

MONDAY, SEPTEMBER 21, 2009

The Pender County Board of Commissioners met in regular session on September 21, 2009 at the Atkinson School Cafeteria, 200 North Town Hall Avenue, Atkinson, North Carolina.

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

MEMBERS ABSENT: Chairman Jimmy Tate was absent due to a death in his family.

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

CALL TO ORDER

Vice Chairman Brown called the meeting to order at 4:00 p.m. and welcomed all to the meeting.

INVOCATION

Commissioner Rivenbark offered the Invocation.

PLEDGE OF ALLEGIANCE

Commissioner Williams led the Pledge of Allegiance.

Mr. Brown said that Chairman Tate is absent due to the recent death of his mother. A moment of silence was observed in honor of Mrs. Mary Jane Teachey Tate, mother of Mr. Jimmy T. Tate, Chairman.

Mr. Rivenbark made a motion to excuse Mr. Tate from the meeting. Mr. Williams seconded this motion and it carried by unanimous vote of the four Commissioners present.

PUBLIC INFORMATION

1. Update on Pender Memorial Hospital Activities: David Long

Mr. Long thanked the Board for this opportunity to update them on recent progress at Pender Memorial Hospital. He gave a digital presentation that highlighted Renovations, Capital Budget for 2010, Patient Satisfaction results, and Focus for First Quarter Fiscal Year 2010. He said they recently completed a major renovation that included a new roof on the skilled nursing facility, now rated for winds up to 150 mph. He said they have completed the repaving and restriping of the front circle and the parking lot, and expansion of the helicopter land pad to improve accessibility. Grant funds assisted with the construction of a new handicap ramp to access the physician's office and for the residents' garden. He credited New Hanover Regional Medical Center Director, Mr. Jack Barto, with generosity and leadership in completing these projects, with an infusion of capital totaling \$2,035,760.

Mr. Long provided statistical information showing that patient satisfaction is improving. He said their focus for the 1st quarter of 2010 will be: preparation for the Joint Commission, finalizing components of the Hospitalist Program, beginning renovations to the Skilled Nursing Unit room, recruiting an additional General Surgeon, maintaining consistency and continuing to improve patient satisfaction.

Mr. Brown, speaking of behalf of Chairman Tate, thanked Mr. Long and his staff for the extraordinary care given to Mr. Tate's mother on her recent visits to the hospital.

2. Presentation on Rosenwald Schools in Southeastern North Carolina: Claudia Stack

Ms. Claudia Stack, a resident of Rocky Point, gave a history of the Rosenwald Schools in Pender County. She said these schools were built during the segregation era when African American communities raised 20% to 25% of the needed funds. These were matched with funds from the Rosenwald Foundation which was credited with constructing 813 schools in African American Communities in North Carolina; 15 of which were in Pender County. She said that of the original 15, at least 7 of them are still standing, which may be the most in the state. She spoke of schools in the Browntown Community of Scotts Hill, Willard, Pender County Training School and Canetuck. She said the designs of these buildings were progressive for their era, reflecting the practical concerns of building in rural area where there was no electricity. She said the Canetuck School was built in the early nineteen "teens", and was used by the Pender County School Board until 1958 when West Pender Middle School was built. She said the Canetuck Community raised \$1,236 to build that school, but much more is needed now to preserve this piece of history. She said the Canetuck Community Center now owns the school and is seeking funding to preserve and restore the structure.

Ms. Stack invited those present to attend the "Rosenwald History Awareness Meeting" on November 13th at UNCW.

3. Flu Clinic Update

Dr. Jack Griffith introduced two Public Health Nurses administering the seasonal flu shot to anyone who wished to be vaccinated, and he provide a handout listing the past and future locations for season flu clinic vaccinations. He said that this year, the Health Department is going into all the public schools and will vaccinate students and faculty who wish to receive it. In addition, he said they will be going to industry with the small mobile clinic.

With regard to H1N1 (Swine Flu), he said they do not know how many doses they will be getting, but have a plan to disperse it no matter how much or how little they get. He said the federal government will be distributing these through the State Health Department. He said they have assembled a list of volunteer nurses to administer if we should need additional personnel. He said that although no one really knows how bad this will be, they are prepared for the worst.

CONSENT AGENDA

Mr. Brown asked the County Manager to explain a request to place a last minute item on the agenda. Mr. Benton explained that a resolution that had been submitted by the agenda deadline was inadvertently left off of the agenda. He explained that it is for the purchase of a vehicle for the Animal Control Department, and that the price quote will expire before the next Board meeting.

Mr. Blanchard then made a motion to suspend the prior notification rule and allow this item to be placed on the Consent Agenda. Mr. Williams seconded this motion and it carried by a unanimous vote of the four sitting Commissioners. This will be listed as item #9a.

Mr. Blanchard requested that item #9 be pulled from the agenda for discussion. Mr. Rivenbark then made a motion to approve the Consent Agenda with the removal of item #9 and with the addition of item #9a. Mr. Blanchard seconded this motion and it carried by a vote of 4 to 0. The Consent Agenda was approved as follows:

4. Approval of Minutes for the Regular and Closed Session Meetings of September 8, 2009.
5. Resolution Authorizing a Purchase Order to North Carolina Sound of Goldsboro, LLC, for Materials and Installation of a New Intercom System at West Pender Middle School: \$25,472
6. Resolution Authorizing a Purchase Order to North Carolina Sound of Goldsboro, LLC, in the Amount of \$39,889 for Materials and Installation of a New Intercom System at Penderlea School.
7. Resolution Approving North Carolina Sales/Use Tax Reallocation Contract.
8. Resolution Approving Lease Modification for Probation Offices Lease at 312 W. Williams Street, Burgaw.
- 9a. Resolution to Approve a Purchase Order to Fairway Ford for One Used Vehicle: \$10,500

RESOLUTIONS

9. Resolution Approving Budget Amendment to Provide Funding for Board Agenda Publication

Mr. Williams made a motion to approve this item; however, it died for lack of a second. Mr. Brown requested this be placed on the next agenda.

10. Resolution Authorizing a Contract with and Approving Purchase Orders to Raysand Building Corp. in the amount of \$1,228,648 for Construction of Classroom Additions, and to G&H Construction and Paving, Inc., in the amount of \$19,316 for Grading and Paving at Rocky Point Primary School.

Mr. Benton indicated that the reason this is not on Consent is because of the amount of money involved. He introduced Mr. Rich Dutka, School construction representative, who was present to answer questions. Mr. Blanchard asked if the school had signed off on this contract and Mr. Benton referred to a letter from the Board of Education indicating that they did. Mr. Thurman clarified that this is the School's contract and that the County did not negotiate it with the contractor. Upon a motion from Mr. Williams and a second by Mr. Rivenbark, the Board approved this resolution by a vote of 4 to 0.

11. Discussion and Possible Adoption of Board of Commissioners Rules of Procedure.

Mr. Rivenbark said that since the full board was not present he would motion to table this item until all could discuss it. Mr. Williams seconded that motion and it carried by a 4 to 0 vote.

12. Resolution Approving Amendment to Board of Commissioner Meeting Calendar.

Mr. Rivenbark made a motion to approve this item, which was seconded by Mr. Blanchard and carried by a 4 to 0 vote.

13. ITEMS FROM THE COUNTY MANAGER, COUNTY ATTORNEY AND COUNTY COMMISSIONERS

County Attorney Thurman indicated that he would have an item for closed session.

Mr. Rivenbark asked for assurance from the County Manager's Office that all departments are prepared in the event of a Hurricane. Mr. Benton asked Mr. Charles Newman, acting Emergency Management Director, if he could address this matter. Mr. Williams indicated that he had very positive feedback from the handling of the Labor Day 10 inch rainfall event in the coastal areas of the County. Mr. Newman said that First Responders from all departments and towns have been briefed and have held practice drills. He said the County is prepared for a weather emergency. Mr. Rivenbark noted that the Annual Fall Litter Sweep is underway, and that he his helping in getting the word out.

He spoke of a field trip he took while at the NACo conference, to a park in Nashville, TN, where County and Town Parks & Recreation people worked together to provide nutrition education to a targeted population of mental health recipients. He asked Mr. Benton if he is beginning to consider streamlining the budget for the next fiscal year and Mr. Benton indicated that he has begun that process.

Mr. Brown said that he is confused about how an item that was supported by a 4 to 1 vote at the last meeting now could not raise a "second" on a motion to fund it. He said he would like this matter addressed on the next agenda.

PUBLIC COMMENT

Ms. Roshawn McIntyre of Currie, NC said there are no recreational facilities or parks in her part of the County and she wanted to know how to advocate for more. Planning Director, Patrick Davenport, now in charge of Parks & Recreation, came forward and concurred that there are no public facilities in that portion of the county. He said they are actively working on a new Parks & Recreation master plan for the entire county and they will solicit public participation in this process. He invited her to attend a Parks & Recreation Advisory Board meeting this Thursday, September 24th at 5:30. He said they are currently leaning toward co-location of park like facilities on school campuses, which will create a winning situation for all involved. Mr. Brown suggested that she be given contact information for the Advisory Board member from her district. Mr. Williams shared experiences from the Hampstead Kiwanis Park and said that it all began with a donation of 80 acres of land, which became a "local match" for a Parks & Recreation Trust Fund grant. He suggested that if they know of someone who wants to donate land, they look into creating a 501(c) 3 tax exempt organization.

Mr. George Murphy of 1527 Borough Rd. said he is very active with the youth of his community and they frequently utilize the school facilities. He said they arrange for this use through Ms. Joyce Keith at the school administrative office. Ms. McIntyre said she had already met with Ms. Keith to discuss utilizing the school facilities for fund raisers. She asked if this Board would be supportive should they secure a donation of land. Mr. Williams said this board has proven that they will help wherever possible. Mr. Benton suggested that is very important for her to become involved with the Parks & Recreation Advisory Board, and that now is the perfect time to do so.

CLOSED SESSION

At 4:48 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 accordance in order to preserve the attorney-client privilege; Mr. Williams seconded the motion and the Board unanimously approved going into Closed Session. At 7:00 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.

DETERMINATION

14. **Application for Determination of Vested Rights.**
Mr. Davenport presented the case for the Board.

Mr. Brown asked the County Attorney to explain the process of which a vested rights determination should be made. Mr. Thurman briefed the Board on the procedure for a determination of common law vested rights given the unclear language in the Zoning Ordinance.

Mr. Blanchard asked in what capacity is the Board acting in this hearing, to which Mr. Thurman again explained the procedural requirements in relation to the Zoning Ordinance language.

Mr. Williams stated concern as to setting a precedent with making a decision on a vested rights issue given the questions being raised as to the procedure.

Mr. Litvak presented to the board the reason he submitted an application for the determination of vested rights, citing ordinance requirements and common law vested rights. Section 3.5 A of the Pender County Zoning Ordinance states that an application for vested right is to be heard by the Planning Board, which makes a recommendation to the Board of Commissioners.

Mr. Nicholas Pryor stated his concerns with the determination of vested right, including the unauthorized land clearing done on the Litvak property and the violation of certain HOA covenants.

Mr. Phil Stevens stated his opposition to the determination, citing fire safety, water runoff, and the setting of a precedent with the decision. Mr. Stevens stated that if the Planning Staff has made a determination there are 20 foot side yard setbacks that should be followed.

Mr. Blanchard made a motion that the Board listened to the evidence presented in this hearing and took no action. The motion was seconded by Mr. Williams and passed unanimously.

PUBLIC HEARINGS

15. Public Hearing and Resolution to Consider Request to Construct and Operate a Private, Family Cemetery Located at 18565 US Highway 421, Watha, NC.

Mr. Andrea presented the case for the Board and audience.

There being no questions of staff, the public hearing was closed and Mr. Blanchard moved to approve the request, with Mr. Rivenbark seconding the motion. The motion was passed unanimously.

The public hearing was re-opened for Ms. Shirley Corbett who wished to speak, but was not on the sign-in sheet. Ms. Corbett stated her opposition to the request, citing concerns with water contamination, decreased tax values, and the location of the cemetery with respect to her home. Mr. Andrea pointed out the location of the intended cemetery, stating it was at least 50' from the property line and would be subject to a formal property survey. He also stated that there were regulations that are mandated concerning cemeteries through the Department of Environmental Health.

Mr. Brown asked if Ms. Corbett was able to furnish documentation that the location of the cemetery would have a negative impact on her property values. Ms. Corbett stated that she did not have the information with her due to being out of town, however she would be able to obtain it.

The public hearing being reopened, Mr. Blanchard made a motion to withdraw his earlier motion, with Mr. Williams seconding. The motion passed unanimously.

Ms. Angela Keith spoke to support the request, stating it is her father's wish to be buried on the property and his plot is the only one being considered at this time.

Mr. Thurman suggested that a condition be placed on the request limiting the cemetery to just one plot. If there are additional plots requested, an amendment to the Special Use Permit would have to be obtained.

Mr. Blanchard motioned to approve the request with the condition that the cemetery contain only one plot. Mr. Williams seconded the motion, and the vote was approved unanimously.

16. Public Hearing and Resolution to Consider Request for Boat Repair and General Merchandise Retail Sales, Located at 2479 NC Highway 210 near Hampstead, NC.

Mr. Andrea presented the case for the Board and audience.

There being no questions of staff or the applicant, Mr. Williams made a motion to approve the request. Mr. Blanchard seconded, and the motion was passed unanimously.

17. Public Hearing and Resolution to Consider Request for a Zoning Map Amendment, Located at 984 NC Highway 210 West, Hampstead, NC.

Mr. Vafier presented the case for the board and audience.

There being no questions of staff or the applicant, Mr. Williams made a motion to approve the request. Mr. Blanchard seconded, and the motion was passed unanimously.

ADJOURNMENT

There being no further business, the meeting adjourned at 7:50 p.m.

Respectfully Submitted,



Melinda Knoerzer, Deputy Clerk to the Board/Planning Staff



Reviewed By:



Rick Benton, Clerk to the Board