



REQUEST FOR BOARD ACTION

ITEM NO. 8

DATE OF MEETING: September 6, 2011

REQUESTED BY: Glenda Pridgen, Administrative Assistant

SHORT TITLE: Approval of Minutes: Regular Meeting of August 15, 2011

BACKGROUND: N/A.

SPECIFIC ACTION REQUESTED: Review and approve the minutes.

MONDAY, AUGUST 15, 2011

The Pender County Board of Commissioners met in regular session on Monday, August 15, 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

Vice Chairman Tate offered the Invocation.

PLEDGE OF ALLEGIANCE

Commissioner Rivenbark led the Pledge of Allegiance.

Chairman Brown introduced Ms. Carolyn Moser, the new Pender County Health Director, and welcomed her to Pender County. Mr. Brown gave a report on Ms. Moser's background, including education, work history, and extracurricular activities. Mr. Brown recognized Ms. Amber Parker, who had been serving as Interim Health Director for the past several months. Mr. Brown said Ms. Parker took charge of things, handled the problems and worked hard, and didn't just sit back and wait for the new director to be hired. Mr. Williams expressed appreciation to Ms. Parker for stepping in at the last minute and working with the Health Department to keep things going. Ms. Moser spoke and said ever since they rolled into Pender County that first day, people have been nothing but friendly and positive, this is a very welcoming place, and she is excited at the opportunity to be here. Ms. Moser also praised Ms. Parker saying she is a valuable asset and has been nothing but helpful, and it amazes her how hard Ms. Parker works.

Mr. Brown and Mr. Williams recognized the four Dixie Youth teams that went to the World Series: the Burgaw Dixie Ponytails, the Burgaw Dixie Debs, the Burgaw Dixie Belles, and the Burgaw Dixie Boys Majors. Certificates were presented to the teams and their coaches. Coaches Mike Collier and Mike Savage were present and made remarks. The Burgaw Dixie Ponytails, who won the World Series, presented a picture of their team to the Board.

PUBLIC INFORMATION

1. **Mr. Michael Mack, Pender Utilities: Update on Water Treatment Plant and Maple Hill Wastewater System Projects**

Mr. Mack showed pictures of various aspects of the Water Treatment Plant, including ground storage tanks, sedimentation basins, other tanks, and finished water transmission main. Mr. Mack said the Board had previously approved the award of the Base Bid Plus the Second Clearwell Add Alternate Treatment Plant to Crowder Construction Company in the Amount of \$21,507,000, and award of the Base Bid for the Finished

Water Transmission Main to R.H. Moore Company, Inc. in the Amount of \$7,249,179, to run pipes down Highway 421 to connect to the pipes at Clarks Landing.

With respect to the Maple Hill Sewer Project, Mr. Mack said it consists of a 42,000 gallons per day treatment facility; there have been 188 sign-ups; the total project cost is \$4.5 M and they are hoping to get more grant/loan funding; and it is a two-part project with Eberhart Construction, Inc. constructing the treatment facility and spray/irrigation field in the amount of \$1,447,900, and L.M. McLamb & Son Construction Company installing the pipes in the amount of \$1,896,215. Mr. Tate asked the current cost to connect to County water now, and if there has been consideration given to people who need the water but cannot pay the entire amount at one time, and who may not qualify through Social Services. Mr. Mack said the total cost to hook up is \$3,875, and they do try to work with people who can't pay it all at once. He said they have a Hardship Plan/Payment Schedule which is administered through Social Services. Mr. Brown said he and Mr. Tate could sit down with Mr. Mack and try to work something out. Mr. Tate said he is advocating for the County and for underserved citizens.

2. Ms. Monique Baker, Pender County Tourism Development Authority and Mr. Mark Seitz, Cooperative Extension Service: Presentation of Preliminary Research Regarding Instituting a Pender County Fair.

Ms. Baker delivered a presentation entitled "Does Pender County Want a County Fair? Results of the Preliminary Research." The presentation included a survey in which the following questions were asked of citizens: Are you interested in seeing Pender County create or start a county fair? What time of year would you like to see it take place? What part of the county do you live in? Also included was a sampling of approximately 100 comments by citizens, most of which were very positive. Other topics included Challenges, Suggestions, and Costs. Mr. Seitz said looking at it from an agricultural stand point, it would be a real challenge because it would be hard to get the farm community to come in and support it like they used to. Mr. Seitz mentioned the possibility of a combine demolition derby like one he had attended elsewhere. There was discussion of who would sponsor a fair – the County or an organization, and the pros and cons of having a fair in the spring or fall.

At this point, Mr. Brown said he would like to recognize someone in the audience. Mr. Tate said his brother Harvey, sister Lisa, and new niece Johnna are in attendance and had them stand. Mr. Brown thanked Mr. Tate's family for coming in.

3. Mr. Roy Horne, Veterans Service Officer: Briefing Regarding Grand Opening of NC Veterans Park.

Mr. Horne distributed pamphlets, showed pictures and gave an update of the grand opening of the State Veterans Park in Fayetteville, NC, which was held on July 4, 2011. Mr. Horne explained: the bronze cast hands from each of our state's 100 counties are proudly and prominently displayed; Pender County is pleased to be a part of this tribute to our veterans; Mr. Evander McLendon was selected by Pender County to represent the County as its honoree; four other citizens of Pender County hands molds were put on the community column: Royal Bannerman, Malcom Brown, Bernice Worrell, and Roy Horne; Mr. Royal Bannerman attended the ribbon cutting along with himself; and this is the only park in North Carolina dedicated to veterans. Board members thanked Mr. Horne for representing Pender County.

PUBLIC COMMENT

Sandy Jones spoke about Trader's Neck Road and asked the Board for support for the Department of Transportation to put it on the State Maintained list. Ms. Jones explained: the road leads into the heart of Holly Shelter; during the worst part of the Juniper Road fire this summer, the road was all but impassable due to the number of large trucks and equipment battling the wildfire; this was the only way in to where the

firefighters needed to go; the firefighters saved their homes; three years ago a forest fire trapped the residents of the community until firefighters and Forest Service crews managed to cut fire lines and secure a perimeter; the Wildlife Commission should repair the road since they use it to access Holly Shelter; much of the time residents have to use four-wheel-drive vehicles to negotiate the road; emergency vehicles cannot get down the road; and several parents cannot work full-time jobs because they have to transport their children to school because the road is impassable to buses. Mr. Brown said: private roads are a sticky issue and it is a problem all over the County; there is little the Board can do because it would bankrupt the county if we adopted every road in the County that needed help; and there are a lot of people who don't want to have their roads made public-they like being isolated. Mr. Williams said he agrees with Mr. Brown. Mr. Tate said he knows of several roads as bad as Trader's Neck Road. He said he was concerned that residents brought the road up to state standards and were still declined by NC DOT. It was noted there is a resolution later to ask the State to add the road to the State Maintained list. Mr. Benton noted DOT officials will be meeting with residents and will reconsider the petition.

Charles Jacobs thanked the Board for the donation they gave his organization last year and asked if they can give a donation this year. Mr. Jacobs also asked for recognition of Mr. Douglas Hardison, who was working at the Pentagon during the 911 attacks. Mr. Brown asked Mr. Jacobs to leave the information with the County Manager and we would be glad to recognize him. Mr. Ward suggested that if there are others living in Pender County who were associated with 911, we should recognize them also.

CONSENT AGENDA

Mr. Brown presented the six items on the Consent Agenda and asked for any discussion or questions. With respect to Item No. 5, Mr. Tate asked if some of the excess books could be given to the Atkinson Library. With respect to Item No. 8, Mr. Rivenbark asked that something be done to recognize Ms. Inez Bradt, who worked for years with Big Sweep/Pender Pride to keep this region of the State clear of litter. There being no further discussion or questions, Mr. Tate made a motion to approve the Consent Agenda as presented, Mr. Williams seconded the motion, and the Consent Agenda was unanimously approved as follows:

4. Approval of Minutes: Regular and Closed Session Meeting of August 15, 2011.
5. Resolution Authorizing Approval of a FY 11-12 Budget Ordinance Amendment Increasing Revenues and Expenditures by \$10,000 Accepting a Federal LSTA Grant (\$8,000) with a 4 to 1 Required Match by Friends of the Library (\$2,000) for the Library Early Literacy Outreach.
6. Resolution Authorizing Approval of Payment of Arbitrage Rebate Liability: \$89,794.54.
7. Resolution Approving a Financial Advisory Agreement with First Southwest Company.
8. Proclamation by the Pender County Board of Commissioners: Fall Litter Sweep: September 17 - October 1, 2011
9. Resolution Authorizing FY 11-12 Budget Amendment for FY 11-12 Cooperative Service Agreement between Pender County and USDA Wildlife Services for the Beaver Management Program (BMAP): \$6,000.

RESOLUTIONS

10. **Resolution and Discussion Regarding Petition to Add Traders Neck Road in Hampstead to the State Maintained System and Authorizing the County Manager to Submit the Petition to N.C. Department of Transportation.**

Mr. Benton explained: In 2001 the Board approved a petition for submission to NC DOT for this road, and NC DOT subsequently denied the petition; and further evaluation has taken place since that time but NC DOT has determined the road still does not meet the State's criteria. It was noted that this is the road Ms. Jones spoke about under the Public Comment section. Mr. Ward made a motion to approve the resolution, Mr. Williams seconded the motion and it was unanimously approved.

11. Resolution Authorizing a Purchase Order to Fairway Ford, Inc. in the Amount of \$353,377 for Seventeen Replacement Vehicles as Approved in the FY 11-12 Budget Ordinance.

Administrative Assistant Pat Simmons explained: A total of seventeen vehicles are needed for various departments; replacements are needed due to high mileage, mechanical failure and condition of the existing vehicles; the prices quoted by Fairway Ford are based on ordering vehicles from Ford Motor Company and reflect the North Carolina State Contract price Concession amounts, in addition to including a 5-year or 100,000 mile Ford Premium Care Extended Service Plan; and the amounts approved in the FY 11-12 Budget Ordinance consist of \$250,000 General Fund Vehicle Replacement Account, and \$137,000 from Enterprise Fund Accounts: Rocky Point/Topsail Water and Sewer District, Water Treatment Plant and Scotts Hill Water and Sewer District. Mr. Ward asked about salvaging vehicles and Mr. Benton said as soon as we get the new cars in we will get rid of the old ones. Mr. Brown asked if there is a plan to auction or take sealed bids for surplus vehicles and Mr. Benton said we are still researching it. Board members agreed it will be best to auction the vehicles, giving local citizens a chance to purchase them. Mr. Williams said he is glad to see we are keeping the purchase local. Mr. Tate asked if it was bid out. Ms. Simmons said they did a cost analysis and Safeway Ford's price was the lowest. Mr. Williams made a motion to approve the resolution, Mr. Tate seconded the motion and it was unanimously approved.

12. Resolution Approving Purchase Order to Central Carolina Tire for Tire Hauling and Disposal for FY 2011/2012: \$80,000.

Administrative Assistant Melinda Knoerzer said Items No. 12 and 13 are standard resolutions. Ms. Knoerzer explained: The County has a contract with Central Carolina Tire to manage trailers for the disposal of tires at some of the convenience sites, the Transfer Station and at two dealerships in the County; the fee averages \$6,000 per month; the County has attempted to identify other entities that could potentially provide the same service at a better cost; however, Central Carolina Tire, US Tire and Liberty Tire are all related entities all listing their principal place of business at 1616 Mckoy Town Rd., Cameron, NC; staff has contacted the staff at NC DENR who confirmed that this entity does have an exclusive lock on the tire recycling/processing market; funds have been budgeted for this expenditure; and staff recommends approval. Mr. Ward was concerned that the County is paying \$80,000 to get rid of tires and asked do we have to collect tires. Ms. Knoerzer responded yes, and said the sites take up to five tires per individual per day. Ms. Knoerzer said we do have two revenue streams to offset some of the costs and we recoup approximately 90% from grants and a one cent disposal tax. Mr. Williams made a motion to approve the resolution, Mr. Tate seconded the motion and it was unanimously approved.

13. Resolution Authorizing a Purchase Order to Waste Industries for Waste Disposal and Hauling Services for FY 2011/2012: \$3,584,200.

Ms. Knoerzer explained: The County is in year five of a thirteen year contract with Waste Industries to provide waste management, hauling and disposal of municipal solid waste, construction/demolition waste, and recycling at the county owned/managed convenience sites and the Transfer Station; this contract contains a provision for annual adjustments tied to the Consumer Price Index (CPI-U) Urban-Unadjusted-Water and Sewer and Trash Collection Services for the period of December to December of each prior year; based on that calculation, Waste Industries is entitled to a 6.9% increase in the cost of services for this fiscal year; however, in consideration of the current economic conditions, they have agreed to lower this to 4.5%, thereby saving the County an estimated \$98,015; funds have been budgeted for this expenditure; and staff recommends approval. Mr. Tate asked if this had ever been bid out and Ms. Knoerzer responded yes, the last time was in 2005. She said we negotiated with Waste Industries when there was a moratorium on landfills and Waste Industries guaranteed us space. Mr. Williams made a motion to approve the resolution, Mr. Ward seconded the motion and it was unanimously approved.

14. Resolution Approving Preliminary Survey Boundary between Pender and Onslow Counties as Recommended by North Carolina Geodetic Survey.

IT Director Erik Harvey explained: Pender County was formed in 1875 from New Hanover County; however, the county line between Onslow and Pender Counties has never been surveyed; the North Carolina Geodetic Survey was contacted back in 2007 to indentify the location of the county line between Onslow and Pender County and since then, the North Carolina Geodetic Survey has researched and worked with both counties in acquiring data and documents to assist in the identification of the county line; the North Carolina Geodetic Survey has finalized their research and determined the location of the county line based on historical maps and field surveys; before the North Carolina Geodetic Survey continues any further in this process they are requesting approval of the preliminary boundary by each county-this ensures that each county is in agreement so that the North Carolina Geodetic Survey can then contract with a surveyor to physically place monuments and record plats in each county, thus, establishing the exact location of the county line; and Onslow County approved theirs on August 1, 2011. With respect to why it has taken so long for an official county line to be determined, GIS Administrator Jerry Simmons said there have been court orders time and time again, and it's just never been followed through; and it takes collaboration from both counties to agree to have the survey done-if one agrees and the other doesn't, it can just fall to the wayside. Mr. Simmons said most of the area is woodland and is located north of U.S. Highway 17 towards N.C. Highway 50, and fortunately, no homes are involved, but there is one structure that might be affected. Mr. Brown asked how much land is involved and Mr. Simmons said approximately 8,000 acres. He said Onslow has been taxing land that is actually in Pender. Board members clarified that Pender County will be gaining land that will be put on the tax rolls. After more discussion and questions, Mr. Rivenbark made a motion to approve the resolution, Mr. Williams seconded the motion and it was unanimously approved. (Mr. Tate had temporarily stepped out of the room; his vote was counted as a Yea vote).

15. Resolution Authorizing Sale of Property Owned by Pender County (PIN # 2295-82-4292) Located off Long Creek Loop Road in Long Creek Township.

Mr. Benton explained: the County received an offer to purchase a surplus parcel owned by Pender County by Mr. Theron Whitehead in the amount of \$6,000 for a 1.5 acre parcel located off Long Creek Road in Long Creek Township; the 2011 tax value for the parcel is \$6,000; Mr. Whitehead resides on an adjoining parcel; on July 27, 2011 the Board authorized an upset bid process to allow for public notification of the offer, and to allow other interested parties an opportunity to bid on the property; and the 10 day upset bid notice process ended Monday, August 1, and no upset bids were received. Board members clarified with Mr. Benton that this is the correct tax value and that no upset bids were received. Mr. Rivenbark made a motion to approve the resolution, Mr. Williams seconded the motion and it was unanimously approved. (Mr. Tate was still temporarily out of the room; his vote was counted as a Yea vote).

16. Resolution Approving New Lease Agreement for the Hampstead Annex Office Building (18676 US 17 Hampstead).

Mr. Benton explained: In 2008 the County entered into a lease agreement with Dr. Garg for the office building located at 18676 US 17 in Hampstead for a satellite services facility; the initial lease was for a three-year term beginning November 1, 2008 through October 30, 2011; the lease provided for two one-year renewals with 3% annual increases; the initial intent was that the current library would be converted and available for use as an annex facility within 3-5 years; however, due to the economy this conversion will not be possible; a new three year lease agreement is proposed; the lease provides for the same terms as the current lease, with the exception of there being no lease payment increases over the term of the three years (Dr. Garg agreed to extend the lease with no increase); the current lease amount (\$9,442 per month or \$113,304 annually) will be fixed for three years and this will result in a savings to the County of \$20,790 over the three year term; the County remains responsible for reimbursing Dr. Garg for property taxes; and property insurance will be provided through the NCACC property and liability plan which will result in a

significant cost savings to the County. Mr. Rivenbark said he regrets that we couldn't move on with the Library and save this expense. Mr. Ward asked who takes care of maintenance of the building and noted there are leaks where the Sheriff's office is, and air conditioning issues. Mr. Benton said the County takes care of anything up to \$1,000 and Dr. Garg takes care of anything over \$1,000. Mr. Williams made a motion to approve the resolution, Mr. Ward seconded the motion and it was unanimously approved. Mr. Williams made a motion to approve the resolution, Mr. Ward seconded the motion and it was unanimously approved. (Mr. Tate was still temporarily out of the room; his vote was counted as a Yea vote).

ITEMS FROM THE COUNTY MANAGER

Mr. Benton had no additional items.

ITEMS FROM THE COUNTY ATTORNEY

Mr. Thurman had no additional items.

ITEMS FROM THE COUNTY COMMISSIONERS

Mr. Rivenbark spoke of an item in the *County Lines* publication and said the next time he goes to an NCACC conference, he would like to see someone from Pender County recognized.

Mr. Ward said he is very disappointed at what he has seen last week with respect to a member of the Board of Commissioners being charged with DWI. Mr. Ward said nobody called him, he was disappointed to learn about the arrest through the news media, and he wants to see something done today. Mr. Brown asked what Mr. Ward wants to see done and said we can't do anything until this is decided by the courts. Mr. Ward said he doesn't care about the courts, the courts don't matter in this case, and he cannot condone inappropriate behavior. Mr. Ward asked Mr. Williams if he had anything to say and Mr. Williams said he has no comment. Mr. Williams said his attorney had advised him to make no comments on the matter and he had to follow that advice, thus he could not comment. Mr. Ward said he was disappointed about Mr. Rivenbark's comments on the news. Mr. Rivenbark said the media coverage portrayed him as condoning drunk driving but he hopes everyone knows there is nothing further from the truth. He said he just doesn't think it is proper that we be called on to condemn anyone at this time. Mr. Ward said when he was in school and did something bad, somebody sent a note home to his daddy and there was no discussion or excuse. He said we know when we do right and we know when we do wrong, and he doesn't like this "no comment," he wants to hear a "yes comment." Mr. Brown said that as Chairman of the Board, he has no authority except to conduct meetings. He said he doesn't even think it would be the appropriate time for this Board to do anything until this issue is resolved in court, and if someone wants to be angry about somebody not making a comment-let them be angry-he thinks it is this Board's policy not to speak on such things. Mr. Ward said but we know it is the truth. At the request of Mr. Brown and other Board members, Mr. Thurman said he feels that the Board's policy against specific comments or action at this time is wise, and the court system works on the presumption of innocence until proven guilty. Mr. Ward said he doesn't need to be told how the court system works. Mr. Brown said everyone has a right to their opinion but we are not going to condemn anyone at this point in the game. Mr. Ward said he feels the Board is failing to show leadership, and the situation is no different than when the Board was called on to discuss matters involving County employees. Mr. Brown said Commissioners are not the same as employees-in those circumstances a statute was in place that told us what to do, and that is entirely different. Mr. Ward said he is not happy and that he expects to get a lot of calls because the Board won't discuss this tonight. Mr. Tate said that without all the facts, much less a court decision on guilt or innocence, all this is just gossip and rumor, and we don't have any known facts here. Mr. Ward said he is upset that the arrest had been hidden since December, and if this has been going on this long and nobody told him, he wonders what else is hidden. He said we should have known about this immediately and taken some kind of action. Mr. Ward stated he may consider stepping down from the Board.

CLOSED SESSION

There were no items for closed session.

PUBLIC HEARINGS/RESOLUTIONS/AMENDMENTS

17. Public Hearing and Resolution Regarding Pender County's Intent to Apply for Community Development Block Grant Funding.

The public hearing opened at 7:00 p.m. and closed at 7:07 p.m. Cape Fear Council of Governments (COG) Director Chris May explained: The Board recently agreed to participate with COG to consider an application for Community Block Grant Funds (CDBG) to develop a regional Community Economic Development Strategy (CEDS); this is part of a statewide initiative to have consistent CEDS within regions and statewide; the CDBG program guidelines provide for a two-step public hearing process prior to application for funding; an initial public hearing is required to solicit public input regarding potential CDBG projects and funding; a second public hearing is required to solicit public input on the specific CDBG project for which the County proposes to apply for funding; the first public hearing was held August 1, 2011, and no public feedback was received; and this is the second public hearing. Mr. Rivenbark commented about a committee he served on for Congressman Mike McIntyre and testified in Washington, DC with respect to CDBG funds. There being no further discussion, Mr. Williams made a motion to approve the resolution, Mr. Rivenbark seconded the motion and it was unanimously approved.

18. Public Hearing and Resolution Adopting an Ordinance Reassigning Road Name and Reassigning Street Numbers for N. Hummingbird Lane and S. Hummingbird Lane.

The public hearing opened at 7:07 p.m. and closed at 7:50 p.m. Addressing Coordinator Leticia Torres explained: N. Hummingbird Lane and S. Hummingbird Lane form one continuous alignment; however, this roadway has two road names and two road ranges; according to Article II Section 201 of the Pender County Addressing and Display Ordinance, addresses are issued with even numbers on the right side of the roadway and odd numbers on the left side; according to Article III, Section 302 D of the Pender County Road Naming Ordinance, roads with continuous alignments should have only one name; the N. Hummingbird Lane and S. Hummingbird Lane roadways do not comply with these statutes; in order to avoid delays with emergency and public safety responses, and to provide conformance with the County's addressing ordinance, the request is made to correct the addressing errors on N. Hummingbird Lane and S. Hummingbird Lane; property owners along the roads in question were given 20 working days to submit a petition with a proposed road name; since a petition was not submitted by the majority of the property owners it was left to the Addressing Coordinator to propose the road name per Section 302 A of the Pender County Road Naming Ordinance; and the proposed road name is "Rizzo Creek Loop" based on Rizzo Creek, which is a geographical feature located behind the subdivision, per Section 302 D of the Pender County Road Naming Ordinance. Mr. Brown asked why staff wants to change the name from Hummingbird Lane and Ms. Torres said there is already a Hummingbird in Atkinson, and N. Hummingbird and S. Hummingbird Lanes do not conform to the County Road Naming Ordinance. The following residents spoke:

Natasha Rowell: She is Secretary of the Highsmith Estates Homeowners Association and the homeowners want to keep their streets named Hummingbird Lane versus Rizzo Creek Loop.

Pat Manning: Some homeowners have been living there for twenty-three years; the other Hummingbird Lane is in Atkinson and this is Rocky Point; and this road is grandfathered from the Road Naming Ordinance.

Mr. Brown asked why not change the name of the other Hummingbird Lane and GIS Administrator Jerry Simmons said this one is in direct non-compliance to the Ordinance. Mr. Simmons said this road is currently considered two different roads with two different address ranges. Mr. Brown asked if they didn't see Hummingbird Lane when they did the Mobile Home Park Project. Mr. Harvey explained: They are trying to avoid any kind of safety issues; even if the road name doesn't change, the numbers would still have to be changed; and they are trying to bring the road into compliance with the Ordinance. Mr. Williams spoke concerning when the numbers were changed on his street.

Jay Boyd: The road was named and established years ago; why the name has to be changed now; the road is only 6/10 of a mile long; and it is a private gravel road.

Mr. Tate: Respects staff's opinion but all these people came out tonight so there must be some concern; and we have to do what we can for the people. Ms. Torres again explained what the Ordinance requires.

Lee McKeithan: He has been there since 1995; has never seen any emergency responders having any problems; it is a private road that the residents keep maintains, and no responders have ever had any complaint about finding them.

Mr. Rivenbark spoke about a similar situation with his road some years ago. Mr. Ward suggested Mr. Harvey sit down with the residents and try to work something out; Mr. Brown agreed with Mr. Ward. Mr. Williams said staff needs to revisit this to come up with a better way, and give the folks a better chance to work it out. Mr. Tate said we need to look at the policy and other Board members agreed.

Mr. Williams made a motion to table the item until something could be worked out with the residents, Mr. Rivenbark seconded the motion and it was unanimously approved.

Mr. Thurman swore in the witnesses for all the special use permit requests.

19. **Public Hearing and Resolution Requesting Approval of a Major Revision to an Existing Special Use Permit Originally Issued on August 18, 1997, to Include: the Addition of an Office; Amend the Landscaping and Buffers; and the Addition of Vehicle Rentals, Specifically U-Haul Truck and Trailer Rentals, Located at 6015 NC Highway 53 East, Burgaw, NC**

The public hearing opened at 7:52 p.m. and closed at 8:08 p.m. Planner Ashley Frank said the applicant, Todd Thrower, is requesting the revisions on behalf of James Turner, owner. Ms. Frank explained the background; land use proposed; property record number and location; zoning district of the property; project history, including the special use permit application was submitted as a result of a zoning violation, and staff updated the Board on the conditions on July 11, 2011; evaluation; and project description, including the property is located within the AE Special Flood Hazard Area along the Northeast Cape Fear River, and any new development must comply with the National Flood Insurance Rate Program. Mr. Brown asked for clarification that there is now no opposition to the project. Ms. Frank said she could not speak for all the property owners but the Hall's had spoken with Pender County Code Enforcement Officer Ralph Kays and were okay with the hours of operation of seven days a week 8:00 a.m. until 7:00 p.m., and the wood privacy fence along the rear of the property line. Mr. Joseph Peterson said he lives right next to the storage building; the previous owner planted shrubbery and it wouldn't grow in the sand; he has had no problem with the owners; and he can't plant shrubbery on his property that grows. Mr. Tate asked if they plant shrubbery and it dies, will they lose their permit; Ms. Frank answered no. Mr. Williams said let them save something that will grow there, and not specify what to plant. Mr. Ricky Hall said the fence they built is fine; the hours of operation are fine; he is pleased with the revisions the Planning Department is requesting; and everything is fine. Mr. Tate said it is good to see the community working together. Mr. Ward made a motion to approve

the revision, with the following amendments: 1) the hours of operation shall be seven days a week 8 a.m. to 7:00 p.m.; 2) a screening hedge along the interior of the fence of the side and front property lines; and 3) the sale of moving and storages supplies is allowed. Mr. Tate seconded the motion and it was unanimously approved.

20. Public Hearing and Resolution Requesting Approval of a Special Use Permit for the Operation of a Recreational Flying Club, Located across from the Old Post Office Road off Watts Landing Road, Hampstead, NC.

The public hearing opened at 8:08 p.m. and closed at 8:20 p.m. Planner Ben Andrea said the applicant, Topsail Electric Flyers Association, is requesting the special use permit on behalf of Robert King, owner. Mr. Andrea explained: The property is currently zoned RP, Residential Performance, and Recreational Flying Clubs are permitted via SUP in the RP zoning district; the 1.2 acre project area is situated on a 16 acre tract; Mr. King had allowed TEFA to develop a small facility for flying electric remote control airplanes on the property, but TEFA had not received zoning approval; NC DOT has indicated that the existing access is sufficient for the facility and no further improvements are necessary at this time; a portable restroom is available on site for members and guests; the property is consistent with the 2005 CAMA Land Use Plan and 2010 Comprehensive Land Use Plan; the nearest residential structure is approximately 640 feet from the project area; and all nearby residential structures are buffered from the project by significant natural vegetation. Ms. Roxanne Noble said she has no problem with the club and this is nothing personal, but she is concerned with a) the big port-a-potty in the front of the property is an eyesore and she is afraid it will become a permanent "out house;" and b) the populace of Watts Landing Road is growing and it is only a matter of time that drivers will be looking over at the flying and crash into each other. Mr. Williams asked can't they move the toilet to the back and if the sup is approved, we should stipulate they conceal the potty. Mr. Al Porter, President of TEFA, said they have no problem moving the toilet to the back. Mr. Ward made a motion to approve the special use permit, with the stipulation they move the toilet to the back of the property; Mr. Williams 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 Canoe and Kayak Rental Facility with Guide Service, Located at 6928 Stag Park Road, Burgaw, NC.

The public hearing opened at 8:20 p.m. and closed at 9:10 p.m. Planner Ken Vafier said the special use permit is being requested by Phillip Andrews, applicant and owner. Mr. Vafier explained: The property is currently zoned RP, Residential Performance District, and this type use is permitted via SUP in the RP zoning district; the property is located adjacent to Cypress Creek, a tributary which flows from this location to the NE Cape Fear River; ingress and egress will be provided directly via Stag Park Road from a gravel drive totaling approximately 400 feet in length; the hours of operation will be from 1 hour before to 1 hour after daylight, or approximately 5:00 a.m. to 9:00 p.m. during peak season; the property is consistent with the 2005 CAMA Land Use Plan and 2010 Comprehensive Land Use Plan; the existing land use in the area is generally low density, single-family residential with areas of agricultural use; and one institutional use, New Pike Creek AME Church, lies south approximately 1/4 mile. Mr. Kent Harrell of Oxbow Landing spoke in opposition of the project. Mr. Harrell stated: he is speaking on behalf of himself and other homeowners in the neighborhood; this project would impair the character and integrity of the neighborhood; they don't want a business in their backyard; Cypress Creek is not navigable and at times is little more than a ditch; the proposed site does not abut the Cape Fear River; they are opposed to flood lights; this is a residential and farming community; and there is not enough room on Mr. Andrew's property for a launch location. Mr. Michael Bostic spoke and said Mr. Andrews has contiguous lots. Mr. Andrews gave a history of his property and explained: he wants to supply access to the river; he would not do anything to hurt his neighbors; the site is 1,000 feet from one person who spoke; and he will work with CAMA to find out what he needs to do. Mr. Tate asked if Mr. Andrews had made any attempts to meet with the neighbors to address this and Mr.

Harrell said there has been no organized community meeting to explain the project. Mr. Harrell and Mr. Andrews made further comments. Mr. Williams noted the Board had just passed a special use permit request they have heard more than once-they asked the applicant to get together with the neighbors and work things out, and it finally passed. He said Mr. Andrews should get together with the neighbors to try to work things out. Other Board members agreed with Mr. Williams. Mr. Thurman spoke concerning access and wetlands between the property and the creek. Mr. Andrews said they will not be going down Oxbow Landing and it is in black and white what he proposes to do. Mr. Thurman noted the conditions should include no access off Oxbow Lane, and the lighting issues. Alton and Shirley Chafin of Broadwater Lane said all of that land is wetlands; there are environmental issues, including the wildlife; the creek is sometimes little more than a stream; they are concerned about litter; they are concerned about what happens to the property if the kayak business fails; and they have nothing personal against Mr. Andrews. Mr. Williams said the Board doesn't want to see the wildlife leave, and the Board doesn't have enough answers to make a decision tonight. Mr. Charles Robbins of Wilmington spoke in favor of the project, noting he has a water business, it is a clean, quiet type business, and they take kids out on the water to teach them how to operate boats. Mr. Rivenbark suggested the parties get together and come to an agreement. Mr. Rivenbark made a motion to table the item so the parties can come to an agreement and bring it back to the September 19, 2011 meeting. Mr. Williams seconded the motion and it was unanimously approved.

A break was taken from 9:10 to 9:25 p.m.

22. Public Hearing and Resolution Requesting Approval of a Special Use Permit for the Construction and Operation of an Office and Outdoor Storage of Merchandise, Materials and Equipment, Located at 250 Harrison Creek Road, Hampstead, NC.

The public hearing opened at 9:25 p.m. and closed at 9:35 p.m. Mr. Vafier said the applicant, Earl Goesswein, Jr., is requesting the special use permit on behalf of Julius and Bonnie Townsend, owners. Mr. Vafier explained: The property is currently zoned RA, Rural Agricultural District, and this type use is permitted via SUP in the RA zoning district; the location will serve as the management office, equipment storage area, and maintenance area for a utility construction company; ingress and egress for the facility will be via an existing drive with direct access to Harrison Creek at two points; the property does not contain any Special Flood Hazard Areas or any areas of environmental concern; the property is consistent with the 2005 CAMA Land Use Plan and 2010 Comprehensive Land Use Plan. Mr. Williams said he wants the applicant to know this is in the area where the US Hwy 17 Bypass is proposed. No one was present in opposition of the special use permit. Mr. Rivenbark made a motion to approve the special use permit, Mr. Williams seconded the motion and it was unanimously approved.

23. Public Hearing and Resolution Requesting Approval to Rezone \pm 17.8 Acres from RP, Residential Performance to GB, General Business, Located at 166 Andrew Jackson Road, Hampstead, NC.

The public hearing opened at 9:35 p.m. and closed at 9:38 p.m. Ms. Frank said the applicant, Michael Nadeau, is requesting the zoning map amendment on behalf of Robert Shepard, Sr. Heirs, owners. Ms. Frank explained: The rezoning includes two tracts; the property is approximately 600 feet off of US Highway 17; there are two abandoned residential structures located on the property-if the property is rezoned to General Business district, the structures will be considered non-conforming and the use discontinued after a period of 180 days; and the property is consistent with the 2005 CAMA Land Use Plan and 2010 Comprehensive Land Use Plan. No one was present in opposition of the special use permit. Mr. Williams made a motion to approve the rezoning, Mr. Rivenbark seconded the motion and it was unanimously approved.

24. **Public Hearing and Resolution Requesting Approval of a Major Revision to an Existing Special Use Permit Originally Issued on September 20, 2004, to Allow an Increase in the Depths Previously Approved for Limestone Extraction, Sump Clarification Pit Excavation, and Elevations to be Completed and Reclaimed Lake Areas' Bottoms, Located on Highway 53 East, Approximately 12.3 Miles East of Burgaw, Burgaw, NC.**

The public hearing opened at 9:38 p.m. and closed at 10:50 p.m. Mr. Andrea said the special use permit is being requested by the applicant and owner, Shelter Creek Capital, LLC. Mr. Andrea explained the applicant is requesting approval of a major revision to existing Special Use Permit 05-08-15-13R, and explained the background; land use proposed; property record number and location; zoning district of the property; project history; evaluation; project description; and the mining facility has been in operation since the approval of the original Special Use permit SUP-04-09-19-13 in 2004. The following comments were heard:

Allie Sheffield of PenderWatch & Conservancy expressed concern about the aquifer, and asked the Board to postpone approving the revision until they can get a report to evaluate digging any deeper from a certified hydrologist.

Steve Holland: Lives next door to the quarry; he is the one that got the permits for it; the permit was to pump 2 million gpd and they are only pumping $\frac{1}{4}$ of it; the permit was messed up to start with; and none of this is going to do any good until it is passed by the State, but you have to have local permission before the State will consider it.

Mitchell Watts of Maple Hill distributed a letter and pictures of his pond and nursery before the quarry and pictures of the pond he said went dry after the quarry was in operation. His comments included: He and his mother have been living at this location off Highway 53 for twenty years; they never had any problem with the pond or their nursery before the owners started digging the quarry; they have had problems since the quarry opened; the mine is over 100 feet deep and the water being pumped from the mine is the water of the people who live near it; his pump started pumping sand after the quarry; and Mr. Holland started the quarry.

Samuel Lanier of Burgaw: Lives adjacent to the quarry and Mr. Watts had never had any problems with his property before the quarry; his concern is the numerous problems caused on the highway-the State has been out several times; he doesn't think it is fair that the owners dig a pit that affects the road and the taxpayers have to pay for it.

Mark Walton: He is the Engineer for the project, and the water from the pit is being pumped into a pond and spread out over wetlands.

Jerry Covil of Hampstead: He is familiar with Mr. Watts' property, the pond has never been dry before the quarry; the pond is in close proximity to the quarry; the irrigation well Mr. Watts used for his garden is dry; the applicant is not bringing water back into the surrounding land; and why would they put dirt in the pond and why are they hauling dirt.

Janet Carol: Her concern is this is the Watts' home; the pond has gone dry since the quarry was put in; their drinking water is affected; and their garden was their livelihood.

Neal Padgett: The quarry has dropped the water table; he had to put in a new, deep well, and now he has to treat the water he drinks; he had to pay \$3,700 for a new water pump; and he had gone by Mr. Watts' pond for years and it was never dry before the quarry.

Fletcher Edens of Maple Hill: Doesn't have sufficient information; would like to have some facts; Mr. Holland had said they are not going to do any blasting and now they are blasting away; he had trouble with his well but the owners did fix it.

Brian Kromke, Attorney for Mr. Edens: Two weeks is not sufficient time to notify adjacent property owners of a public hearing.

Kemp Burdette of Cape Fear River Watch: Supports postponing a decision tonight.

Kyle McIntyre: Astounded that Mr. Watts and the others could come up here and say what they did-he was out there and the water was 16' from the ground. Mr. McIntyre's version was the complete opposite of Mr. Watts'.

Mr. Williams said this is a touchy issue, everyone is concerned and we need to ask the State for help. Mr. Brown said he doesn't see a problem with hiring a specialist to come in, we wait a month, and if there is no problem, there should be no problem with the project. Mr. Tate said he is not against the project, but both sides have made good points. Thereafter, Mr. Ward made a motion to table the item to the September 19, 2011 meeting, Mr. Tate seconded the motion and it was unanimously approved.

25. Public Hearing and Resolution Requesting Approval to Amend the Pender County Unified Development Ordinance (UDO): Sections 3.10.1, 3.14.1.F, 4.6.3.A, 4.7.4, 4.14, 5.2.3, 5.3.2.C, 5.3.2.D, 5.3.8.A, 5.3.11.B-J, and Appendix A, with the Creation of an Additional Section 3.19, Section 5.3.11.K, and Section 5.3.11.L, and Revision of References in Articles 1-12 and Appendix A.

The public hearing opened at 10:50 p.m. and closed at 10:56 p.m. Planning Director Kyle Breuer explained the proposed amendment clarifies various issues that have arisen concerning permitting and reviewing manufactured home communities, community and private boat facilities, temporary events, family home care facilities, and bona fide farms, per North Carolina General Statute. Mr. Brown asked if the definition of farms will now be cleared with the amendments and Mr. Breuer responded affirmatively. Mr. Rivenbark made a motion to approve the amendments, Mr. Williams seconded the motion and it was unanimously approved.

26. Public Hearing and Resolution Requesting Approval of a Special Use Permit for the Operation of a Nonmetallic Mineral Mine and Quarry, Located at 459 J.A. Drive, Hampstead, NC.

The public hearing opened at 10:56 p.m. and closed at 11:40 p.m. Mr. Breuer said the applicant, Frank R. Morton, is requesting the special use permit on behalf of Ernest Grayling Shingleton, owner. Mr. Breuer explained: The property is currently zoned RA, Rural Agricultural District; the entire mine will be located on a ± 110 acre tract of land located at the terminus of J.A. Drive; the pit will be excavated to a maximum depth of 25' below the grade on the site, with an average excavation depth of 20 feet; the excavation will extend into the water table and the site will require dewatering activities which will occur internally and be stored onsite; according to the application, the proposed excavation area is not located within 50 feet of any wetlands or natural water course, but it is located approximately 1,500 feet from Trumpeter Swamp and approximately 500 feet from the outer limits of the AE Special Flood Hazard Area; the property is currently classified within the Conservation classification due to its proximity to the Holly Shelter Game Lands; and the Conservation classifications are areas that are owned in fee simple or have protective easements; and Conservation classifications are areas that represent areas of special significance and unique characteristics that make them worthy of preservation. The following comments were heard:

Chris Millis, Civil Engineer representing the applicant: They were not notified this is a conservation area and this presents a major problem; this is a total shock; they met with the Technical Review Committee in June and this issue was never raised; and they would not have spent thousands of dollars on the project had they known this was a conservation area.

Frank Morton asked how much of the farm is in the conservation area and Mr. Breuer demonstrated it to him on a map. Mr. Morton asked why they weren't told this before and no one spoke about it up until tonight.

Jerry Shingleton expressed concern about what could be done about this request, expressing concern for the road, traffic, trucks.

Jim Higgs stated he is opposed to the application and expressed concerns about the number of trucks on Hoover Road that could number over 100 per day, speeding, the school zone, and the 45 mph zone. He asked if Hoover Road could physically handle this much truck traffic, and questioned the cost to make repairs to the road. He also stated concern for debris falling off trucks, safety of students, and increased traffic on US 17.

Dennis Gershewitz expressed concern about the dangerous truck activities, and operating with no permits. He stated this is a convoy of lethal weapons.

Terri Shingleton stated trucks were involved when Castle Bay was built, and that Jerry Shingleton is also hauling dirt out of there.

Katrina Suffran stated that 150 big trucks were coming from the back, not from Jerry's. She stated the curve in the road is dangerous and dusty. She noted there were 4 companies with trucks from 7 a.m. to 9 p.m.-a truck every few minutes.

Jerry Shingleton noted he did dig a 1 acre pond that was approved by the State, and that about 10 loads per week were coming out.

Frank Morton discussed the taxes that had to be paid to get the trucks on the road. He noted the mine would be converted to a pond that can be used for firefighting when the mining is completed. He stated he would work with the homeowners and others on their concerns, and stated the highway patrol and DMV would deal with the trucks on the state roads as needed.

Dennis Gershewitz stated the DMV and Highway Patrol did not have the resources to enforce the speed limits.

Frank Morton stated speeding trucks are pulled over by DMV and Highway Patrol, and they have given thumbs up on loads coming out of there. He noted how much they paid for permits and he was never told he was in a conservation area.

Mr. Williams said the Board cannot approve this based on it being in a conservation area. Mr. Williams made a motion to deny the special use permit, based on the fact that it is in a Conservation areas, and Items 2, 4, 5 and 6 of the Special Use Permit Review Criteria of the Pender County Unified Development Ordinance. Mr. Ward seconded the motion and it was unanimously approved.

ADJOURNMENT

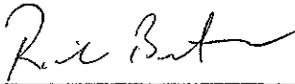
There being no further business, the meeting adjourned at 11:40 p.m.

Respectfully Submitted,



Glenda Pridgen, Deputy Clerk to the Board

Reviewed By:



Rick Benton, Clerk to the Board

Planning Items Reviewed By:



Planning Staff