

MAY 2, 2011

The Pender County Board of Commissioners met in regular session on Monday, May 2, 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; 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. Resolution to Adopt Proclamation by the Pender County Board of Commissioners: May 2011-National Preservation Month.

Mr. George Edwards, Executive Director of the Historic Wilmington Foundation, explained the proclamation. Mr. Edwards said the Foundation is in partnership with the Pender County Historical Society and said there is a lot of history in Pender County, including several museums, the train depot in Burgaw, and Penderlea being put on the National Register. Mr. Edwards thanked the Board for considering the proclamation. Mr. Brown read the proclamation and Mr. Williams made a motion to approve it. Mr. Tate seconded the motion and the proclamation was unanimously approved. Ms. Shelby Battle of the Pender County Historical Society was also present.

2. Resolution to Adopt Proclamation by the Pender County Board of Commissioners: Travel and Tourism Week in Pender County: May 7-15, 2011.

Tourism Director Monique Baker delivered a Power Point presentation on Tourism activities that will be held in the County during Tourism week. The presentation included: In 2010, North Carolina ranked 6th in visitation in the United States; in 2009, Pender County ranked 43rd in visitation in North Carolina; banner that will hang at the York House, the Chambers and Surf City Visitor Center; posters that will be distributed to vendors; and buttons to wear. Ms. Baker then read the proclamation. Ms. Barbara Baker, Chairman of the Pender County Tourism Development Authority, added remarks saying they also want to take this opportunity to inform visitors and residents all that Pender County has to offer: including pristine beaches; amazing waterways and rivers; fresh seafood; the sweetest blueberries; winery; farmers markets; museums; Revolutionary, Civil and WWII history; riding and walking trails; unique shopping

and dining; and water tours. Mr. Williams made a motion to approve the proclamation, Mr. Tate seconded the motion and it was unanimously approved.

3. 2011 Property Tax Revaluation Update.

Tax Assessor Tony Masiero presented the update, which included: at the end of February the Tax Office mailed out approximately 45,000 revaluation notices to property owners in the county; from those notices they received approximately 4,500 informal appeals; from that point on they began fielding questions by phone and in person at the Resource center, and also held in-person appeals for those that requested them; the revaluation team has reviewed all appeals organized by township, and as of this moment the review of informal appeals is complete, all field re-visits have been made and they are finishing up the data entry in the tax software; they estimate that the second notices with appeal decisions will be mailed out on or around May 10th; for those taxpayers still not in agreement with their property value, and desiring to further appeal, the application for the Board of Equalization and Review will be on the back of the notice with instructions on how to proceed; as advertised in the local newspapers, the Board of Equalization and Review convened this morning at 9:00 a.m.; they conducted a short orientation with members of the board, a representative from the NC DOR, himself and Mr. Cain; as they receive Board appeals they will contact the taxpayers with a date and time for their appeal; and they plan to adjourn the Board of Equalization and Review on June 10th which will signal the last day to submit an appeal for 2011.

4. Presentation of Calico Bay Drainage Maintenance Project.

Mr. Benton explained that in 1995 Pender County constructed 5,400 feet of drainage ditch and 3.6 acres of vegetative plantings in the Calico Bay area to improve drainage; the Board of Commissioners adopted a resolution in May 1995 authorizing the project and accepting responsibility for the operation and maintenance of the project; the project was identified as one of five priority drainage management projects in a report presented to the Board in February, 2009; Mr. Greg Thompson of Southern Engineering inspected the area and wrote a report that recommends the County undertake hand work to remove materials, debris and vegetation from the bottom of the ditches; and the report estimates the cost of this work at \$16,454. Mr. Thompson added that it was not recommended to remove the vegetation from the ditch banks because it would cause erosion. He said DOT had cleaned out some of their ditches in the area and residents said that helped some. Mr. Thompson showed pictures of the ditch. Mr. Ward asked about having inmates do the hand work and Mr. Thompson said there may be potential for liability to have inmates do the work. Mr. Benton was instructed to look into the possibility of having inmates do the work. No other action was taken.

PUBLIC COMMENT

The following citizens spoke concerning HB 353:

Wendell Alphin of 996 Gaye Ave., Topsail Beach – Thanks the Board for its support; he is a commercial fisherman and is opposed to the bill; the bill will basically do away with net fishing if passed; how is the State going to compensate people who are out of work; and the Board had already voted to oppose the bill and should just “let no mean no.”

Hiram Guedalia of 380 Old Landing Ave., Hampstead – The citizens in support of the bill have said there are 14,000 recreational fishing licenses in Pender; he and his wife are recreational fishermen but they don’t support the bill.

Tommy Batts of 945 Shepard Rd., Hampstead – He opposes the bill; why put one sector of employment out of business to support another; why would Pender County folks want to buy foreign bait to use on their reels.

Chris Medlin of 2421 Hwy 210 E., Hampstead – In favor of the bill. Mr. Medlin presented a Power Point presentation entitled “Economic Impact of HB 353.” The presentation included: Why Game Fish Status; Are we Losing Business to Other States; We Cannot Allow Waste of Fish Again; Who Targets these Fish; Is Gamefish Status New; Status of the Fish; What About the NC Consumer (he stressed that according to Lewis Daniel of the Division of Is Gamefish New; Status of the Fish; Status Marine Fisheries, approximately 90% of Striped Bass go out of the state for sale along with about 80% of the other two species); How Many Fishermen will be Affected; How Will the Commercial Fisherman be Affected; How Will the Recreational Angler be Affected; Misinformation; Does Pender County Already Have Gamefish Status; Commercial Statistics for Pender; How Much Money Does Pender County Receive from Recreational Fishermen; Tourism; Tourists; Chart of Preliminary 2011 Real Values-69.24% Relying on Tourism; and Sources. Mr. Ward asked where Mr. Medlin got the 69% he quoted as coming from Tourism and Mr. Medlin stated a published report. Mr. Ward asked if the 69% comes from tourism or property taxes. Mr. Medlin said it comes from property taxes, which are helped paid for by Tourism.

Kenneth Seigler of 283 Bear Creek Rd., Hubert, NC – A commercial fisherman and member of the N.C. Seafood Alliance. Mr. Seigler read a statement from Dr. Daniels of the Division of Marine Fisheries stating there is no evidence that Gamefish Status is being helpful and read a statement from the North Carolina Seafood Alliance stating there is no biological evidence that Gamefish Status is being helpful. Commercial fishing is a vibrant economic industry; the bill is an attempt to ban nets; Mr. Medlin’s statistics of recreational fish includes shell fish; and the North Carolina Seafood Alliance is asking the Pender County Board of Commissioners to stay with its previous decision to oppose the bill. Mr. Williams asked if the other coastal counties had passed resolutions against the bill and Mr. Seigler said every other coastal county had, except New Hanover.

Kenny Batts, 506 S. Topsail Dr., Surf City – He is a recreational fisherman but he agrees with the commercial fishermen in opposing the bill.

Rodney Simpkins, 2034 Mallard Bay Rd., Hampstead – Opposes the bill; the water is equally owned by everyone; there is no fairness in it; it is a matter of greed; it is a sneaky attack to get every net, crab pot, etc. out of the water; the bill is a product of CCA, a large lobbying company out of Houston, Texas that represents large companies such as Budweiser, Mercury Boat Motors and Wal-Mart-presented some of the figures of how much these companies paid the lobbying company; the ocean is one resource that is given to all; the Board made the right decision the first time.

Adrian Kuggton, 105 Cottage Walk, Hampstead- Sees the same people Mr. Medlin sees; the people who consume the fish far outnumbers people out fishing for recreation; this is a resource we have here and it should be available to everyone.

Mike Davis, Raleigh, NC – Owns property on Topsail; he is a recreational fisherman; you can only catch one Red Drum per day; they are not asking to be able to keep more fish, just want to be able to catch more; he and his buddies used to come down here and fish and spend money- now he and his buddies go to Georgetown, SC to fish; something needs to be done about recreational and commercial fishing in North Carolina.

Warren Spiller, 1658 Watts Landing Rd., Hampstead – Commercial fisherman; why take money out of his pocket to put in recreational fishermen’s pockets.

Joseph Smith, Jr., 633 Ravenswood Rd., Hampstead - The guy that spoke about CCA is really a Godsend; he has books that say the exact opposite of what the speakers said; we shouldn’t have any malice against each other; statements made at the podium tonight are not true; he has made some calls since he has been at the meeting tonight and found out some of the statements are not true; if these fish are banned in this state, it will deprive some people, such as the elderly, from being able to eat the fish; once a law is in place, you can’t take it back. Mr. Tate clarified that laws are not made by this Board. He asked if Mr. Smith had contacted State Lawmakers and Mr. Smith said yes. Mr. Tate said ultimately, the General Assembly will make the decision.

Mr. Brown stressed that the Board’s vote is just “symbolic” and that the Board doesn’t have any control over the bill. He said the Board can only vote to show legislators whether we want something or don’t want it.

Mr. J.M. Moseley said he has a business at 508 Roland Ave. in Surf City and he wants to add to Mr. Smith’s comments. He asked why legislators, who don’t know anything about fishing, trying to make these laws. Mr. Moseley said this is not about fishing, it is about banning nets and said we need to create jobs, not take people’s jobs away.

Mr. Medlin said the other states can sell the fish to North Carolina if they show a receipt. Mr. Joseph Smith, III said he is not sure we can bring out-of-state fish into North Carolina and gave an example of an incident that had previously happened.

Mr. Doug Medlin said we all grew up together, we all are friends, and when we leave here today, he hopes we can all still be friends.

After hearing all the public comment concerning HB 353, Item No. 10 was moved up to be considered.

10. Discussion and Possible Resolution Regarding Previous Board of Commissioner’s Decision Opposing HB 353 “Game Fish Status”.

Mr. Williams said Mr. Simpkins really “hit the nail on the head”; he dittos what Mr. Simpkins said; and he hasn’t heard anything different to make him change his mind from the first vote. Mr. Ward asked for a show of hands from the audience who thinks the bill will eventually lead to the banning of fishing nets; most of the audience raised their hands. Mr. Tate said he hates to see a community divided like this; he doesn’t know enough about the issue to vote on it today; and Board members need to talk to our legislators concerning the issue. Mr. Brown said this Board had already voted to oppose the bill and we need to address it now. Mr. Williams said we need to have a vote and move on. Mr. Brown said we need to either get a motion or keep the previous

vote. No one made a motion to do anything differently; the Board's April 4, 2011 approval of the resolution opposing the bill remained the same.

CONSENT AGENDA

Mr. Brown presented the three 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: Regular & Closed Session Meeting of April 18, 2011.
6. Resolution Approving Tax Releases and Refunds as Listed Herein.
7. Resolution Authorizing Issuance of Purchase Order to Consolidated Laundry Equipment in the Amount of \$7,086.

RESOLUTIONS

- 8a. **Resolution Approving Budget Ordinance Amendment to Increase Health Department Revenues and Expenditures for Fiscal Year 2010-2011: \$1,000 (Diabetes Prevention and Control).**

Mr. Benton explained Items 8a.-8d. were tabled from the last meeting. Mr. Ward was again concerned if the monies are General Fund monies, and if they are mandates by the State. Mr. Benton said they are grant monies from the state. He said additional information from the previous Interim Health Director is attached to the resolutions to explain the funds, and representatives from the Health Department are present to answer questions. Mr. Benton also noted Human Resources Director Amber Parker had been appointed Interim Health Director until a permanent one can be found. After more discussion, Mr. Williams made a motion to approve the resolution, Mr. Rivenbark seconded the motion and it was approved by a 4-1 vote, with Mr. Ward voting in opposition (Mr. Tate was out of the room at the time).

- 8b. **Resolution Approving Budget Ordinance Amendment to Increase Health Department Revenues and Expenditures for Fiscal Year 2010-2011: \$4,494 (Women's Health/TANF Funding).**

Mr. Williams made a motion to approve Items 8b, 8c and 8d. Mr. Rivenbark seconded the motion and it was approved by a 4-1 vote, with Mr. Ward voting in opposition (Mr. Tate was out of the room at the time).

- 8c. **Resolution Approving Budget Ordinance Amendment to Increase Health Department Revenues and Expenditures for Fiscal Year 2010-2011: \$16,000 (H1N1/Public Health Emergency Response).**

- 8d. **Resolution Approving Budget Ordinance Amendment to Increase Health Department Revenues and Expenditures for Fiscal Year 2010-2011: \$64,000 (H1N1/Public Health Emergency Response).**

9. **Resolution Approving the Juvenile Crime Prevention Council's Annual Plan, Board Members and Funding Recommendations for FY 2011-2012.**

Dee Turner, Parks and Recreation Planner and Chairperson of the Pender County JCPC, explained the JCPC is a state mandated county board tasked with overseeing the distribution of state funds for programs serving youth who are currently in the juvenile justice system or are at

risk of entering it. She said the Department of Juvenile Justice and Delinquency Prevention has indicated that there may be up to a 10% reduction in the amount of money that will be received for FY 2011-12, so Pender County JCPC based its funding recommendations on a 10% reduction. The programs that will receive funding are: Juvenile Restitution/Community Service: \$25,250; Teen Court \$18,840; Psychological Services \$48,500; and JCPC Administration \$9,642. After some discussion, Mr. Rivenbark made a motion to approve the resolution, Mr. Williams seconded the motion and it was unanimously approved.

11. Resolution Approving Administrative Guidelines and Policies for the FY 2010 CDBG Economic Recovery Program.

Housing Director Judy Herring explained the County has been awarded a \$500,000 FY 2010 CDBG Economic Recovery Grant to improve housing in Pender County, and this resolution is to approve the administrative guidelines and policies for the program. Mr. Chip Bartlett of Holland Consulting Planners was also present to answer any questions. Mr. Rivenbark made a motion to approve the resolution, Mr. Williams seconded the motion and it was unanimously approved.

12. Resolution Authorizing a Lease Agreement for the Future Topsail Regional Library Site and an Associated Conservation Declaration for Wetland Mitigation.

Mr. Benton explained he is asking the Board to consider a resolution to authorize a lease agreement with the Pender County Board of Education for the future Topsail Regional Library site (2.8 acres) on US 17; and to authorize recordation of a Conservation Declaration for wetland mitigation (up to 7.56 acres) site in Pender Commerce Park. He said both are subject to final approval of the County Attorney. In response to question, Mr. Benton said he is asking for approval before the County Attorney's final approval because the Corps of Engineers won't consider wetland mitigation until a lease agreement is assigned. Mr. Williams made a motion to approve the resolution, pending final approval of the agreements by the County Attorney, Mr. Rivenbark seconded the motion and it was unanimously approved.

MAPLE HILL WATER & SEWER DISTRICT

13. Resolution by the Board of Directors of the Maple Hill Water and Sewer District Approving the Award of the Phase I – Alternate Bid and Authorization to Issue a Purchase Order for the Construction of the Maple Hill Wastewater STEP and Collection System to L.M. McLamb & Son Construction Company in the Amount of \$1,896,215.

The Board convened as the Maple Hill Water and Sewer District Board at 6:00 p.m. Utilities Director Michael Mack explained: they received bids for construction on March 31, 2011; due to the project's budget constraints, the project was designed for two phases and bid with a base bid and alternate bid for both Phase I (171 service connections) and Phase II (additional 31 service connections) to provide four construction options to keep the project within budget; the Base Bid for each phase specified the use of Fiberglass septic tanks; the Alternate Bid for each phase specified the use of Precast Reinforced Concrete septic tanks; they received ten bids; upon review of the bids and confirmation of the available funding from the NC Rural Economic Development Center and the NC Clean Water Management Trust Fund, the decision was made to award only the lowest bid option, Phase I – Alternate, at this time; if additional funding from the Rural Center becomes available and sufficient contingency funds remain at the Substantial Completion of Phase I – Alternate, Phase II – Alternate could be added via Change Order; the Engineer of Record, Hobbs, Upchurch & Associates, and Utilities staff have reviewed the bids, completed the Bid Summary, completed due diligence on the Contractor, verified their Good

Faith Efforts; and they recommend award of the Phase I - Alternate Bid to L.M. McLamb and Son Construction Company, Inc. in the amount of \$1,896,215. There was discussion and questions by Board members. Mr. Ward asked if we have any more sign-ups than 171 and Mr. Mack said yes. Mr. Ward asked if there had been a change in the technology than from the beginning and Mr. Mack said no. Mr. Ward was concerned with the type of system being used; customers' rates; and the number of people who had actually paid the tap fee; and what will happen if the people don't pay. Mr. Ward said he remembered a gentlemen speaking at a previous meeting about the type of system to be used. Mr. Mack said the gentleman was representing one particular vendor. Mr. Mack said thirty-five people had paid the tap fee to date, but that the deadline is June 1, 2011. Board members were concerned about the low number of sign-ups. Mr. Tate asked about the design of the system changing and Mr. Mack said it was never designed to accommodate the specifications of the upset vendor. He reiterated that one person representing one vendor claims we changed the system. Mr. Tate and Mr. Ward were concerned that since the citizens are not signing up, they may not fully understand what is going on. They asked if the citizens don't pay, who will pay for maintenance and upkeep of the system. Mr. Mack said we may have to raise the rates on customers that do pay. Mr. Tate was concerned that if this project fails, the money could have been used somewhere else. He said he hopes the County doesn't become responsible for the debt if the project does not work. Mr. Mack stressed the need to award the contract now because of the difference in the cost of the pipe if not purchased now. Mr. Williams made a motion to approve the resolution, Mr. Rivenbark seconded the motion and it was unanimously approved.

The Board reconvened as the Pender County Board of Commissioners at 6:25 p.m.

ITEMS FROM THE COUNTY MANAGER

Mr. Benton spoke about House Bill 200 and the State shifting funding to counties. Mr. Benton noted minutes from 2006 where the Board had discussed tethering of dogs in response to a request from Commissioner Williams about tethering. Staff was instructed to check on the status of the little girl who was recently bitten by a Pit Bull.

ITEMS FROM THE COUNTY ATTORNEY

The County Attorney was not present.

ITEMS FROM THE COUNTY COMMISSIONERS

Mr. Ward invited everyone to attend National Day of Prayer Gathering on Thursday, May 5th, between 7:00 p.m. & 8:00 p.m. at the Hampstead Village Gazebo.

Mr. Williams mentioned a letter he received from Mr. Faiella concerning portable signs, and said he wants Mr. Thurman to respond to the letter. There was discussion of portable signs and the inequities of enforcing them.

CLOSED SESSION

At 6:30 p.m., Mr. Rivenbark made a motion to enter into closed session, pursuant to NCGS 143-318.11: (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. At 7:00 p.m., Mr. Rivenbark made a motion to come out of closed session. There were no announcements upon exiting the closed session.

ADJOURNMENT

There being no further business, the meeting adjourned at 7:00 p.m.

Respectfully Submitted,



Glenda Pridgen, Deputy Clerk to the Board

Reviewed By:



Rick Benton, Clerk to the Board