

MONDAY, FEBRUARY 15, 2010

The Pender County Board of Commissioners met in regular session on Monday, February 15, 2010 at the Pender County Public Assembly Room, 805 South Walker Street, Burgaw, North Carolina.

MEMBERS PRESENT: Chairman Jimmy Tate, presiding; Vice Chairman Norwood Blanchard; and Commissioners George Brown, 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 Rivenbark led the Pledge of Allegiance.

Mr. Tate recognized and welcomed Commissioner Williams' family, who were present in the audience.

PUBLIC INFORMATION

1. Proclamation by the Pender County Board of Commissioners Commending Brandon Szakasits for Achieving the Eagle Scout Award.

Mr. Szakasits was present with his father. Mr. Brown read and presented Mr. Szakasits with the proclamation by the Board, and a State presentation and flag flown over the State Capitol from Representative Carolyn Justice. Ms. Justice then read a letter she had written to Mr. Szakasits. All present applauded Mr. Szakasits.

Mr. Tate recognized Ms. Justice for being at the meeting and thanked her for all she does for Pender County.

2. Johnny Stringfield, Grace of God Prison Ministries: Parks & Recreation.

Mr. Stringfield had requested prior to the meeting that his item be postponed.

3. Barbara Birkenheuer, Director, Cape Fear Habitat for Humanity: Request for Land Donation.

Ms. Birkenheuer explained how the Cape Fear Habitat for Humanity Program works. She explained that they serve clients from New Hanover, Brunswick and Pender Counties, but they have only built two houses in Pender because it is difficult to find property to move the houses to. Mr. Rivenbark asked how the parcel of land they are requesting the County to donate would pass the County ordinance because it is only .5 acre; Mr. Benton said the property is "grandfathered" because the County had owned it since 1969. Mr. Brown asked how the program works for the buyer and if the buyer has to make a down payment. Ms. Birkenheuer said the buyer doesn't have to make a down payment and said the four

requirements of the buyer are: 1) must be a citizen of the United States; 2) must have lived at least a year in the county; 3) must have earned income; and 4) has to put in a certain number of sweat equity hours. Ms. Birkenheuer also explained that the buyer can't just sell the house as Habitat would have a lien on the house and the right of first refusal. Mr. Benton said he would have a resolution at the next meeting to request approval of the donation of the property. After more discussion of county properties, Mr. Blanchard requested Planning Director Patrick Davenport to go through the inventory of County properties and see if we have any good parcels to donate. Mr. Benton said we have been looking at some properties, will continue evaluating them, and the Housing Director has been involved in the process. In response to question, Mr. Robbie Cauley with the Schools said the house will be built by Pender High School Shop students. He said the other high schools in the County are not equipped to build houses. Mr. Tate asked if any New Hanover County students build houses for Habitat and Ms. Birkenheuer responded negatively. Mr. Tate asked if they community college students build any and Ms. Birkenheuer responded affirmatively.

PUBLIC COMMENT

Mr. Daniel Mcartan of 72 White Stocking Road in Burgaw explained a situation concerning a dog kennel being located next to their drinking water in the trailer park at this location and said it is in violation of a State law. Mr. Mcartan was also concerned about the dogs barking all the time. After discussion and based on photographs Mr. Mcartan had distributed, it was determined that only two dogs are in the pen and that it is not a kennel by Zoning Ordinance definition. Dr. Griffith said he had sent an employee from Environmental Health out to test the well for bacteria and the well water came back clear. He said he doesn't see any potential for health issues. It was noted that the well is a deep well and the dogs being there shouldn't affect it.

CONSENT AGENDA

Mr. Tate noted there are two additional items being requested to be added to the consent agenda. Mr. Benton explained the two items. Mr. Williams made a motion to add the two items to the consent agenda, Mr. Rivenbark seconded the motion and it was unanimously approved. Mr. Tate presented the other ten items on the Consent Agenda and asked for any questions or discussion. Mr. Rivenbark made a motion to approve the Consent Agenda, including the two new items, Mr. Williams the motion and the Board unanimously voted to approve the Consent Agenda as follows:

4. Approval of Minutes for the Board Planning Summit of January 28 & 29, 2010, & the Regular & Closed Session Meeting of February 1, 2010.
5. Resolution Accepting Petitions to Add Kel-Ash Road in Rocky Point and Mulberry Circle and Bluebird Lane in Hampstead to the State Maintained System and Authorizing the County Manager to Submit the Petitions to N.C. Department of Transportation.
6. Resolution Authorizing an Amendment to Approve Increase in Board of Elections Revenues and Expenditures for Fiscal Year 2009-2010: One-Stop Voting for the Town of Surf City: \$4,116.46.
7. Resolution Authorizing an Amendment to Approve Increase in Health Department Revenues and Expenditures for Fiscal Year 2009-2010: Health Promotions: \$984.
8. Resolution Authorizing Amendment to Approve Increase in Health Department Revenues & Expenditures for Fiscal Year 2009-2010: Mammography: \$7,250.
9. Resolution Authorizing Issuance of Purchase Order: Sungard Public Sector for Software Maintenance Services for \$6,400.00.
10. Resolution Authorizing Issuance of Purchase Order: Surveillance Equipment for Use in the Sheriff's Office Narcotics Division for \$7,445.00.

11. Resolution Authorizing the Issuance of Purchase Orders to NC Dept. of Correction: \$20,000.00; and Pamlico County Sheriff's Office: \$15,000.00 for Medical and Housing Expenses for Inmates.
12. Resolution Authorizing Issuance of Purchase Order: VisionAir for Software Maintenance and Support for \$23,521.56.
13. Resolution Adopting an Order for the Tax Collector to Advertise 2009 Taxes.
- 13a. Resolution to accept the Community-Based Youth Gang Violence Prevention Grant: \$50,000
- 13b. Resolution Authorizing Budget Amendment and Purchase Order to Tim's Heating and Cooling for Courthouse heating System: \$39,761.

Going back to Item # 13b, Mr. Blanchard said there was a committee formed to address courthouse renovation issues and asked if the heat problem was on the original list. Mr. Benton said the heat problem was not included on the original list and said that the committee was before his time with the County. Mr. Tate noted he is concerned too that this wasn't addressed on the original list. Mr. Brown asked if anyone anticipated this and Mr. Benton said they knew that at some point in time, this issue would have to be addressed. Mr. Blanchard asked if this would be a "permanent fix" and Mr. Benton responded "yes."

Mr. Brown asked about Item Number 6 and Board of Elections Director Dennis Boyles explained the Town of Surf City had reimbursed the County to cover expenses incurred for a One-stop voting location for the November 2009 Municipal Elections, and this amendment is to put the funds back into the budget.

RESOLUTIONS

14. Resolution to Oppose Transfer of Secondary Road Program to Counties.

Mr. Benton explained: in the last session of the General Assembly a bill was introduced, which if approved, would transfer responsibility for Secondary Road Programs from the State to counties; he doesn't think this bill went anywhere but counties are being proactive; and if this bill were approved it would cost Pender County approximately an 8 cents increase in ad valorem taxes. Mr. Brown said he understands that the Department of Transportation is not the one making this recommendation-it is a couple of Senators from Mecklenburg County. Mr. Benton verified that was true. Mr. Williams made a motion to approve the resolution, Mr. Blanchard seconded the motion and it was unanimously approved.

15. Selection of FY 2010 CDBG-CR Grant Preparation Firm.

Mr. Davenport explained: staff had anticipated receiving multiple requests for proposals for this project, but only one proposal was submitted; and since only one application was submitted, staff is recommending the item be tabled to allow time for additional advertisement for requests for proposals. Mr. Rivenbark made a motion to table the item to the March 15, 2010 meeting, Mr. Blanchard seconded the motion and it was unanimously approved.

16. Resolution Approving a Memorandum of Understanding for the Provision of Mutual Inspection Services.

Mr. Davenport explained: the County received a request from the Towns of Surf City and Topsail Beach requesting an agreement to provide for the provision of mutual inspections services; inter-local assistance would only be necessary if a shortage of inspection services would cause significant delays in construction projects; the services would also be offered at no charge from one locality to another; and both the towns and the County would benefit from this mutual assistance agreement. Mr. Rivenbark asked if the County Attorney sees this working as smoothly as fire department agreement. Mr. Thurman said he, Mr. Davenport and Mr. Benton had collaborated on this, and it includes a hold harmless clause. He added that the Towns can't just not hire inspectors they need and expect the County to take over. Mr. Davenport said they are anticipating using these services only when regular personnel are out, such as

major holidays, or on critical projects such as the construction of the Harris Teeter Store in Surf City. Mr. Williams said he thinks this is a good agreement and it will get investments on the tax books quicker. Mr. Brown asked if one of the towns or the County needs an inspector from each other, is there any difference in codes for municipalities and the County. Mr. Davenport said all inspections are covered under the State building codes. Mr. Blanchard made a motion to approve the resolution, Mr. Williams seconded the motion and it was unanimously approved.

17. Resolution to Approve a Change Order to Port City Builders for the Dental Clinic Renovation: \$15,349.

Dr. Griffith explained the Health Department originally had a \$75,000 grant for the Dental Clinic project from the Cape Fear Memorial Funds; due to OSHA specific regulations, the cabinetry and plumbing had to be changed to stay within the guidelines of the Dental operatories; they needed the extra \$15,349 for the additional work; they didn't have the extra funds in the Health Department budget; and Mr. Parker said he could provide the funds from the CIP Fund. Mr. Blanchard made a motion to approve the resolution, Mr. Brown seconded the motion and it was unanimously approved.

ROCKY POINT/TOPSAIL WATER & SEWER DISTRICT

Mr. Tate convened the Board as the Rocky Point/Topsail Water & Sewer District Board at 4:44 p.m. and was reconvened as the Board of Commissioners at 4:45 p.m.

18. Resolution Approving Changes to the Surf City Water Sales Agreement.

Mr. Benton explained the Town had made two changes in the original agreement, which were highlighted in the copies distributed: a change was made in Section 2, and Section 8 added. Mr. Brown asked if the Town is only looking out for its own interest and Mr. Thurman responded "yes." Mr. Blanchard made a motion to approve the resolution, Mr. Rivenbark seconded the motion and it was unanimously approved.

APPOINTMENTS

19. Resolution to Consider Appointment to the Pender County Tourism Development Authority Board (TDA); Military Growth Task Force Appointments; & Southeastern Economic Development Commission Appointments.

Ms. Pridgen explained that the appointment to the Tourism Development Authority is a new position and not replacing anyone; and the Military Growth Task Force and Southeastern Economic Development Commission (SEDC) are requesting re-appointments to their boards. Mr. Williams noted he is one of the members being re-appointed to the Military Growth Task Force. Mr. Blanchard made a motion to approve the appointments, Mr. Williams seconded the motion and it was unanimously approved. Mr. Tate noted he had attended several SEDC meetings and never saw Mr. Whitford at one. It was the consensus of the Board for staff to include in appointment letters that attendance to meetings is important. Mr. Tate instructed Mr. Benton to contact Pam Bostic of SEDC to attend a Board meeting to give an update on SEDC activities.

ITEMS FROM THE COUNTY MANAGER

Mr. Benton discussed with the Board a request for an internship with the County from the Watson School of Education at the University of North Carolina at Wilmington, and a request from an MPA student in the Appalachian State MPA Program. He noted the UNCW request does not require a salary payment, but some local governments have made a donation in the program, and that the MPA student is generally paid minimum wages. Mr. Tate asked about the UNCW request and why they are not requesting the internship with the Schools. Mr. Benton said the students need a variety of professional experience,

including local government. The Board concurred that Mr. Benton could further look at the details of the requests.

ITEMS FROM THE COUNTY ATTORNEY

Mr. Thurman discussed with the Board the Ethics Webinar to be held on March 25th. After discussion, it was the consensus of the Board to purchase the archive version and show it on April 5th after the regular Board meeting. Mr. Benton said we can invite the municipalities and some departments to come and view the Webinar with the Board. Mr. Thurman noted he would have an item for closed session.

PUBLIC COMMENT

It was noted that another gentleman in the audience wished to speak. Mr. Sam Morgan of 603 Kel-Ash Road in Rocky Point explained a situation in which one of his neighbors that does not have an easement to Kel-Ash Road, was issued a Kel-Ash Road address by the County. He said the neighbor's easement is to Ashton Road, but their driveway was not constructed to get to their property. Mr. Brown asked if this road was just recently approved to be added to the State Maintained System and Mr. Morgan responded affirmatively. Ms. Jan Dawson, the County's Addressing Coordinator, addressed the Board on this issue and said she issued the address based on the information that was given to her. She said when the address was issued, the only requirement for an address was for the applicant to have a footing notice. Ms. Dawson said there is a child with heart problems that lives on the property, and the only way emergency equipment can get there is through Kel-Ash Road. Mr. Thurman said granting an address doesn't give anyone the right to an easement. Mr. Williams said the owners shouldn't have been given a Certificate of Occupancy and said this is not a "Jan matter." Mr. Davenport noted the County does not have any regulations preventing someone from using an easement. Mr. Williams asked if we had ever had any other cases like this and Mr. Davenport responded affirmatively. Mr. Thurman said this is a civil matter and can become a potential criminal issue. He reiterated that granting an address does not give someone the right to an easement. There was discussion concerning solutions to this and other similar issues. Mr. Tate instructed Mr. Benton and Mr. Thurman to follow up on the issue. Mr. Morgan said the owners of the property have some law enforcement issues, but the Sheriff's Office said they have a right to stay there as long as they have an address.

ITEMS FROM THE COUNTY COMMISSIONERS

Mr. Rivenbark reminded everyone of the upcoming Spring Litter Sweep.

Mr. Tate's items included: a thank you note from Pender Youth Football & Cheerleading Association; a thank you note from Pender Adult Services Barbara Davis and others; he and Mr. Rivenbark had attended the funeral of a Bladen County Commissioner Margaret Lewis-Moore; a legislative breakfast in which James Sprunt Community College will recognize Pender County; a Black History event he would be the speaker at NC DENR meeting; and other meetings/events he would be attending.

CLOSED SESSION

At 5:29 p.m., Mr. Rivenbark made a motion to enter into closed session, including a Workers Comp Claim NCIC #197989, and pursuant to NCGS 143-318.11 (3) to consult with an attorney employed or retained by the public body in order to preserve the attorney-client privilege between the attorney and the public body, which privilege is hereby acknowledged. General policy matters may not be discussed in a closed session and nothing herein shall be construed to permit a public body to close a meeting that otherwise would be open merely because an attorney employed or retained by the public body is a participant. The public body may consider and give instructions to an attorney concerning the handling or settlement of a claim, judicial action, mediation, arbitration, or administrative procedure. If the public

body has approved or considered a settlement, other than a malpractice settlement by or on behalf of a hospital, in closed session, the terms of that settlement shall be reported to the public body and entered into its minutes as soon as possible within a reasonable time after the settlement is concluded. Mr. Williams seconded the motion and the Board unanimously approved going into Closed Session.

The Board came out of Closed Session at 5:40 p.m. Mr. Thurman announced that the Board agreed to settle a Workers Comp claim for employee Russell Lanier in the amount of \$22,500. Mr. Williams made a motion to approve settling the claim, for a full release, and approval to execute settlement documents. Mr. Blanchard seconded the motion and it was unanimously approved.

PUBLIC HEARING

20. Public Hearing on 2010 Comprehensive Land Use Plan.

The public hearing opened at 7:00 p.m. Mr. Davenport explained this hearing is being held to formally accept any comments from the public on the 2010 Comprehensive Land Use Plan, which is scheduled to become effective July 1, 2010. He explained the plan is currently being reviewed by the NC Division of Coastal Management for compliance with CAMA Land use Plan required topics; once the NC DCM completes its review, staff will edit the document as necessary and return it to the Planning Board for a final review; and the Plan will then return to the Board of Commissioners for a final public hearing and adoption. There was no public comment and the public hearing closed at 7:02 p.m.

JOINT MEETING BETWEEN THE BOARD OF COMMISSIONERS & PENDER COUNTY PLANNING BOARD

21. Discussion of Growth Management Issues.

The Board of Commissioners and Planning Board met in joint session following the public hearing. In addition to all Board of Commission members, Planning Department staff and other staff being present, the following Planning Board members were in attendance: Kevin Reynolds, Malcolm Boney, Chris Smith, Burt Millette, Hiram Williams, and Rick Garrett.

Chairman Tate thanked Planning Board members for meeting with the Board of Commissioners and had everyone introduce themselves. Planning Board Chairman Mr. Reynolds thanked all of the citizen committee members and thanked his Board. Mr. Millette thanked Planning staff for putting everything together and Mr. Davenport thanked his staff.

Mr. Davenport delivered a Power Point Presentation which included: Update: 2010 Comprehensive Land Use Plan-Remaining Schedule/Steps, Using Plan to Support Land Use Decisions, and Policy Issues in Plan; Update 2010 Unified Development Ordinance-Remaining Schedule/Steps, US 17 Overlay District, and Significant UDO Components/Changes; Update: 2010 Parks and Recreation Master Plan-Remaining Schedule and Illustrative Project Map; Overview of Growth Trends, 2002-2009-Residential Development Growth Trends; and Other Topics of Interest to the Group. Mr. Benton's portion of the presentation included a Water and Sewer Infrastructure Overview, and an Economic Development Overview. The presentation in its entirety is on file with the permanent records in the Clerk to the Board's Office.

There were questions and discussion by both Board of Commissioners members and Planning Board members on some of the specific subjects.

Mr. Benton said this is a good plan and congratulated Planning Board and Committee members. He noted this is an ongoing process and said even after adoption there will have to be some tweaking.

Both Chairmen made closing remarks. Mr. Reynolds thanked Mr. Davenport and his staff and thanked both Boards for coming together. Mr. Tate said the two Boards should come together annually. He noted the Board of Commissioners does look carefully at Planning Board decisions before they make a decision.

ADJOURNMENT

There being no further business, the meeting adjourned at 8:35 p.m.

Respectfully Submitted,



Glenda Pridgen, Deputy Clerk to the Board

Reviewed By:



Rick Benton, Clerk to the Board