

## MONDAY, APRIL 4, 2011

The Pender County Board of Commissioners met in regular session on Monday, April 4, 2011 at the Public Assembly Room, 805 S. Walker St., Burgaw, NC 28425.

**MEMBERS PRESENT:** Chairman George Brown, presiding; Vice Chairman Jimmy Tate; and Commissioners F.D. Rivenbark, Chester Ward 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 Brown 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 Ward led the Pledge of Allegiance.

### PUBLIC INFORMATION

#### 1. **Recognition of Various Pender County Student Athletes.**

Parks and Recreation Planner Dee Turner gave background information and explained it has become a tradition for outstanding student athletes to be recognized by the Board of Commissioners. Mr. Williams presented certificates and a plaque to the following:

**Topsail High School Wrestling Team:** Special Recognition for Individual State Championship NCHSAA Division 2-A Wrestling: Aric McCutcheon; Special Recognition for Individual State Runners Up NCHSAA Division 2-A Wrestling: Joseph Graves and Stuart Nadeau; and Special Recognition for Coaching Dedication NCHSAA Division 2-A Individual State Wrestling to Coach Jake Pence.

After Coach Battle presented Mr. Tate with a Pender High School Patriots T-Shirt, Mr. Tate and Mr. Brown presented certificates to the following:

**Pender High School Basketball Team:** Special Recognition for Team Dedication 2011 East Regional Champions State Runners Up NCHSAA Division 1-A Basketball Players: Jamaal Gresham, Dominick Hand, Trey Hansley, Jalen Hansley, Kalen Hansley, Tyquan Hansley, Derek Holmes, Josh Murray, Davy Nance, Keynan Pittman, Javon Powell, Manuel Sanchez, Keith Spencer, Addison Spruill, and Blake Williford; Team Managers Kinsley Frasier, Chasty Kea, Kala Kea, and Jenna Keith; Assistant Coaches Ronald Echols, Jason Hansley, Hazel Keaton, and Rodney Orr; and Head Coach Gary Battle;

Coaches Battle and Pence presented information on some of their athletes' accomplishments, with respect to scholarships, future colleges, etc.

Mr. Tate asked for applause for the Superintendent, Principals and all others who stand behind the students in their athletic achievements.

**2. Proclamation by the Pender County Board of Commissioners: Child Abuse Prevention Month April, 2011.**

Dr. Shiver explained April is Child Abuse Prevention Month and DSS will be holding a series of activities to heighten awareness of the child abuse problem. Dr. Shiver distributed blue ribbons in honor of Child Abuse Prevention Month and read the proclamation, which was unanimously approved by the Board upon motion by Mr. Tate and second by Mr. Rivenbark. Mr. Rivenbark then recognized Work First Supervisor Alecia Williamson for receiving the Cape Fear Council of Government's Cape Fear Workforce Development Outstanding Volunteer 2010 Award; and Food Stamp Supervisor Herbert Estelle and staff for receiving Certificates of Merit from the North Carolina Department of Health and Human Services Division of Social Services for maintaining a Food and Nutrition Services Negative Accuracy Rate of 100 Percent for Federal Fiscal Year 2010 and for maintaining a Food and Nutrition Services Payment Accuracy Rate of 100 Percent for Federal Fiscal Year 2010.

**3. Laura Boothe, NC Division of Air Quality: Presentation Regarding Proposed EPA Sulfur Dioxide Standards.**

Ms. Boothe explained: the US Environmental Protection Agency (EPA) is revising the primary standard for sulfur dioxide, and the one monitoring station located in this region, in New Hanover County, already far exceeds the new standard; therefore, New Hanover County, and potentially areas of Pender and Brunswick Counties, will likely be designated within a non-attainment boundary that will be designated by EPA; the State will be making boundary recommendations to EPA by June 2, 2011, however EPA has the final determination as to the boundaries to be established; the proposed final EPA determination date is June, 2012; designation as non-attainment has impacts related to economic development, industrial development and recruitment, transportation planning, existing industrial development expansion, and others; and even if Pender County is not included in the non-attainment boundary, the designation will likely have impacts for recruitment of industry to Pender Commerce Park, which is located adjacent to the New Hanover county line and the area where much industry and higher levels of measured sulfur dioxide already exist. Ms. Boothe delivered a Power Point presentation which included: What is Sulfur Dioxide (SO<sub>2</sub>); 2010 Sulfur Dioxide Standard; Current SO<sub>2</sub> Design Values; Designation Process; What does SO<sub>2</sub> Nonattainment Mean; North Carolina's Process for Recommending Nonattainment Boundaries; Sources of SO<sub>2</sub> Emissions (New Hanover, Brunswick, Pender Counties); Top 10 SO<sub>2</sub> Point Sources in New Hanover, Brunswick & Pender (none located in Pender); Actual Emissions at SO<sub>2</sub> Sources Surrounding the New Hanover SO<sub>2</sub> Ambient Monitoring Site; Next Steps; and SO<sub>2</sub> Milestones. Ms. Boothe explained each category of the presentation. Mr. Williams, saying he has been familiar with Sulfur Dioxide for at least twenty-five years through his work, asked questions and clarified with Ms. Boothe some statistics shown in the presentation that are not the actual effective amounts. A specific question Mr. Williams asked was since Pender County is developing an industrial park on Highway 421 at the New Hanover County line, will Pender be affected if New Hanover County is designated as non-attainable. Ms. Boothe said if New Hanover County is designated as non-attainable, the portion of the park that is in New Hanover County will be impacted, but it is highly unlikely that any part of Pender County will be designated as non-attainable. The presentation in its

entirety is on file with the permanent records in the Clerk to the Board's Office. Ms. Boothe added the EPA is also proposing new Ozone standards and that the potential in this area can be set as non-attainable if they go as low as 60 parts per billion.

#### 4. **Pender County Public Schools System Quarterly Bond Project Update.**

Director of Auxiliary Services David Smith gave an update on bond projects for the first quarter of 2011-January-March 2011. Projects include: **Heide Trask Auditorium/Gymnasium Project**-Project complete except for scoreboards-completion of sprinkler system, seat installation, hanging of stage curtains, stage lighting, sound system, floor finishers and display cabinet fabrication in the auditorium; flooring, wall and flooring finishes, lighting, HVAC ductwork, controls, seating and wrestling mat storage equipment finished in the gymnasium; and exterior clean-up and grading of grounds completed, construction equipment and debris removed from site, and temporary walkway to be removed and the stone used on the driveway or in the parking lot. Other items requested by school staff and parents if funds are available: restroom facility at baseball and softball fields; and construction of tennis courts. **Topsail Middle School**-restroom renovations to begin; old carpentry shop converted into two classrooms. **Topsail High School**-softball field under construction; renovations to restroom located at the football field. Mr. Smith said they will come back before the Board of Education and the Board of Commissioners before starting any new projects. Mr. Brown asked about the location of the tennis courts at Trask and Mr. Smith said they would either be located at the third parking lot which we don't need or placed near the last parking lot. Mr. Ward asked if it would be beneficial to have automatic hand dryers and Mr. Smith said they had been looking into it but some problems would come with wiring in some of the older buildings. Mr. Tate said the Central Office Complex has horrible office space and horrible parking space. Mr. Ward asked about the status of Penderlea School. Mr. Smith said it is on the Five-Year Plan and presented the options. There was discussion of whether more people are for renovations than rebuilding, or vice versa. Mr. Brown said we appreciate the Schools coming out and sharing where they are with projects and that the Board likes getting a report ahead of time without the cost renovations.

#### **PUBLIC COMMENT**

No one wished to speak under public comment.

#### **CONSENT AGENDA**

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

5. Approval of Minutes: Joint Meeting with Pender EMS & Fire Departments March 10, 2011; Regular Meeting of March 21, 2011; & Joint Meeting with Board of Health March 21, 2011.
6. Resolution Approving Tax Releases and Refunds as Listed Herein.
7. Resolution to Approve a Purchase Order to New Hanover County for the Purchase of One Used 2001 Ford Nine- Passenger Prisoner Transport Van: \$5,700.
8. Resolution Authorizing Purchase Order to Adapco, Inc. to Purchase Three Drums of Aqua Reslin: \$17,303.
9. Resolution to Declare One County Owned Vehicle as Surplus and Transfer Title to Pender Endangered Animal Rescue Inc.
10. Resolution Authorizing FY 10-11 Budget Amendment to Accept Homeland Security Grant in the Amount of \$5,940.59.

11. Resolution Authorizing FY 10-11 Budget Amendment to Accept EMPG Grant in the Amount of \$35,000.
12. Resolution Appointing Rebekah Costin, Town of Burgaw Planning Administrator, as a Review Officer for the Town of Burgaw.
13. Proclamation by the Pender County Board of Commissioners: Spring Litter Sweep: April 16 – April 30, 2011.

## **RESOLUTIONS**

### **14. Resolution Opposing “Game Fish Status” Designation for Red Drum, Striped Bass and Spotted Sea Trout.**

Mr. Williams said he had requested this resolution and thanked Mr. Benton for preparing it. Mr. Williams explained: a bill has been filed in the General Assembly to designate Red Drum, Striped Bass, and Spotted Sea Trout as coastal game fish; the bill will prohibit the taking of coastal game fish other than by hook-and-line; the bill will prohibit the sale of coastal game fish; this designation will negatively impact the essential function of commercial fishermen in providing wholesome food and struggling to earn a living and contribute to the state’s economy; hook-and-line fishermen are already catching way more of these fish now than commercial fishermen; the primary sponsors of this bill are not from coastal counties; he opposes the bill; and he is asking this Board to join Carteret County in opposing it. Mr. Rivenbark said he agrees with Mr. Williams. He said during his travels, from talking to commercial fishermen and people who buy from them, this would really hurt them economically. Mr. Williams made a motion to approve the resolution, Mr. Rivenbark seconded the motion and it was unanimously approved.

### **15. Approval of Amendment to Increase Shell Building Project Ordinance by \$126,750; and Increase Purchase Orders for Architectural/Engineering Services by \$11,500.**

Mr. Benton explained: the agreement between Pender Progress Corporation with Pender County for construction of the shell building project provided a County contribution of \$3000,000 to the project; the initial capital project budget appropriated \$173,250 of this commitment; as the project has developed, additional costs related to addressing soil conditions and a building structural issue is requiring the appropriation of the remaining monies; a capital project ordinance amendment and FY 10-11 budget amendment is required to appropriate the additional \$126,750, which will be appropriated from fund balance; \$107,365.32 of this will be added to the contingency line item in the event of additional construction change orders to address the soil conditions and structural issues; and an increase in purchase orders for architectural/engineering services by \$11,500 is also requested to be approved. Mr. Ward asked for clarification that this would include no new money and Mr. Benton said “no, we just didn’t budget all of the original money.” Mr. Rivenbark said he visited the site after he reviewed this on the agenda and they had hauled in a tremendous amount of additional sand. Mr. Rivenbark made a motion to approve the resolution, Mr. Williams seconded the motion and it was unanimously approved.

### **16. Public Disclosure of Potential Conflict of Interest Related to the County’s FY 2010 CDBG-ER Program.**

Mr. Benton explained: the recently funded FY 2010 CDBG-ER \$500,000 application includes a beneficiary that is related to a county employee, thus the County desires to make a public disclosure of the matter as provided for CDBG grant recipients; the proposed beneficiary, Ms. Tisha Pigford, is a qualified applicant that is the daughter of Ms. Glenda Pridgen, Assistant to the County Manager/Deputy Clerk; anytime there is a hint of any kind of potential conflict of interest related to a CDBG Program, public disclosure is made; the selection of Ms. Pigford’s home for inclusion in

the grant application was the result of a competitive ranking process administered by the County's consultant, Holland Consulting Planners Inc.; the original households surveyed and ranked for this application came from the county's current waiting list of citizens who have requested housing assistance; once the applications were ranked, recommendations were made by the consultant for inclusion in the application that was eventually funded; the Assistant to the County Manager/Deputy County Clerk had no involvement in the ranking process nor was she involved in the approval of any units that were included in the application for funding; and the County Attorney will review the potential conflict, and if he determines there is no violation, will provide an opinion letter stating the conflict for which an exception is being sought would not violate state and local law. Mr. Thurman stated he would send a letter to the appropriate agencies stating Ms. Pridgen had no involvement with selection and no input in criteria, there is no violation of law, there is no actual conflict at all, and no county staff is involved in selection of applicants at all-Holland Consulting did it all based on the criteria. Mr. Rivenbark said this has been done before by the Board. Mr. Rivenbark made a motion to approve the resolution, Mr. Williams seconded the motion and it was unanimously approved.

**17. Resolution and Discussion of Legislation Pertaining to Appointments to Boards, Authorities, Committees and Commissions.**

Mr. Brown explained this discussion pertains to a bill has being introduced in the General Assembly on behalf of New Hanover County providing for more accountability for the work of boards/commissions/ authorities/committees the New Hanover Commissioners fund or appoint; and to consider a resolution requesting the Pender County legislative delegation take action to add Pender County to this legislative bill. Mr. Rivenbark asked has Mr. Thurman gone over this bill and Mr. Thurman responded he has gone over it pretty thoroughly. Mr. Thurman said if the bill passes, it will create a whole lot more work for the Board. He explained that most of the boards/commissions currently appointed by the Board of Commissioners serve at the pleasure of the Board of Commissioners and the Board of Commissioners don't have to show cause to not re-appoint anyone. Mr. Williams said the most of our boards do a good job, but there have been some situations, or there could be in the future, where the Commissioners have to step up. He said if anything goes wrong, the Board of Commissioners is going to take the heat anyway. Mr. Brown said he would like for the Board of Commissioners to have the authority to deal with some of the issues of these boards and this would give the Board of Commissioners the authority it needs. Mr. Ward asked if this defines our duties as commissioners and Mr. Thurman said to a certain extent. There was discussion of boards that report directly to the State versus reporting to the Board of Commissioners, including the Board of Elections. Mr. Williams suggested tabling the matter, refining the list and bringing it back before the Board. Mr. Rivenbark suggested removing the Board of Elections from this list. Mr. Tate asked if we delay the item to the next meeting, if we will still have time to join with New Hanover's bill. Mr. Brown said it is something we need to go ahead and act on, but we can get guidance from our legislative delegation. It was the consensus of the Board to bring the item back to the next meeting.

**APPOINTMENTS**

**18. Resolution to Consider Approving Appointment to the Pender County Board of Equalization and Review.**

Ms. Pridgen explained five regular members have already been appointed to the 2011 Board of E&R, and the current application is for the alternate member. Mr. Williams made a motion to appoint Mr. Stuart Mossman to serve a one-year term on the Board of E&R as the Alternate position, with term to expire March 6, 2012. Mr. Rivenbark seconded the motion and it was

unanimously approved. Mr. Williams noted Mr. Mossman's impressive educational background. Ms. Pridgen added Mr. Mossman has previously served on the Board of Equalization and Review.

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

Mr. Benton discussed various 2011 Pender County legislative issues to be presented to the NCACC, both budget related and non-budget related. There was discussion concerning the State's taking over some traditional local authority items and the subject of billboards was one of the items. Mr. Williams asked for a resolution opposing the bill that would give the State authority to override local regulation of billboards.

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

Mr. Thurman said there would be items for closed session pertaining to items 3, 4, 5 and 6 of GS 143-318.11.

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

Mr. Rivenbark said at the next budget work session, he would like a discussion on how many vehicles the county owns, how the vehicles are monitored and how the fuel is billed out.

Mr. Tate said he was out last night around 1:30 a.m. and he is pleased to report that Pender County Deputies were out doing their duties.

Mr. Williams said he was going to discuss the billboard issue, but it had already been covered.

#### **CLOSED SESSION**

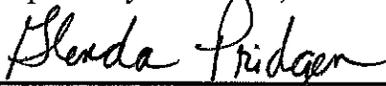
At 5:47 p.m., Mr. Rivenbark made a motion to enter into closed session, pursuant to NCGS 143-318.11: (3) to consult with an attorney employed or retained by the public body in order to preserve the attorney-client privilege between the attorney and the public body, which privilege is hereby acknowledged. 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; (4) to discuss matters relating to the location or expansion of industries or other businesses in the area served by the public body, including agreement on a tentative list of economic development incentives that may be offered by the public body in negotiations. The action approving the signing of an economic development contract or commitment, or the action authorizing the payment of economic development expenditures, shall be taken in an open session; (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 policy matters

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 it was unanimously approved. The Board came out of closed session at 6:37 p.m. There were no announcements upon exiting the closed session.

**ADJOURNMENT**

There being no further business, the meeting adjourned at 6:37 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