

MONDAY, JUNE 21, 2010

The Pender County Board of Commissioners met in regular session on June 21, 2010 at the Commissioner's meeting room, 805 S. Walker St., Burgaw, NC 28425.

MEMBERS PRESENT: Chairman Jimmy Tate, Vice Chairman Norwood Blanchard, and Commissioners George Brown, F.D. Rivenbark and David Williams.

OTHERS PRESENT: Rick Benton, County Manager and Clerk to the Board; Trey Thurman, County Attorney; Melinda Knoerzer, 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 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 Pender County Students:** Mr. Brown congratulated C. Heide Trask High School Athletic Director, Mr. Ed Gilroy and Student Athlete, Connor Hansen for his state championship in the discus throw. He read and presented a plaque and certificate honoring this achievement from the Board of Commissioners.

Mr. Rivenbark then asked Diego Camposeco of Pender Early College High School to come forward. He said that in the history of academics in Pender County there has only been one other Morehead Cain Scholar. He explained that Mr. Camposeco turned down a Harvard scholarship to attend UNC Chapel Hill as a Morehead Cain Scholar.

2. **Ms. Erin Diener, Cape Fear Housing Land Trust**

Ms. Diener, Executive Director of the Cape Fear Housing Land Trust provided an introduction about the organization and land trusts in general. She explained that they are an affordable housing provider and reviewed a Power Point presentation that will be maintained with the permanent records of this meeting. She explained that their service area is New Hanover, Brunswick and Pender Counties. She said the average cost of a home in Pender is \$200,000, however the average family of four can only afford \$173,000 and it is the Land Trust's mission to address the gap. She said the Land Trust would purchase the real estate and convey it to the first time homeowners with the trust retaining ownership of the land and leasing it to the owner. She said this effectively reduces the cost of the purchase by 20% to 40% and, in turn, they are restricted to whom they can re-sell the home to and how much they can sell it for. She said they serve homeowners earning up to 120% of area median income, which in Pender County equates to a limit of \$43,000 to \$81,000. Mr. Blanchard inquired who pays the property tax and Ms. Diener said that since the homeowner has full use of the land, they are responsible for paying the taxes. Staff has been working with the Cape Fear Land Trust to identify previously foreclosed property for this purpose and Planning Director, Patrick Davenport also serves on the Board.

Patrick Davenport introduced Mr. Dave Nugent, of Watson town PA and Mansfield University, a graduate student concentrating in mapping and water quality who will be assisting in the Planning Department through August of this year as an Intern.

Mr. Benton then introduced Intern, Jamie Britt, a teacher at Heide Trask High School and a PhD candidate at UNCW's School of Education. He said she would be working on economic development projects, and researching public school funding and utility performance benchmarks. Mr. Tate welcomed both interns to the County.

PUBLIC COMMENT

Jimmy Roughton, President of Burgaw Dixie Youth and Pender County Parks and Recreation Advisory Board member, asked all Commissioners to continue to support the parks and to realize all efforts being made by the individual ball clubs to support themselves. He requested, on behalf of the Parks & Recreation Board that the County consider re-instating the Parks & Recreation Department as it has existed in the past. He said that it is much easier to deal with one department and not complicate decisions by adding additional layers of support. He said they have held fund raising events such as the recent Turkey Shoot, which brought in \$3,500. He said the Burgaw Dixie Youth organization had 500 children playing spring ball at Pender Memorial Park. Mr. Rivenbark noted that the Rotarians partnered with Dixie Youth to build a concession/restroom facility. Mr. Roughton stated that both Rotary and Four County Electric have been very supportive. He said there is a great need to light the fields of play at these parks, because adding night play will increase membership and financial support. He said there are three (3) fields to light at Pender Memorial Park in Burgaw and three (3) to light at Hampstead Kiwanis Park (HKP) in Hampstead. He said that the District tournament will be held in Burgaw this weekend with 30 teams in town to play. He estimated that the Parks could generate about \$10,000 before expenses and that every bit of profit is going to be earmarked for future lighting. He said there is currently \$4800 in that account. He said approximately 1,000 children are enrolled in programs associated with HKP and approximately 700 in Burgaw. He explained the rules of "Dixie Youth" and that participants must play at the park closest to their home, adding that the Topsail Dixie Youth Organization is new this year. He said they estimate with lighting the fields they can increase their concession stand income by 1/3. When asked about geographic distribution of the participants, Mr. Roughton said they draw an even pool from each of the schools. Mr. Tate said it is important to remember that it is difficult for some of these folks to drive to Burgaw to participate in these organized sports.

Betty Thompson of the Canetuck Community Center requested the County provide financial assistance to help them upgrade their building, which is a Rosenwald School and is close to 90 years in age. She thanked Mr. Tate for assisting their group by finding grant opportunities and said they have applied for a grant to help them and are waiting to hear the outcome. Mr. Tate said he would be making a funding recommendation to assist them, despite this being a difficult budget year. Ms. Thompson said she had worked with Mr. George Edwards of the Wilmington Historical Society and Ms. Claudia Stack to write a grant to Lowes Foundation and the Historical Trust for the Rosenwald Schools.

Charles Jacobs of the Edgecomb Community Center asked for support for their community center and said they need some help to upgrade their softball field as they are fielding a team and playing in a league. He said the building has no heat and air conditioning, and that they are conducting their own fund-raising programs, but are asking the County to help. He said they would appreciate any financial assistance the County could give them.

Jessie Mintz and Brad George of Topsail Dixie Youth reiterated Mr. Roughton's request to address lighting on the fields at the two County parks. He said their teams have to play outside of the County because there are no night facilities, thereby losing potential revenue. He said they are working together with Burgaw Dixie Youth on joint fund raising ideas and bidding cooperatively to reduce the costs on lighting for both parks. He said they are pooling resources to grow both parks and try to accommodate as many Pender County families as possible. He indicated that some of the older school age athletes are signing with programs outside of the County because they have necessary night play facilities not currently available on these fields.

Katie Johnson of Newkirk Chapel in Willard requested funding for youth programs. She said she is trying to keep youth off the streets through education and spirituality, by providing softball and educational events such as health fares, crime education and gang violence, manners, etc. She also said that the Willard community supports Mr. Tate in all that he does.

Johnnie Stringfield said he heard Mr. Tate might be considering resigning and asked him not to leave the service of the County. He asked that the County consider funding basketball courts out at the parks. He said there are about 800 kids who want to play but do not have access to the proper facilities. He said they have had talks with St. Johns Church, who has agreed to partner with his activity counsel. He said he has been working with Dee Turner and the school system to try to establish a summer basketball program but there have been difficulties due to gym

floor re-finishing schedules. He said the cost to use the gym is \$200 for adult leagues and \$100 for youth leagues, but they also have to pay for janitors and game officials, which drives the cost too high. Mr. Tate said he has met with this group, along with Mr. Cleveland Simpson and that they do have good support. He asked the County Manager to look into the problems involved with their group gaining access to the schools. Mr. Williams suggested his would be a good item to discuss at the next Priority One meeting between the schools and the County. Mr. Tate said he would recommend funding for the Pender County Activity Council, and add some extra money for some basketball goals.

Ms. Dee Turner said they did attempt to start a youth basketball program but did not have enough sign ups to field enough teams of equal age in order to make it successful. She said they tried to run the league between other seasons so as to not conflict with other sports, however there just were not enough sign ups. She said they worked with Ms. Joyce Keith of the Pender County schools however both Burgaw Middle and Elementary schools had been scheduled for floor refinishing. She said West Pender Middle was available however it was determined that would be too far for many of the Maple Hill participants to drive. Ms. Turner said she will continue to work with Ms. Keith to work out the schedule and said she is working with Jarvis Ballard and Willie Jones to do community service projects at each of the schools, to give back to the schools and to garner some support. She said they are running a youth basketball camp this week. Mr. Tate said he is glad to know Ms. Turner has made contact with Ms. Keith and thanked her for her leadership in this matter. Ms. Turner said they were unable to hold a summer camp in Burgaw this year due to a lack of sign ups, but are holding a camp at South Topsail Elementary school with 35 students. She said that the Brigade Boys and Girls Club offered a summer camp program at a local church which may have accounted for the low enrollment numbers here in Burgaw. She said YWCA is also offering a camp at Kirkwood.

Dr. Rachel Stephens, President of the local chapter of the NAACP said there are many folks in the audience today who came out to support Mr. Tate. She asked them to stand for recognition.

CONSENT AGENDA

Mr. Tate presented the six (6) items on the Consent Agenda and asked if any of the Commissioners wished to discuss any item individually. Upon the motion for Mr. Rivenbark and second by Mr. Williams, the Board unanimously approved the Consent Agenda as follows:

3. Approval of Minutes for the Regular & Closed Session Meetings, and Budget Work Session of June 7, 2010.
4. Resolution Authorizing Issuance of Purchase Orders: NC Department of Corrections: \$10,000; and Pamlico County Sheriff's Office: \$17,800.
5. Resolution Authorizing a Purchase Order to Southern Health Partners, Inc. for Medical Expenses for the Jail to Complete FY 2009-2010: \$27,935.
6. Resolution to Approve Budget Ordinance Amendment to Transfer Funds from One Line Item to Another and to Increase Revenues and Expenditures for Fiscal Year 2009-2010: \$12,800.
7. Resolution Authorizing Contract with and Purchase Order to Schneider Electric for Digital Data Controls at West Pender Middle School: \$24,290.
8. Resolution Authorizing a Purchase Order to Seegars Fence Company, in the Amount of \$39,818 for Fencing of Two Athletic Fields at Topsail High School.

RESOLUTIONS

9. Resolution in Support of Amending Annexation Laws to Require Meaningful Services and Meaningful Support.

Mr. Williams read the resolution. Mr. Blanchard asked if this is requiring that the towns doing the annexing be prepared to provide services. Mr. Williams confirmed and indicated that although this is the way the law is written today, many who have been annexed are still waiting on services, while they continue to pay taxes and are not receiving water and sewer services. Mr. Brown clarified that this is not a resolution against forced annexation, but this goes beyond that to make the entity (town/city) provide services in a timely manner. Mr. Rivenbark asked if this is driven by laws pending in the legislature. Mr. Thurman responded in the affirmative, explaining that here are a number of bills currently under consideration on annexation reform in the short session. Mr. Williams said

this is not a "hot" topic in Pender County at present, but it very well could be soon. Mr. Williams made a motion to approve this resolution, which was seconded by Mr. Brown and carried by a unanimous vote. Prior to the vote, Mr. Rivenbark inquired if this is an area where the Board should consider holding a public hearing. Mr. Thurman responded that while that is always within the Board's purview, adopting this resolution would not change the law.

10. Resolution Adopting the FY 10/11 Budget Ordinance for the Fiscal Year Beginning July 1, 2010.

Mr. Tate announced his intentions to fund various organizations from the \$10,000 allocated to his district. He asked the other Commissioners to support him by making the appropriate motion (since the Chairman can neither make nor second a motion) and since he serves on the Board of Directors of two of those entities, he requested the appropriate motions to excuse him from the vote and to approve the funding. Mr. Williams also indicated that he would like to make modifications to identify agencies for funding from his District's allocation.

Attorney Thurman explained that the proper procedure would be for the Board to adopt the Budget Ordinance as presented first, and then to entertain the requested modifications.

Mr. Blanchard asked for verification that he does NOT have to identify funding for specific allotments out of his budget at this time and Mr. Thurman confirmed that this can be done at a later date.

Mr. Blanchard then made a motion to approve the budget as presented, which was seconded by Mr. Rivenbark. Mr. Brown said he is not ready to vote on the budget at this time and asked Finance Officer David McCole to come forward. Mr. Brown said that the budget, as presented includes a "reduction in force" or RIF of six (6) county employees and freezing of one open position for a total of seven positions being lost. He said "this is real to me and it affects all of us and is very serious". He then referenced a report from Mr. McCole indicating that within the Health Department, six (6) medical doctors are paid a total of \$926,000 per year plus bonuses which are provided for in some of their contracts. He said that when most people go to the doctor's office to be treated for illness, they are seen by a Physician's Assistant (PA) or a Family Nurse Practitioner (FNP). He said that while he is very proud that our County is able to provide such high quality health care, he has a problem paying \$1 million per year for doctors. He said he does not believe those positions are funded by the state and with 7 people losing their jobs, we should "tighten belts" and look for ways to spend more responsibly. Mr. McCole said those positions are hopefully self-supporting and technically would not come from taxpayer dollars. Mr. Brown said that if there were PA's and FNP's doing the same work they can make the money go further. He asked why the County isn't cutting back here like it is everywhere else. He said that the Sheriff's department has needs too. Mr. Blanchard said he was concerned that Mr. McCole and Mr. Brown are discussing the financing of health care and does not see the group determining here today whether or not Pender County has enough doctors. Mr. McCole responded that the intent was to look at this purely from a financial perspective and that in the future, the clinics may have a more difficult time remaining self-sustaining. Mr. Brown said that if the clinics are not self-supportive, in the future we should determine if local taxpayer dollars should be used to subsidize them. He said his point is that we can provide good quality health care without all these doctors. Mr. Blanchard said he doesn't believe level of care of a FNP or PA is equal to that of a board certified medical doctor. Mr. Brown said he wants to maintain the level of service, but at a lesser rate. The motion carried by a vote of 4 to 1 with Mr. Brown voting in opposition.

Mr. Williams then made a motion to amend the Budget Ordinance to include funding for the following community based groups (Upon request from Mr. Tate): Atkinson Library, Canetuck Community Center, Pender County Activity and Opportunity Council, Miracle Temple Ministries, Willard Outreach, Edgecombe Community Center, Maple Hill Civic Club (to come from Mr. Blanchard's District funding) and Penderlea Homestead Museum (to come from Mr. Rivenbark's District funding). The motion was seconded by Mr. Blanchard and carried by unanimous vote.

Mr. Rivenbark then made a motion to excuse Chairman Tate from voting on the next item to be discussed. This motion was seconded by Mr. Brown and carried by unanimous vote.

Vice Chairman Blanchard then took the gavel from Chairman Tate and Mr. Williams made a motion to further amend the Budget Ordinance to include funding for Newkirk Chapel Youth Organization and Helping Hands Outreach Center. This motion was seconded by Mr. Rivenbark and carried by a vote of 4 to 0.

Mr. Blanchard then returned the gavel to Mr. Tate who acknowledged Gwen Smith, Administrative Assistant for the Pender County Health Department. She said that Mr. Brown, "sounded like the pastor on a bully pulpit telling people off while you have the mike". Mr. Brown said that as an elected official, he has the right to make comments on the budget and that when she becomes Commissioner, she too may comment on the budget. Mr. Tate told Ms. Smith that her comments were out of order. She said that the Health Department provides medical care to people whether or not they have insurance. Mr. Tate explained that all of the Commissioners agree this is not a public hearing and he asked her to refrain from further comment. He said that she and Mr. Brown could have a private conversation about this at another time. She said that in the 18 years that she has held her position, this is the first time the clinics have come close to not breaking even.

Mr Williams then made a motion amend the budget ordinance to allocate \$4500 to the North Topsail Elementary school to help with the fence around the track, \$1500 each to South Topsail Elementary and Topsail Elementary to assist with fund raising efforts, and \$1500 to Browntown Community to help with their softball field fencing and bleachers. He said this leaves him holding \$1,000 in reserve. The motion was seconded by Mr. Blanchard and carried by unanimous vote. Mr. Tate thanked Mr. Williams for taking this action on behalf of the Browntown Community.

Mr. Williams then said he would like to address the issue of lighting the ball fields at Hampstead Kiwanis Park and Pender Memorial Park. He said this is an issue that affects thousands of people and programs across the county and there is an opportunity to get a very good deal on the cost of lighting six (6) fields utilizing a new state-of-the-art technology for the cost of lighting four (4) fields. He said this package also comes with a maintenance warranty that essentially means they won't have to touch a light bulb for 25 years. He said the cost is \$265,000 which is a huge amount of money but is it something that will make an immediate difference. Dee Turner clarified that while the ball club is willing to continue to raise money toward this project, it will take a long time for them to accumulate this kind of funding. Mr. Blanchard expressed concerns regarding the warranty and said he wants assurance that the company will be around to stand behind their warranty. Ms. Turner said the company is Musco Sports Lighting and they are considered to be the best in the business. She said their product is significantly higher in cost, but with this offer and the 25 year warranty it makes this a very attractive offer. She said the warranty covers bulbs and mounting realignment and any problems that might occur as a result of a hurricane. She said there are security features on the control panel that make usage secure, and said the company will monitor the system for overall power usage. She said their standard response time is 72 hours unless there is a major tournament, at which time they are on a 24 hour response time. Mr. Tate said he is not prepared to vote on this today. Ms. Turner said she would research a turnkey price for this and for basketball goals and report back to the Board.

Mr. Tate then convened a session of the Rocky Point/Topsail Water and Sewer District.

ROCKY POINT/TOPSAIL WATER & SEWER DISTRICT

11. Resolution to Consider Approving Phase V Water System Extensions Prioritization List.

Utilities Director, Michael Mack said there is approximately \$2.9 million remaining in the Phase 5 water distribution project. He said the components yet to be constructed are the Surf City interconnect, the 12 inch parallel water main from Wallace to booster pump station #1, and approximately 20 miles of waterline extensions. He said the addition of these water lines could serve approximately 200 more customers. He said the listing provided has been prioritized based on projected customers. He said this will allow us to reach those who have not signed up or were not here at the time of the original sign up. He said staff proposes to ask them to pay the \$850 tap fee but not the \$3,000 capacity fee, and that this policy will duplicate what has been done in the past. He said this list is merely a projection and staff is asking for permission to move forward based on this list. It is possible, however that some may not be able to be built but staff will undertake as much as possible. Mr. Rivenbark made a motion to approve this resolution, which was seconded by Mr. Williams and carried by unanimous vote.

Chairman Tate then reconvened the regular meeting of the Pender County Board of Commissioners.

APPOINTMENTS

12. Resolution to Consider Appointments to the Pender County ABC Board and the Pender County Board of Adjustment.

Mr. Brown made a motion to re-appoint Mr. Don Hall to the ABC Board. The motion was seconded by Mr. Rivenbark and carried by unanimous vote of the Board. Mr. Williams made a motion to appoint Terry Peters to the Board of Adjustment. The motion was seconded by Mr. Blanchard and carried by unanimous vote of the Board.

ITEMS FROM THE COUNTY MANAGER, COUNTY ATTORNEY, COUNTY COMMISSIONERS

Mr. Williams thanked his fellow commissioners for their consideration on the lighting of the ball fields at both parks. Mr. Tate said he had attended an event last Friday evening at UNCW at which Ms. Melinda Knoerzer was a nominee for "Public Servant of the Year" and he congratulated her for this honor. He thanked County Manager, Rick Benton and County Attorney, Trey Thurman for all of their hard work on the Health Department issue. He said this is a very trying time for everyone involved, noting that this is not a "partisan" or "racial" issue. He acknowledged his brother and "best friend" Harvey Jr. and his pastor for attending in support today. He thanked his many supporters for all their kind comments and encouragement over the past few weeks and days.

CLOSED SESSION

At 6:30 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; (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. Williams seconded the motion and the Board unanimously approved going into Closed Session.

At 7:00 p.m., Mr. Blanchard made a motion to come out of Closed Session, Mr. Rivenbark seconded the motion and it was unanimously approved. There were no announcements upon exiting the Closed Session.

PUBLIC HEARINGS

13. Public Hearing for 2010 Unified Development Ordinance (UDO) and Supplementary Zoning Map Revisions; and Resolution for Adoption.

Planning Director, Patrick Davenport presented the revisions to the UDO, indicating that the first of two public hearings was held on May 17, 2010. On June 1st the Planning Board reviewed comments from that hearing and incorporated them here. He recognized the Planning Board Members and thanked them for their time and input to assist with this process. He also acknowledged Planning staff, and citizens for their input and assistance. Chairman Tate echoed thanks to all on behalf of the Board of Commissioners. Mr. Davenport reviewed the UDO adoption

process to date and stated that if approved, these revisions would take effect on July 1, 2010. Mr. Thurman advised that each speaker would be limited to a maximum of five (5) minutes. The floor was open to comments as follows:

Cameron Moore: Governmental Affairs Coordinator for Wilmington Cape Fear Homebuilder Association and Topsail Island Association of Realtors provided a handout and said that overall this document reflects positive changes. He said the PD acreage and density standards need to be further defined as they are currently too restrictive and valuable opportunities for development may be lost.

Chuck Wilson said he supports the Highway 17 Overlay District of the UDO. He said "times have changed", "residents want an attractive downtown", and the plan is fair to the existing businesses because they are exempt. Surf City and Brunswick County and now the City of Wilmington and New Hanover County understand similar needs as they have adopted overlay districts as well. Coastal Pender residents do not want to be incorporated, but they want design standards to attract business. He urged everyone to pull together to compete against other communities.

Al Freimark provided a handout and said he is 20 year resident of Hampstead. He said his comments are very broad, but this initiative (the Highway 17 Overlay District) started 3 years ago and due to changes in staffing at the County, has taken a while to get to this point. He asked the Board not to sacrifice long term for short term gain. He said they must ask themselves, "Is this in the public interest" and "is this good for a long time? He told the Board their job is to "plan" not to "react". He said many folks here tonight have private agendas and are reacting. He said that Brunswick County is ahead of Pender in growth and we can learn lessons from them. He said there is an old planning quote "Form ever follows function", which means that the laws and rules established for Highway 17 and this County should reflect what the function is. He stated that there are five (5) schools on Hwy. 17, it is the only evacuation route, it serves as a downtown for businesses, it is the way to church to New Hanover County and to Onslow County. He cautioned that if there is a need for an overlay district, it must be one that will last and serve the residents and businesses of the County.

Charles Hocking of 632 Hughes Road provided a handout and said he does support the Highway 17 Overlay Committee recommendations. He said many years ago he used to live in the very small town of Cary, NC. He said at the time Cary was very small they established commercial and residential friendly districts, but their zoning required commercial development to provide the infrastructure. He asked that the County pass similar requirements so that the burden of building the infrastructure does not fall to the taxpayers.

Stuart Mossman, a resident of Hampstead and a member of the Highway 17 Overlay Committee, provided a handout and said he does support the Highway 17 Overlay. He said he believes it is in the best interest of the citizens to approve this district in some form. He said the recession is causing some folks to have doubts about the costs involved in invoking the district as is. The value going forward is more than some of the immediate costs. Criticism –developments along Highway 17 are consistent with what is being proposed already. He agreed that some are, but said that part of the recession – reliable companies have let us down. Cannot go forward without an overlay or we risk turning our future appearance over to the whim of any developer or business owner. He said the advantage is that it controls growth on Highway 17. Need also to consider an overlay for industrial Highway 421. There is considerable opposition to this overlay, so he proposed to remove the Overlay from the UDO discussion so that it could be modified as necessary to meet the needs of all involved. Commissioner Brown clarified with him that it is his suggestion is to remove this and allow time for residential and business owners together to voice their opinions on this topic and work toward a common recommendation. Mr. Brown said that was something he was going to advocate for tonight anyway because he has heard from a great number of folks from the business community. He asked if Mr. Mossman proposes folks to be represented from Scotts Hill, Hampstead, North of Hampstead, to include business owners and residents, and someone from outside of the district to take what is being proposed now and rework it to mutual satisfaction. Mr. Mossman concurred.

Steve Donatone of 110 Deer Cove Road, Hampstead said he is both a resident of and business owner in Pender County. He said that this issue is a very emotional one and there are one or two people who have advocated for a personal position in this plan. He said the UDO applies across the entire County and therefore cannot possibly

address issues specific to Highway 17. He said the decision was made to fold the Overlay district into the UDO and modifications made with the input of local business owners. He said he understand that there are some issues that business is not happy with. He said the argument that businesses are struggling and failing is not an effective one because this only applies to them only if they seek to expand or relocate. After banter back and forth between Mr. Donatone and someone in the audience, Mr. Tate asked the audience to respect the person at the podium and not speak while someone else is speaking. Mr. Donatone asked that we not repeat the mistakes made by many other communities and that we take the emotion out of the passage of the UDO by removing the Overlay District component. He agreed that all sides must sit down and work out a reasonable compromise. In closing he said, "To do nothing is a mistake because we will be back here in 2 or 3 years to finish the job".

Anthony Musolino asked the Board to make one change to Section 4.7.2 (A) (6) and (9) and Section 4.7.4 (E) which regards the requirement to establish Homeowners Associations in Residential Zoning Districts and Manufactured Housing Communities. He asked the board to change the word "shall" to "may" or "at the discretion of the developer". He said people should not be forced to form a HOA if they do not want to.

Alissa Combs, a resident of Hampstead, on behalf of the Greater Hampstead Chamber of Commerce said there has recently been an unfair amount of mischaracterizations regarding the chamber's comments on the UDO regarding creating a process by which business owners could apply for a Special Use Permit where they currently display a commercial sign in a residential district. She said the Chamber's intention was to simply allow a process by which a business owner could apply where a sign is already in place. She said the Chamber does not wish to see a bunch of commercial signs in residential areas, but wanted to establish this process for instances where "one size does not fit all". She said their hope is that common sense and good judgment would prevail and what is needed is a long range plan aimed at functionality and practicality. In closing, she said the Chamber hope that once adopted; the Board would view the UDO as a living, breathing document and consider changes as they are warranted. David Williams asked if a variance would be possible under the UDO as proposed. Mr. Davenport said he could not answer that, but the current ordinance does not allow off premise advertising either except where billboards are allowed

Jody McNally resident of Hampstead and owns McNally's Gift Store at Oak Tree Shopping Center. She explained that the banner system of advertising will not work for their shopping center. She said costs for banners are exorbitant and not practical for regular advertising. She showed options for signage that is more cost effective. She asked the Board to seek input from the business community on the signage issues.

Gerald Foy of 405 Lewis Road, Hampstead said he owns the boat yard formerly known as Mark Lewis Crew boats and the sign previously spoken of has been in place since 1982. He said he recently repainted this sign which is said is not offsite because the ownership is contiguous. He said his business needs to have this sign He needs this sign because there is a "dead end" sign at the end of the road and people will not know he is there. He said they have a sign on Highway 17 near Hilltop but they need a professional sign at the corner of Sloop Point Loop and Lewis Road because they have customers that cannot find them. He said he would like to put his sign on side of a boat. He said he feels that Pender County is "unfriendly" to business and that he generates a lot of revenue for Pender County and he needs an amendment so he can advertise his business. Mr. Williams explained that he has personally discussed this situation with Mr. Davenport but it needs to change because it could open up a real can of worms. Mr. Foy said he wants to make a business here, he has a 20 year lease and wants to be successful for that long and being able to advertise will help him. Mr. Tate asked Mr. Foy about possible compromise and it was determined that the Wildlife Resources Boat Ramp would likely want a sign out there as well. Mr. Davenport clarified that the question is can someone host a business sign that is not directly on the property where the business is situated? He said they have tried to come up with a small off premise sign proposal outside of the "billboard" concept. He said the old sign that has been there since 1982 is grandfathered, but a new sign would not qualify. Mr. Brown asked Mr. Davenport how this differs from the child with the snow cone stand and Mr. Davenport said that business is temporary and this one is permanent.

Karna Godridge, President of the Greater Hampstead Homeowner's Association, clarified that GHHA had nothing to do with all the negative regarding the Chamber of Commerce's request to help Mr. Foy's situation. She said

GHHA is not involved with the current sign debate and they are not an enemy of anyone in this room. She said she personally is new to the overlay situation but she believes it is necessary to help guide growth from Onslow to New Hanover County. She said growth is inevitable and without guidelines it will be unchecked. She said she was shocked to learn that the overlay might not fly as growth will come whether we have planned for it or not. She said what worked 40 years ago will not work today. She said the Highway 17 overlay was determined to be important three years ago when the Board of Commissioners appointed a committee. She said the UDO by itself does not address the particular needs of development along Highway 17 and that everyone had an opportunity to serve on that committee at the time it was established. She asked the Board to keep the overlay in place or at the very least, revisit it and see if you can address everyone's concerns.

Jeff Howell of 850 Hoover Rd., Hampstead, said he owns the Wild Hog Saloon (and owned J&J's Restaurant in Hampstead for 14 years). He said the people who have spoken here thus far about the overlay have not spent a dime in his business. He said if you don't spend your money locally you should not have the input into how the local businesses advertise. He said signage rules need to be fair and while his business is currently located in a shopping mall, he wants to be treated the same as any other business. He said that if he can get 1% of the traffic off the road to come in his business, that is more money for him and for the county and he needs good signage to accomplish this. He asked the Board to use commonsense and be fair when dealing with multi-unit malls.

Dave Morison attorney from Hampstead provided handouts and said he represents Lea properties and Burt and Jack Lea. He said the UDO is a workable document with the exception of section 4.12.4, the Transportation Corridor Overlay. He took issue with the types of "approved architectural materials" that are deemed acceptable versus not acceptable and said there is no value to this type of language. He said this regulation is subject to being overturned. Mr. Morison said if Pender County is the only County on Highway 17 to not have a commercial building larger than 15,000 feet how much sales tax will this cost the County and who are the Commissioners going to look to make up for that loss of sales tax.

Gary Poirier of 132 Holly Tree Lane said he is a former business owner and he served on the Highway 17 Overlay committee. He said that as a former business owner he faced many issues with Planning and the Board of Adjustment and has a great deal of respect for the Planning Staff. He said they did a great job on the UDO and closed many gaps in processes that business would otherwise have to endure. He said he agrees with Mr. Mossman and Mr. Brown that the Overlay should be stripped out of the UDO and reworked. He said he agreed to serve on the Overlay committee to ensure a pro-business representative, but he found himself in a minority. He said that committee adopted a rule early on that all decisions would be a unanimous vote and he wished he had not allowed this to happen because he felt on many occasions that he had to go along to get along. He asked the Board to please listen to the small business owners, as they were not adequately represented in this whole process.

Ron Shirley of 709 Sawgrass Rd., Hampstead provided a handout and said he is a small business owner and has applied for hub zone certification. He said he is against the T-17 overlay because it is anti-business. He said that many small businesses in this area have been harassed about their signage and have to hire lawyers to represent their interests. He said they are tired of being harassed and they are just trying to generate income. He said he agrees with the Chamber of Commerce and said all businesses want to be treated fairly.

Hiram Williams said he is a resident of Hampstead and has sat on the Planning Board for the last 4 years and helped to put this instrument together. He said it is a good document and will make the development process easier in Pender County. He said this instrument needs to be "fluid" for a while and the glitches will need to be worked out. He said this is so much better than what is in place right now. He thanked the staff and residents for their input. He thanked Mr. Davenport and said he did a phenomenal job putting this together with his staff. He praised him for allowing his staff to show their expertise. Commissioner Williams said that if the Board waited on the perfect UDO they would never approve one. Mr. Tate also said that Mr. Davenport has done a wonderful job as Planning Director and asked all the Commissioners to join him in thanking Mr. Davenport.

Burt Millette, Hampstead resident and member of the County Planning Board said he also served on the Highway 17 Overlay Committee. He said his views are personal and not those of the committee. He said Hiram Williams

stole his thunder as he wanted to thank Mr. Davenport and staff, and specifically Kyle Breuer. He said both of these documents are a result of the specific direction of the Board of County Commissioners. He cautioned that the Board must not appoint citizen groups to delve into these issues and then not take their advice at the end of the project. He said this document fairly represents the entire county of Pender and would provide the best long term benefit to the County. He further cautioned that if they strip the Overlay out now, it may be gone forever.

Ellery Murphy of Hampstead said he was one of the original 13 members of the original Overlay Committee. He said he was against it in the first place because he felt the wrong people were put on the committee. He recommended the Overlay be removed and looked at by people who have an interest in the subject.

Toni Castoro of 638 Corcus Ferry Rd., Hampstead said she represents the Coastal Pender Business Alliance, a group of 100 business owners in the unincorporated areas of eastern Pender County. She said she owns a business in the Highway 17 Overlay District and believes this plan is unfair to business. She said some feel this will make people more attracted to this area but they believe it will drive businesses to settle in less restrictive areas. She said they contend it is not the uniform look of any area but the jobs, schools and community services that attract people. She said that if we don't attract good productive businesses we will not grow economically, and more community services will have to be funded with property taxes. She said their group believes the Overlay provision should come out of the UDO.

Chris Smith, resident of Burgaw and County Planning Board member, said he is very concerned about the future of this County and does not want Pender to become the next New Hanover County, stressing the need to maintain the character of the County. He said he supports both the UDO and the Highway 17 Overlay and it is his experience that most folks don't attend meetings unless something affects them personally. He said these documents are steps to control growth in the County and while they are not perfect, they are a good start. He urged Commissioners not to think about their re-election but to think about how Pender County should look well into the future.

James O'Quinn of Hampstead said he runs a retail seafood market in Hampstead and he does not want either the UDO or the Overlay. He said he does not want anyone from outside telling him how he can build or change his business and said Pender is a largely farming and fishing County. He said he does not want to see a few people who have lived here a short time and have no idea what this county is about telling him what he can and cannot do with his land. He said he feels like he has been robbed and suggested that if they need to move forward, they do so with some local people on the committee.

Jerry Taylor of Hampstead said he has been harassed and written up more than any other business in this County. He said the Sign Ordinance is too restrictive. He said this County has been anti-business for years and the Highway 17 Overlay Committee was not fairly represented. He requested the Board remove the Overlay from the UDO and appoint another committee with fair representation from the business community to rework it.

Mr. Tate closed the public hearing. Mr. Davenport then referred the Board to the six (6) page memorandum summarizing the proposed revisions to the UDO resulting from the June 1 Planning Board meeting and the May 17th public hearing. Mr. Williams pointed out that the Planning Board decision on Article 9.14 (dealing with off-premise signs) was a 3 to 3 split decision. Mr. Davenport confirmed that some were split decisions. He said that staff did not have a recommendation regarding the Overlay District itself, leaving that to the Board of Commissioners. Mr. Williams made a motion to approve the UDO with the removal of section 4.12.4 *Transportation Corridor Overlay*. Mr. Blanchard agreed to second the motion if Mr. Williams would further amend his motion to include the recommendations indicated in the six page Planning memo attached to the resolution. Mr. Williams agreed however, he excluded from the memo, section 9.14 – *Special Use Permit for Off Premise Business and Directional Signs in Residential Districts and General Business Districts*.

In discussion preceding the vote, Mr. Williams cautioned that reworking the Transportation Corridor Overlay would be delayed by Patrick Davenport's departure from the County. Mr. Brown said that he is a native of Pender County and like Mr. O'Quinn, he does not like a lot of laws and prefers government to stay out of his life. He said that most of the Commissioners supported the idea of an overlay and that he does not usually support the formation

of a committee and then not support their recommendations. He said it is unfortunate that this work has been going on for two years now and only recently has anyone voiced any opposition. He agreed with reworking the Overlay component as long as there is fair representation on the committee.

The motion having been made by Mr. Williams and seconded by Mr. Blanchard, the Board voted unanimously to approve adoption as outlined above.

14. Public Hearing for 2010 Comprehensive Land Use Plan and Resolution of Adoption.

Patrick Davenport presented this item and gave background reminding the Board of their joint meeting with the Planning Board to discuss this issue on February 15, 2010. He said no revision requests had been received either at that meeting or since the meeting. He noted that the required elements for this plan to become a CAMA Land Use Plan will be presented later this year. He asked the Board to hold a public hearing and take comment and to approve this plan, to become effective July 1, 2010. He pointed out the attachment to the resolution and showed slides containing maps.

No one came forward for public comment. Mr. Tate asked about *Issue #6, Natural Resource, Historic and Cultural Preservation* and said that last summer he and Mr. Davenport and Dr. Fonville some mounds in the Hampstead area that are believed to have been constructed by slaves. He asked if this section would protect these. Mr. Davenport said Issue 6, Historic and Cultural Resources Protection Goal 6B.1 is a general statement to "Ensure that historic and cultural resources are maintained or enhanced as development occurs", Policy 6B.1.1 provides for "Coordination with other county departments and historic preservation organizations to identify and map historic, cultural or architecturally significant properties in Pender County, Policy 6B.1.2, is to "Designate historic, cultural or architecturally significant properties through National Register or local historic programs", and 6B.1.3 is to "Consider prioritizing historic, cultural or architecturally significant properties for public acquisition/protection". Mr. Davenport said the goal is to create a single document to identify all historical resources and when development comes, Planning will have this document to refer to. Mr. Tate asked if there has been a historical and/or architectural study done of the county. Mr. Benton said there has not, but this is normally done by "Cultural Resources". Mr. Davenport said that in 1998, the Pender County Historical Society received a grant to identify these resources. He said Planning is currently working on project to log in the resources identified in that study and include in this unified document. Mr. Tate said that Duplin County had one done and it exists in a hard bound book entitled "On the Banks of the Old Northeast". Mr. Davenport said that Brunswick County is currently finishing up a county wide study but they hired an outside consultant to conduct this assessment. Mr. Tate said he believes this Board needs to have this kind of discussion and move toward a more formal study.

There being no further comments, Mr. Tate closed the public hearing. Mr. Williams made a motion to approve this resolution, which was seconded by Mr. Blanchard and carried by unanimous vote.

15. Public Hearing for 2010 Comprehensive Parks and Recreation Master Plan and Resolution for Adoption.

Patrick Davenport introduced Planner Ben Andrea who put a great deal of work into this project. He said many staff hours have gone into this project. Mr. Williams said he is very impressed with the public presentations he has attended on this topic with the County Planners. Mr. Andrea gave a brief background on the project, noting that the last such plan was conducted in 1998. He said they began this process last year and worked with the County Parks and Recreation Advisory Board throughout this process. He said they held six public input meetings at five locations throughout the County. He said they collected over 300 surveys at no cost to the County and based on that input created these recommendations for facilities. He said the surveys were available in paper form or were submitted electronically on the County's website, as well as at county offices and libraries and were distributed at all public meetings. He said the final draft has been available for comment since early April and that the Parks & Recreation Advisory Board met on May 26th to review and approve this draft. He said the plan analyses the structure of the Parks & Recreation Department in the county and makes recommendations for improvements, as well as recommendations for funding. He said this plan recommends a host of park expansions and new construction. Mr. Tate asked if we should speak with Bladen County to discuss a partnership on a park on the border. Mr. Blanchard suggested we speak with Mr. Pete Pridgen to see if he might be willing to work with the

County on some type of land for a park on the Pender side of the river. Mr. Andrea said the plan identifies all state and federal facilities as well as local. He said staff recommends pursuing a state run wildlife facility on the Pender side of the Black River. He presented slides illustrating various aspects of the plan and said the next step is to create a prioritization program for each aspect of this plan and identify potential funding sources. He said this plan works with the Comprehensive Land Use Plan and Unified Development Ordinance and requested that the Board adopt the plan with an effective date of July 1, 2010.

Mr. Benton commended Ben Andrea and Dee Turner for their hard work on this plan, which saved the County a lot of money because it did not have to be outsourced. Mr. Tate said he left a copy of this plan with Senators Hagan and Burr; however, there may not be funding in the federal budget this year. Mr. Tate commended the Planning Department for their work on this document.

Since no one had signed up to speak, Chairman Tate closed the public hearing. Mr. Brown made a motion to approve this resolution which was seconded by Mr. Rivenbark and carried by unanimous vote.

16. Public Hearing & Resolution Presenting Text Amendments to the Pender County Water & Sewer Ordinance.

Utilities Director, Michael Mack presented this item and said this is the second reading of this mandatory connection policy which applies only to new construction and that connections for existing structures as of July 1, 2010 would still be voluntary. He said that since the agenda item was prepared staff has discovered the need for an additional modification and provided an updated handout with the addition of Section 7: "Obtaining Building Permit Prior to Certification". He said this will be necessary in situations where the developer/builder wishes to obtain a building permit before the public water/sewer line to serve that development has been installed and inspected and will require the developer to post Performance Guarantee in favor of Pender County and acknowledging that they understand they cannot get a Certificate of Occupancy until a domestic water or public sanitary sewer service becomes available. He said this puts the "risk" on the developer and not the County and only applies when the developer is building a line extension. He said they looked at three other counties to see how this was handled in order to develop this provision and requested that this be considered for adoption as well.

Mr. Brown said that the only problem he has with this is Section 1.1 - "*New Construction, Single Lot*". He said he is concerned that in the rural areas, folks may want to build a deck or addition or garage and he is concerned about the language kicking them into a mandatory connection. Mr. Thurman said that they tried to anticipate this with the Exemption in Section 3.h - "*Expansion of an existing structure that already has water or sewer service through means other than Pender County Utilities*". Mr. Brown then asked about parents wanting to give land to their children to build a home on. Mr. Thurman said there is exemption 3.e "*Family subdivisions of up to three parcels*"., Mr. Thurman said they tried to anticipate the obvious situations where exemptions would make sense. Mr. Mack said this is not meant to be punitive and perhaps we could do a better job of defining the building permit requirement.

There being no further comment, Chairman Tate closed the public hearing. Mr. Williams made a motion to approve the resolution including the revision as indicated above. Mr. Brown seconded the motion and it was approved by unanimous vote of the Board.

17. Public Hearing & Special Use Permit Request: Construction and Operation of a Shopping Center Located at the Northwest Intersection of US Highway 17, Old Whitfield Road and Sloop Point Road, in Hampstead.

Mr. Thurman swore and/or affirmed all persons wishing to speak on both of the special use permits. Planner, Ashley Frank presented this item and said this is a request to construct a shopping center on 5.4 acres that will consist of a Shopping Center of approximately 19,800 square feet of leasable space, including 15,000 square feet for Eastern Outfitters and 4,800 remaining to be leased. She said the project is located at the corner of Old Whitfield Road and Highway 17. She said that NC Department of Transportation would require a driveway permit for this business, which plans direct access from Old Whitfield Road, and that the DOT is moving forward with plans for a super street in this area. She said a formal commercial site plan is required to include parking and

landscaping requirements. She said that the Technical Review Committee comments were mostly general in nature and that the project plans to connect to Pender County Utilities for water. She said this project has been reviewed under the current zoning not the new one adopted tonight. The applicant was not present.

Tom Burns, previously sworn in said he lives on Old Whitfield Rd. and because he has small children, he views this solely from a safety standpoint. He said there are 11 children that catch the school bus at the end of Old Whitfield Road and while the morning ride would likely not be a problem, he is concerned that at 3:30 in the afternoon, it will be very busy. Mr. Williams stated that during his tenure as a Commissioner, the NCDOT has conducted two studies in this area; one to determine they don't need traffic light, and the other to determine they do want a super street. Mr. Burns said he is most concerned with the size of the shopping center and the increased traffic and the impact on child safety.

Ms. Frank said that the TRC requests do go to the school however David Smith had not made any such comment with regard to this project. She said she would contact him regarding this. Mr. Rivenbark suggested that this go to the Superintendent.

Upon the motion of Mr. Williams and second by Mr. Blanchard, the Board unanimously voted to approve item number 17 as presented.

18. Public Hearing & Special Use Permit Request: Construction and Operation of an Automobile Dealer & Truck Sales (Wholesale and Retail New and Used) and Farm Implement Sales, Located at the Southwest Intersection of NC Highway 53 and Burgaw Creek Loop Road, in Burgaw.

Ms. Frank presented this item and said the applicant and owner is William Bell, and he is requesting to establish a wholesale, retail, new and used vehicle sales business located at 1860 NC Highway 53 East, at the corner of Burgaw Creek Loop Road. She said the property is currently zoned B2, and this use is permitted by Special Use Permit. She said the lot involved is 0.5 acre, and the applicant intends to place a mobile office building on site, not to exceed 800 square feet, which will meet all code and ordinance provisions. She said this project would have to comply with all flood ordinance and development standards. She said this area lies completely within the AEFW Special Flood Hazard Area and has an established base flood elevation of 27'. As such, this will require a No Rise certification and compliance with the National Flood Insurance Rate Program (NFIP) and the Pender County Flood Damage Prevention Ordinance.

Ms. Frank reported the following comments from the Technical Review Committee:

- Not on County Utilities – possibly the Town of Burgaw
- NC DOT will require a driveway permit
- County Environmental Health – there are both a well and septic on site that will require inspection and approval
- Pender Emergency Management is concerned with repetitive loss as well as the environmental concerns with this type of business in the AEFW and would like some guarantee that no public or county funds will be issued during a flooding event.
- Soil and Water Conservation said they would be cautious due to the flood-prone nature of this area including the septic system (if installed), and drainage impacts to Burgaw Creek.

Ms. Frank said the County received a last minute comment from NFIP, on behalf of NC Emergency Management and FEMA and said they are concerned about potential chemical storage on site and said approval of this permit would run counterproductive to the NC Flood Act of 2000 and the previous actions of the county. Chairman Tate opened the public hearing and Mr. Thurman swore the witnesses.

Dennis Boyles of 140 Basden Rd., Burgaw said he is representing his 82 year old mother who lives across the street from the proposed development. He said she has lived there for almost 20 years and that property has flooded nine times during her residency. He said the property floods from Mr. Bell's side of the highway first and then across the road to his mother's house and then to the industries in the back. He said that the inside of the house only flooded one time and that was after Hurricane Floyd. He said the population out there is 90 % elderly residents,

many of whom left the hearing due to the late hour of the night. He said there are 8 children who get off the bus in this area and much of the surrounding land is owned by Pender County as a result of the FEMA buyout program. He said there are only 3 residences remaining on the Burgaw Creek Loop Road and their concern is for the kids getting off the bus after school. He said they have nothing against a person trying to start a business, but contends there is not enough room for all the applicant proposes on a one- half acre lot. Mr. Boyle requested that the Board decline this application. He said the zoning in this area is about to be assumed by the Town of Burgaw, and it will be zoned R2, meaning there will be no other businesses there. Ms. Frank confirmed that the Town is expanding the Extra-Territorial Jurisdiction (ETJ) effective July 10th. Mr. Thurman said that if the board grants this permit it would give vested rights prior to enactment of the Town's zoning jurisdiction; however the applicant would still have to meet all flood requirements. Mr. Williams said that the "No Rise" certification costs about \$5,000 to \$8,000. Ms Frank said the alternative is that they can bring in 3 feet of fill and get a Letter Of Map Amendment (LOMA). Mr. Boyles said if they do that the surrounding lands will certainly flood.

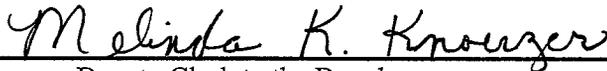
Applicant, Mike Bell said that if the County would clean out Burgaw Creek properly, it would not be a problem. Mr. Rivenbark recalled that the County cleaned it out one time and was fined by the EPA. It was noted that the County is no longer in the business of creek cleaning. Mr. Bell said that the flooding problems are because the creek was never cleaned out and when NC DOT built I-40, the culverts could not handle the water.

There being no further comments, Chairman Tate closed the public hearing. Mr. Blanchard said that since Mr. Bell has cleaned the lot and made it look very nice he would make a motion to approve because this is only the first step in a long process. Mr. Williams seconded the motion. Mr. Brown asked the applicant what he would do with the vehicles in the event of a flood and Mr. Bell said he would remove them. Mr. Brown also said he has concerns about the chemicals and vehicles during a flood. The resolution was approved by a vote of 4 to 1, with Mr. Brown voting in opposition.

ADJOURNMENT

There being no further business, Mr. Blanchard made a motion to adjourn the meeting and the meeting adjourned at 10:12 p.m.

Respectfully Submitted,



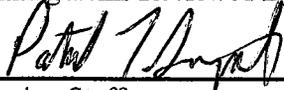
Melinda Knoerzer, Deputy Clerk to the Board

Reviewed By:



Rick Benton, Clerk to the Board

Planning Items Reviewed By:



Planning Staff