

**TUESDAY, SEPTEMBER 8, 2009**

The Pender County Board of Commissioners met in regular session on September 8, 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; Glenda Pridgen, Deputy Clerk to the Board; other staff and members of the Press and public.

County Attorney Trey Thurman came later in the morning.

**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. Update on Tourism Authority Activities: Monique Baker, Tourism Director.**

Ms. Baker noted TDA Board Vice Chairman B.J. Ryan is also in attendance. Ms. Baker distributed a press release entitled *County Spending by Domestic Visitors Increases by 2.5 Percent to \$67.9 million*, which states Pender County is 37<sup>th</sup> out of 100 counties in North Carolina in percent of increase over 2007; The press release also included: Pender County tourism impact highlights for 2008: travel and tourism industry directly employs more than 690 people in the County, total payroll generated was over \$12.2 million, state tax revenue generated totaled \$3.1 million, and approximately \$4.9 million in local taxes was generated; a statement from the Governor; and Statewide Tourism highlights. Ms. Baker also demonstrated what the new Tourism website would look like and distributed a mark-up copy of the new Tourism brochure *Friendly Faces and Places*. Ms. Ryan said: she works at Poplar Grove Plantation where the Farmers Market and other events are held; she is pleased the Tourism figures were not way down due to the economy; and Tourism is one of the leading industries of Pender County. Mr. Blanchard said he has heard that Spring Fest will be merged into the Blueberry Festival, but he does not see Spring Fest listed in the brochure. Ms. Baker said they tried to list events that draw people from outside of the County and Spring Fest is more local. Mr. Rivenbark said five of the six county municipalities are in the brochure and asked what happened to the Town of Watha. Ms. Baker said she didn't have contact information for Watha but it would be corrected in future brochures. Mr. Tate asked about Tourism's commercial and video and Ms. Baker said they are hoping to merge them to make a larger video.

**2. Information Regarding October 1, 2009 Landfill Ban on Plastics, Wooden Pallets, and Used Motor Oil Filters.**

Administrative Assistant Melinda Knoerzer explained that state environmental officials are encouraging North Carolina residents to do their part to keep motor oil filters, wooden pallets and plastic bottles out of landfills, and that effective October 1, 2009, these items are banned from solid waste disposal in North Carolina. Ms. Knoerzer delivered a PowerPoint presentation which included: State Goal is to Recycle 2

Million Tons by 2012; NCGS 13A-309.10: Landfill Bans; Getting the Word Out; Set a Good Example; Teach Your Children; Impact to Pender County; Community Impacts; Potential Benefits; Potential Problems; Where Do They Go; and Where Do They Go Next. The entire presentation is on file with the permanent records in the County Manager's Office. Mr. Blanchard asked about getting a used oil filter drop at the northern end of the County and Ms. Knoerzer said she will look into it. Mr. Tate thanked Ms. Knoerzer for all her work to help meet state guidelines in this matter.

### CONSENT AGENDA

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

3. Approval of Minutes for the Regular and Closed Session Meetings of August 3, 2009 & August 17, 2009.
4. Resolution Approving Tax Releases and Refunds.
5. Resolution Accepting Petition to Add Gobber Court, Jakes Drive, Cheuff Court and Grey Beard Drive in Willow Bay Section III Subdivision, Hampstead, NC, to the State Maintained System and Authorizing the County Manager to Submit the Petition to N.C. Department of Transportation.
6. Proclamation by the Pender County Board of Commissioners: Designate the Month of September as 2009 National Alcohol & Drug Addiction Recovery Month.
7. Proclamation by the Pender County Board of Commissioners: Fall Litter Sweep: September 19 – October 3, 2009.
8. Resolution Authorizing Purchase Order to Phoenix Rising Advertising for the Printing and Shipping of 15,000 Pender County Visitor's Guides in the Amount of \$6178.67.
9. Resolution Approving a Purchase Order and Contract to Robert Canady, C&C Services of North Carolina, Inc., for Floor Maintenance Service to County Buildings: \$19,572.
10. Resolution Approving a Purchase Order to T.A.C. for the Installation of Three Recirculation Pumps for the Courthouse Chiller: \$20,512.
11. Resolution Authorizing a Budget Ordinance Amendment to Transfer Funds from New Topsail High School (*Land*) to New Topsail High School (*Project*) and Approving a Purchase Order to Clancy & Theys for Landscaping and Irrigation Projects: \$95,190.
12. Resolution Authorizing a Contract with and Approving a Purchase Order to Skinner Smith Construction, Inc., in the Supplemental Amount of \$120,429 for Construction of a Sewer Pipe Extension for Rocky Point Primary School.
13. Resolution Approving Request for Qualified School Construction Bond (QSCB) Financing for Heide Trask High School.
14. Resolution to Appropriate Revaluation Fund Balance to Pay for FY 09/10 Invoices and Expenses of the 2011 Revaluation.
15. Resolution Approving Administrative Guidelines and Policies for the FY06 CDBG-ED Grant.
16. Resolution Authorizing a Purchase Order to Fairway Ford for Purchase of Law Enforcement Vehicles: \$64,584.
17. Resolution Authorizing a Purchase Order to Motorola Inc. for Purchase of Four Quantar Repeaters for use on the VIPER System: \$71,428.
18. Resolution Authorizing a Purchase Order to Motorola Inc. for Purchase of Mobile and Portable Radios for use on the VIPER System: \$159,445.
19. Resolution Authorizing Approval and Chairman Signature on CDBG-ED Grant Documents.
20. Resolution Authorizing Acquisition of Morris Tract (PIN 3393-61-8913-000) for Maple Hill Wastewater Project.
21. Resolution Authorizing Correction of Tax Mapping Error.

## RESOLUTIONS

**22. Resolution Authorizing Merging of the Town of Topsail Beach Hazard Mitigation Plan with the Pender County Multi-Jurisdictional Hazard Mitigation Plan.**

Interim Emergency Management Director Charles Newman was present to explain the resolution. Mr. Tate asked Mr. Newman for an update on yesterday's rainfall in Pender County. Mr. Newman said the Hampstead area received between eight and ten inches of rain; several roads or sections of roads were closed in Hampstead and Surf City; most of the roads were back open and most of the water had receded; and sections of Hughes Road in Hampstead had washed out. Mr. Newman explained with respect to the resolution, the Town of Topsail Beach is requesting to merge their Hazard Mitigation Plan with the County's multi-jurisdictional plan. He said the Towns of Watha, Atkinson and St. Helena are already incorporated into the County's plan. Town of Topsail Beach Mayor Howard Braxton said he thinks this is the way to go. Mr. Blanchard made a motion to approve the resolution, Mr. Rivenbark seconded the motion and it was unanimously approved. Mr. Williams said most of the rainfall yesterday was in his area and he thanked Mr. Newman for his hard work yesterday.

**23. Resolution Authorizing an Interlocal Agreement for Allocation of O&M and Capital Replacement Costs for the Highway 117 Wastewater Transmission Line Between Pender County and the Town of Burgaw.**

Utilities Director Michael Mack explained: in February 2007 the County entered into an agreement with the Town of Burgaw for the construction of a public sewer line from the Town of Burgaw to the STEVCO wastewater plant in the Town of Wallace; the County agreed to pay for the cost of upsizing the line to 20" to the Exit 390 interchange, and to 24" from the interchange to the plant; the estimated cost was \$3,000,000 in 2007; the Town is responsible for bidding and constructing the project and the County is responsible for making payment to the Town when billed by the engineer as construction progresses; the agreement approved in 2007 did not include details related to operation and maintenance responsibilities of the Town or the County, therefore an O&M Cost Share Agreement is needed to outline cost share responsibilities; the County and Town staffs have developed a proposed cost share agreement; and the County previously set aside \$1.1 million for its share of the original \$3,000,000 estimated in 2007, but the actual cost will not be known until the project is bid, at which time a capital project ordinance will need to be adopted by the Board. Mr. Tate asked for clarification that Mr. Mack said the County would be responsible for 25% of costs and the Town responsible for 75%. Mr. Mack said the 25% and 75% pertains to "fixed costs" and "Capital Reserves." He said the "Variable Costs" cost share is based on actual flow contribution of each party. Mr. Rivenbark asked if Mr. Benton and Mr. Thurman had gone over the agreement with a "fine tooth comb" and if they recommend it; Mr. Benton responded affirmatively. Mr. Tate said he was not on the Board when the original agreement was approved; that this Board is in a unique position with respect to this item; and that at this point, it might cost more to try to get out of the original agreement than to approve this one. Mr. Rivenbark made a motion to approve the resolution, Mr. Blanchard seconded the motion and it was approved by a 3-2 vote, with Mr. Brown and Mr. Williams voting in opposition.

**24. Resolution Authorizing Interlocal Agreement with the Cape Fear Public Utility Authority (CFPUA) to Share in the Costs for Development of Regional Wastewater Infrastructure to Serve the US 421 Industrial Corridor in New Hanover and Pender Counties.**

Mr. Mack explained: for many years, the US Hwy 421 corridor has been identified as a growth area for the expansion of the regional economy for the benefit of Pender and New Hanover Counties; Pender County implemented its strategy for industrial development on US Hwy 421 by purchasing approximately 350 acres of land from BASF in 2006 for a water plant, future wastewater treatment plant and industrial/commerce park; Pender and New Hanover Counties adopted an Interlocal Agreement in 2007 to initiate and share in the cost of an engineering analysis and environmental assessment for a regional wastewater treatment plant benefitting from the New Hanover County discharge permit and the Pender County industrial park site; New Hanover subsequently merged its utility operations into CFPUA and its

wastewater discharge permit transferred to CFPUA; and this resolution will authorize the execution of the Interlocal Agreement and the encumbrance of \$364,815 available in the Wastewater Treatment Plant Capital Improvement Program Budget (Fund 84). Mr. Rivenbark asked if the Manager and Attorney had reviewed the agreement and Mr. Benton responded affirmatively. Mr. Williams made a motion to approve the resolution, Mr. Rivenbark seconded the motion and it was unanimously approved.

**25. Resolution Authorizing the County Manager to Negotiate a Proposed Contract with Cherry Huffman Architects for Regional Library Facility.**

Library Director Mike Taylor explained: the Board of Commissioners appointed and authorized a building committee to request qualifications from architectural firms interested in designing the proposed Topsail Regional Branch Library and renovations to convert the existing library into a county government office annex; the request resulted in sixteen responses to be considered; each committee member read each proposal and evaluated them based on eleven criteria; six firms were interviewed and scored-Cherry Huffman was identified as the highest ranked firm; if a satisfactory proposal from Cherry Huffman cannot be negotiated, there are other high ranking firms that could be negotiated with; and the project had been in the making for several years. Board member comments included: Mr. Williams agreed the project goes back at least a couple years and thanked Mr. Taylor, the committee and the Manager for their work on it, and thanked the Board for their support; Mr. Rivenbark said this is a good time to receive construction bids; and Mr. Tate said he is glad to see the project moving forward and said the current Hampstead Library is very crowded. Mr. Williams made a motion to approve the resolution, Mr. Rivenbark seconded the motion and it was unanimously approved.

**26. Resolution Approving a Purchase Order to Mazzarone Construction, Inc., for Construction of Utilities and Restroom Facility at Hampstead Kiwanis Park, Phase II: Project: \$103,700.**

Facilities and Property Manager Paul Parker explained: this is the last item of Phase II of the Hampstead Kiwanis Park Project; a pre-bid was held at the Park on August 12<sup>th</sup>; four informal bids were received; Mazzarone was the lowest qualified bidder; due diligence was completed by the engineering firm; funds are budgeted in PARTF Capital Outlay and CIP/Parks accounts; the construction bid had to be separated from the utilities bid; and hopefully, the work will be complete by the middle of October. Mr. Rivenbark was concerned about the fact that Mazzarone's bid was so much lower than the others. Mr. Parker said Mazzarone's may be lower because they are already on board at Pender Memorial Park. He said Mazzarone is bonded and insured. Mr. Williams said it is nice when we can use local contractors, but we can't always; thanked Mr. Parker and staff for their work on this; and said a lot of positive things are going on with the Parks Department. Mr. Williams made a motion to approve the resolution, Mr. Blanchard seconded the motion and it was unanimously approved.

**27. Discussion and Possible Vote Regarding Publishing Board Agendas; and Receiving Citizen Input on Agenda Items Prior to Board Voting on Agenda Items.**

Mr. Brown explained that he is requesting approval of this resolution so folks that don't have access to the internet can be informed about what this board intends to vote on. He noted he had this item put on a previous agenda but he had asked that it be tabled. Mr. Williams asked for clarification that this policy would not apply to every item on the agenda and Mr. Brown said it would only apply to resolution items. Mr. Benton explained that if approved, his office would have to have agenda items **two** weeks before the meeting, instead of the current requirement of having them the Monday **one** week before the meeting. Mr. Blanchard asked how much it would cost and Mr. Benton responded approximately \$9,000 annually to publish in the three local papers; he noted we currently advertise in the Pender Post and Topsail Voice. Mr. Brown said he knows \$9,000 is a lot of money, but it would be spent for a good purpose. Mr. Williams said he agrees with Mr. Brown. Mr. Blanchard said since the County would be spending approximately \$9,000 of taxpayer money to accommodate only a few people, we should put on the bottom of the agenda ad how much we are spending on it. Mr. Brown disagreed and asked if we are

going to put the cost at the bottom of every item we advertise. Mr. Rivenbark said in view of wasting taxpayers' time, he will make a motion to approve the resolution for a six-month trial period. Mr. Brown seconded the motion and it was approved by a 4-1 vote, with Mr. Blanchard voting in opposition. Mr. Benton suggested we start the publication of the agendas with the first meeting in October and Board members concurred. Mr. Thurman noted Mr. Rivenbark made the motion before Mr. Blanchard expressed concern about the costs and the Board generally agreed to print the cost of publishing the agenda at the bottom of each ad.

#### **APPOINTMENTS**

**28. Resolution to Consider Appointment to the Pender County Fire Commission & Pender County Tourism Development Authority (TDA).**

Ms. Pridgen explained that Chris Moore is now the chief of the Rocky Point Fire Department and the Department recommended appointing Mr. Moore to represent them on the Fire Commission. Mr. Rivenbark made a motion to appoint Chris Moore to serve a three-year term on the Fire Commission representing the Rocky Point Fire Department, with term expiring June 30, 2012. Mr. Blanchard seconded the motion and it was unanimously approved. Ms. Pridgen explained the Board previously set policy to allow Chambers of Commerce to rotate one-year terms on the TDA; Topsail's term expired this year; it was previously agreed that Burgaw Chamber would serve next; and Burgaw Chamber recommended Patricia Davis be appointed to represent them. Mr. Blanchard made a motion to appoint Patricia Davis to serve a one-year term on the TDA representing the Burgaw Chamber of Commerce, with term expiring August 31, 2010. Mr. Rivenbark seconded the motion and it was unanimously approved.

**29. ITEMS FROM THE COUNTY MANAGER**

Mr. Tate said at the NCACC Conference recently held in Catawba County, the Governor announced the return of the ADM funds to the County. Mr. Williams said the state has threatened to take the ADM funding away from the County every year since he has been sitting on the Board, and said it is very frustrating.

Mr. Benton asked about changing the first meeting in December to the 14<sup>th</sup> instead of the 7<sup>th</sup>, since there will be only one meeting for that month and there wouldn't be another one until January. Mr. Blanchard said this item is not listed on the agenda and it would require a unanimous vote of the Board to add it. Mr. Rivenbark made a motion to add the item and Mr. Williams seconded the motion. Mr. Blanchard opposed adding the item and said it could be put on the next agenda. The motion and second died for lack of a unanimous vote.

Mr. Benton called Mr. Mack forward to present an update on Public Utilities Projects. Mr. Mack delivered a PowerPoint presentation which included: Water Treatment Plant-2 MGD Facility and 24-inch Transmission Main, Site Layout Details, Schedule, and Rocky Point/Topsail Water & Sewer District Customer Summary Upon Completion of Water Treatment Plant; Scott's Hill Water Distribution System-102,000 LF of Distribution Main; Rocky Point/Topsail Water & Sewer District-Phase 5 Distribution; and Maple Hill Community Sewer System. The Board discussed the projects and Mr. Mack answered questions from Board members concerning the projects. A copy of the complete presentation is on file with the permanent records in the County Manager's office.

**ITEMS FROM THE COUNTY ATTORNEY**

Mr. Thurman said: Attorney Rick Biberstein's office will be handling the closing on the land acquisition for the Maple Hill Wastewater Project and said there would be a number of items for closed session. Mr. Thurman informed the audience that approval of the consent agenda by the Board included authorization to correct a tax mapping error which incorrectly resulted in a transfer of property ownership involving the

heirs of property denoted as PIN # 2374-64-7982. Mr. Tate thanked Mr. Blanchard, Mr. Thurman, Mr. Benton and everyone involved in working together to get this error corrected.

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

Mr. Rivenbark reported on Catawba County's EcoComplex Tour he took during the NCACC's Annual Conference. He said it is the goal of the Catawba County Regional EcoComplex and Resource Recovery Facility to develop a system that will recover all useable products and by-products from a group of private and public partners. The group works together to use each other's waste products either as a source of energy, such as electricity, or as a raw material for production of their own products, such as pallets from lumber.

Mr. Tate noted Mr. Rivenbark has been chosen to serve at the state level by the Association of County Commissioners.

Mr. Brown asked about an item on health insurance that was previously requested by the Board of Education. Mr. Benton said he polled the Board of Commissioners and shared the results with the Chairman of the Board of Education.

Mr. Williams asked Planning Director Patrick Davenport and Sheriff Carson Smith to provide an update on Internet Cafes and Gambling. Mr. Williams said there are two sites that he has heard about. Mr. Davenport said the two sites were originally permitted as general retail, and zoning has nothing to do with gambling. Sheriff Smith explained a Superior Court Judge in another part of the State filed an injunction which puts law enforcement on hold concerning internet cafes and gambling, and basically makes gambling legal. There was discussion on the Judge's law suit, internet cafes and gambling, the bill introduced to outlaw video poker machines, Brunswick County's ordinance and how the gambling companies use the word "sweepstakes" as a loop hole to make it look like it is not gambling.

#### **PUBLIC COMMENT**

Mr. Burt Millette of Hampstead spoke concerning the notification that there will be a fee increase in the Rocky Point/Topsail Water & Sewer District. He said he is not complaining but he wants to Board to consider studying how money can be saved by billing users quarterly instead of monthly.

Ms. Betty Thompson of Highway 210 in Canetuck spoke concerning the old Canetuck School and said it is a former Rosenwald School that is currently used as a community building/polling place. She said they are seeking a \$2,000 donation from the County to initiate a feasibility study of the building to see if they can have it restored so they can make more use of it for youth and the elderly. Mr. Tate asked if they had contacted the Rosenwald Foundation because they do a lot of funding for help in Rosenwald School restoration. Ms. Claudia Clark of Rocky Point spoke and said they had researched the Rosenwald Foundation and their funds dissolved in 1932. Mr. Tate suggested she contact other agencies, including the Cape Fear Foundation and Pender County Tourism Authority. He said he will assist them in seeking grant funding.

#### **CLOSED SESSION**

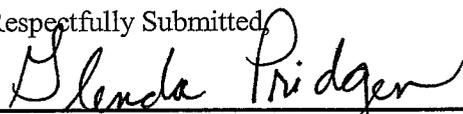
At 12:03 p.m., Mr. Rivenbark made a motion to enter into closed session pursuant to NCGS 143-318.11: (3) to consult an attorney employed or retained by the public body in order to preserve the attorney-client privilege; (4) to discuss matters relating to the location or expansion of industries or other businesses in the area served by the (public body); (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; and to include discussion of the *Hicks v. Pender County Civil*

Summons. Mr. Brown seconded the motion and the Board unanimously approved going into Closed Session. The Board took a break and then went into Closed Session at 12:14 p.m. At 1:25 p.m., Mr. Blanchard 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. Mr. Rivenbark then made a motion to re-enter Closed Session to discuss a personnel issue, Mr. Blanchard seconded the motion and the Board unanimously approved going back into Closed Session. The Board came out of the second Closed Session at 1:45 p.m. There were no announcements made.

**ADJOURNMENT**

There being no further business, the meeting adjourned at 1:45 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