

**REQUEST FOR BOARD ACTION**

**ITEM NO.**   7  

**DATE OF MEETING:** May 3, 2010

**REQUESTED BY:** Glenda Pridgen, Administrative Assistant

**SHORT TITLE:** Approval of Minutes for the Regular & Closed Session Board Meeting of April 19, 2010.

**BACKGROUND:** N/A.

**SPECIFIC ACTION REQUESTED:** Review and approve the minutes.

**MONDAY, APRIL 19, 2010**

**MEMBERS PRESENT:** Chairman Jimmy Tate, presiding; Vice Chairman Norwood Blanchard; and Commissioners George Brown and F.D. Rivenbark.

**MEMBERS ABSENT:** David Williams.

**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. Mr. Tate noted Mr. Williams would not be able to attend today's meeting due to business meetings.

**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 Rivenbark offered the Invocation.

**PLEDGE OF ALLEGIANCE**

Commissioner Blanchard led the Pledge of Allegiance.

**EXCUSE COMMISSIONER**

Mr. Brown made a motion to excuse Mr. Williams, Mr. Rivenbark seconded the motion and it was unanimously approved by a 4-0 vote.

**PUBLIC INFORMATION**

**1. Chairman Jimmy Tate: Recognition of 2010 Pender County Volunteer Citizen of the Year and 2010 Pender County Outstanding Employee of the Year.**

Mr. Tate gave recognition to Ms. Leslie Andrews as the 2010 Pender County Volunteer Citizen of the Year and Mr. Earl Moore as 2010 Pender County Outstanding Employee of the Year. Mr. Tate read some of the nomination criteria and the remarks made by both individuals' nominators. Mr. Blanchard presented each one with a plaque. The audience warmly applauded both individuals.

**2. Allison Sholar, Superintendent, Pender County School System: Pender County Public Schools System FY 10/11 Budget Presentation.**

Ms. Sholar introduced School Board members Ms. Katherine Herring and Ms. Karen Rouse, her staff members: Finance Office Betsy Chestnutt, Auxiliary Services Director David Smith, and Technology Services Director Landon Scism of the Technology Department. Ms. Sholar and her staff presented a Power Point presentation entitled "Pender County Schools State Planning Allotment Analysis: School Year 2010-2011" which included: State Initial Allotment Summary; Pender County Schools Current Expense Budget Request; Current Expense Summary 2010-2011; Current Expense-Annual Recurring Cost Increase; Pender County Schools Capital Outlay Budget Analysis and Request; Capital Budget Details-Category I-Renovations; Capital Budget Details-Category II-Equipment; Capital Budget Details-Category III-Vehicles; Capital Budget Details-Summary; Capital Outlay-Expansion; and Total Capital Outlay Request 2010-2011. Ms. Sholar and her staff explained each item under each category individually. Ms. Sholar said last year's reductions from the state totaled \$2.2 million and they are looking at an additional \$500,000 this year. She said the reduction in state funding last year resulted in 59.

positions not being filled, no money for text books and no staff development money. Ms. Chestnutt said the County gave the Schools \$13.2 million last year but after tuition reimbursements and funding for charter schools, that amount was reduced by approximately \$85,000. Mr. Tate asked why the County is giving money to charter schools when there are none in the County. Ms. Chestnutt said between 40 and 50 Pender children attended charter schools in New Hanover and Brunswick Counties and the school system is responsible for paying the cost. Mr. Smith said there is expected to be a \$278,000 increase in reoccurring costs this year and explained each individual item. Mr. Smith said with respect to capital expense, the Schools will need an additional \$457,000. Mr. Scism explained the technology aspect of the presentation. Ms. Sholar said they won't know their complete needs until the General Assembly finishes the short session and decides what funding will be available for local schools districts. The Board asked more questions on some of the other individual items. The entire School Board presentation is on file with the permanent records in the Clerk to the Board's Office. The School Board's total requested additional amount is \$13,497,686.

**3. Mayor Howard Braxton, Town of Topsail Beach: FY 10/11 Budget Presentation.**

Mr. Braxton thanked the Board for the wonderful job they are doing to keep Pender County a progressive county; said the beaches are needed to promote tourism and tourism brings more dollars in than any other entity in Pender County; listed some of the Town of Topsail Beach's current projects; and asked the Board to continue giving the amount they have given in past years for the beach nourishment project.

Mr. Blanchard said before Dr. Griffith speaks, he would like to commend him on the beautiful dental clinic. He said the clinic is state-of-the art and one of the best in the State.

**4. Dr. Jack Griffith, Health Director: Animal Control Ordinance Review and Recommendation Committee (ACORRC) Report.**

Dr. Griffith explained the Animal Control Ordinance Review and Recommendation Committee (ACORRC) was appointed jointly by the Pender County Board of Commissioners and the Pender County Board of Health; the committee met four times and thoroughly reviewed the existing Pender County Animal Control Ordinance; the current Ordinance hasn't been updated since 1998; the committee was provided reference materials from animal control ordinances in other counties; Animal Control Supervisor Stephen Throneburg researched each reference thoroughly; and Mr. Benton attended every committee meeting. Dr. Griffith read the issues that were discussed by the committee and read the changes and additions recommended by the committee. Mr. Thurman explained the section pertaining to collection for citations and the barking dog issue. Mr. Blanchard requested that rabies vaccines' costs be kept at a minimum. Mr. Brown said the committee did a great job and suggested the Board hold a public hearing on this item. Mr. Tate said the committee, Dr. Griffith, Mr. Benton and all involved did a great job. There was more discussion and questions by Board members and it was the consensus of the Board to advertise and hold a public hearing concerning the Animal Control Ordinance at the May 17, 2010 meeting.

**5. Dr. Jack Griffith, Health Director: Recognition of Public Works Mosquito Control Program.**

Dr. Griffith explained mosquito borne illnesses and health problems they cause; how the Mosquito Control Program works; how the Mosquito Control Department works to prevent mosquito borne diseases; and recognized Mosquito Control Department employees, including Pat Simmons who keeps him up to date on mosquito information, and James Turner, who maintains the County's sentinel flocks and report blood samples to the state for analyses. Ms. Simmons introduced Mr. Turner and Ronnie Huggins, Mosquito Control Technicians, and Tony Clewis who also helps them out. Ms. Simmons

explained the educational programs they use in promoting good lifestyle practices in preventing mosquito borne illnesses.

### **PUBLIC COMMENT**

Mr. Adam Dillon, a candidate for Pender County Sheriff, spoke about Pender County Deputies doing political campaigning for Sheriff Carson Smith while they are on duty and driving county vehicles. He said Sheriff Smith is aware of what is going on, as well as District Attorney Ben David. Mr. Tate instructed Mr. Benton and Mr. Thurman to collaborate on this and bring their findings back to the Board.

### **CONSENT AGENDA**

Mr. Tate presented the seven items on the Consent Agenda and asked for any questions or discussion. There being none, Mr. Blanchard made a motion to approve the Consent Agenda as presented, Mr. Rivenbark seconded the motion and the Consent Agenda was unanimously approved vote as follows:

6. Approval of Minutes for the Regular and Closed Session Board Meeting of April 5, 2010.
7. Resolution Accepting Petition to Add Sawyer Lane in Willard to the State Maintained System and Authorizing the County Manager to Submit the Petition to N.C. Department of Transportation.
8. Resolution Authorizing Issuance of Purchase Order: US Food Service, PO Box 1248, Zebulon, NC 27597, in the Amount of \$27,204.90.
9. Resolution Authorizing a Purchase Order to Interior Systems, Inc., in the Amount of \$21,799.75 for Classroom Furniture at Rocky Point Primary School.
10. Resolution Authorizing a Purchase Order to All Seasons Commercial HVAC Distributors, in the Amount of \$37,290.12 for Replacement of 12 HVAC Units at Topsail Elementary School.
11. Resolution Approving Re-Submittal of Request for State Assistance from the North Carolina Department of Environment and Natural Resources Division of Water Resources for the Sills Creek Drainage Project.
12. Proclamation by the Pender County Board of Commissioners: May is Mental Health Month.

### **RESOLUTIONS**

#### **13. Resolution Supporting Cape Fear Skyway Gap Funding and Corridor Preservation Resolutions.**

Mr. Mike Kozlosky of the Wilmington MPO presented the resolutions and explained: the Cape Fear Skyway is a proposed 9.5 mile facility crossing the Cape Fear River that will provide a future connection from in the vicinity of US 17/I-140 in Brunswick County to US 421 in New Hanover County; the proposed Skyway is a regional transportation project that will provide increased benefits to the community; the proposed Skyway is in the North Carolina Board of Transportation's Strategic Highway Corridor Initiative and is part of the NC Intrastate System; the MPO is asking the North Carolina General Assembly to provide the "gap" funding necessary to construct the Cape Fear Skyway; and they are asking all counties in the Wilmington MPO to endorse this request. Mr. Blanchard said he thought he had read in the paper that this had already been funded and Mr. Kozlosky said it has not been funded yet. Mr. Tate noted he had spoken with Commissioner Williams (the Board's liaison to the Wilmington MPO) concerning this item and Mr. Williams requested support from the Board. Mr. Rivenbark made a motion to approve the Corridor Preservation Resolution, Mr. Blanchard seconded the motion and the resolution was unanimously approved by a 4-0 vote. Mr. Rivenbark made a motion to approve the Gap Funding Resolution, Mr. Blanchard seconded the motion and the resolution was unanimously approved by a 4-0 vote.

**14. Resolution Authorizing Surplus Property/Upset Bid Process for Former Hampstead Annex Building.**

Mr. Benton explained the County has received an offer of \$2,000 to purchase the old Annex Building at 248 Transfer Station Road in Hampstead; the offer is for the building only and not the real property; and in order to begin the upset bid process, the Board must first declare the building to be "surplus." Mr. Blanchard said we need to require a performance bond once the sale is approved. Mr. Blanchard made a motion to approve the resolution, Mr. Rivenbark seconded the motion and it was unanimously approved by a 4-0 vote.

**15. Resolution Approving the Annual Plan and Funding Recommendations of the Juvenile Crime Prevention Council (JCPC) for FY 2010-2011.**

Ms. Dee Turner, Planner II and Chairperson of the JCPC, explained: the JCPC is a state mandated county board tasked with overseeing the distribution of state funds for programs serving youth who are currently in the juvenile justice system, or are at-risk of entering it; the Department of Juvenile Justice and Delinquency Prevention has indicated that there may be a 5% to 7% reduction in the amount of money that will be received for FY 2010-2011 and therefore, the Pender County JCPC has based its funding recommendations on a 7% reduction, which will be \$111,199 for FY 2010-11; as part of the Annual Plan which is required in order to receive the fund, the following needs were determined and prioritized: Psychological/Counseling Services; Interpersonal Skill Building; Restitution/Community Service; and Teen Court Services; and if funding is reduced by less than 7%, those monies will be placed in Unallocated Funds and committed to the programs by December 31, 2010. Mr. Tate and Ms. Turner discussed the Psychological aspect of the program. Mr. Brown noted he is a member of the JCPC and commended Ms. Turner for the work she puts into the program. Mr. Brown made a motion to approve the resolution, Mr. Blanchard seconded the motion and it was unanimously approved by a 4-0 vote.

**16. Resolution Approving FY 10/11 Audit Contract.**

Finance Officer David McCole explained: Thompson, Price, Scott, Adams & Co., P.A. has been providing audit services to the County since the fiscal year ending June 30, 2002; over this time County staff has built a strong and efficient working relationship with the firm and wishes to continue working with them again for the upcoming audit; and the proposed contract, in the amount of \$35,500, reflects no increase over last budget year. Mr. Tate asked if this contract is not required to be bid out and Mr. McCole responded "no." Mr. McCole said we may evaluate bidding it out in the future, but right now, the County has a good working relationship with this firm. Mr. Rivenbark made a motion to approve the resolution, Mr. Blanchard seconded the motion and it was unanimously approved by a 4-0 vote.

**17. Resolution Adopting Amended Pender County Fiscal Policy.**

Mr. Benton presented the resolution and explained: one of the 72 action items adopted by the Board in the 2010-2012 Board Priority Implementation Plan was to consider a new fund balance policy no later than June 30, 2010; the current Pender County Fiscal Policy includes a section entitled "Preservation of Fund Balance"; the policy simply provides for maintenance of a fund balance of \$5,000,000; and the new policy will bring the current one up to date. Mr. McCole further explained: the recommended policy governs use of fund balance as well as preservation; provides for maintaining an undesignated fund balance of no less than 30% of the current fiscal year expenditure level; provides the Board may designate excess funds above this threshold for one-time funding purposes since this is a one-time funding source; provides the use of excess fund balance to meet recurring operational or working capital expenditures shall be prohibited, other than for expenditures deemed emergencies by the Board; provides the Board shall avoid using excess fund balance for tax rate stabilization or reduction purposes; and provides that in

the event the Board uses excess fund balance for this purpose, requires that a future funding source be identified at the time of appropriation to meet future anticipated needs. Mr. McCole explained that even though it appears the County has an excessive amount in fund balance, Pender is a coastal county and if we were to experience a hurricane, those funds would quickly be depleted. Mr. Tate said he is glad to hear Mr. McCole explain how fund balance can quickly be deleted, because people have the perception that we have a lot of excess funds. He said he hopes the Press will get the word out. Mr. Brown said dipping continuously into fund balance is not good. Board members asked questions and there was more discussion, including the 38% currently in fund balance, tax base, and how the new policy will affect the budget. Mr. Blanchard made a motion to approve the resolution, Mr. Brown seconded the motion and it was unanimously approved by a 4-0 vote.

#### **ITEMS FROM THE COUNTY MANAGER**

Mr. Benton said the agenda publication trial period of six months has ended and said it cost approximately \$607 a month to publish the agenda in the three local papers. He noted the costs to publish would likely increase once Planning Department items picked up, and the large July meeting would be included. Mr. Blanchard and Mr. Brown discussed the item. Mr. Blanchard asked that staff include it as a resolution for the next meeting.

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

Mr. Thurman said there are items for Closed Session.

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

Mr. Rivenbark said he had also toured the new dental facility and said it is a beautiful facility.

Mr. Tate noted that in the front of the Board's notebooks, there is a resolution requesting endorsement of Commissioner Howard J. Hunter, III of Hertford County for Second Vice-President of NCACC.

#### **CLOSED SESSION**

At 6:20 p.m., Mr. Rivenbark made a motion to enter into closed session, pursuant to NCGS 143-318.11 (5) to establish, or to 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 and 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 (6) to consider the qualifications, competence, performance, character, fitness, conditions of appointment, or conditions of initial employment of an individual public officer or employee or prospective public officer or employee; or to hear or investigate a complaint, charge, or grievance by or against an individual public officer or employee. General personnel policy issues may not be considered in a closed session. A public body may not consider the qualifications, competence, performance, character, fitness, appointment, or removal of a member of the public body or another body and may not consider or fill a vacancy among its own membership except in an open meeting. Final action making an appointment or discharge or removal by a public body having final authority for the appointment or discharge or removal shall be taken in an open meeting. Mr. Blanchard seconded the motion and the Board unanimously approved going into Closed Session. At 7:00 p.m., Mr. Rivenbark made a motion for the Board to come out of Closed Session, Mr. Blanchard seconded the motion and it was unanimously approved by a 4-0 vote. Upon exiting the Closed Session, Mr. Blanchard made a motion to ask the County Manager to work with the Board of Health to have an independent, outside agency assess the Health Department's programs, services and operations. Mr. Brown seconded the motion and it was unanimously approved by a 4-0 vote.

## **PUBLIC HEARINGS: RESOLUTIONS/SPECIAL USE PERMITS**

### **18. Resolution to Approve a Special Use Permit for the Construction and Operation of Sewer Treatment, Storage & Processing Facilities, Including Pump Station, Located at the Southeast Intersection of US Highway 117 and North Chubb Road in Willard.**

Chairman Tate opened the public hearing. Ms. Frank submitted the staff report for the property identified as 3315-00-7300-0000. This location will house the Burgaw/Wallace Sewer Force Main Lift Station, utilizing a booster pump station to convey wastewater flows from the Town of Burgaw to the Town of Wallace Wastewater Treatment Facility. Mr. Robert Kenan, Town of Burgaw Attorney, reviewed the project. There was no public comment. Mr. Tate was called out of the meeting. Vice-Chairman Blanchard closed the public hearing at 7:14 p.m. Mr. Rivenbark made the motion for approval; Mr. Brown seconded the motion, however commented that he did not like how the entire project was handled from the inception but that did not have anything to do with the SUP hearing. The motion carried 4-0, with Mr. Tate's vote counting affirmatively at his absence.

### **19. Resolution to Approve a Revision to a Special Use Permit for the Addition of 100 Units to an Existing 112-Unit Skilled Nursing and Rehabilitation Facility, Located at 2778 Country Club Drive, in Hampstead.**

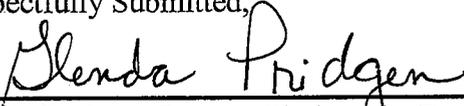
Chairman Tate opened the public hearing at 7:15 p.m. County Attorney Trey Thurman swore in all attendants who wished to speak during the hearing. Patrick Davenport, Director of Planning and Community Development, introduced the Special Use Case 10-04-19-03R. Avant & Nunn, LLC, the applicants, are requesting a revision to a Special Use Permit (SUP) for the addition of 100 units to Woodbury Wellness Center, an existing 112-bed skilled nursing and rehabilitation facility. The original SUP was issued in December 1997, which included a 72 bed facility with a 48 bed expansion. The property is zoned R-20C, Residential District (Conventional Housing), and nursing, convalescent, and other residential care facilities are permitted via Special Use Permit. Attorney Rick Biberstein, representative, stated Woodbury Wellness Center opened in 1998, with the existing 112 bed facility and would like to add an additional 100 beds, 70 beds dedicated to Alzheimer's care patients and 30 assisted living beds. Mr. Biberstein stated the applicant held a community meeting with personal invitations mailed to adjacent property owners and notices published in the local newspaper. This expansion will bring 60 new employees to the facility and approximately \$5 million dollars in construction costs. The facility would not be operational for two years. Mr. Biberstein introduced Doctor Michael Rallis, Medical Director of Woodbury Wellness Center, who has been a practicing doctor in the Burgaw area for 29 years. Dr. Rallis stated Pender County is in great need of assisted living beds, and currently in Pender County there are no Alzheimer's care beds. Mr. Biberstein introduced Pam Lee, admissions nurse for Woodbury wellness for over 10 years. Ms. Lee stated that she has to turn down 2 to 3 patients a month because of the lack of Alzheimer's care in Pender County. In September 2008, a Certificate of Need for the additional 100 beds was awarded to Pender County and Avant & Nunn, LLC by the North Carolina Department of Health and Human Services after a state-wide demographic analysis. Mr. Tate asked how "need" is determined. Dr. Rallis stated through North Carolina's population demographics, which project the number of beds that will be needed in an area, then a competitive application process, which the bid was awarded to Pender County and Avant & Nunn, LLC. Mr. Biberstein added it is similar to the Hospital Certificate of Need, which is supply and demand related, so there is no oversupply. Mr. Biberstein then introduced Mr. Keith Avant, co-owner of Woodbury Wellness. Due to the time and number of speakers signed up, Mr. Thurman admitted the applicant's submission packet into the record. Mr. Thurman went down the list of speakers, if the speaker was in support and had nothing further to add, they were asked just to state support. Mr. James Gobble of 220 Mallard Bay Road, Hampstead was against the addition. He also submitted a petition with 67 signatures against the expansion. Mr. Gobble pointed out the facility is completely surrounded by single family residential, with a lot of children and dog walkers, and the

facility will increase EMS traffic. Mr. Gobble called the local EMS and Hampstead fire station and they said over 1/2 of the calls go to Woodbury Wellness. Mr. Gobble stated all his concerns as follows: taxes will be raised to support fire and EMS, the reduction of quality of life due to alarms and screams (of residents), and safety of families due to the speeding ambulance and fire trucks. Commissioner Brown asked how long had Mr. Gobble lived at his residence. Mr. Gobble stated his house was built 4 years ago and his family has lived there 3 years. Mr. Gobble was also concerned that there was not enough community notice either for the community meeting or for the county public hearing. Staff commented all legal notices were published, along with all adjacent property owners were notified via mail and a sign was posted on the property. Commissioners Brown and Blanchard mentioned the houses were built after the Woodbury Wellness Center. Mr. Thurman said the petition had errors in the introduction paragraph and would not be submitted into evidence. Mr. Tate allowed 3 more people to speak, after Mr. Thurman swore them in. James Taylor and Dennis Cowen of 136 S Belvedere Drive and Joyce Owens of 107 Dolphin Circle, spoke on the water/sewer issues with Carolina Water. They were concerned Carolina Water will not be able to handle the effluent as currently, all effluent is being trucked out of county. There was more discussion about the lack of public notification, but staff confirmed a the public meeting (held by the applicant), the legal notice published in both the Pender Post and Topsail Voice, the sign posted onsite and adjacent property owners notified by mail. There was more general discussion about water and sewer issues in the Woodbury Wellness Center area, and would the existing system support an additional 100 beds. Another member of the public requested to speak, Mr. Thurman swore in Bob Hurley, who spoke on the water and sewer issues. Mr Thurman referred to staff Condition 9b, which requires all applicable permits from North Carolina Department of Environment and Natural Resources for water and wastewater connections prior to the issuance of final zoning/building permits. Mr. Tate closed the public hearing at 8:15 p.m. Mr. Blanchard made a motion to approve the SUP will all staff conditions, Mr. Brown seconded the motion and it was unanimously approved by a 4-0 vote.

#### ADJOURNMENT

There being no further business, Mr. Blanchard made a motion and the meeting adjourned at 8:17 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

Planning Items Respectfully Submitted & Reviewed By:



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Patrick T. Dwyer  
Planning Staff