Rivenbark and second by Mr. Brown. The Board voted unanimously to add the two items to the agenda; the items were added as Items 13a & 13b. Mr. Rivenbark made a motion to approve the two items, Mr. Brown seconded the motion and the two items were unanimously approved.

## **PUBLIC INFORMATION**

### **1. Update on Pender Memorial Hospital Activities.**

CEO David Long had other obligations and was not able to attend the meeting.

### **2. Update on Pender Adult Services, Inc. (PAS).**

Director Wes Davis presented a Power Point presentation which included: Mission Statement; Vision Statement; Through Twenty-Seven Years of Growth; PAS Today; Agency Programs; Pender Adult Services; Annual Service Totals; In-Home Aide Program; Meals on Wheels Program; Volunteer Services; Fitness Fusion Center; and Revenue Sources. The entire presentation is on file with the permanent records in the County Manager's Office. Mr. Davis said the bottom line is to reach thousands of citizens each year; their goal is to maintain folks in their homes as long as they can; with respect to funding sources, they rely heavily on grants (mostly private); Medicaid is their largest funding source; they hold

an Annual Silent Auction each November, which supports the Meals on Wheels Program; invited the Board to attend the Silent Auction this year; and thanked the Board for their support. Mr. Williams said a lot of people don't realize how PAS is funded and Mr. Davis said many people think it is part of the County government functions. Mr. Tate asked if they re-apply to the same agencies each year for the grants and Mr. Davis said they are generally one-time grants that mostly fund new projects. He said most of the grants don't like to fund operations, but sometimes they do. Mr. Brown said the PAS Building is great for various functions and thanked Mr. Davis. Mr. Tate thanked Mr. Davis, on behalf of the County, for all his organization does for the community.

**3. Update on 2010 Census.**

Ms. Kimberly Brown of the 2010 Census introduced Ms. Constance Hyman, who gave an update on the 2010 Census. She said: they are still trying to form a 2010 Census Complete County Committee; they had asked Board members to each appoint two people from their respective districts back in March; their main goal is to get the word out in communities and increase final response rates by at least 2% over the 2000 census; and she is working with Ms. Jan Dawson in the County ITS Department to get information distributed, including on the Pender County web site. Ms. Hyman also distributed written information to the Board, which is on file with the permanent records in the County Manager's Office. Mr. Tate thanked Ms. Brown and Ms. Hyman and said it is important to get the word out.

**4. Presentation Regarding Mosquito Control on State and Local Levels.**

Dr. Nolan Newton of the N.C. Public Health Division, Pest Management, Division of Environmental Control, gave an update which included: North Carolina's history of participation in mosquito control in local areas; some of the mosquito control programs-including Larvae Mosquito Control (he said Pender County does an excellent job this), and Sentinel Flock Program, which prepares local governments to receive FEMA funding and is the best method to provide the information that FEMA requires; post hurricane disaster help from the State and FEMA; educational programs on Encephalitis, West Nile Virus and Rocky Mountain Spotted Tick Fever; and educational programs on spraying efforts. He said that Pender County does a very good job at mosquito control and has competent staff who have been here a long time. Mr. Williams asked Dr. Newton to elaborate about the chemicals being utilized now because people don't see or smell the spray anymore and they think Mosquito Control doesn't come out to their areas. Dr. Newton said the spray they use now is nearly odorless. Mr Brown said he is assuming they try to get the mosquitoes before they breed and Dr. Newton said they do try to get them in the larvae stage, but they always have to spray for adults too. Dr. Newton delivered a written report which is on file with the permanent records in the County Manager's Office.

**CONSENT AGENDA**

Mr. Tate presented the eight items on the Consent Agenda and asked for any questions or discussion. Mr. Tate asked about Item Number Five, if it went through the competitive bid process. ITS Director Erik Harvey explained that this didn't go through the competitive bid process this time, but all maintenance agreements were originally competitively bid, they keep a list of all the vendors who originally bid and go back to the list when something becomes available. Mr. Tate asked if ITS actually did not go out and seek bids and Mr. Harvey confirmed that they did not. There being no other questions or comments, 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. Resolution to Approve Contract Service Renewals for the Information Technology Service (ITS) Department for FY 09/10: \$199,730.19.
6. Resolution to Approve FY 09/10 Information Technology Services (ITS) Department Capital Outlay Items in the Amount of \$108,000.
7. Resolution Authorizing Purchase Order to D L Jordan Company in the amount of \$17,995 for Installation and Painting of New Metal and Disposal of Old Metal on the Exterior of the Rocky Point Primary School.

8. Resolution Authorizing Purchase Order to Skinner Smith Construction, Inc., in the amount of \$6,338.37 for Construction of a Sewer Pipe Extension for Rocky Point Primary School.
9. Resolution Authorizing Purchase Order to Tinney Painting Company, Inc., for Change 0Order to Current Contract: \$14,626.58, and to Brame Specialty Company for Cork Boards: \$4,968 for the New Topsail High School.
10. Resolution Approving a Budget Ordinance Amendment: Increase Solid Waste Revenues: \$12,000.
11. Resolution Approving a Purchase Order and Contract to Port City Builders for the Dental Clinic Relocation: \$73,397.
12. Resolution Approving a Purchase Order to Steel Buildings, Inc., for the Purchase and Installation of One 50' x 25' Steel Building: \$24,000.

## RESOLUTIONS

### 13. Discussion and Possible Vote Regarding Publishing Board Agendas.

Mr. Brown explained he wants this item approved to keep the public informed make things transparent to the public who may not have access to computers. Mr. Williams asked if it will put more stress on staff and Mr. Benton responded that staff can handle anything the Board desires, but we would need to get agenda items two weeks ahead of the meeting, instead of the normal Monday before the meeting. Mr. Blanchard asked how much it would cost and Mr. Benton said it would cost approximately \$9,000 annually for the two papers we now use for the *Pender County Government News*. Mr. Blanchard was concerned that we would be spending this much for publishing the agenda when there are so many people out there that need help with drainage problems. Mr. Blanchard asked why, if everyone is so interested in this, he has not gotten any calls. Mr. Brown said he is just trying to keep citizens informed and this is another avenue to keep the public informed. Mr. Blanchard said what if we tell folks to get information two weeks ahead of time and then we come in with a lot of items to add. Mr. Brown asked if this is a big issue for staff and Mr. Benton responded "no." Mr. Williams said if the building/development community wants to get something in, they will just have to get it in on time; there would be stumbling blocks at first, but it would work out; governments are increasingly being accused of trying to hide things; and he supports this resolution. Mr. Brown said he knows we advertise for the Planning Department items already; if money is not the issue, he doesn't understand why anyone is opposed to trying to keep citizens informed; and there may have been times we spent \$8,000 or \$9,000 on some things that are not as important as this. Mr. Tate asked if the Board of Education publishes their agendas and Ms. Sholar responded "no." Mr. Tate asked if any other counties publish their agendas and Mr. Benton said none of the adjacent counties publish their agenda in the newspaper, but they have them on their web sites. Mr. Tate said he is not opposed to this but he would like to gather more information. He said he supported having the community meetings and maybe we didn't have more turnout because there was not enough notice to citizens. Mr. Tate said he would like to survey people on this and asked if Mr. Brown would allow it to be voted on at the next meeting and said he is not prepared to vote on it today. Mr. Brown said he would also like to change the agenda format to allow the Board to receive citizen input on agenda items prior to the Board voting on the items. Mr. Tate said he had voiced that concern at a Pender Memorial Hospital Board meeting. Mr. Benton said this will likely result in an increased number of items to be considered for addition to the agenda at the meeting and if the Board acts on one that has not been advertised, that could cause some concern. He suggested a trial period of 90-180 days. Mr. Williams wanted clarification that the policy would only apply to voting on individual resolutions, and not consent agenda items. Mr. Brown said it would only apply to individual resolutions. Mr. Tate said he thinks it is a great idea and he had heard from a Planning Board member that it is a great idea. Mr. Brown said he wants a vote on both items. After more discussion, Mr. Brown agreed to table the item. Mr. Williams made a motion to table Item Number 13 to the next meeting, Mr. Brown seconded the motion and it was unanimously approved.

## **APPOINTMENTS**

### **14. Resolution to Consider Appointment & Re-appointment to the Pender County Fire Commission & Possibly the 2010 Census Complete Count Committee.**

Ms. Pridgen explained that the Board is being requested to reconsider re-appointing Bill George to the Fire Commission to represent the Burgaw Fire Department, with term to end June 30, 2012; and to consider appointment of Demetrice Keith to the Fire Commission to represent an At-Large position, with term ending June 30, 2012. Mr. Blanchard noted that Ms. Keith is to replace the person previously appointed to the Fire Commission on June 20, 2009 (Mark Baribeault). Mr. Brown said removing someone from a board has always had concerns for him because the first time he sat at a Board of Commissioners meeting, a member of a board was erroneously removed. He added he understands that in this case though, there are extenuating circumstances. Mr. Tate noted Ms. Keith is a positive choice to the Fire Commission-he said she will be the only female and she is from the western side of the County. Mr. Blanchard made a motion to remove Mr. Baribeault and replace him with Ms. Keith, and to re-appoint Mr. George. Mr. Williams seconded the motion and it was unanimously approved.

### **15. ITEMS FROM THE COUNTY MANAGER**

With respect to Item 1a. – Consideration to Designate Dr. Shiver as Lead Contact in Child Support Services Transition from the State to Pender County - Mr. Benton explained that as part of the State Budget Program, effective next July 1<sup>st</sup> the County has to take over the Child Support Services Program. He said he asked Dr. Shiver if she would act as Lead Contact person and she concurred. The Board concurred to have Dr. Shiver as the Lead Contact in Child Support Services Transition from the State to Pender County

Mr. Benton said he submitted three grant applications today for the waterfront access site: Lewis Road, Moores Landing Road and Roberts Road.

With respect to Item 1b. – Presentation of County Governmental Campus Concept – Mr. Benton explained that at the winter retreat the Board had asked that he look at developing a concept for a consolidated governmental campus. Mr. Williams noted it would probably be a twenty-five year study. Mr. Benton introduced Architect Warren Wilson to present a concept developed with the assistance of Mr. Parker and Mr. Benton. Mr. Wilson introduced Architect Melissa Sexton who presented a video and explained it and the overall concept. Mr. Benton asked the Board members to take time to review the concept and provide feedback. Mr. Benton noted a timeline and financing plan would be prepared for further discussion, perhaps at the retreat.

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

Mr. Thurman said he has several items for closed session, citing Items 3 and 6 of the General Statutes.

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

Mr. Williams said the lights are being hung this week at the Hampstead Kiwanis Park; he will bring photos later; and thanked the Board for allocating funds to help with this project. Mr. Tate said he had heard that Mr. Williams built a bridge himself at the Park and thanked Mr. Williams.

Mr. Rivenbark noted that Mr. Tate had been appointed to the State Youth Advisory Council by the Governor.

## **PUBLIC COMMENT**

Ms. Sholar thanked the Board and said she wants the teachers and teachers' aides to know they want them back.

Ms. Patricia Corbett of the Long Creek Community invited the Board and those in attendance in the audience to the Eighth Annual Rocky Point Parade and Harvest Festival. She said they are currently working with the Brigade Boys and Girls Club of Wilmington to form a partnership to expand their programs to their community.

## **CLOSED SESSION**

At 6:57 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 (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. At 7:02 p.m., Mr. Rivenbark made the motion and Mr. Williams seconded to come out of closed session. There were no announcements upon exiting the Closed Session.

## **APPEAL**

### **16. Appeal of Denial of Preliminary Plat Approval for Schoolview Subdivision from the Planning Board Meeting of July 7, 2009.**

The Public Hearing opened at Planning Director Patrick Davenport explained the applicant on behalf owner TIOGA, LLC, is requesting the Pender County Board of Commissioners to hear an appeal pursuant to Section 3.5C of the Pender County Zoning Ordinance; the Pender County Planning Board at their July 7, 2009 meeting, denied the revisions to the Preliminary Plat; the proposal consists of 21 lots ranging in area from 20,000 to approximately 24,000 square feet to be developed on 15.68 acres; the proposal is considered an amendment to the previously approved Preliminary Plat for Scott Gerow Subdivision, now known as Schoolview Subdivision; the proposed subdivision is located off of NC Highway 133, across from Cape Fear Elementary School in Rocky Point; the Planning Board previously approved a subdivision layout with the sewage disposal located on each individual lot; the amendment to the approved Plat proposes the placement of the septic systems in the common area/open space; the revised preliminary plan is proposing the area (approximately 0.71 acres) between the drain fields (encumbered open space) to count towards provided open space; after the encumbered open space proposal was denied by the Planning Board, the attorney for the developer proposed a "fee in lieu of open space"; although the Subdivision Ordinance contains a definition of "Fee in Lieu of" definition, the Planning Board did not accept the proposal due to an inadequate amount of time to review the documents because they were not included in the agenda; and the Board of Commissioners is requested to: 1) uphold the decision of the Planning Board; 2) reverse the decision of the Planning Board by accepting the .71 acre between the septic drain fields as qualifying open space; 3) remand the issue back to the Planning Board for consideration of accepting a fee in lieu of accepting the .71 acre as qualifying open space dedication; 4) accept the fee in lieu of open space shortage offered by the Applicant; or 5) determine an acceptable fee in lieu of amount if the applicant's offering is not appropriate. Mr. Davenport said the Planning Department does not have a clear definition of open space, but the Board's decision can be based on one of the five above-mentioned options.

Mr. Williams said he did some investigating of this item himself. He asked if the Planning Board could have accepted a fee in lieu of and Mr. Davenport said it was only introduced the night of the meeting and

the Planning Board didn't have time to review it. Mr. Williams asked if it is legal to use the fee in lieu of and Mr. Thurman responded affirmatively. Mr. Williams said he feels like we should vote on the item tonight and move on.

Mr. Brown said it would have been easier for the Planning Board to make a decision if the definition was in the plan. He asked if the drain fields were included in open space and Mr. Davenport responded that the actual leachfields are not included in the open space calculation and that the area of dispute is the areas located in between the leachfields. Mr. Brown asked if they can use the space for recreational purposes and Mr. Davenport said the Health Department informed staff that it would be permissible to allow recreational activities on top of the drain field areas, but no structures could be allowed to be placed in that location.

Mr. Blanchard said we should go back and get New Hanover County's formula and see how it applies to this. Mr. Davenport said the City of Wilmington has a good formula but he does not have the details with him. It was noted that the Ordinance does speak to the question of what a payment in lieu fund may be used for, but it does not address the manner of calculating the amount to be "paid in lieu." There was discussion of open space definition; drain fields; New Hanover County and the City of Wilmington's formulas for setting payments in lieu of dedication; what the payments can be used for (parks and recreational; and the criteria for open space areas.

Jimmy Fentress of Stroud Engineering spoke on behalf of the developer. Mr. Fentress said this is an effort to expedite the continuation of the development; the Planning Board could not make a decision in a timely manner so that is why he is here; he knows the drain field areas are not geometrically continuously, but there is no geometrical requirement in the Subdivision Ordinance for open space, other than area; and the developer; and the current tax value for the development is \$72,016 for a total of 16.05 acres, the .71 acre in question is \$3,186. Mr. Fentress suggested the Board consider Item # 4 or Item # 5. He referred to a letter from the applicant's attorney, Charles T. Busby, in which Mr. Busby stated that based on all of the information available, and with no other standard set out in the Pender County Ordinance, TIOGA, LLC Would contend that the property amount for the payment in lieu of open space in this case would be between \$3,186 and \$7,600. Mr. Williams said with respect to Mr. Busby's letter, he can see appoint to it.

There was discussion and question of why the Planning Board turned down the payment in lieu, whether the Planning Board could make a decision if it was sent back to them; they can put a building only on the .71 acres; and the time that would be expended if the item went back to the Planning Board. Mr. Brown asked how this Board is supposed to make a decision with no further information than the Planning Board had. Mr. Williams said we have no ordinance, so this board is in charge of making the decision. Mr. Williams said there are issues on two sides, including the soils didn't come back as they should. He said since they are offering anywhere from \$3,186 to \$7,600, we should take the \$7,600 and let them go ahead with their project and let them get on our tax books. Mr. Thurman said Millers Pond is nearby this site and some of the monies could be used for this. Mr. Williams and Mr. Tate said this is a unique situation that needs to be defined. Mr. Blanchard said personally, he could defend \$10,000 as an appropriate fee in lieu of space better than \$7,600. He said the money could be used for parks in the area and we need to get the fee in lieu of open space. Mr. Brown made a motion to officially accept Item Number 5 of Planning Staff's options "***Determine an acceptable fee in lieu of amount if the applicant's offering is not appropriate***" (\$10,000), and allow the developer to amend the approved Preliminary Plat for Schoolview Subdivision. Mr. Blanchard seconded the motion and it was unanimously approved.

## **PUBLIC HEARINGS**

### **17. Public Hearing for Consideration of CDBG Grant.**

The public hearing opened at 7:43 p.m. and closed at 7:45 p.m. Mr. Benton explained Pender County is preparing an application to the NC Department of Commerce for a Small Cities Community Development Block Grant; the application will request approximately \$673,250 in CDBG-ED funds (\$655,250 low interest loan and \$18,000 grant); the project is a partnership between Pender County, Pender Progress Corporation, the Town of Burgaw, Wilmington Industrial Development (WID), and Four County EMC; and the public hearing is to seek public input. There was no public input or comments from the Board. Mr. Blanchard made a motion to approve the application, Mr. Williams seconded the motion and it was unanimously approved.

Attorney R.V. Biberstein spoke on behalf of Pender Progress and WID and gave a history of their quest to provide a shell building in Pender County. He explained: they had set aside money at one time for the building; Pender Progress and WID will generate 80% of the traffic looking for a building; Pender Progress is donating the lot for the building; all of the entities involved will work together to produce a 40,000 square foot building; and they are already getting inquiries about the building.

### **18. Public Hearing and Possible Adoption of the Topsail Area Comprehensive Transportation Plan Dated June 27, 2009 – NC Department of Transportation.**

The public hearing opened at 7:45 p.m. and closed at 7:48 p.m. Mr. Bray could not attend the meeting. Mr. Don Eggert of Cape Fear Council of Governments and Scott Walston of the N.C. Department of Transportation in Raleigh, were in attendance. Mr. Eggert explained: the Transportation Planning Branch has developed the Topsail Area Comprehensive Transportation Plan to guide in the development of the transportation system in the Topsail area, which includes portions of Onslow and Pender Counties and four towns (Surf City, Topsail Beach, North Topsail Beach and Sneads Ferry; the four towns involved and Pender and Onslow Counties are working together and the outlook is real encouraging; and the four towns involved have already adopted the Plan and the Plan is also being presented to Onslow County officials tonight. Mr. Williams thanked all volunteers and folks who put time and effort into this project. Mr. Williams made a motion to adopt the Plan, Mr. Blanchard seconded the motion and it was unanimously approved.

### **19. Public Hearing and Resolution Approving Amendments to the Pender County Road Naming Ordinance and the Pender County Property Addressing and Display Ordinance.**

The public hearing opened at 7:49 p.m. and closed at 7:51 p.m. Addressing Coordinator Jan Dawson explained: Pender County originally adopted a Road Naming Ordinance in December of 1990; the ordinance was amended in 1991 to include a Display Ordinance, and subsequently amended in 2002; Emergency Management was responsible for enforcing all aspects of the current ordinance and he 911 Addressing Coordinator position was under the authority of the Emergency Management Department until November of 2007, at which time the position was transferred to the Information Technology Services Department; it is necessary to further amend the ordinances to include the changes due to the transfer of responsibility to another department; in addition to those changes, the department has strengthened existing language and added new language that will possibly allow the department to have more consistent road naming and addressing procedure; and they are also requesting to dissolve the Road Naming Committee. There was no public comment or comments from the public. Mr. Williams made a motion to approve the resolution, Mr. Brown seconded the motion and it was unanimously approved. The public hearing opened at 7:52 p.m. and closed at 9:00 p.m. Mr. Thurman swore in the witnesses.

### **20. Public Hearing and Resolution to Approve a Special Use Permit – Sewer/Water Treatment, Storage & Processing Facilities, Including Lifts and/or Pump Stations.**

The public hearing opened at 7:52 p.m. Mr. Thurman swore in the witnesses. A break was taken to allow the public present to assign a spokesperson to represent their interests. The public hearing reconvened at

9:05 p.m. and ended at 9:45 p.m. Mr. Davenport explained the property is zoned R-20, Residential District; this is an amended request from a previous denied application which was heard August 18, 2008, was denied by a unanimous vote of the Board, and was tabled at the June 2, 2009 Board meeting; and the project will consist of a 400,000 gallons per day treatment plant. Mr. Davenport also illustrated various maps regarding the site. Jimmy Fentress, Mark Walton and Stuart Franck (one of the partners), were present to speak on behalf of the project and presented a Power Point presentation on the project. It was explained this is a revision of the original project; they had organized community meetings and had met with Thurman Casey (representative for Rocky Point citizens) and other adjacent property owners to explain the project; the three different plans they had presented earlier; and the biggest problem they had was the drainage issue and they had addressed that problem-the proposed facility would not contribute to existing drainage problems. Mr. Casey pointed out that there is no fire station and Mr. Fentress said they had donated an acre of land for a fire station; any future development would have to meet all local and state permits; and they can provide adjacent properties septic if theirs fail. Mr. Blanchard clarified that they will make sewer/septic services to adjacent property owners and Mr. Fentress said "yes." Mr. Thurman said the County hadn't received any notification of them donating land. Mr. Fentress said they are donating the land to the Fire Department; he had represented this project before; they had worked diligently to come up with a plan that would have the least impact on the neighbors; the new plan contains no infiltration pond-they now propose to irrigation on the entire 1200 acres; and the application is for the wastewater treatment facility only. Mr. Brown asked why they changed from the pond to irrigation and Mr. Fentress said they changed to address neighbors' concerns-he said the water will now be more spread out. Mr. Brown asked whose idea it was for a drainage study and Mr. Fentress said it was his idea and he did the study. Mr. Brown said he thought Greg Thompson was supposed to do the study and Mr. Fentress said they thought it would be a conflict if Mr. Thompson did it. Mr. Tate said he agrees with Mr. Brown on the fact that they changed engineers to do the drainage study. Mr. Fentress said he felt competent to do the study, and Mr. Thompson's impartiality was questioned because he provides studies for the County. Mr. Walton spoke on the environmental aspects of the proposed facility. He said the site has now been relocated 900' from the main road, and it is reclaimed water, which the water effluent has been highly treated and meets the reclaimed water effluent criteria. Mr. Williams asked if this system is even better than the one at Belvedere and Mr. Fentress said they are the same standard. He said the benefits of reclaimed water include reducing stress on drinking water resources and said there are benefits of having a wastewater treatment facility instead of individual systems. Mr. Brown asked if Mr. Fentress is saying in his opinion, what is coming out of sprayers is less dangerous than what is there now and Mr. Fentress responded affirmatively. Mr. Brown asked if in the event of hurricanes and beaver dams, would it have any negative impact on adjacent properties and Mr. Fentress responded the plant can not be in the floodplain. He said the water from this is 98.6% better and said there are other reclaimed water facilities in Pender County.

Mr. Casey said he owns property right across from the site (both sides of Adkinson Creek) and he doesn't understand how it got zoned R-20 when it is in the 100-year floodplain area. Mr. Fentress said the areas they took property owners to look at were not in the 100-year floodplain. Mr. Casey presented more discussion of drainage studies; beaver; real estate; concerns with welfare, health and safety of Shaw Highway residents, and an impact study. Mr. Williams asked if the County had not done something that is legally required by FEMA and Mr. Davenport responded the County is not under obligation to do an impact study on private property. Mr. Thurman said it sounds like Mr. Casey is talking about environmental concerns and said he is unaware of anything the County has to do. Mr. Tate noted Mr. Benton had recently worked on a Stormwater Plan and asked if was aware of anything. Mr. Benton responded "no."

Ms. Rachel Schwartz of USDA said she is here to help improve drainage issues. She said if the County does snagging and dragging, she would be willing to blow up beaver dams. Ms. Schwartz said she was contacted by Mr. Casey to walk the creek on his property, he gave her permission to perform beaver

control on it, but after the drainage study was done, he took back his permission for her to enter his property. Mr. Williams said he can't understand the reasoning and asked why someone wouldn't want beaver control. Ms. Schwartz explained the contract is between Wildlife and the property owner. She said it is not just beaver clogging the creek – there Mr. Tate asked how did we went from drainage to beaver and Mr. Brown said this is a flood area and the owners did a study because this is what they were supposed to do. Mr. Tate asked if Ms. Schwartz had reviewed the site where the plant is proposed and Ms. Schwartz said "no. Mr. Tate thanked Ms. Schwartz for all she does for Pender County. Mr. Tate asked if the applicant would be interested in contributing towards drainage issues and Mr. Thurman said the Board can't approve any special use permits contingent upon payment.

Mr. Keith Lankford spoke in opposition of the project, distributed a letter to the Board concerning inconsistencies in the project application and distributed a list of recommended conditions if the Special Use Permit must be approved. Mr. Lankford's objections include: the rezoning is invalid for a number of general statute reasons; density levels; the area is not urban growth as indicated; a large scale capacity plant is not in harmony with the existing community; it will affect safety and health; nuisances and hazards will be created; this is a lot of water to be applied to that property; the plant should be moved back at least 1500 feet from all adjacent property owners; and he recommends the Board consider a third-party engineer to do a study and evaluation. Mr. Williams noted county approval is only the step in the process-the developers still have to go through quite a few steps in Raleigh. Mr. Brown clarified with Mr. Lankford that he meant the plant should be moved 1500 feet from adjacent property owners, and not the from the location it is now. Mr. Williams asked how far the site is from the highway now and Mr. Lankford said 900 feet. Mr. Williams said you won't be able to see or hear it and asked what good will moving it back an additional 600 feet do. He asked if neighbors' concerns are the location of the plant or the spray field.

Mr. Davenport said the CAMA Land Use Plan and Staff Report do refer to Rural Clusters; however, staff included the wrong information in the presentation.

Mr. Keyes McGee spoke in opposition of the plant on behalf of his father-in-law who owns property in the area, and presented a slide show. Mr. McGee's objections include he agrees with Mr. Casey on the issues with the creek; Mr. Casey called a community meeting on May 9<sup>th</sup> but he was not contacted until June 10<sup>th</sup>; the report doesn't include a lot of flow; the plant should be moved further away from the neighbors; his neighbors said it is a race issue that they are putting the plant in this neighborhood; and said the examples of other plants the applicant gives are in other communities. Mr. Williams said there are several wastewater treatment plants in subdivision in the Hampstead area, including Belvedere, and there are no complaints about them.

Mr. Joel Rouse said his main concern is other wastewater facilities he has seen were above ground and this one is not; the area is soggy and wet right now, even without heavy rains; the 2003 Rezoning was concerning future rezoning; the Board needs to look at the 2003 Rezoning and fix it before someone is held accountable; and the Board is looking at only one part of the plan.

Ms. Wanda Alexander said she is a fourth generation owner of property in this area; the area is not conducive for a wastewater treatment plant; and mostly elderly people live in the area and the Board should consider this. Ms. Alexander presented slides of Hurricane Fran in 1996, which were entered into evidence (Ms. Alexander said she would submit the pictures on a CD. Mr. Williams asked about the elevation of the plant versus the elevation of Shaw Highway and Mr. Tate said the plant is 8' higher than the road. He added the plant site is not in the floodplain. Ms. Alexander said what helped them during Hurricane Fran were the trees across the street and if this project is approved, the trees will be destroyed. She said there are only risks in the community for this project, and no returns for the community.

Ms. Dolores Smith said she is a new resident to the area and moved here for the peace and quiet; the water flows straight down in back of her yard; no one wants to lose their home; the Board needs to hear everyone that wants to speak-not just one or two; the builders built an illegal ditch in back of her house; people just want to take dollars and don't care about the surroundings; and the next thing you know, there will be lots of houses in the area.

Attorney Matt Nichols said the experts say the facility being proposed is in the Special Table of Permitted Uses in all districts, and the water quality of the plant will produce better end results than individual septic tanks.

Mr. Williams said when it comes to runoff from the development itself, he assumes there will be other types of ponds to catch the runoff. He said the plant itself is legal and that is what we are here to make a decision on.

Mr. Davenport said the next step would be for the developer to submit a master plan which would require design considerations for stormwater management.

Mr. Thurman said he can express no opinion; he said any applicant that meets the requirements for a Special Use Permit must be issued one. Mr. Davenport agreed with Mr. Thurman and said there would have to be very specific reasons to not issue one.

Ms. Alexander was concerned that most of the wastewater treatment plants being built are being built in black communities. Mr. Williams said most of the seven plants listed are "in his back yard." Mr. Walton said wastewater treatment plants are typically put in the development it was designed to serve. Mr. Williams said the idea that wastewater treatment plants are being built in black communities does not exist in Pender County. Mr. Fentress said none of the plants listed are in a minority development, and with respect to odor issues, they are proposed to have scrubbers for air emission and there should be no odor. Mr. Thurman asked if Mr. Fentress can give testimony that the plant will be 900' from the main road and that it will not have odor and Mr. Fentress said "yes, unless something happens, such as a breakdown.

Mr. Tate asked if when citizens made visits to other sites did they detect odors and the audience responded "yes."

There was more discussion of whether to move the plant further back; the SUP for the WWTP was later approved with no unique or special conditions other than the standard ones listed in the staff report.

Mr. Fentress said it is sited on the highest piece of the property now. Mr. Brown said this is a contentious item; the area floods; he's not sure if they move it anywhere on the property it won't flood; and they are probably asking for problems if they put it anywhere on the property; the folks in the room don't always understand the true nature of some of the SUP requests-representatives of the developer said the water is cleaner and safer than the existing individual septic systems; he's heard from both sides tonight but based on the fact that this area floods, he has no choice tonight but to turn down the SUP request. He made a motion to that effect but it died for lack of a second.

Mr. Williams asked Mr. Tate to explain to the audience that the Chairman does not make motions or seconds and Mr. Tate did.

Mr. Blanchard said in light of the criteria having been met, he would have to support it.

Mr. Tate asked if all criteria had been met and Mr. Thurman said he cannot express an opinion-the Board would have to look at the criteria set out in the procedures for reviewing. He said if all requirements are met, it must have Board approval.

Mr. Rivenbark said he is concerned about the location and asked if the plant site can be moved back. Mr. Fentress said they had already moved it once before, it is not feasible to move it again, and they have to consider how other utilities will get to the plant. Mr. Blanchard said he feels the Special Use Permit Request satisfies all legal requirements and made a motion to approve the request, Mr. Williams seconded the motion and it was approved by a 4-1 vote, with Mr. Brown voting in opposition.

**ADJOURNMENT**

There being no further business, the meeting adjourned at 9:46 p.m.  
Respectfully Submitted,



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Glenda Pridgen, Deputy Clerk to the Board

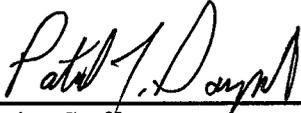
Reviewed By:



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Rick Benton, Clerk to the Board

Review of Planning Matters:



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Pat M. Dwyer  
Planning Staff