

MONDAY, OCTOBER 19, 2009

The Pender County Board of Commissioners met in regular session on October 19, 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 Williams offered the Invocation.

PLEDGE OF ALLEGIANCE

Commissioner Brown led the Pledge of Allegiance.

Mr. Tate said anyone that wishes to speak concerning a resolution may speak before the vote is taken.

PUBLIC INFORMATION

1. Todd Menke, Assistant State Director, USDA: Update on Local Beaver Management Program and Report on what is going on Statewide.

On behalf of Pender County citizens, Mr. Menke thanked the Board for taking a proactive approach concerning beaver control. Mr. Menke's report included: Policies and Procedures; History of Beaver in North Carolina; Creation of the BMAP; Program Implementation; County Participation; BMAP Administration and Funding; Requests for Assistance; Personnel and Reports; and Obtaining Service. The entire report, along with other information Mr. Menke distributed to the Board, is on file with the permanent records in the County Manager's Office. Mr. Tate thanked Mr. Menke and thanked Ms. Rachel Schwartz, Wildlife Specialist, for her work in Pender County.

2. Johnnie Stringfield and Company: Discussion of a Family Activity Center, Basketball Court or Some Type of Recreation Center in Burgaw.

Mr. Stringfield said: Pender County needs some type of recreation to help divert the crime rate; Pender's crime rate has gone up considerably; a recreation center can act as a "prison prevention center"; right now the only attractions in Pender County are the Courthouse, Jailhouse and Prison House; and he is asking the Board for a committee or council to make this happen. Mr. Stringfield gave statistics of what it costs to house prisoners, showed the Board pictures of the railroad track near Burgaw Middle School where some type of recreation facility could be made, showed them pictures of Duplin and Brunswick County's basketball courts/tennis courts/recreation centers, and showed them a page from a local newspaper full of pictures of young criminals. Mr. Williams asked Mr. Stringfield to stay around for Item No. 5, which would be discussing the Parks and Recreation Master Plan. Mr. Stringfield said he had already spoken with Mr. Davenport regarding the plan; however, it has no provisions for an "Activity Center." He said there are people with property outside of town that are willing to partner with the County for a recreation facility, and said the Board could consider a tax hike to fund a recreation facility. There was also discussion of the possibility of forming a partnership with the Brigade Boys and Girls Club. Mr. Tate said he will instruct the Manager to look into forming a council and make a recommendation, and they will get back with Mr. Stringfield. Mr. Williams also encouraged Mr. Stringfield to address the Town of Burgaw directly.

October 19, 2009

Page 1 of 7

3. Patrick Davenport, Planning Director: Presentation of Final Draft 2010 Comprehensive Land Use Plan.

Mr. Davenport explained: since October 2008, Planning staff and Wooten Consultants have been working with the Planning Board, the Comprehensive Plans and Programs Subcommittee and the public in preparing the draft 2010 Comprehensive Land Use Plan; on October 6, 2009, staff presented the latest version to the Planning Board for a final review prior to scheduling a public hearing and the plan is reflective of comments received from that Planning Board meeting; the Public Hearing has been scheduled for November 3, 2009; the proposed schedule for the Board of Commissioners includes the first reading December 14, 2009 and the second reading and adoption January 19, 2010; and the effective date will be July 1, 2010, concurrent with the 2010 Unified Development Ordinance and the 2010 Parks and Recreation Comprehensive Plan. Ms. Patt Crissman of the Wooten Company gave a brief presentation outlining the process they had gone through, reading the names of the citizens who had volunteered their time, and highlighting some of the high growth areas in the document. Mr. Tate asked if comments from the public hearing will be incorporated into the document and Mr. Davenport said any comments the Planning Board recommends will be incorporated and they will continue to amend the document. A copy of the draft is located in the County Manager's Office, both Libraries and the Planning Offices in Burgaw and Hampstead for public viewing.

4. Patrick Davenport, Planning Director: Update on Transportation Planning Initiative.

Mr. Davenport explained: Pender County depends upon the Wilmington Area MPO and Cape Fear RPO to prioritize and forward proposed transportation projects to the State Transportation Board for further prioritization and inclusion in the State-wide Transportation Improvement Plan (TIP); there is currently no formal process in place for staff or the County to collect requests directly from the public, the Planning Board or Board of Commissioners and forward those to the MPO and RPO; and by offering an improved method and additional opportunities to collect community input for transportation improvement projects in Pender County, we could receive greater attention for future projects and funding in subsequent TIPs. Mr. Williams said as a representative on the MPO, this will be nice to have to point out to MPO Board members. It was the consensus of the Board for Mr. Davenport to proceed with this process.

5. Patrick Davenport: Update on 2010 Parks and Recreation Comprehensive Plan.

Mr. Davenport explained: staff was recently directed to update the 1998 County Open Space plan and that project is underway; staff is working with the Park and Recreation Advisory Board on this project; in the future they will take the Advisory Board on a "road show" to gather information from the public; they will save the County \$40,000 to \$60,000 by doing this in-house; they are looking at other localities and what they do; and the Master Plan is planned to become effective July 1, 2010. Mr. Williams said he wants it to go on record what other municipalities are doing. Mr. Tate asked if Mr. Davenport had shown Mr. Stringfield the schedule so he could be there for his comments. Mr. Davenport said Mr. Stringfield was at the last Parks and Recreation Advisory Board meeting and made a presentation.

CONSENT AGENDA

Mr. Tate presented the seven 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:

6. Approval of Minutes for the Regular Meeting of October 5, 2009.
7. Resolution Accepting Petition to Submit Bahama Drive and Jamaica Drive in Hampstead, NC, to the State Maintained System for Repaving; and Authorizing the County Manager to Submit the Petition to N.C. Department of Transportation.
8. Resolution Authorizing a Budget Ordinance Amendment to Approve Increase in Health Department Revenues and Expenditures for Fiscal Year 2009-2010: \$4,494.00.
9. Resolution Authorizing a Contract with and Approving a Purchase Order to ESC Carolinas, LLP in the amount of \$11,126 for Construction Materials Testing During Construction of Upgrades to Rocky Point Primary School.

10. Resolution Authorizing a Purchase Order to G&H Construction & Paving, Inc., in the Amount of \$17,744.40 for Asphalt Paving at Penderlea School.
11. Resolution Authorizing a Budget Ordinance Amendment and Two Purchase Orders for the Purchase of a 2009 Right-Hand Drive Jeep Wrangler for the Meter Reader Position and a 2010 Ford Escape Four-Wheel Drive for the Project Engineer Position: \$25,619 & \$21,365.
12. Resolution Approving Execution of Deed of Correction.

Mr. Thurman explained that with respect to Item #12, since the County doesn't contend to own the property now, the following paragraph needs to be removed: "And said Grantor covenants that they are seized of said land in fee simple and have the right to convey the same in fee simple; that the same is free and clear of all encumbrances; and that they will warrant and defend the title herein conveyed against the lawful claims of all persons whomsoever." Mr. Blanchard made a motion to approve Item #12 as amended, Mr. Williams seconded the motion and it was unanimously approved.

RESOLUTIONS

13. Resolution Proposed by Board of Health to Support an Ordinance Prohibiting Tobacco Use on County Owned Property.

Dr. Griffith explained that at their September 15th meeting, the Board of Health voted to request that the Board of Commissioners approve an ordinance in support of banning all smoking on County owned property pursuant to North Carolina House Bill 2, Section 1, Article 23 130A-491a-b, which states the effects of secondhand smoke and laws governing smoking. He said House Bill 2 was passed by the NC General Assembly on May 14, 2009 and signed by Governor Perdue on May 19, 2009. Ms. Patricia Thornton, Public Health Educator at the Health Department; stated secondhand smoke is a health hazard, especially to children. She said it has long been established that smoking is a causative factor for cardiovascular disease, cancer, and respiratory diseases such as emphysema. She said a tobacco free campus would offer the citizens of Pender County and the employees a healthy environment. Mr. Blanchard said he is apprehensive about passing a law that is even more restrictive than the State's. He said we are mandated to do what the State does, but to do more causes him concern. Ms. Thornton said the State has already given the Health Department and Social Services a 50' perimeter from the building for smokers. Mr. Rivenbark asked if they are looking at a specific date to say "no more" and Ms. Thornton said January 3, 2010. Mr. Rivenbark said 1/3 of county employees still smoke. Ms. Thornton said they will do it gradually and the Board can set their own date. She said it will help employees and even encourage some to stop smoking. Mr. Rivenbark asked Dr. Griffith if the no smoking policy would cause us to lose any good employees and Dr. Griffith replied "no." Dr. Griffith added one big advantage of no smoking is it will help with the cost of health insurance. Mr. Brown said everyone will agree smoking and secondhand smoke is bad for you, but he agrees with Mr. Blanchard and he thinks it is a personal decision. Mr. Blanchard said he thinks it would be a good first step to set a 50' perimeter and revisit the issue later. Mr. Williams said we should "get with the times" and go with the resolution as it is. He added we need to "grow up" and adopt the resolution. Mr. Brown said he disagrees with Mr. Williams and we shouldn't infringe on people's personal rights. Mr. Tate said he knows some state facilities that have designated areas to smoke. He asked that the Board not consider voting at this time and let the Manager come back with a plan. There was more discussion setting designated areas for employees to smoke. Mr. Williams asked if there could be potential lawsuits in allowing employees time off to smoke and not giving non-smokers the same time off. Mr. Thurman said it would be a management decision whether or not to allow someone to take a break. He said having designated smoking areas is not giving employees the right to take a break. Mr. Thurman also reminded the Board about all the FEMA buyout properties the County has acquired, and the difficulty in policing/enforcing this ban. He said it would be a real burden for the Manager to have to go out and find designated smoking areas for all the property the County owns. Mr. Rivenbark made a motion to refer the item back to staff for tweaking and bring back to the Board, Mr. Williams seconded the motion and it was unanimously approved.

14. Resolution Authorizing Professional Services Contracts and Purchase Orders to Cherry Huffman Architects and Southern Engineering for the Topsail Regional Library.

Facilities and Property Manager Paul Parker explained: a new Topsail Regional Library has been in the planning stage since 2006 and funding for the project has been allocated in the CIP the last two years; an RFQ was prepared, six firms were interviewed and Cherry Huffman was the best qualified vendor; Southern Engineering was selected for the civil work since they were involved in the water and sewer requirements and site selection; the total fixed contract price for architectural services is \$359,946, however the current contract and purchase order amount requested is \$234,000 to cover services through the design phase; architectural services for the construction administration phase will be incorporated in a separate contract and purchase order; and the total fixed contract price for engineering services is \$36,475 and the purchase order amount requested is for \$32,025. Mr. Williams thanked the Board for their support in this project, thanked Library Director Mike Taylor for his diligence in the project and thanked all who were involved. Mr. Taylor noted they had made a presentation to the School Board with respect to acquiring the land next to the existing Library, and he thanked Mr. Tate for coming out with them to make the presentation. Mr. Benton said the School Board didn't make a decision but he talked with Superintendent Allison Sholar the next day and that staff would go back to the next School Board meeting. Mr. Blanchard said he is concerned that the School Board didn't make a decision and asked if there is a problem Mr. Benton said he's not aware of any issues. He said he thinks they didn't make a decision because Chairman Roper wasn't at the meeting. Mr. Benton reiterated that staff would attend the Board of Education's next meeting and said Board of Education representatives will be at the County's next meeting. Mr. Blanchard made a motion to approve the resolution, Mr. Rivenbark seconded the motion and it was unanimously approved.

15. Resolution Approving Professional Services Contract and Purchase Order for Pender County Water Treatment Plant Environmental Assessment Amendment No. 2 for NC 210 Parallel Water Main and Booster Pump Station Upgrade.

Administrative Assistant Melinda Knoerzer explained: staff has received and reviewed a proposal from McKim & Creed for EA Amendment No. 2 in which the scope of work includes the preparation of the EA Amendment, as required by USDA Rural Development; the amendment will increase the size of the finished water transmission main to 24-inch diameter from the original 18-inch, and the upgraded capacity of the NC 210 water booster pump station. Ms. Knoerzer said the actual contract was not included in the agenda package but it is the standard contract language, all of which is subject to the Attorney's review and approval. She said that staff believes McKim & Creed are well qualified and they have great familiarity with the project. Ms. Knoerzer said Tony Boahn of McKim & Creed is present to answer any questions. Mr. Tate asked if this means running two pipes and Ms. Knoerzer responded affirmatively. Mr. Tate asked if we must construct a second line, could we look at alternative routes to reach more water customers. Mr. Boahn indicated that Camp, Dresser, McKee, the County's Engineer on the Water Treatment Plant project, would ultimately design and recommend the route of the parallel lines. Staff agreed to pass Mr. Tate's suggestions on to the engineers. Mr. Williams indicated he thought the proposed size of the pipe made it a "transmission" line, versus a "distribution" line. Mr. Boahn said the primary mission is to transmit water across the County. Mr. Tate said if we do a route analysis we may accomplish two things at the same time-transfer water and pick up more customers. A lady in the audience asked about the location of water lines and Mr. Boahn said water is routed to Highway 133 from Highway 210 via Cheshire Road. Mr. Williams made a motion to approve the resolution, Mr. Rivenbark seconded the motion and it was unanimously approved.

16. Resolution Approving Professional Services Contract and Purchase Order for Pender County Water Treatment Plant Environmental Assessment for a Proposed 4 MGD Facility.

Ms. Knoerzer explained the resolution and noted again that McKim & Creed is uniquely qualified to undertake this work because of their understanding of this project and the location. Mr. Williams asked Mr. Boahn to explain how his firm gets paid and Mr. Boahn said USDA has a rate schedule that McKim & Creed is accustomed to working within. Mr. Williams made a motion to approve the resolution, Mr. Brown seconded the motion and it was unanimously approved.

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

Mr. Rivenbark explained that he had requested this item in view of the fact that rules had been adopted in the past, but not recently. He said he wants the Manager to make the changes in bold so the Board can see them, and bring the item back at a later meeting. Mr. Benton noted he did have some items highlighted in red. Mr. Tate suggested if the Manager has any questions, he can e-mail them to the Board and Board members can e-mail their suggestions to the Manager.

18. Resolution Designating Pender County as a Recovery Zone Pursuant to the American Recovery and Reinvestment Act (ARRA) of 2009.

Mr. Benton explained: the ARRA authorized a new type of federally tax exempt private activity bonds entitled "recovery zone facility bonds" to finance construction, renovation or acquisition of a wide variety of private capital projects; this is essentially opening up the Industrial Revenue Bond process, normally restricted to industrial projects, to uses other than industrial projects; the legislation provides each county with an allocation, and Pender County's allocation is \$2,084,000; in order to be eligible for the bonds, the Board must take formal action by resolution designating the County, or certain areas of the county, as a "recovery zone"; and recovery zones can be defined as areas of economic distress as evidenced by high unemployment, high poverty rates, high foreclosure rates, layoffs, etc. Mr. Benton gave some statistics of Pender County's economic distress, including the County's unemployment rate, the annual number of foreclosure filings, the County's most recent poverty rate estimate and COTY, Inc. announcing the layoff of 420 employees. Mr. Benton said he will get the word out to the media concerning the bonds and said if no industry in Pender is interested, we can designate the funds to some other entity in the region. He noted Lower Cape Fear Water & Sewer Authority had sent a letter expressing interest asking Pender to consider waiving its allocation to support the Smithfield Packing Company in Bladen County. Blanchard said if we can't get the funds used in Pender County, he wants the chance for him and Mr. Tate to explore some common ground with Mr. Betz of LCFW&SA. Mr. Rivenbark made a motion to approve the resolution, Mr. Williams seconded the motion and it was unanimously approved.

APPOINTMENTS

19. Resolution to Consider Re-appointment to the Pender County Jury Commission.

Mr. Rivenbark asked if this position was advertised and if there is a time limit for serving on boards. Ms. Pridgen said re-appointments are not advertised if the person currently holding the position is willing to serve another term. She said the Board of Commissioner does have a ten-year policy for individuals serving on boards. Mr. Rivenbark made a motion to re-appoint Ms. Twila Jones to serve on the Jury Commission representing the Board of Commissioners Appointee position, with term to expire June 30, 2011. Mr. Williams seconded the motion and it was unanimously approved.

ITEMS FROM THE COUNTY MANAGER

Mr. Benton spoke concerning the situation with Cape Fear Community College's terminating classes at Pender Adult Services. He included a memo in the Board's packets which included history of the classes, proposed fees, proposal by PAS Director Wes Davis, summary and recommendations. The entire memo is on file with the permanent records in the County Manager's Office. The Board and staff discussed the situation, along with Ms. Barbara Davis, an instructor, and Ms. Margaret Brown, a student, who spoke on behalf of the classes. Mr. Tate said he is on the CFCC Board of Trustees and will bring this subject up at their next meeting. He said the General Assembly had cut out funding for a lot of community colleges. Mr. Tate encouraged Ms. Davis and Ms. Brown to contact Dr. McKeithan, CFCC Board of Trustees members and the General Assembly. He also instructed Mr. Benton to arrange a meeting between him, Mr. Benton, Dr. McKeithan and the Dean of CFCC. The Board concurred that they wouldn't have to make any decision before January, 2010,

ITEMS FROM THE COUNTY ATTORNEY

Mr. Thurman noted tomorrow he would be attending an official hearing the Board of Elections would be holding with respect to the challenges presented concerning residency of some Topsail Township voters. He noted the Board of Elections is a state board and is not controlled by the Board of Commissioners.

ITEMS FROM THE COUNTY COMMISSIONERS

Mr. Rivenbark noted he will be involved in five meetings this week involving county issues.

Mr. Williams asked if the county had heard anything back concerning the offshore drilling agreements and Mr. Benton responded "no."

Mr. Williams said there is potential for a lawsuit but it is with one of our contractors and the County is not being sued. It was the consensus of the Board to discuss this item in closed session.

Mr. Williams reminded the Board and staff to move future "Public Comment" sections of the meeting to the beginning of the agenda and to have sign-in sheets for anyone wishing to speak under Public Comment.

Mr. Tate noted he had attended the Maple Hill Parade and Autumn at Topsail last Saturday and thanked other officials who attended those events. He thanked all who participated in the Shell Building meeting, and thanked others for attending other events, including Commissioner Brown for attending the Rocky Point Harvest Festival.

PUBLIC COMMENT

Rev. Ben Artis said he agrees with Mr. Stringfield concerning the need for recreation in the County and said we should be able to do something now and not have to wait for the 2010 Parks and Recreation Plan. He said there is land at Pender Memorial Park that we can at least put up a basketball goal. Planner Dee Turner said there is currently not enough room at that park to put up a basketball goal. She explained the layout of the park and what the land there is currently being used for. The Board and staff discussed: basketball goals at Burgaw Elementary and Burgaw Middle Schools; wetlands at Pender Memorial Park; other property besides schools; Town of Burgaw's intentions and if the Town has any property available; and the prison farm land. Mr. Benton noted the state has the prison land leased now, but they are willing to work with the county when the county is ready.

CLOSED SESSION

At 6:15 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.

PUBLIC HEARINGS

20. **Public Hearing on Industrial Shell Building Project.**

The public hearing opened at 7:03 p.m. and closed at 7:05 p.m. Mr. Benton explained that Pender County intends to partner with Pender Progress Corporation, the Town of Burgaw, Four County EMC and Wilmington Industrial Development to construct an industrial shell building in Pender Progress Industrial Park in Burgaw, and that a public hearing is required pursuant to the Local Development Act statute, which requires public notice and hearings on certain economic development expenditures. There were no questions or comments from the Board or citizens and no formal action was required.

21. **Zoning Map Amendment: Request to Rezone One Tract from RA, Rural Agricultural District, to R-20, Residential District, Located East of the Intersection of Clarks Landing Road and Clarks Landing Loop Road, Long Creek Township, Rocky Point, NC.**

The public hearing opened at 7:05 p.m. and closed at 7:08 p.m. Planner Kyle Breuer explained: the property to the north contains a cemetery, the property to the northeast contains a strawberry nursery, the property to the east and south are vacant, and the property to the west and southwest contains very low net density residential uses; the 2005 CAMA Land Use Plan classifies the property as Urban Growth Area with a Conservation 1 overlay; the property is in compliance with the Pender County Zoning Ordinance; the Planning Board unanimously approved the request; and Planning staff recommends approval. There being no questions or

comments from the Board or citizens, Mr. Brown made a motion to approve the request, Mr. Blanchard seconded the motion and it was unanimously approved.

22. Special Use Permit: Request for Indoor/Outdoor Recreation Establishment, Privately Operated, to Conduct After School Care, Summer Camps, Birthdays and Weddings, Located at 66 Misty Lakes Drive, along the East Side of Hoover Road, Hampstead, NC.

The public hearing opened at 7:08 p.m. and closed at 7:11 p.m. Mr. Breuer explained: ingress and egress will utilize the existing Hoover Road and immediate access will be provided via Misty Lakes Drive and the applicant's existing driveway, and an NC DOT driveway permit will not be required for this facility; the proposed hours of operation are 9:00 a.m. to 6:00 p.m. Monday through Saturday, with the possibility of hosting a wedding event, which in such case the applicant is proposing to be operational no later than 10:00 p.m.; the project is in compliance with the Zoning Ordinance and the Land Use Plan; and staff recommends approval. Mr. Williams asked if this project is in the middle of that large tract of land and Mr. Breuer responded affirmatively. Mr. Thurman asked the applicant, Joseph Shingleton, if the information presented in the application is accurate and true to the best of his knowledge and Mr. Shingleton responded affirmatively. There being no further questions or comments from the Board or citizens, Mr. Williams made a motion to approve the request, Mr. Rivenbark seconded the motion and it was unanimously approved.

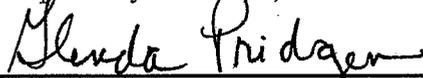
23. Special Use Permit: Request for a Restaurant/Commercial Kitchen Facility to be Located within an Existing Farmer's Market, Located at 21572 US Hwy 17, Hampstead, NC.

The public hearing opened at 7:11 p.m. and closed at 7:15 p.m. Planner Ashley Frank explained: the project is in compliance with the 2005 Land Use Plan; the property to the north contains a commercial business, to the east is low net density residential, to the south is vacant and to the west are single family residences; the property has direct access to US Highway 17 via an existing driveway; and staff recommends the request be approved. Mr. Williams said this is "in his back yard" but in Mr. Blanchard's district, and said he has received no complaints at this time. Mr. Thurman asked the applicant, Lawrence Church, if the information presented in the application is accurate and true to the best of his knowledge and Mr. Church responded affirmatively. There being no further questions or comments from the Board or citizens, Mr. Blanchard made a motion to approve the request, Mr. Rivenbark seconded the motion and it was unanimously approved.

ADJOURNMENT

There being no further business, Mr. Blanchard made a motion to adjourn the meeting and the meeting adjourned at 7:15 p.m.

Respectfully Submitted,



Glenda Pridgen, Deputy Clerk to the Board

Reviewed By:



Rick Benton, Clerk to the Board

Review of Planning Matters:



Planning Staff