

**MONDAY, MAY 3, 2010**

**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 10:00 a.m. and thanked and welcomed all to the meeting.

**INVOCATION**

Chairman Tate offered the Invocation.

**PLEDGE OF ALLEGIANCE**

Vice Chairman Blanchard led the Pledge of Allegiance.

**PUBLIC HEARING**

**1. Public Hearing & Resolution Approving the North Carolina Department of Transportation 2009-2010 Secondary Road Construction Program.**

The Public Hearing opened at 10:05 a.m. County Maintenance Engineer Glenn Crews explained that as required by General Statute 136-44.5, before July 1 each calendar year, the Department of Transportation shall make a study of all state maintained unpaved roads in order to determine the unpaved mileage in each county and the total in the state; each county's allocation is determined by dividing the total allocation by the statewide mileage times the number of miles in each county; secondary road construction allocations are based upon the amount of revenue generated by the gasoline tax; as of June 2009, there were approximately 30.48 miles of unpaved roads in Pender County and this total does not include unpaved roads added to the priority list since the last house count in 2009; there is \$387,197 available for this upcoming construction season; the NC Board of Transportation has elected to continue paving down the same lists used last year; and the lists are based on a paving priority rating system having two paving priorities in each county, one for rural roads and one for subdivision roads. NC DOT Division 3 Engineer Allen Pope told the Board he has some good news regarding the Highway 17 Bypass. He explained they are moving forward; they met two weeks ago and while some environmental work still needs to be done, the 18 potential corridors for the bypass has been cut down to five; a few more studies need to be done along with an environmental impact study; and DOT is hoping to have a corridor picked out by December 2011. Mr. Rivenbark said when he was first a commissioner this project was dropped but Commissioner David Williams kept pushing it and he would like to recognize and thank Mr. Williams for pushing it to this point. Mr. Williams said it was a collaborative effort and he believes the area's new DOT Board Member Mike Alford from Onslow County is listening and doing what he can to help the project. He added he thinks Mr. Alford has heard us. Mr. Crews noted Mr. Williams represents Pender County on the Wilmington Area Metropolitan Planning Organization-Transportation. Mr. Williams said he'd like to commend DOT on what they do. He said they can't fix everything but they at least respond to people. Mr. Williams asked about Lewis Rd. and Sloop Point Rd. and the effect of increased traffic due to the new boat ramp. Mr. Williams asked about the status of the proposed improvements on US 17 at Hilltop. District Engineer Robert Vause said this area would be converted into a super street. Mr. Tate said he has seen a lot of work DOT has done in his district in the Willard area. Mr. Tate asked how they

came up with the priority list that will be done this year and Mr. Vause said every four years they do an evaluation and once a road makes it to the top 10, it remains on the list. The Public Hearing closed at 10:16 a.m. Mr. Rivenbark made a motion to approve the resolution, Mr. Brown seconded the motion and it was unanimously approved.

## **PUBLIC INFORMATION**

### **2. Mr. Michael Moore, Town Manager, Town of Surf City: FY 10/11 Budget Presentation.**

Mr. Moore said he realizes the state of the economy is hitting local governments really hard but he is asking the Board to continue funding the Beach Nourishment Program as it has in the past. He gave an update on beach nourishment and Topsail Shoreline projects. Mr. Moore explained how the beaches are needed to promote tourism and how tourism brings more dollars into the County than anything else, and noted that Commissioner Blanchard is the County's representative on the Topsail Shoreline Commission. Mr. Moore also said Mayor Zander Guy is requesting that the Board provide funding for the Cape Fear Community College Surf City Campus, noting that the land for the Campus was a donation by a citizen.

### **3. Ms. Shelby Battle, Pender County Historical Society, & Mr. George W. Edwards, Historic Wilmington Foundation: National Preservation Month.**

Mr. Edwards explained the request for the Board to approve the proclamation designating the Month of May as National Preservation Month. Mr. Edwards said preservation projects pay for themselves; Pender County is blessed with historical sites, including the Burgaw Historic District; he applauds the Board for considering approval of the proclamation; and he applauds all the members of various groups who are here to support the request. Ms. Battle added every effort is a step forward. Mr. Tate noted New Hanover County will be approving the proclamation also. Mr. Rivenbark made a motion to approve the proclamation, Mr. Williams seconded the motion and it was unanimously approved. Mr. Brown said he and Mr. Edwards had discussed the old Topsail High School and weighed all options of preserving some of the history of it. He said they discussed lead paint, asbestos and other health issues possibly connected to the building. Mr. Williams asked is everything old historical and asked what makes something historical and not just old. Mr. Edwards responded age, rarity, architectural structure, etc. is what determines if something is historical. He added the Topsail High School Building was built in the 1920's. Mr. Brown said what makes the Topsail School unique to him is the County owns it; his number one goal is for the County to hold on to it; and his second choice is to find someone who will utilize it for the enjoyment of residents. Ms. Barbara Baker, a member of the Tourism Development Authority, said in her personal opinion, an adaptable use for the building would be for the County to partner with a developer to renovate the building and make it into an apartment building for the elderly.

### **4. Mr. Greg Hoover, Southeast North Carolina District Director, Cooperative Extension Service: Hiring Process for New Cooperative Extension Director.**

Ms. Charlotte Glen, Interim Director of Cooperative Extension Service introduced Mr. Hoover. Mr. Hoover thanked Ms. Glen for filling in and doing a wonderful job. Mr. Hoover said the position is currently being advertised; the position is jointly funded by the County and North Carolina State University (NCSU); he will collaborate with the County Manager to choose a pool of applicants to interview; the County Manager will be included on the interview team; and there will be two interview sessions. Mr. Rivenbark noted he would like to be included in the interview process. Mr. Tate thanked Mr. Hoover for including the County in the interview process. Mr. Brown asked if funding Cooperative Extensions jointly by the county and NCSU are common throughout the State. Mr. Hoover said joint funding is quite common throughout most of the State. There ensued discussion of NCSU helping fund Cooperative Extension. Mr. Rivenbark asked if there is a timeline for filling the position and Mr. Hoover said he would like to start the interview process in late June, but it depends on the applicant pool.

5. **Mr. Patrick Davenport, Planning Director: Update on FEMA Hazard Mitigation Assistance Program Grant Application.**

Planning Director Patrick Davenport explained: recently, the Board authorized staff to prepare an application seeking grant funds; the grant funds will cover 75-90% of the cost of elevating and retrofitting homes so their risk of future flooding will be significantly reduced; staff has gathered data from the State on properties in the County that have experienced flood losses in the past, and which may qualify for program grant funding; staff is ready to mail letters to these homeowners seeking their interest in participating in the program; they plan to advertise public notices to notify others that may have experienced documented flood damage to assess their interest in having their homes evaluated for qualification; homes in the VE Flood Zones (oceanfront) will not qualify for the program, as the State prefers acquisition of these properties when possible, not elevation; and commercial properties (regardless of zone) do not qualify. Mr. Blanchard asked how many people they think they can help and Mr. Davenport said approximately 22 in the unincorporated areas of the County and approximately 47 in Topsail Beach. Mr. Benton added the data from the State doesn't include people who didn't apply due to not having insurance coverage, so there will probably be more. Mr. Rivenbark said he was asked to go to Washington, DC a year ago to speak and answer questions pertaining to this subject.

6. **Mr. Patrick Davenport, Planning Director: Updates on Planning Projects-Unified Development Ordinance (UDO), Comprehensive Land Use Plan and Comprehensive Parks and Recreation Master Plan.**

Mr. Davenport explained: this is an update to the Board of Commissioners regarding three planning projects nearing the final review and adoption phase; the Board of Commissioners and the Planning Board held a joint public hearing on the Comprehensive Land Use Plan on February 15 and a final public hearing and adoption is scheduled for June 21, 2010; Planning staff has completed the final draft of the 2010 Pender County Comprehensive Parks and Recreation Master Plan, which has been available for public review and comment since April 26, 2010-staff will be accepting public comment until May 14, at which time the draft will be revised if necessary before being presented to the following Boards for adoption or support as follows: Parks and Recreation Advisory Board-May 27, Planning Board-June 1 and final adoption by the Board of Commissioners on June 21; on April 30, 2010, staff distributed the most recent copy of the UDO and supplementary zoning map to various individuals and locations and posted these versions on the Planning Department's website; and copies of the UDO have been delivered to the Commissioners today in preparation for a public hearing (1<sup>st</sup> reading) on May 17<sup>th</sup>, and the final reading and adoption is scheduled for June 21, 2010. Mr. Tate thanked Mr. Davenport and his staff for their work on the projects and said he has heard lots of comments on them.

24. **Resolution to Authorize Surf City Volunteer Fire Department to Exceed 25% Debt Limit.**

Item Number 24 was moved up for discussion because Paul Woodin of the Surf City Volunteer Fire Department had signed up to speak under Public Comment. Emergency Management Director Tom Collins explained: the current, second-out fire engine for the department is a 1964 American LaFrance carrying 500 gallons of water with a 1,000 gallon per minute pump; the department also utilizes a 2007 Pierce tanker and a 1999 Freightliner; the three pieces of apparatus also respond to automatic and mutual aid calls regularly in the Topsail, Sloop Point, Town of Surf City, and Holly Ridge Fire Districts; all current equipment will remain in use; the purchase price of the new truck is \$380,000 with a 5.5% interest rate; the total to purchase the truck and refinance the existing loan is \$485,000; the department has already exceeded its debt limit by 30.8%; they could shop for better rates but there are time limits for the purchase of the truck; and he and the County Manager have discussed some issues concerning this purchase. Board

members asked questions and discussed the debt limit, age of the truck, the interest rate and other issues. Mr. Tate asked what does Mr. Collins recommend and Mr. Collins said the truck had gone beyond its years of service and needs to be replaced; he thinks the department can handle the new payments; and the concern he and the County Manager have is what will happen if Surf City is annexed again. Mr. Benton said his recommendation is that the fire department considers exploring financing with USDA. Mr. Blanchard said he will make a motion to approve the resolution, contingent upon staff and the fire department continuing to shop around for better interest rates. Mr. Rivenbark seconded the motion and it was unanimously approved.

### **PUBLIC COMMENT**

Ms. Roberta Bost, Chairman of the Pender County Board of Health, read a statement to the Board saying the Health Board supports the County's decision to do an assessment of the Health Department, and said the Board of Health also recommends that any employee changes be made in consultation with the County Manager throughout the assessment period. Mr. Brown said he has concerns about personnel decisions recently made, particularly the release of an employee since it was announced the Board was calling for an investigation into the department; the number of changes should be limited until the issues are resolved; and some feel the changes were an act of retribution. Mr. Rivenbark said he supports Mr. Brown's concerns. Mr. Tate said the Health Department is still open and doing a good job; the Board of Health met last week to discuss issues and they will move forward; and said he doesn't want to say make no employee changes, and then have to make changes because of budget constraints. Mr. Thurman said Dr. Griffith wants people to know his door is open as it has always been and will continue to be, and he will not share any information received except with Mr. Benton. The Health Department issue was continued later in the meeting.

Lt. Mike Cross of the Surf City Fire Department said the department protects everyone they can, and thanked the Board of Commissioners for its support to the Fire Department.

### **CONSENT AGENDA**

Mr. Tate presented the sixteen 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. Blanchard seconded the motion and the Consent Agenda was unanimously approved vote as follows:

7. Approval of Minutes for the Regular & Closed Session Meeting of April 19, 2010.
8. Resolution Approving Tax Releases and Refunds.
9. Resolution Accepting Petition to Add Doc Smith Rd. Willard, to the State Maintained System and Authorizing the County Manager to Submit the Petition to N.C. Department of Transportation.
10. Resolution Authorizing a Budget Ordinance Amendment to Transfer Funds from the County Manager Budget (420) to Public Buildings Budget (500).
11. Resolution Approving Budget Ordinance Amendment to Receive \$2,600 through the Bill & Melinda Gates Grant Program Including Local Match from Pender County Friends of the Library.
12. Resolution Authorizing a Purchase Order to Quality Turf, Inc. in the Amount of \$6,750 for Landscaping at Topsail High School.
13. Resolution Authorizing Various Purchase Orders for Upgrade of Telephones and Wireless Internet Service and Electronics at Topsail Elementary School: \$31,114.60.
14. Resolution Authorizing Various Purchase Orders for Upgrade of Telephone and Wireless Internet Service and Electronics at Topsail Middle School: \$32,427.37.

15. Resolution Authorizing Various Purchase Orders for Upgrade of Telephone and Wireless Internet Service and Electronics at Penderlea School: \$56,654.62.
16. Resolution Authorizing Purchase Order to Dell for 7 Computers: \$9,500.00.
17. Resolution Adopting Proclamation by the Pender County Board of Commissioners Recognizing the Month of June as "Elder Abuse Awareness Month.
18. Resolution Appointing Amy Everett, Tax Mapper, as a Review Officer for Pender County.
19. Resolution Authorizing a Contract Renewal with Turner Business Appraisers for Tax Auditing Services.
20. Resolution Authorizing Purchase Order in the Amount of \$19,008.70 to Turner Business Appraisers for Tax Audit Contract Fee.
21. Resolution Authorizing Purchase Order to Tim's Heating and Air Conditioning, Inc. in the Amount of \$15,656 to Replace Two HVAC Units at DSS; and Authorizing Budget Amendment to Provide Funding Appropriation.
22. Resolution Adopting Proclamations by the Pender County Board of Commissioners: Travel & Tourism Week for Pender County: May 8-16, 2010; and Proclamation to Protect the Room Occupancy Tax.

## **RESOLUTIONS**

### **23. Resolution Authorizing Amendment to the Existing Hampstead Volunteer Fire Department, Inc., Funding Agreement.**

Mr. Collins explained the Hampstead Volunteer Fire Department received its Medium Rescue Certification on August 26, 2006; the North Carolina Secretary of State officially changed the department name to Hampstead Volunteer Fire & Rescue, Inc.; and this resolution is to amend the existing Hampstead Volunteer Fire Department, Inc. Funding Agreement to change the name on the agreement. Mr. Williams made a motion to approve the resolution, Mr. Rivenbark seconded the motion and it was unanimously approved.

### **25. Resolution Approving Professional Services Contract Addendum # 1 and Purchase Order Increase to McKim & Creed for Pender County Water Treatment Plant Ancillary Design Services.**

Utilities Director Michael Mack explained: the Board had previously approved a Design Contract to McKim & Creed for the Pender Commerce Park Infrastructure, which included the stormwater collection and management system; as part of the stormwater permitting process, all of the Built-Upon Area (BUA) and impervious surfaces within the Commerce Park site had to be accounted for, including the Water Treatment Plant and the access road to the Water Plant; once the Master Stormwater permit was issued, staff was advised that the large stormwater pond that had been designed to collect stormwater from the southern portion of the Commerce Park and the Water Treatment Plant would have to be constructed as designed during the construction of the Water Treatment Plant; due to the large size and estimated cost of \$1 million to construct the stormwater pond that would be imposed on the Water Treatment Plant project, staff met with CDM (WTP Engineers), McKim & Creed, and the State Division of Water Quality personnel to discuss an alternative stormwater design that would reduce the construction cost of the initial stormwater pond to serve the Water Treatment Plant; this meeting produced a viable option, but would require a modification to the original design and permitting completed by McKim & Creed; in addition, the McKim & Creed scope of work was increased to include other ancillary design services related to the Water Treatment Plant that would be more efficiently handled by McKim & Creed due to their on-going design and permitting of the Commerce Park rather than through CDM; and funds for the increased fees for McKim & Creed fees are available in the Water Treatment Plant Project Fund (83-407490) and may be reimbursable by USDA-RD. Mr. Rivenbark made a motion to approve the resolution, Mr. Williams seconded the motion and it was unanimously approved.

**26. Resolution Approving the Plans and Specifications for the Pender County Water Treatment Plant and Transmission Main Project.**

Mr. Mack explained that in accordance with the USDA-RD Pre-Bid Checklist, the applicant must approve a resolution providing formal approval of the project plans and specifications; the 90% submittal of the plans and specifications had been reviewed and approved by Utilities staff and USDA-RD staff; and the 100% set was delivered to his office on last Friday. Mr. Rivenbark made a motion to approve the resolution, Mr. Williams seconded the motion and it was unanimously approved.

**ROCKY POINT/TOPSAIL WATER & SEWER DISTRICT**

Vice Chairman Blanchard convened the Board as the Rocky Point/Topsail Water & Sewer District at 11:32 a.m. and the Board reconvened as the Board of Commissioners at 11:37 a.m.

**27. Resolution Accepting Conveyance of Developer Installed Water System and Easements in Turnstone Plantation Subdivision to Pender County.**

Mr. Mack explained: prior to the commencement of water and/or sewer service to serve any new development, the Pender County Water & Sewer Ordinance requires the submittal of a Deed of Dedication, easements, lien waivers and other documents to transfer title free of liens and encumbrances of all utility improvements to become part of the Water & Sewer District's system for acceptance by the Board of Directors of the respective District; the current developer of the Turnstone Subdivision has posted a financial guarantee in the amount of \$6,000 (10% of the cost of installation); and this system was constructed in accordance with the RPTWSD specifications and has received the Engineer's Certification and Final Approval from the NC Public Water Supply Section. Mr. Williams made a motion to approve the resolution, Mr. Brown seconded the motion and it was unanimously approved.

**SCOTTS HILL WATER & SEWER DISTRICT**

Vice Chairman Blanchard convened the Board as the Scott's Hill Water & Sewer District at 11:37 a.m. and the Board reconvened as the Board of Commissioners at 11:53 a.m.

**28. Resolution Approving the Plans and Specifications for the Scott's Hill Water Distribution System.**

Mr. Mack explained that in accordance with the USDA-RD Pre-Bid Phase Checklist, the applicant must approve a resolution providing formal approval of the project plans and specification; and the 100% submittal of the plans and specifications have been reviewed and approved by Utilities staff and USDA-RD staff. Mr. Williams made a motion to approve the resolution, Mr. Brown seconded the motion and it was unanimously approved.

**ITEMS FROM THE COUNTY MANAGER**

Mr. Benton had no additional items.

**ITEMS FROM THE COUNTY ATTORNEY**

Mr. Thurman said that with respect to Sheriff's Candidate Adam Dillon's allegations against Pender County Deputies doing political campaigning for Sheriff Carson Smith while they are on duty and driving county vehicles, he and the County Manager consulted the Sheriff and the District Attorney and they were assured that these allegations had been looked into and there was no evidence to support them. Mr. Williams wanted it verified for the records that no crime was committed, and Mr. Thurman said the DA's office did investigate and verified that no crime was committed. Mr. Thurman said there are items for closed session pursuant to items number 3, 6 and 7.

## **ITEMS FROM THE COUNTY COMMISSIONERS**

Mr. Rivenbark said when new DOT Board member Mike Alford attended a previous Board meeting, he obviously took notes when he (Mr. Rivenbark) mentioned roads in his are that need maintenance, because he now sees stakes out there where they've been doing work.

Mr. Brown said he wants to clear up some misconceptions concerning issues with the Health Department. Mr. Brown said the past two weeks had been bad and contrary to some people's opinions, he and Mr. Tate does not like the situation they had been put in; employees consulted him and Mr. Tate as a last resort because they had nowhere else to go; he is frustrated with some of the philosophies in the Health Department; and it was unfair to attack Mr. Tate's involvement in the matter as Mr. Tate had been a fine facilitator on the Board and kept it together through some rough times. Mr. Brown said he supports Mr. Tate and asked the other Board members to support both of them on this matter. Mr. Williams said he has made it clear he does not like getting involved in personnel issues, but he does support the Board bringing in an outside independent agency to look into the issues at the Health Department. Mr. Rivenbark added they all support them. Mr. Blanchard said he is disappointed to see some use this public forum to condemn the Health Board. Mr. Tate said he didn't think Mr. Brown's comments were a shot at the Health Board. Mr. Brown said his comments were not a condemnation of the Health Board and added, he does have condemnation but he will do it in closed session.

Mr. Tate said we should keep the media involved in County business. He said it bothers him that they have to wait until the Board comes out of closed session.

## **CLOSED SESSION**

At 11:58 a.m., Mr. Rivenbark made a motion to enter into closed session, 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; (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; and (7) to plan, conduct, or hear reports concerning investigations of alleged criminal misconduct. Mr. Blanchard seconded the motion and the Board unanimously approved going into Closed Session. At 1:17 p.m., Mr. Blanchard made a motion for the Board to come out of Closed Session, Mr. Williams seconded the motion and it was unanimously approved.

**ADJOURNMENT**

There being no further regular business, the Board went into it Budget Work Session after exiting Closed Session.

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