

MONDAY, MAY 16, 2011

The Pender County Board of Commissioners met in regular session on Monday, May 16, 2011 at the Public Assembly Room, 805 S. Walker St., Burgaw, NC 28425.

MEMBERS PRESENT: Chairman George Brown, presiding; and Commissioners F.D. Rivenbark, Chester Ward and David Williams.

MEMBERS ABSENT: Vice Chairman Jimmy Tate.

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 Rivenbark led the Pledge of Allegiance.

Mr. Tate was excused upon motion by Mr. Williams, second by Mr. Rivenbark and unanimous vote.

Mr. Brown asked that Mayor Howard Braxton of Topsail Beach be allowed to speak first on the agenda. Mayor Braxton thanked the Board for their support in the beach nourishment project. He explained: they had a Beach Nourishment Celebration on the beach on Saturday; they had really been putting sand on the beach; they couldn't have done it without help from the Board; the Board gave them a little extra money each year; the beach renourishment project began several months ago and they have placed more than one million cubic yards of new sand on Topsail Beach; putting sand on the beach draws tourists and tourists help the beach and the County; and Saturday they opened the door to a new sandy beach.

PUBLIC INFORMATION

1. Update on the Pender County Water Treatment Plant and Transmission Line Project.

Utilities Director Michael Mack presented the update. Mr. Mack explained: a lot of the hard ground work has been done and they are now working on an accelerated schedule; they hope to knock 60 to 90 days off the completion schedule; the access road into the site is installed and paved; the 24-inch finished water line is installed from the plant to and along U.S. 421 in front of the Pender Commerce Park; concrete work is progressing; the tap into the Lower Cape Fear Water and Sewer Authority raw water line from the Cape Fear River has been made; work along N.C. 210 on the water transmission main is progressing; contractors are using special drills to bore pipe under roads and wetlands to minimize disruption to the surface; they have run into

some issues, but contractors have worked them out; they have progress meetings every month; and substantial completion is set for August 2012 and final completion is set for November 2012. Mr. Williams asked about Scotts Hill and when can we "turn the valves on." Mr. Mack explained: the Scotts Hill water project is nearly finished, with water expected to be available to residents in June; worst case scenario is July 1st; the water mains are done and have been pretested; and one customer already has water-a restaurant located adjacent to Poplar Grove because the State Public Water Supply Section asked if the Scotts Hill water could be made available as soon as possible because the building's existing water well was going bad.

PUBLIC COMMENT

No one wished to speak under this section.

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 as presented, Mr. Williams seconded the motion, and the Consent Agenda was unanimously approved by a 4-0 vote as follows:

2. Approval of Minutes: Budget Work Session May 2, 2011; Regular & Closed Session May 2, 2011.
3. Resolution Accepting Petition to Add Black Water Drive in Watha to the State Maintained System and Authorizing the County Manager to Submit the Petition to N.C. Department of Transportation.
4. Resolution Approving Proclamation by the Pender County Board of Commissioners: Vulnerable Adults and Elder Abuse Awareness.

RESOLUTIONS

5. **Resolution Approving Revision to Pender County Wellness Program Policy and Procedures.**

Human Resources Director Amber Parker explained: last year, the Board passed a resolution adopting the Pender County Wellness Program Policy and Procedures; this policy provided an incentive for employees to participate in the wellness program by offering to pay 100% of the employee only health and dental insurance premium for eligible employees enrolled in the County's health and dental plan for employees who completed a biometric screening and health assessment; for calendar year 2012, this policy requires employees to complete the biometric screening, to follow-up with the screening staff or their primary care provider, to participate in 50% of the wellness classes offered, and to participate in at least two exercise education events in order to receive the wellness incentive; and the Wellness Committee has reviewed the current policy and has made recommendations to revise the policy to allow for a more flexible variety of options to meet the wellness requirements, and to make the follow-up requirement necessary only if recommended based upon the screening results. Mr. Rivenbark presented a copy of *County Lines* and said they promote the program. Mr. Ward was concerned that it looks like you are forcing employees to participate in order for the County to pay their insurance. Sheriff Carson Smith said it sounds to him like more stipulation rather than more flexibility, and said he knew nothing about the classes. Ms. Parker explained what is in the current policy and what this revision is recommending. She said not everyone has to follow-up. Mr. Smith asked for clarification that in Calendar Year 2011 if he takes the assessment test and doesn't follow-up he will be penalized. Ms. Parker said yes. Mr. Benton said when the Wellness Committee was first

formed, no health professional was involved but now we have Ms. Parker. Mr. Ward asked how this will benefit county-wide. He said diseases could be genetic; people live in different areas and may eat differently, and have different habits, etc. Mr. Thurman said the policy gives all employees the opportunity to participate or not and basically, the County is paying 95% of the employees' insurance and this is saying if you participate in the program the County will pay 100%. Ms. Parker said the County is self-insured and this program has an impact on the insurance by providing preventative health services. After more discussion, Mr. Williams made a motion to approve the resolution, Mr. Rivenbark seconded the motion and it was approved by a 3-1 vote, with Mr. Ward voting against it.

6. Resolution to Authorize a Contract and Purchase Order with Moseley Architects for Planning Services Related to a New Jail, Law Enforcement Center, and DSS Building: \$13,500.

Mr. Benton explained: the Board has expressed interest in initiating planning activities towards the future design and construction of a new jail, law enforcement center, and DSS building to serve Pender County; the Board has been provided considerable information detailing issues related to overcrowding, function, safety and deteriorating building conditions with respect to these existing and aging facilities; since the Board planning summit in January, Sheriff Smith, DSS Director Dr. Shiver, and the County Manager have been evaluating architectural firms and references with respect to recommending a firm to the Board to initiate initial planning activities; the scope of work for the initial planning activities will consist of analyzing data and projecting growth trends, conducting space and programming needs assessments, developing conceptual design options, developing estimated construction and capital budgets, developing operational and staffing plans, and preparing final reports for presentation to the Board; four architectural firms with specific experience in detention facility planning, design and construction management were evaluated for providing the initial scope of services: Brennan Architects, Moseley Architects, Ratio Ware and Ware Bonsall Architects; and after reviewing proposals, conducting interviews and checking references on previous similar projects, the committee recommends the County employ the services of Moseley Architects of Charlotte, NC for the initial scope of services. Mr. Williams asked if there is any way to look at one building for both agencies and Mr. Benton said it certainly can be looked at it. Mr. Benton said if we build the campus concept, both buildings will share the grounds, parking lot, etc. Mr. Williams made a motion to approve the resolution, Mr. Rivenbark seconded the motion and it was unanimously approved by a 4-0 vote.

7. Resolution Authorizing Issuance of Purchase Order: Giddeons' Electrical Service for the 911 Center Uninterrupted Power Supply Project for \$19,450.00.

Sheriff Smith explained: we currently have several small uninterrupted power supplies (UPS) in use in the 911 Center for computer servers, computer workstations, radios and other equipment; these small power supplies have not been able to protect from surges in the past and the cost to replace batteries in them is becoming quite high; just last week they had a surge that temporarily knocked out their network and took several hours to completely recover from; this project would put a large UPS in place to allow uninterrupted power and surge protection to the entire 911 Center; it would be able to be relocated in the event of a move to another facility; it will be funded 50% from the Sheriff's budget and 50% from the 911 budget; and this expenditure has been budgeted in the FY 10-11 Budget Ordinance. Mr. Thurman said he has to commend the Sheriff for always being careful with the way he spends 911 funds. Mr. Rivenbark made a motion to approve the resolution, Mr. Williams seconded it and it was approved by a 4-0 vote.

8. **Resolution Authorizing Execution of Contract: Tarheel Monitoring for Operation of Court-Ordered Pretrial Release Program for the Pender County Jail.**

Sheriff Smith explained: in an effort to reduce costs associated with jail overcrowding, they propose to contract with Tarheel Monitoring to start a Pretrial Release Program; inmates who meet the criteria for pretrial release will be presented to the court with a recommendation that the court order them into the Pretrial Release Program; at this point, GPS tracking equipment will be attached to them and their movement will be tracked by Tarheel Monitoring until their case is adjudicated or until they are removed from the program; the cost of the monitoring is \$12 per inmate, per day; this is much less costly than sending inmates to other jails which we currently contract for \$50 per inmate, per day; only some inmates will qualify and they will limit the number that will be in the program; and this service is in use in New Hanover County and has been approved by the Fifth Judicial District. Mr. Thurman said some of the numbers don't add up, such as GPS Illustration 2. Mr. Ray Murphy of Tarheel Monitoring explained the contract is a "generic" contract they use to go by; if the County wants the offender to pay an additional amount to make up the provider's \$15 they can, but the County will never be billed more than \$12 a day; and inmates rarely pay, even when asked. Mr. Thurman was concerned with Item B under RF Illustration. After discussion, it was agreed upon to take this section out. Mr. Murphy said this is a sample contract and he has to write Pender County's contract the way the Board wants him to-he will make it fit Pender's need. He added the County will pay the \$12 only if it uses it. Mr. Rivenbark made a motion to approve the resolution, Mr. Williams seconded it and it was unanimously approved by a 4-0 vote, contingent upon changes being approved by the County Attorney.

9. **Resolution Authorizing Execution of Contract: New Hanover County for Contract Detention.**

Sheriff Smith explained: in an effort to cut costs associated with inmates that have to be sent to other facilities because of overcrowding in the jail, the New Hanover Sheriff has offered to take up to 25 of Pender's inmates for the same fee we are currently being charged in Pamlico County, \$50 dollars (per day, per inmate); this will shorten transport times dramatically and cut down on the number of transports, as many attorneys and others can make contact with the inmate in the New Hanover Jail without us having to transfer them back to Pender just for a meeting; and this will also cut other indirect costs such as gasoline. Mr. Ward asked about court attendance and satellite services and Sheriff Smith said we are looking into it. Mr. Williams made a motion to approve the resolution, Mr. Ward seconded it and it was unanimously approved by a 4-0 vote.

10. **Resolution Approving the Issuance of an Additional Series of General Obligation Water Bond Anticipation Notes (BANS) to Refinance the Previously-Issued BANS at their Upcoming Maturity in the Amount of \$17,500,000 for the Construction Period Financing of the Pender County Surface Water Treatment Plant Project.**

Mr. Mack explained the current General Obligation BANS only have a life of nine months and have to be re-financed. He said Mr. Bob Jessup, Bond Counsel, is present to answer any questions. Mr. Williams made a motion to approve the resolution, Mr. Rivenbark seconded it and it was unanimously approved by a 4-0 vote.

ROCKY POINT/TOPSAIL WATER & SEWER DISTRICT

11. **Resolution Authorizing a Purchase Order to Fairway Ford, Inc. in the Amount of \$48,690 for the Purchase of a New 2011 Ford F350 Utility Truck to Replace Vehicle # 1001 as Approved in the FY 10 – 11 Rocky Point/Topsail Water and Sewer District Budget Ordinance.**

Mr. Mack explained the vehicle they want to replace has over 250,000 miles on it, funds have already been appropriated and no additional funds are required. Mr. Brown asked if we put this out for bids. Mr. Mack said they do shop around but they try to use local dealers, and the vehicle is priced from State contract amount. Mr. Ward noted the dealer's letter said the cutoff date to order a 2011 model is May 6, 2011. Mr. Mack said the dealer is sitting on the order and they can still get the vehicle. Mr. Rivenbark made a motion to approve the resolution, Mr. Williams seconded it and it was unanimously approved by a 4-0 vote.

12. **Resolution by the Board of Directors of the Rocky Point/Topsail Water and Sewer District Approving the Water Sales Agreement with Coastal Plantation by Jensen Communities, Inc. for the Provision of Water Service to the Coastal Plantation Community.**

Mr. Mack explained: in September 2010, Jensen's, Inc., owner, developer, and operator of a residential development known as Coastal Plantation in Hampstead, approached Pender Utilities about becoming the water purveyor for their residents; Jensen's currently owns and operates a community groundwater system consisting of two treated wells and a water distribution system serving approximately 103 residential lots and associated offices and support buildings with the Coastal Plantation community; they desire to discontinue the ownership and operation of their community water system and transfer ownership of the water distribution system to the District; in return, the District will acquire the water distribution system and agrees to supply public water service to the dwellings and buildings within the Coastal Plantation community; they met with the residents and the meeting was favorable; and it is a "win win" situation. Mr. Brown asked if Mr. Thurman had gone over the contract and Mr. Thurman said yes, the contract is okay and he had heard no negative remarks from the residents. Mr. Williams made a motion to approve the resolution, Mr. Rivenbark seconded it and it was unanimously approved by a 4-0 vote.

SCOTT'S HILL WATER & SEWER DISTRICT:

13. **Resolution by the Scott's Hill Water and Sewer District Board of Directors Approving the USDA-RD Loan Resolution, Equal Opportunity Agreement, and Assurance Agreement for the Issuance of General Obligation Water Bonds in the Amount of \$2,711,000 for the Permanent Financing of the Scott's Hill Water Distribution System.**

Mr. Mack explained: this resolution authorizes the issuance of the 2011 General Obligation Water Bonds in the amount of \$2,711,000 to retire the 2010 Water Bond Anticipation Notes and provide permanent financing for the project; the 2010 BANS are coming due on June 6, 2011; and paper work from both Bond Counsel and the USDA is included in the Board's packets. Mr. Rivenbark made a motion to approve the resolution, Mr. Williams seconded it and it was unanimously approved by a 4-0 vote.

Going back to Item # 11, Mr. Ward asked if the truck is going to the County's surplus. Mr. Mack said the vehicles are purchased by the Utilities Enterprise Fund and there may not be anything on this truck to surplus. Mr. Ward said the County has a lot of old vehicles and something needs to be done about getting rid of them.

ITEMS FROM THE COUNTY MANAGER

Mr. Benton had no further items.

ITEMS FROM THE COUNTY ATTORNEY

Mr. Thurman explained the request to abandon a portion of Test Farm Road in Watha, saying it is up to the Board if they want to approve the request now or if they want to have a public hearing. After more discussion, it was the consensus of the Board to hold a public hearing. Mr. Thurman said we may be receiving a formal request for someone to disinter some graves. He said there is a Statute that says governing bodies have to approve abandoning a cemetery but the Statute provides no standards. He said his recommendation would be to hold a public hearing. Mr. Rivenbark asked if cemeteries are protected by State law and Mr. Thurman said you have to determine how you disinter and move it.

ITEMS FROM THE COUNTY COMMISSIONERS

Mr. Ward asked if the County or the Schools own the old Topsail School and what is the intent of future use for it. He said he would like to see something done with it. Mr. Williams said we have had offers for it; the property is worth more with the building gone than with the building on it; and with sewer coming to the area soon, it will be worth a whole lot more and someone may want to buy it. Mr. Ward asked about the old Annex property and Mr. Williams said we are looking at moving the Convenience Center there. Mr. Ward asked if the County will be liable if someone is hurt at the old School and Mr. Thurman said the person(s) would be liable because they would be trespassing. There was discussion of preserving the building. Mr. Ward said with respect to Tourism, he would like to see what it would take to have a County Fair. Other Board members agreed this was a good idea. Mr. Williams said he would like the Press to get the word out that we are trying to deal with the dump truck traffic on Hoover Road. He said Mr. Shingleton had found a loop hole somehow, got a permit and is still doing mining there. Mr. Thurman said he will get affidavits from the neighbors and get an injunction against Mr. Shingleton and take it to court. Mr. Williams asked who issued the permit. Mr. Breuer said the permit was originally designed for borrow pits for DOT projects. He said Ms. Rhonda Hall of the Land Quality Section, Division of Land Resources, DEHNR, issued the permit to Mr. Shingleton. He said the State issues permits prior to local approval.

Mr. Breuer said staff has been working on the No Wake Zone request but had recently been asked to contact New Hanover County since it involves them. Mr. Brown said he asked Mr. Breuer to hold off on the resolution since New Hanover County will be involved. It was the consensus of the Board to table Item No. 18.

CLOSED SESSION

There were no items for Closed Session.

PUBLIC HEARINGS/RESOLUTIONS/AMENDMENTS

14. Public Hearing on the Pender County FY 11/12 Submitted Budget.

The public hearing opened at 7:00 p.m. Mr. Benton delivered a Power Point presentation and explained each topic. The presentation included: FY 11-12 Submitted Budget Summary-General Fund \$50,296,794, Public Enterprises \$7,953,211 and Total of All Funds \$80,040,854; FY 11-12 General Fund Revenue Sources-approximately 70% paid by property taxes; FY 11-12 General Fund Appropriations-the Schools get the largest amount; General Fund Revenues-

Overall Revenues remain flat for FY 11-12, Sales Taxes have declined \$1.2 million since FY 07-08-projected at \$4.1 million, Sales/Services revenues have declined \$2.86 million since FY 07-08-projected at \$3.12 million-in response to question, Mr. Benton explained Sales/Services revenues come from permit fees, Register of Deeds fees, Environmental Health fees, etc., and Property Tax revenues at revenue-neutral-projected at \$31,764,852; Property Tax Revenues-\$31,764,852 generated with revenue-neutral rate of 49.9 cents, \$34,846,125 required for FY 11-12 submitted budget, \$3,081,273 in additional revenue required, and new mandates required expenditures equal 4.86 cents-Mr. Benton noted the additional revenue of 4.96 cents is to cover the new mandates; FY 11-12 Property Taxes Distribution-Schools are the primary expenditure; Tax Rate-1 cents on tax rate generates approximately \$618,000; New Mandated-Required Spending-including increased DSS County appropriation of approximately \$1 million; New Mandated-Required Spending Upcoming in FY 12-13; Public Schools-Mr. Ward questioned what the additional \$1 million is for and Mr. Benton said State cuts and explained the Schools need the additional \$1 million just to help them keep teachers' positions; Public Health-Animal Control Program is recommended to be shifted to Sheriff's Department; Public Utilities-a financial analysis was done by a consultant company who suggested incorporating numbers to make the systems self-supporting; Capital Improvements; Summary of General Fund; Options; and Next Steps. The entire presentation is on file in the Clerk to the Board's Office. Mr. Rivenbark asked that Mr. Benton bring a report of all new tax base at the next meeting. Mr. Williams said we have a healthy fund balance and asked which of the capital projects are being funded out of fund balance. Mr. Benton said the first four items listed in the Capital Improvements are being funded out of Fund Balance-Courthouse Sidewalk Replacement, York House Rehabilitation, Animal Shelter Rehabilitation, and Environmental Health Modular Rehabilitation. Mr. Williams said we should look at using the extra 8% that is in Fund balance. Mr. Brown said Social Services request for an additional \$1 million is not all mandated, and everybody has to tighten their belts with what they have. There then ensued a discussion of mandates. Board members generally agreed that with State mandates, you have the services but you are not required to keep the level of services, and there is no stipulation by the State that you have to provide a certain amount of services. Mr. Ward asked about the extra 8% in Fund Balance and if we just let it sit in the bank; he said that does us no good. Mr. Brown asked if we decrease Fund Balance to 30% or below, are we hurting ourselves on the County's bond and credit rating. Mr. Benton said going below 30% could be a negative factor in bond ratings, but if you maintain at least 30% or greater, he doesn't think that would hurt. He said he thinks this is a good year to use some of that money for one-time expenditures, but he wouldn't do it to defer additional costs that we are going to have to look at next year. Mr. Brown added people are losing their homes and jobs and the last thing anybody wants to hear is tax increase. He reiterated that much of the funding requests that are labeled as mandated are not actually required; it is not mandated that a particular funding level be maintained simply because the State cut funding and the County has to pick it up; and we may have to provide services, but we don't necessarily have to spend the same amount of money. Mr. Brown warned other Board members that they are going to get hit with hurting these organizations. He said we are going to have to make some tough decisions but there must be places where we can make cuts that make sense. Ms. Dawn Serody of Stag Park Road in Burgaw: asked the Board to please not raise taxes; we are all on a shoestring budget; many households that had two incomes are now down to one; the next two years look grim and it does not look as if the economy will improve; and there are other ways the County can make money besides raising taxes, such as putting up camp grounds and using the natural vegetation. Mr. Tom Naramore of Riverview Drive in Burgaw: while wages are going down and inflation is set to skyrocket, the Board's solution is to raise our

taxes more; named some of the hardships people are having; and said “of course it is not your fault.” Ms. Serody asked about tax rates and Mr. Williams explained about the revaluation, and about revenue-neutral. The public hearing ended at 7:50 p.m.

15. Public Hearing and Resolution Adopting a Resolution Assigning Road Names and Reassigning Street Numbers for Eleven Mobile Home Parks.

The public hearing opened at 7:50 p.m. Addressing Coordinator Leticia Torres explained the Pender County Road Naming Ordinance provides that when a public or private road provides access to more than 3 residences a road name shall be assigned; mobile home park addressing does not comply with this county policy; to avoid conflicts and delays with emergency and public safety responses, and to provide for conformance with the County’s addressing and road naming ordinances, the request is made to assign road names and to reassign addresses for twelve mobile home parks; the public hearing notice has run in local papers, placed in the county courthouse and in the appropriate post offices, and at the entrances of each affected roadway; and this is Phase III of the project. The public hearing closed at 7:51. Mr. Williams made a motion to approve the resolution, Mr. Rivenbark seconded it and it was unanimously approved by a 4-0 vote.

16. Public Hearing and Resolution Requesting Approval of a Zoning Text Amendment to the Pender County Unified Development Ordinance (UDO): Section 5.2.3, Table of Permitted Uses.

Planning Director Kyle Breuer said due to a staff mishap in advertising, he would like to have this item tabled. Mr. Rivenbark made a motion to table the resolution, Mr. Williams seconded it and it was unanimously approved by a 4-0 vote.

17. Public Hearing and Resolution to Amend the Pender County Unified Development Ordinance, Articles 2-11 and the Creation of an Additional Article and Appendix D.

The public hearing opened at 7:52 p.m. Mr. Breuer explained the proposed amendments clarify development review procedures and requirements, clarify various issues that have arisen, proposes new regulations concerning inter-parcel connections for non-residential development; and the amendments are included in the Board’s packets, with a general description of each article. Mr. Rivenbark asked if Mr. Thurman had perused this document and Mr. Thurman said he had gone over it many times with the Planning Board, and he and the Planning Board agrees that all the amendments are legal. Mr. Brown asked about Article 5 concerning cemeteries and the Special Use Permit rule. Mr. Breuer said the old rule that a private cemetery with ten plots or less didn’t require a Special Use Permit is changing to say a private cemetery with less than 6,000 square feet. Cameron Moore of BASE spoke on behalf of this resolution saying they fully support it and it is a very thorough product. The public hearing closed at 8:01 p.m. Mr. Williams made a motion to approve the resolution, Mr. Rivenbark seconded it and it was unanimously approved by a 4-0 vote.

18. Public Hearing & Resolution Supporting the Designation of a No Wake Zone.

This item had been tabled during the Items for Discussion portion of the meeting.

ADJOURNMENT

There being no further business, Mr. Williams made a motion and the meeting adjourned at 8:01 p.m.

Respectfully Submitted,

Glenda Pridgen, Deputy Clerk to the Board

Reviewed By:

Rick Benton, Clerk to the Board

Planning Items Reviewed By:

Planning Staff