

**MONDAY, DECEMBER 6, 2010**

The Pender County Board of Commissioners met in regular session on Monday, December 6, 2010 at the Commissioner's meeting room, 805 S. Walker St., Burgaw, NC 28425.

**MEMBERS PRESENT:** Jimmy Tate, Chairman, 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 Brown offered the Invocation.

**PLEDGE**

Commissioner Blanchard led the Pledge of Allegiance.

**OLD BUSINESS**

**A) Approval of Minutes: Regular & Closed Session Meeting of November 15, 2010.**

Chairman Tate presented the minutes of the November 15, 2010 meeting and asked for any questions or comments. There being none, Mr. Rivenbark made a motion to approve the minutes, Mr. Brown seconded the motion, and the regular and closed session minutes of November 15 were unanimously approved.

**B) Public Service Recognition to Outgoing Commissioner Norwood Blanchard.**

Mr. Tate read a plaque and presented it to Mr. Blanchard commending him and thanking him for four years of work with the Board of Commissioners and dedicated service to the citizens of Pender County. Mr. Blanchard said it had been a pleasure, it had been an enjoyable four years, and thanked his fellow Commissioners and all who had supported him. Mr. Brown and Mr. Williams also commended Mr. Blanchard and thanked him.

**NEW BUSINESS**

**A) Assign County Attorney Trey Thurman as Moderator.**

Mr. Thurman was appointed to temporarily serve as Chairman.

**B) Oath of Office for Newly Elected Pender County Board of Commissioner Members George Brown, David Williams, and Chester Ward.**

Mr. Thurman introduced Robert Kilroy, Pender County Clerk of Court, who issued the Oath of Office to re-elected District 1 Commissioner, David Williams; re-elected District 3 Commissioner, George Brown; and newly elected District 2 Commissioner, Chester Ward. The Commissioners were accompanied by family and friends for the occasion.

**C) Nomination and Selection of Chairman and Vice Chairman.**

Mr. Thurman opened the floor to accept nominations for Chairman. Mr. Williams nominated Mr. Brown to serve as Chairman for 2011, and it was unanimously approved. Mr. Thurman opened the floor to accept nominations for Vice Chairman for 2011. Mr. Williams nominated Mr. Tate to serve as Vice Chairman, and it was unanimously approved. Mr. Thurman deferred and passed the gavel to newly elected Chairman Brown.

**PUBLIC INFORMATION**

**1. Foster Norman, Executive Director, Southeastern Center for Mental Health: Presentation of Annual Report.**

The Annual Report included the following with respect to the Center: Mission-the Center shall ensure an accessible flexible, and responsive system of care resulting in an improved quality of life for consumers of mental health, developmental disability, and/or substance abuse services; Vision-the Center will be recognized as a leader in the management of human service systems; Values-includes relationships, continuous quality improvement and leadership; Accreditation-received a 4 year accreditation from the Council on Accreditation for Network Administration in 2009; Accomplishments-includes Crisis Intervention Training; Year in Review-includes new services and expanded services; Customer Services-includes wellness management and recovery; Financial Summary; Area Board Members; and Consumer & Family Advisory Committee. Board members thanked Mr. Foster for his presentation.

**2. Tony Masiero, Tax Assessor: 2011 Property Tax Revaluation Update.**

Tim Cain of Assessment Solutions was present with Mr. Masiero to give the Board an update on the revaluation process. Some of Mr. Cain's highlights included: the 2011 revaluation takes effect in January and notices will go out the first week in February; it has been eight years since the last revaluation and lots of changes have taken place in eight years; the biggest issue is sustainability of values; the percentages will be broken down by neighborhood; they will look at every property sale through December 31<sup>st</sup>; and they want to be able to say exactly how they derived the values. Mr. Williams cautioned newer Board members that their phones will be "ringing off the hook" when the notices go out. Board members asked questions and had more discussion. Mr. Brown said the Board appreciates Mr. Cain coming here to keep them abreast and said they appreciate how the customers are being handled.

Mr. Rivenbark asked about a Letter to the Editor in the *Pender Post* written by Hampstead resident W.T. Batchelor questioning why Pender County residents send their tax payments to Atlanta for processing when local people could be hired to do it. Mr. Benton said it is more efficient and productive to send the payments to the processing center in Atlanta. Mr. Rivenbark instructed Mr. Benton to answer Mr. Batchelor directly.

**3. Monique Baker, Tourism Director: Presentation of Visitor's Center and Public Event Facility Schematic Plan.**

Architect Warren Wilson was present with Ms. Baker to present the Schematic Plan. Ms. Baker explained: the Tourism Development Authority completed schematic plans during the last fiscal

year as a result of the action items resulting from the Board of Commissioner's planning summit in January of 2010; combining a central county visitor's center with adequate public meeting and event facilities would provide for a cost effective and practical way to meet the needs of both facilities; the building would be as "green" and efficient as possible; and they possibly could play off on a regional facility. Mr. Wilson presented the plan and explained each section, which included: visitor's center site plan; visitor's center floor plan; visitor's center elevations; event center concept; event center plan concept; event & visitors' center site concepts; and construction materials proposed to be used. Mr. Rivenbark asked if any thought had been given to making the retention ponds underground and Mr. Wilson said they maybe could look at a combination of both. Mr. Williams asked the Manager to clarify that we are nowhere near building a facility like this at this time. Mr. Benton said this is part of the Board's Strategic Plan; staff is trying to put together for the Board all of the County's capital facility plans for the next 15-20 years; this specifically came from the Board's planning retreat last year; and we are nowhere near being ready to finance a facility like this. Mr. Tate asked if Ms. Baker had given any thought to pursuing agritourism grant dollars and has she explored this possibility. Ms. Baker said she had just taken a free class on grant writing, but we are in a position now where we need to find the money to match grants. Mr. Williams noted land has been donated to the County in the past, and it was used as the match for grants.

**4. Mark Seitz, County Extension Director: Recognition of Employees: Emily Herring, Extension Livestock Agent; and Charlotte Glen, Extension Consumer Horticulture Agent.**

Mr. Brown welcomed Mr. Seitz aboard as the County Extension Director. Mr. Seitz explained Ms. Herring had been selected to be a team member on the 2011 Rotary International, District 7730 Group Study Exchange team that will be traveling to Uruguay in April and May, 2011 to look at Uruguay's cattle farms and processing industry. He said it is beneficial for the County to see what is going on in other countries and noted we should have a 4-H person on board by February. Mr. Seitz explained Ms. Glen completed her Masters Degree in Agriculture and Extension Education and has indicated she will be continuing her studies to pursue a PhD. Mr. Brown thanked Ms. Glen for her time as Interim Extension Director and congratulated her and Ms. Herring on their accomplishments.

**PUBLIC COMMENT**

Mr. Hiram Williams, representing himself as a builder and developer, and representing other agencies, spoke against Item # 13 on the agenda, which would give the Planning Board the right to "opt out" of the one-year permit extension on certain development projects. He said by "opting-out" of these projects the Board would be sending the message to the overall development community that the County doesn't care as much as it should. He asked that the County not "opt out" but to "opt in."

**CONSENT AGENDA**

Chairman Brown presented the six items on the Consent Agenda and asked for any discussion or questions. After discussion, Mr. Williams made a motion to vote on Items No. 7 and 9 separately, approving the remainder of the Consent Agenda as presented. Mr. Tate asked with respect to Item No. 8, if Pender County can possibly make money from the Jail instead of paying money out. Sheriff Smith came forward and answered that jails don't really make money because they still have to pay to run them. He said there is liability in the way our jail is being run now because of overcrowding, and explained that Pamlico Detention Facility is one of the main jails we use to

house the overflow. Mr. Tate then seconded the motion and the Consent Agenda was unanimously approved as follows, minus Items 7 and 9:

5. Resolution Approving Releases and Refunds to the Individuals Listed Herein.
6. Resolution Authorizing Purchase Order to CJ's Critical Care in the Amount of \$7,444.18.
8. Resolution Authorizing Issuance of Purchase Order to Pamlico Detention Facility for Housing of Inmates: \$30,000.00.
10. Resolution Authorizing the County Manager to Dispose of Surplus Personal Property Valued at Less than \$2,500.

7. **Resolution Authorizing Various Purchase Orders for Restroom Upgrades at Topsail Middle School: \$59,853.00.**

Mr. Brown asked if the Schools usually go with the lowest bid they receive on these projects. Schools Construction Superintendent David Smith came forward and replied "yes, if they have the proper insurance, etc." Mr. Smith added that in this case, these are the lowest bids. Mr. Smith was instructed that for the future, to include all the bids received with the requests for payment. Mr. Rivenbark mentioned that New Hanover County goes with local bids providing there's not too much difference between the lowest bid and the local bid. Mr. Smith said they operate under that policy as well. After more discussion, Mr. Williams made a motion to approve the resolution, Mr. Rivenbark seconded the motion and it was unanimously approved.

9. **Resolution Approving the 2011 Schedule of Holidays for Pender County.**

Mr. Brown asked if employees get to vote on holidays. Mr. Benton responded the holidays are listed in the personnel policy except ones that fall on the week-end, and then it is taken either Friday or Monday. He said the County follows the same calendar as the state holidays. Mr. Brown was concerned whether or not employees should have the right to vote on week-end holidays. There ensued discussion of this matter and some other Board members thought it would open up problems to allow employees to vote on holidays. Mr. Benton said maybe this can be addressed in the new personnel policy. Mr. Williams then made a motion to approve the Schedule of Holidays as presented, Mr. Tate seconded the motion and it was unanimously approved.

## **RESOLUTIONS**

11. **Resolution Approving the 2011 Calendar of Meetings of the Pender County Board of Commissioners.**

Mr. Brown noted the 1<sup>st</sup> meeting in January always falls on a holiday for him and asked about the possibility of moving the January 3<sup>rd</sup> meeting to Tuesday. Mr. Williams made a motion and Mr. Rivenbark seconded it to approve the 2011 Calendar of Meetings as presented, with the amendment that the January 3<sup>rd</sup> meeting would be held on January 4<sup>th</sup>. The resolution was unanimously approved. Mr. Rivenbark noted there are several NCACC and NACo meetings throughout the year, but this schedule does not seem to interfere with them.

12. **Resolution Adopting Pender County Voluntary Farmland Preservation Program Ordinance.**

Mr. Don Rawls, President of Pender Soil and Water Conservation District, explained the purpose of such an ordinance is to promote agricultural values and general welfare of the county, to increase identity and pride in the agricultural community and its way of life; to encourage the economic and financial health of agriculture; and to increase protection from non-farm development and other negative impacts on properly managed farms. Mr. Rawls said the ordinance was a joint effort by staff and others and said the format was set by attorneys and North Carolina Farm Bureau. Mr.

Thurman further explained the ordinance and said Mr. Rawls, his staff and all involved did an excellent job. Mr. Williams made a motion to approve the ordinance, Mr. Tate seconded the motion and it was unanimously approved.

**13. Resolution Providing for Pender County to "Opt-Out" of the Permit Extension for Certain Development Permits Subject to North Carolina Session Law 210-177.**

Planning Director Kyle Breuer explained this item is to consider a resolution "opting-out" of the one-year permit extension provisions of Session 2010-177, as that act amends the Permit Extension Act of 2009, with respect to the following development permits that have been issued by Pender County: Shepard's Branch, Planning Board approved 2/7/2006; River Estates at Cypress Point, Planning Board approved 8/1/2006; Murraytown Farms, Planning Board approved 8/1/2006; and East Haven, Planning Board approved 8/1/2006. Mr. Williams said he is concerned this could send out a negative message on future investments. There were questions and more discussion and Board members generally agreed that now is bad timing for "opting-out" projects. Mr. Williams made a motion for the County to not "opt out" projects, Mr. Rivenbark seconded the motion and it was unanimously approved.

**14. Resolution of Intent Regarding Removal of Board of Health Appointment.**

It was noted that no action needed to be taken on this item because Dr. Nasrallah had already resigned.

A break was taken from 5:40 to 5:50 p.m.

**15. Resolution Authorizing Board of Education Elected Officials Participation in the Pender County Government Employee Health Insurance Plan.**

This resolution was at the request of Mr. Brown. Mr. Brown said he feels like Board of Education elected officials should have the opportunity to participate in the County's insurance program, the same as Commissioners. There was much discussion on the issue. Mr. Brown said he would like to talk about allowing this to go to the County's legislative delegation to see statutory authority. Mr. Williams said personally, he doesn't think we should be asking our legislators to take this up. Mr. Thurman said we would create risk unless we have authority from the legislative delegation. He said his advice is to request a local bill if the Board want to do it. No formal action was taken.

**APPOINTMENTS**

**16. Resolution Approving Re-appointments/Appointment to the Pender County Board of Adjustment; Appointment to the Pender County Council on Community Affairs; the Hampstead Kiwanis Park Board; the Pender County Parks and Recreation Board; and the Pender County Tourism Development Authority.**

Ms. Pridgen explained the open positions on the various boards. Mr. Williams made a motion to re-appoint Mr. Ed Pullen to serve a three-year term on the Pender County Board of Adjustment representing District 2, with term to expire January 4, 2014. Mr. Rivenbark seconded the motion and it was unanimously approved. Mr. Rivenbark made a motion to re-appoint Mr. Horace Thompson to serve a three-year term on the Pender County Board of Adjustment representing District 4, with term to expire January 4, 2014. Mr. Williams seconded the motion and it was unanimously approved. Mr. Tate made a motion to appoint Ms. Jacqueline Newton to serve a three-year term on the Pender County Board of Adjustment representing District 5, with term to expire January 4, 2014. Mr. Rivenbark seconded the motion and it was unanimously approved. Mr. Rivenbark made a motion to appoint Mr. Cleveland Simpson to serve on the Council on

Community Affairs. Mr. Tate seconded the motion and it was unanimously approved. Mr. Williams made a motion to appoint Mr. Brad Gorge to serve on the Hampstead Kiwanis Park Advisory Board. Mr. Ward seconded the motion and it was unanimously approved. Mr. Williams made a motion to appoint Mr. Jay Kapilco to serve a three-year term on the Parks & Recreation Advisory Board representing an At-Large position, with term to expire June 30, 2013. Mr. Tate seconded the motion and it was unanimously approved. Mr. Rivenbark made a motion to appoint Mr. John Toler to serve a three-year term on the Tourism Development Authority representing a Collector position, with term to expire August 31, 2013. Mr. Williams seconded the motion and it was unanimously approved.

**17. Discussion of Appointment to the Pender County Board of Health.**

Mr. Benton explained that at the November 15 meeting the Board voted to appoint Dr. Shelby Chadwick to the Pender County Board of Health, it was later learned that Dr. Chadwick is Health Board Ms. Heather Obrien's mother, and Mr. Brown is concerned about conflicts or issues having two immediate family members serving on the same board. After discussion, Mr. Williams made a motion and Mr. Ward seconded it to have the Attorney call Dr. Chadwick to start the process of giving her the opportunity to resign. The motion was unanimously approved.

**18. Boards/Committees/Commissions on which Commissioners Currently Serve: Annual Review/Modify.**

Upon motion by Mr. Williams and second by Mr. Rivenbark, the following changes were unanimously approved: Mr. Ward will serve on the Lower Cape Fear Water and Sewer Authority and Topsail Island Shoreline Protection Commission replacing Mr. Blanchard, and the Cape Fear RPO-RTAC Committee replacing Mr. Tate; Mr. Tate will serve on the Wallace Airport Commission replacing Mr. Blanchard; Mr. Williams will serve on the Wilmington Industrial Development Committee replacing Mr. Blanchard; and Mr. Brown will serve on the Health Board replacing Mr. Tate. There was some discussion of Mayor Zander Guy possibly replacing Mr. Tate on the Cape Fear Community College Board of Trustees but it was not made official. All the others positions remained the same at this time. Staff will bring back to the Board on January 4, 2011.

**ITEMS FROM THE COUNTY MANAGER**

Mr. Benton deferred to Mr. Breuer who gave an update on an upcoming public meeting concerning Miller's Pond Park at 6:00 p.m. on the 9<sup>th</sup> in the Board's meeting room and a public meeting with the Wilmington MPO at 6:00 on the 16<sup>th</sup> at Topsail High School's cafeteria.

**ITEMS FROM THE COUNTY ATTORNEY**

Mr. Thurman said with respect to Mr. Rivenbark's earlier comments concerning bidders, the County doesn't have any authority to take any bid over the low bidder's.

**ITEMS FROM THE COUNTY COMMISSIONERS**

There were no additional items from the County Commissioners.

**CLOSED SESSION**

At 6:35 p.m., Mr. Rivenbark made a motion to enter into closed session, pursuant to NCGS 143318:11: (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 including discussion of mediation non a worker's compensation claim. Mr. Williams seconded the motion and it was unanimously approved. The Board came out of closed session at 7:00 p.m. There were no announcements made upon exiting the closed session.

## **PUBLIC HEARINGS/RESOLUTIONS/AMENDMENTS**

### **19. Closeout Public Hearing for the FY 08 CDBG Scattered Site Grant.**

The public hearing opened at 7:09 p.m. and closed at 7:10 p.m. Chip Bartlett of Holland Consulting Planners explained all activities related to this CDBG program have been completed and the County is in the process of closing out the program; and that as part of closeout the County is required to hold a public hearing for citizen comments prior to submittal of the Certificate of Completion to the Department of Commerce. No action was required by the Board, but Mr. Williams made a motion to accept the presentation, Mr. Rivenbark seconded the motion and it was unanimously approved.

### **20. Public Hearing and Resolution Requesting Approval of a Special Use Permit for the Construction and Operation of a Photography Studio, Located Approximately 1/3 of a Mile North of Saps Road and Highlands Drive in Hampstead.**

The public hearing opened at 7:10 p.m. and closed at 7:12 p.m. Mr. Thurman swore in the witnesses. Planning Director Kyle Breuer explained the applicant is proposing to construct a photography studio located behind a single family dwelling that will be constructed on the property; the property is currently zoned RA, Rural Agricultural District, and uses in the NAICS Sector are permitted via SUP in the RA zoning district; access to the facility will be provided by a driveway entrance located on Hoover Road, subject to review and issuance of driveway permits by N.C. DOT; the applicant plans to utilize private water and wastewater supplied by Aqua Inc. via the Castle Bay System, due to the lack of county services; and before final zoning can be issued by Pender County all appropriate permits from North Carolina Department of Environment and Natural Resources for water and wastewater connections must be provided. Mr. Thurman asked the applicant, Thomas Henn, if everything in his proposal was accurate and true to the best of his knowledge and Mr. Henn responded affirmatively. Mr. Williams made a motion to approve the special use permit request, Mr. Tate seconded the motion and it was unanimously approved.

### **21. Public Hearing and Resolution Requesting Approval of a Special Use Permit for the Operation of a Food and Beverage Store, Located at 5000 Point Caswell Road, Atkinson.**

The public hearing opened at 7:12 p.m. and closed at 7:14 p.m. Mr. Breuer explained the applicant and owner is requesting a special use permit for the operation of a food and beverage store to be located at the existing Copper-Guinea Farm; the business would be incorporated into an existing structure on the property-the only construction taking place would be the replacement of existing stairs and the addition of a handicap ramp; the business would focus on the sale of produce and goods from area farmers; currently the market/bakery has been operating with the Community Supported Agriculture Program, partnering with local farmers to provide fresh produce seasonally to residents outside of the County; this proposal will allow the sale of the products within the Pender County area; and the applicant's proposed hours of operation for the food and beverage

market will be on Tuesday, Thursday and Saturday from 7:00 a.m. to 7:00 p.m. Mr. Tate made a motion to approve the special use permit, Mr. Williams seconded the motion and it was unanimously approved.

**22. Public Hearing and Resolution Requesting Approval of a Special Use Permit for the Operation of a Food and Beverage Store, Located at 20390 US Highway 421, North of the Intersection of Shiloh Road and US Highway 421.**

The public hearing opened at 7:14 p.m. and closed at 7:26 p.m. Mr. Breuer explained the proposed store will be in an existing commercial building that has been previously used for a convenience store and most recently antique sales; the proposed store will sell miscellaneous prepackaged food and beverage items and ancillary merchandise; no on-site production or preparation of food or beverages is proposed; and ingress and egress for the facility will be via an existing drive to US Highway 421. Ms. Ann Porter of Porter Rd. spoke in opposition to the store. Ms. Porter said the applicant, Yaser Abdelhamid, had worked for his uncle before, they had been caught selling "boot leg" CD's and DVD's, and that is why she is opposing the current permit request. Mr. Williams said this permit request is for food and beverages only and we can't make a decision based on what they had done before. He said their license could be revoked if they were found doing anything other than what they applied for. Mr. Tate asked if Ms. Porter lives in the vicinity of the store and Ms. Porter said she lives five miles from it. She said people have satellites out there and nothing from Time Warner. Mr. Brown asked for verification that the store will only be selling foods and beverages. Mr. Thurman explained that is not one of the Board's criteria to consider and said Pender County is not the regulatory agency. He added the counterfeit items Ms. Porter was speaking of were at a different location and this is a food and beverage permit only. Mr. Williams made a motion to approve the special use permit request, Mr. Tate seconded the motion and it was unanimously approved.

**ADJOURNMENT**

There being no further business, Mr. Williams made a motion and the meeting adjourned at 7:26 p.m.

Respectfully Submitted,



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Glenda Pridgen, Deputy Clerk to the Board

Reviewed By:



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Rick Benton, Clerk to the Board

Planning Items Reviewed By:



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Planning Staff