

**MONDAY, MAY 17, 2010**

The Pender County Board of Commissioners met in Regular Session on Monday, May 17, 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 Blanchard led the Pledge of Allegiance.

**PUBLIC INFORMATION**

**1. Recognition of Various Pender County High School Students.**

Administrative Assistant Melinda Knoerzer introduced Gregory Hoch, Instructor, Topsail High School JROTC; Robbie Cauley, Assistant Principal, Pender Early College; and Jake Pence, Coach of Topsail High School. Ms. Knoerzer explained the JROTC students couldn't be here today and explained how they assisted her with the electronics recycling event held on April 24, 2010 in Hampstead. Hunter Clemmons was the only Pender Early College student who was able to attend; Mr. Cauley recognized her achievements and Mr. Rivenbark presented her a certificate. Arik McCutcheon was recognized by Mr. Pence for his achieving Individual State Championship in Wrestling, and said Mr. McCutcheon is an awesome student. Mr. Williams presented Mr. McCutcheon with a certificate and presented a plaque for the school's showcase.

**2. Ms. Donna Bost, Interim Administrator, Pender Memorial Hospital Update on the Hospital.**

Mr. Tate introduced Ms. Bost and said she is doing an excellent job as Interim Administrator. Ms. Bost noted her background, and presented the update. Some of the highlights were: Pender Memorial Hospital embraces the community and the community embraces the hospital; it is a critical care hospital; some volumes are down in some areas but they are optimistic about turning things around; the Home Health agency is growing; they are working with New Hanover Regional to recruit more primary care physicians, including bilingual ones; they are continuing to improve the building and equipment; and they are focused on retaining and recruiting employees and improving their benefits package and health care benefits.

**PUBLIC COMMENT**

No one wished to speak under Public Comment.

## **CONSENT AGENDA**

Mr. Tate presented the four 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, Mr. Williams seconded the motion and the Board unanimously voted to approve the Consent Agenda as follows:

3. Approval of Minutes for the Regular & Closed Session Board Meeting and Budget Work Session of May 3, 2010.
4. Resolution Authorizing Purchase Order to Southern Glass & Mirror for the Purchase and Installation of New Windows and Doors at Topsail Middle School: \$42,629.
5. Resolution Approving Arbitrage Rebate Calculation Contract: \$5,200.
6. Resolution Approving the Sale of County Personal Property Known as the Hampstead Annex Building to Jeff Beaudoin for the Sum of \$2,000.

## **ITEMS FROM THE COUNTY MANAGER**

Mr. Benton explained: the Board previously approved a Revision to a Special Use Permit to Avant & Nunn, LLC, a private company, for the addition of 100 Units to an existing 112-Unit Skilled Nursing and Rehabilitation Facility; the company is seeking \$7,000,000 in Recovery Zone Facility Bonds to assist with the project; and the Pender County Industrial Facilities and Pollution Control Financing Authority Board (PCIF&PCFA) will be involved in the process. Mr. Blanchard asked if all the fees will be covered by the company. Mr. Thurman stated yes, explained the bond process and said: the company can get lower interest rates by going through the PCIF&PCFA; the County is not liable for anything; and it is a private transaction. Mr. Benton added the Board of Commissioners will have to hold a Public Hearing, and will have to approve a resolution approving of the financing "in principle."

## **ITEMS FROM THE COUNTY ATTORNEY**

Mr. Thurman spoke about the Carolina Water Appeal case he had been in court with today. He said Judge Gorham of the Court of Appeals heard the case and she didn't indicate how she will rule. He said an argument made gave an example of a power line case in Kill Devil Hills. There was discussion and questions concerning that case.

## **COUNTY COMMISSIONERS**

Mr. Rivenbark again commended Mr. Mack and his staff for the transformation they made at the Burgaw Convenience Center.

Mr. Tate said he attended Spring Fest on Saturday, and reiterated the good things he heard about Michael Mack from Rural Development. Mr. Tate noted he received a letter from Governor Perdue with respect to upcoming vacancies on the Coastal Resources Commission (CRC) and to solicit nominations. Mr. Tate said Ms. Joan Weld currently serves in this capacity to represent Pender County and he would like her to be re-appointed. Mr. Blanchard said we should hold off on voting on this because Mr. Bill Morrison serves on this commission, he does a good job, and gets the County's suggestions to the CRC. There was more discussion concerning the appointment. Ms. Knoerzer noted Mr. Morrison serves on the Advisory Council versus Ms. Weld's appointment is to the Commission itself. Mr. Tate noted he wanted to get this done because there is a June 1, 2010 deadline and the Board of Commissioners doesn't meet again until June 7<sup>th</sup>. After more discussion, Mr. Williams made a motion to nominate Ms. Weld to be re-appointed to the CRC, Mr. Blanchard seconded the motion and it was unanimously approved.

## CLOSED SESSION

At 4:38 p.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; 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. Williams seconded the motion and the Board unanimously approved going into Closed Session. A break was taken and the Board went into Closed Session at 4:47 p.m. The Board exited the Closed Session at 5:22 p.m.; the motion was made at 7:00 by Mr. Rivenbark, seconded by Mr. Williams and unanimously approved. There were no announcements made upon exiting the closed session.

Mr. Tate noted we were remiss in not taking a vote to add the re-appointment of Ms. Weld to the agenda. Mr. Williams made a motion to add the item, Mr. Rivenbark seconded the motion and it was unanimously approved.

Mt. Thurman explained the upcoming public hearings are quasi-judicial; there are sign-up sheets for anyone wishing to speak; and speakers are limited to three minutes.

## PUBLIC HEARINGS

It was the concurrence of the Board to move Public Hearing #'s 11 and 9 up since they would be very brief.

**11. Public Hearing & Resolution: CDBG Program Amendment to add Odessa Highsmith as a Recipient of Housing Assistance under the Current 2008 CDBG-SS (Scattered Site) Program.**

The public hearing opened at 7:02 and closed at 7:03 p.m. Mr. Benton explained the Board is being requested to approve the addition of Ms. Highsmith of 207 S. Vann St., Burgaw as a beneficiary under the 2008 CDBG-SS Program, and a public hearing is required. Mr. Blanchard made a motion to approve the resolution, Mr. Williams seconded the motion and it was unanimously approved.

**9. Public Hearing on the Hampstead/Scott's Hill Fire District Merger.**

The public hearing opened at 7:03 and closed at 7:12 p.m. Emergency Management Director Tom Collins explained: Scotts Hill Fire District area is currently being served by New Hanover County Fire Department; there is a seven-minute delay when calls come in; concerned citizens that live in the Scotts

Hill area have expressed the need to improve response time and achieve a lower insurance rate; and the citizens have worked with Hampstead Fire and Rescue to develop a solution which involves merging into the Hampstead Fire and Rescue District by adding a sub-station in the Scotts Hill District area. Mr. Williams added a public meeting was held to see if citizens supported this concept and to see if it is worthy for Hampstead Fire and Rescue to take over; and the next step is to have a resolution at the June 7, 2010 meeting. Mr. David Lee of the Hampstead Fire and Rescue delivered a Power Point presentation which included: Location and Costs; Approximate Cost to Build a Station in Scotts Hill; Type Floor Plan for Station; Approximate Costs for a Station; Financing the Building; Current Tax Revenue; Proposed Yearly Operating Budget Expenses for Substation; and Revenue versus Expenses. There was no formal action required.

#### **7. Public Hearing on the Unified Development Ordinance (UDO) and Supplementary Zoning Map.**

Planning Director Patrick Davenport explained this project was initiated in October 2008 and recognized Planning Board members, the UDO Citizen Committee (DRRC), and his staff for their work on the UDO. Mr. Davenport also thanked the various other individuals, business owners and organizations for their citizen input. Mr. Davenport delivered a Power Point presentation entitled "Unified Development Ordinance & Zoning Map Revisions BOCC Public Hearing May 17, 2010" which included: 2010 UDO-Improvements/Changes; 2010 UDO-Other Significant Regulations; and 2010 UDO Proposed Remaining Schedule. With respect to Improvements/Changes the presentation included: all development codes now in one document; reduced number of zoning districts for simplicity; more permitted uses/less uses by SUP; accommodating to business & economic development, agribusiness and eco-tourism; practical and reasonable dimensional standards; more effective sign regulations, accommodating to business yet helps with commercial corridor appearance; a streamlined development review process; combined review option for Master Plan with Utilities-promotes more effective & efficient review process; encourages better open space and recreational amenity standards; and coordinates with Comprehensive Land Use Plan and Parks and Recreation Plan. With respect to Other Significant Regulations the presentation included the Highway 17 Overlay District (TC-17 Overlay), whose purpose is to enhance the Hwy 17 corridor appearance by requiring increased architectural façade standards for non-new or expanded non-residential buildings-standards exceeds minimum building codes. The proposed remaining schedule includes: the public hearing tonight; public hearing and adoption of ordinance on June 21, 2010; and effective date of ordinance on July 1, 2010. Mr. Brown asked specific questions concerning the ten day requirement on Page 14, the districts mentioned on Pages 18 and 39, horse farms, and the Homeowners Associations mentioned on Page 82 Mr. Davenport responded to all. Mr. Williams said the UDO started as a result of developers' request and said it combines several documents into one. Mr. Williams said he has received calls of concern regarding the regulation that the ordinances apply to buildings 15,000 square feet and higher. There ensued discussion of buildings' sizes and heights.

The following Hampstead residents, business owners and representatives spoke and some distributed written materials to Board members:

Cameron Moore, on behalf of the Topsail Island Association of REALTORS and Wilmington-Cape Fear Home Builders Association – The new ordinance is a great improvement over the old one, but there are some additions they want to see in place and some small incremental changes made related to density and dimensions.

Tony Musolino – Excellent piece of work except the overlay has been tainted because it is more focused on aesthetics than safety.

Lee Piver – Why the overlay is just for Hampstead and not the other areas of the County?; the UDO had plenty of regulations and the overlay was not needed; why does it focus more on appearances than safety.

Steve Donatone – The UDO is good for the County; it will not make everyone happy; the regulations in the UDO and overlay are restrictive for a purpose and if businesses can't meet the guidelines, they are doomed to fail anyway.

Kevin Davis – Signage issues; something should be adopted into the UDO to allow businesses to have at least a six-month temporary sign.

Chuck Wilson, Member of the Highway 17 Overlay Committee – The recommendations apply to future development; cited reasons for the standards recommended.

John Carter – Wants the Board to vote yes on this; businesses should contain design and cohesiveness, not just random construction.

Dave Morrison, Attorney representing Lea Properties – Lea Properties was doing business in Hampstead before it was Hampstead; the focus of the overlay is wrong as it is called a transportation overlay, yet it does not address safety issues; trying to do aesthetics through transportation is not right.

Al Freimark – It is a challenge of short-term versus long-term loss; you have to separate the comments-the ones with private agenda versus the ones with public interest.

Stuart Mossman, Member of the Overlay Committee – They were not a technical review board but rather a citizens committee that relied on expert help in suggesting the regulations; they looked at Onslow and Brunswick Counties and Surf City; much of the recommendations came from professionals; desirability of underground utility lines.

Ron Shirely – Agrees that power lines should be underground; all shopping centers should be made equal; against Overlay TC-17; moved to Hampstead for Schools, not the way it looks.

Liz Schoenber – Certain policies presented can potentially cause heavy blows to businesses; some business owners barely keeping their heads above water now; would rather see signs advertising business than to see for sale and for rent signs.

Don Rhine – The problem relating to the requirement to record all lots in a subdivision after the initial recordation has been addressed.

Mr. Rivenbark asked how many business owners were on the overlay committee. Mr. Williams said no big landowners or storefront owners were on the committee. Mr. Tate asked why the utility issue was not addressed in the Overlay District. Mr. Davenport said most utilities are already required and said most that are still overhead are the "initial drop." He said it is already addressed in the ordinance. In response to question, Mr. Davenport said it is safer and less expensive to have overhead lines. Mr. Williams said there was a lot of information given tonight, he's going to need time to digest it and the Board will take comments made tonight under considerations. Mr. Tate said Board members can ask Mr. Davenport individually if they have any particular item they need to ask about.

**8. Public Hearing on Proposed Amendments to the Animal Control Ordinance.**

The public hearing opened at 8:27 and closed at 8:46 p.m. Dr. Griffith said the Animal Control Ordinance Review and Recommendation Committee (ACORRC), appointed jointly by the Pender County Board of Commissioners and the Pender County Board of Health, met four times and thoroughly reviewed the existing Pender County Animal Control Ordinance, along with himself and Mr. Benton. He said the ACORRC reviewed the ordinance and made recommendations for improvements that would strengthen animal control laws and improve performance in the animal control program; and on March 16, 2010 the Board of Health unanimously voted to request that the Board of Commissioners favorably adopt the changes and amendments of the existing ordinance recommended by the ACORRC. Dr. Griffith said the current Animal Control Ordinance was really good but it just needed some tweaking. Mr. Benton said there will be a resolution on the June 7, 2010 agenda to consider adopting the changes. The proposed changes are:

**Add to Section 3-2. 1)** of the existing Animal Control Ordinance “or through sworn testimony of an individual”.

**Add new wording into Section 3-5. 5)** of the existing Ordinance “animals must have adequate food, water, and shelter as observed by the investigating Animal Control Officer or local law enforcement”.

**Add to Sec. 3-5. 8)** of the existing ordinance “Animal Control Officers will provide educational documents for the public to inform them of the legal steps they can take in the event of an animal complaint”.

**Strike Section 3-7 from the existing County Ordinance and replace it with NC § 67-4.2.** Precautions against attacks by dangerous dogs.

(a) It is unlawful for an owner to:

- (1) Leave a dangerous dog unattended on the owner's real property unless the dog is confined indoors, in a securely enclosed and locked pen, or in another structure designed to restrain the dog;
- (2) Permit a dangerous dog to go beyond the owner's real property unless the dog is leashed and muzzled or is otherwise securely restrained and muzzled.

(b) If the owner of a dangerous dog transfers ownership or possession of the dog to another person (as defined in G.S. 12-3 (6)), the owner shall provide written notice to:

- (1) The authority that made the determination under this Article, stating the name and address of the new owner or possessor of the dog; and
- (2) The person taking ownership or possession of the dog, specifying the dog's dangerous behavior and the authority's determination.

(c) Violation of this section is a Class 3 misdemeanor, punishable by a fine of no less than fifty dollars (\$50.00) and not more than five hundred dollars (\$500.00).

**Add to Sec. 3-9. c)** of the existing ordinance, Vaccination of dogs, cats and other pets: “All rabies vaccines administered by certified rabies vaccinators employed by the Pender County Health Department shall be paid for at a rate set by the Pender County Board of Health.”

**Add Section 3-11.** “Identification Tag,” to the existing ordinance. “It shall be unlawful for a dog owner to own a dog that is not fitted with an ID tag displaying the owner’s name and phone number on the collar of the dog; the ID tag shall be worn at all times and shall serve as prima facie evidence of ownership of a dog. Violation of this section shall be a class 3 misdemeanor punishable by a fine of no less than fifty dollars (\$50.00) and not more than five hundred dollars (\$500.00).”

**Adopt the following NC statute: § 14-401.17 as Sec. 3-12 of the revised county ordinance: Unlawful removal or destruction of electronic of identification articles.** It shall be unlawful to intentionally remove or destroy any identifying articles including collars, tattoos, tags, microchips or any other article used to prove ownership of a dog. Violation of this section shall be a class 3 misdemeanor punishable by a fine of no less than fifty dollars (\$50.00) and not more than five hundred dollars (\$500.00).”

Add to Sec. 3-27. c) 2) b). Penalty for violation. The addition to the existing ordinance will read: “Notify offender that failure to pay civil penalty may result in issuance of a misdemeanor criminal citation for violation of the above section. Violation of this section shall be a class 3 misdemeanor punishable by a fine of no less than fifty dollars (\$50.00) and not more than five hundred dollars (\$500.00).”

There were some questions and discussion by Board members. Mr. Blanchard noted there was no one here tonight to protest.

#### **10. Public Hearing on the Pender County FY 10/11 Submitted Budget.**

The public hearing opened at 8:46 p.m. and closed at 9:17 p.m. Mr. Benton said this is the required public hearing for the FY 10/11 Budget. Mr. Benton delivered a Power Point presentation, which he said is a “watered down” version of his presentation at the May 3<sup>rd</sup> Budget Work Session. Mr. Benton explained: the proposed General Fund is \$47,949,148-a 2.7% decrease; the total budget is \$74,334,261- a 1.2% decrease; maintains the .65 tax rate for the sixth year; maintains current water/sewer/solid waste rates and fees; appropriates no excess fund balance for one-time capital expenditures; maintains in excess of 30% fund balance threshold (\$14,778,369); and tax base growth at -.05% versus 5.9% annual average 2006-2009. Other highlights of the presentation included: Sales, Services Budgeted Revenue; Tax Base Growth; General Fund Highlights; Fund Balance Importance; Enterprise Funds; and Next Steps. Library Director Mike Taylor spoke concerning the needs of the Library and noted hours would have to be cut, including half days on Saturday, and some of the money used to purchase periodicals would be cut. Board members spoke and asked questions concerning the Library cuts. Mr. Tate Mr. Blanchard said it is very disturbing to them that the Library hours have to be cut. Mr. Tate said he would like the Board to give some consideration to the Library. He said it is a special place, and said it is a place where people of every race can gather. In response to question, Mr. Taylor said it would take an additional approximately \$52,429 to fully fund the Library for FY 10/11. Mr. Tate noted that at a meeting in Atkinson, a gentleman offered volunteers who could possibly help out at the Library. Mr. Tate instructed Mr. Benton to look into funding the Library at 100%. With respect to the new Hampstead Library, Mr. Taylor said if we don’t look at doing something now, there will be substantial operating costs later on. Mr. Blanchard said the Board should consider borrowing money from Rural Development and building a new Topsail Library now while construction rates are good, and with interest in the 4% range. Mr. Blanchard asked staff to get figures on what it would cost. Mr. Rivenbark asked the news media to publish the County’s fund balance and stress to the public that it is a reserve account and the County does not have a lot of money saved, as perceived by the public. Mr. Williams noted the Board had gone over all this earlier this afternoon and that is why we are breezing through the public hearing.

#### **ADJOURNMENT**

There being no further business the meeting adjourned at 9:17 p.m.

Respectfully Submitted,

*Glenda Pridgen*

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Glenda Pridgen, Deputy Clerk to the Board

Reviewed By:

*Rick Benton*

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Rick Benton, Clerk to the Board