

MONDAY, NOVEMBER 21, 2011

The Pender County Board of Commissioners met in regular session on Monday, November 21, 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 4:05 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.

PUBLIC INFORMATION

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

Southeastern Center for Mental Health Director Foster Norman explained: Southeastern Center, based out of Wilmington, serves Pender County residents with mental health, developmental disability, and substance abuse services; the Center will merge with Onslow-Carteret Behavioral Healthcare Services in July 2012; changes in State requirements for the minimum population size of an area authority necessitated the merger; as of July 1, 2012, the State will require a minimum population of 300,000 in a service area, including 70,000 Medicaid eligible individuals aged three and older; and the merger will not save taxpayer dollars spent on staff-the number of employees will actually increase with the merger. Mr. Norman, along with Onslow-Carteret Area Director Mark Besen, delivered a Power Point presentation of the Annual Report, and a report entitled "Creation of a New Regional MH/DD/SA Entity." The Annual Report included: Accreditations; Financial Summary; 2010-2011 at a Glance; Calls Received; Visions; Values; and Relationships. The Creation Report included: Reasons for the Merger; What is a Medicaid Waiver; How Does a Waiver Operate; NC Medicaid Waiver Requirements; and Merger Efforts. Board members discussed and asked questions, which Mr. Norman and Mr. Besen answered. The entire presentations are on file with the permanent records in the Clerk to the Board's Office.

2. **Bill Morrison, Topsail Beach: Presentation on Issues and Reconstruction Involving NC 12 in Dare County.**

Mr. Morrison delivered a Power Point presentation to the Board, which had previously been presented to the Coastal Resources Commission. The presentation included: Highway 12

completely wiped out during Hurricane Irene; pictures taken by NC DOT; emphasis on what damage can be done during a hurricane; the bringing in of 666 feet of bridge on trucks; the road reopening after only twenty-four days; more statistics; and comparison of these statistics to the building of the Highway 17 By-Pass. Board members commented and thanked Mr. Morrison for his presentation.

PUBLIC COMMENT

Health Director Carolyn Moser introduced the new Environmental Health Supervisor, Douglas McVey. Board members welcomed Mr. McVey to the County. Mr. McVey thanked the Board and gave his work history, educational background, certifications, and organizations to which he belongs.

CONSENT AGENDA

Mr. Brown presented the seven 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:

3. Approval of Minutes: Regular & Closed Session Meeting of November 7, 2011.
4. Resolution Accepting Petitions to Add North Chubb Rd. Ext. in Willard, and Middle Point Dr., Bates Retreat, Frans Path and W. Windward Landing in Hampstead to the State Maintained System and Authorizing the County Manager to Submit the Petitions to N.C. Department of Transportation.
- 5a. Resolution Approving Budget Ordinance Amendment to Establish an Expenditure and Revenue Line on the County General Ledger for the Low Income Energy Assistance Program (LIEAP): \$69,983.
- 5b. Resolution Approving Budget Ordinance Amendment for Additional Crisis Intervention Funds: \$203,702.
- 6a. Resolution Approving a Budget Ordinance Amendment Increasing Revenue & Expenditures from Fines/Fees: \$5,500.
- 6b. Budget Ordinance Amendment Reducing State Aid to Public Library Fund Revenue and Library Department Expenditures by \$7,092.
7. Resolution Approving the 2012 Schedule of Holidays for Pender County.

RESOLUTIONS

8. Presentation and Resolution Accepting FY 10-11 Pender County Audit.

Finance Officer David McCole introduced Alan Thompson of Thompson, Price, Scott, Adams & Co., Accountants. Mr. Thompson delivered a presentation on the FY 10-11 Audit Report and explained the various sections. Some of the highlights included: Significant Audit Findings; Other Audit Findings or Issues; Financial Information for Five Years, including: Total Fund Balance-General Fund, Unavailable Fund Balance, General Fund Expenditure, Unassigned Fund Balance, Cash vs. Accumulated Depreciation-Water & Sewer Funds, 6/30/11 Cash vs. Fund Balance, Property Tax Rates, Collection Percentages, Summary of Debt (excluding Compensated Absences & OPEB), Breakdown of General Fund Revenues-2011, and Breakdown of General Fund Expenditures-2011. Charts were also presented and explained in the presentation, which among others included: Analysis of Fund Balance and Analysis of Fund Balance Available; Analysis of Unassigned Fund Balance; Analysis of Revenues Over (Under); and Analysis of Unreserved and Undesignated Fund Balance as a % of General Fund Expenditures. Board members made comments and asked questions. Mr. Thompson provided

answers and explanations. After discussion, Mr. Rivenbark made a motion to approve the resolution, Mr. Williams seconded the motion and it was unanimously approved. The entire presentation and Audit Report are on file in the Clerk to the Board's Office and the Finance Office.

9. Resolution Amending the Pender County Pay & Classification Plan: Purchasing & Payroll.

Human Resources Director Amber Parker explained: In response to recent Board requests for departments to conduct additional duties when purchasing and selecting vendors, and with the adoption of the new Pender County Purchasing Policy, it is recommended to reclassify the Finance Department Payroll Clerk position as a Purchasing and Payroll Specialist position; the purpose of reclassifying this position is to continue to provide payroll duties while also establishing a position to assist departments with facilitating and coordinating purchasing, bidding and contracting; reclassifying the Payroll Clerk position as a Purchasing and Payroll Specialist will allow for the most effective use of funds and consistent purchasing and contracting services across departments; and the reclassification of this position will assign payroll to the Purchasing and Payroll Clerk position which will allow the Accounting Specialist I to focus full-time on Health Department finance duties and responsibilities. Mr. Tate was concerned with the educational requirements and said it should require at least an Associate Degree. He said employees should be encouraged to go back to school if they don't have a degree. Ms. Parker said she will amend the job description. After more discussion, Mr. Tate made a motion to approve the resolution, Mr. Rivenbark seconded the motion and it was unanimously approved.

10. Resolution Amending the Pender County Pay & Classification Plan: Dental Program.

Health Director Carolyn Moser explained: The Health Board recommended changing employees in the dental program from contract to permanent Health Department employees; contract staff has been isolated from many department policies and expectations and created some organizational difficulties and conflicts; the current situation has the potential to negatively impact the department revenue base; employees can provide for the services more effectively and maximize the provision of services to citizens; and this request is to add a Dental Hygienist II position and Dental Office Manager to the County Pay and Classification Plan. Mr. Brown added the Health Board fully supports Ms. Moser and said Ms. Moser will have better access to employees than contract workers. Mr. Williams made a motion to approve the resolution, Mr. Rivenbark seconded the motion and it was unanimously approved.

11. Resolution Appointing Tony Masiero as Pender County Tax Assessor.

Mr. Benton explained: In August, 2010 the Board appointed Tony Masiero as Interim Tax Assessor to fill the position vacancy when the former Tax Assessor left Pender County employment; since that time, Mr. Masiero successfully facilitated the County's 2011 Property Tax Revaluation and has completed and passed all required School of Government Tax Assessor courses; Mr. Masiero will achieve NC Tax Assessor Certification upon passing the final certification examination as soon as scheduled with the NC Department of Revenue; Mr. Masiero received 99 or 100 on all the courses he has taken; and the appointment will be conditioned upon Mr. Masiero's compliance with the County's residency policy, and his procurement of NC Tax Assessor Certification on or before June 30, 2012. Board members thanked Mr. Masiero for his services. Mr. Tate complimented Mr. Masiero on the Tax Assessors

Office's great customer service. Mr. Masiero said they pride themselves on their customer service and thanked Board members for the opportunity to serve as Tax Assessor. Mr. Rivenbark made a motion to approve the resolution, Mr. Tate seconded the motion and it was unanimously approved.

12. Resolution Supporting the Reconstruction of the Railroad Tracks Between Castle Hayne and Wallace, NC.

Planning Director Kyle Breuer explained the NC DOT is examining the potential for and impacts of reconstructing 27-miles of railroad tracks between Castle Hayne to Wallace, which is a state-owned corridor that links New Hanover, Pender and Duplin Counties. Mr. Breuer explained the re-establishment of the railroad tracks would: Improve freight rail options to support the NC State Ports Authority and military bases; improve access for moving products through the state's most agriculturally active region; improve access to major population centers to the north and west; provide access to serve the military installation at Camp Lejeune; provide a second rail line out of the North Carolina State Ports in Wilmington, linking the Port to the interior of the state and supporting economic development; allow the introduction of passenger rail between Wilmington and Raleigh via Goldsboro; and have significant and profound positive economic benefits for southeastern North Carolina. Mr. Breuer said the Technical Advisory Committee to the Wilmington Metropolitan Planning Organization (WMPO) adopted a resolution of support of the reconstruction of the railroad tracks between Castle Hayne and Wallace on September 28, 2011, and is requesting that all local government members of the WMPO adopt resolutions of support for the project. Mr. Rivenbark made a motion to approve the resolution, Mr. Williams seconded the motion and it was unanimously approved.

13. Resolution Approving the 2012 Calendar of Meetings of the Pender County Board of Commissioners.

Mr. Benton explained the proposed meeting schedule. After discussion, it was the consensus of the Board to have only one March meeting so there would be no interference with the NACo Legislative Conference-this meeting would be held March 19th; hold the one July meeting July 9th; and change the December meeting from December 17th to December 3rd because State Statute requires the first December meeting after an election be held on the first Monday. Mr. Williams made a motion to approve the resolution, Mr. Tate seconded the motion and it was unanimously approved.

14. Resolution and Discussion of the Pender County Residency Policy for County Employees.

Mr. Tate explained he asked that this resolution be put on the agenda because he is concerned that not all Department Heads are in compliance with the County Residency Policy. The policy requires County Management staff to establish residency in Pender County within twelve months of initial employment into a management position. Mr. Benton said residency was a condition of employment for department heads. Mr. Tate noted some had conformed to this policy and some had not. He said everyone should live in the county they work in. He said this will also save the County money because they travel out of the County in County vehicles and they must respond when called. Mr. Tate said he wants to make sure everyone is in compliance – current and future employees – so he suggested giving current employees that don't live in the County a year from today's date to come into compliance. Mr. Ward said if we are going to have a policy, we need to go by it. He said we need to make sure the department heads see this and we don't need to bring it up again. Mr. Brown said while it is a difficult issue for him because the real estate

market is difficult and no one wants to lose money in selling their home, be he knows several department heads have already made that difficult decision and have come into compliance. Mr. Williams said he has reservations about the policy because of the real estate market, but he feels a year to come into compliance is fair. After more discussion, Mr. Tate made a motion to amend the current Pender County Residency Policy to include "Employees who fall within the scope of this policy, but who are not a resident of Pender County as of its effective adoption date, shall establish residency within Pender County within twelve months of this date." Mr. Ward seconded the motion and it was unanimously approved.

15. Resolution Establishing Public Input Process for County Voting District Redistricting.

Mr. Benton explained: Over the past month the Board has created multiple redistricting conceptual maps to consider for sharing with the public for the purposes of receiving public comment on new voting districts; the examples were created solely for the purpose of assuring the population is evenly distributed among the five voting districts; and the examples are for the Board's consideration for moving forward with the public input process, and are not necessarily the only or final redistricting options the Board may consider. Mr. Benton distributed new maps "A" through "F" and explained each one. Discussion included: Compatibility with census; set of maps that shows blue hatch (water); having maps ready for the short legislative session; where to put the maps for public review; and public hearings. It was the consensus of the Board to put out all the maps for public review except Map "E", which stretched across each of the five voting districts from the beaches to the western boundary of the County, and was referred to as the rainbow map. Mr. Williams made a motion to approve the resolution, Mr. Ward seconded the motion and it was unanimously approved. The maps were to be put out for public inspection in both Libraries and the County Administration Building. The public hearings were tentatively planned for the regular 4:00 January 3, 2012 meeting at Pender High School and February 6, 2012 at the Surf City Welcome Center or Topsail High School. The public hearing will be the last item on the agenda. Mr. Williams said he hopes the Board of Education will adopt the same voting district map as the Board of Commissioners.

16. Resolution Supporting Reinstatement of Funding for the N.C. Teaching Fellows Program.

Mr. Rivenbark explained he requested this resolution and that this program did more for students and the schools than any other program. Mr. Rivenbark made a motion to approve the resolution, Mr. Williams seconded the motion and it was unanimously approved. Mr. Rivenbark requested that a copy of the signed resolution be placed in the Courthouse, in addition to being sent to the legislative delegation.

APPOINTMENTS

17. Resolution to Consider Approving Appointment to the Military Growth Task Force & Pender County Nursing/Adult Care Homes Advisory Board.

Mr. Williams explained his involvement and the applicant's, Mr. Chris May, in the Military Growth Task Force. Mr. Williams made a motion to reappoint Mr. May, Mr. Rivenbark seconded the motion and it was unanimously approved. Mr. Rivenbark made a motion to appoint Ms. Talisa Bannerman-Lee to the Nursing/Adult Care Homes Advisory Board, Mr. Tate seconded the motion and it was unanimously approved. Ms. Bannerman-Lee's appointment will be for a three-year (per Ombudsman Audrey Marshall) public member term, with term to expire June 30, 2013.

ITEMS FROM THE COUNTY MANAGER

Mr. Benton said he has no further items except to mention the ribbon cutting and official opening of Millers Pond Park tomorrow at 4:30 p.m. and items for Closed Session. Mr. Tate said he commends Mr. Brown and Mr. Benton for taking initiative to get the Millers Pond Park started and seeing it through.

ITEMS FROM THE COUNTY ATTORNEY

Mr. Thurman said he would have items for closed session.

ITEMS FROM THE COUNTY COMMISSIONERS

Mr. Rivenbark spoke concerning the Alfred John Mazzacca Memorial Scholarship which will be established to help Pender County graduating students who need financial assistance attend college, and a child health care exchange program with Buenos Aires, Argentina, in which Dr. Shiver has chosen someone to attend.

Mr. Ward spoke concerning when breaking ground on future new buildings, dedicating them to deceased people such as former Judge John Carroll, former Clerk of Court Mary Ann Briley, former Law Enforcement personnel who died in the line of duty, and others.

Mr. Williams noted the boat ramp is coming along and thanked all who had a hand in it. Mr. Williams also spoke about the Wilmington MPO and the Highway 17 By-Pass Corridor, noting they are not designing it at this time, only endorsing it.

CLOSED SESSION

At 6:15 p.m., Mr. Rivenbark made a motion to enter into closed session, pursuant to NCGS 143-318.11: 3) to consult with an attorney employed or retained by the public body in order to preserve the attorney-client privilege between the attorney and the public body, which privilege is hereby acknowledged. General policy matters may not be discussed in a closed session and nothing herein shall be construed to permit a public body to close a meeting that otherwise would be open merely because an attorney employed or retained by the public body is a participant. The public body may consider and give instructions to an attorney concerning the handling or settlement of a claim, judicial action, mediation, arbitration, or administrative procedure. If the public body has approved or considered a settlement, other than a malpractice settlement by or on behalf of a hospital, in closed session, the terms of that settlement shall be reported to the public body and entered into its minutes as soon as possible within a reasonable time after the settlement is concluded; 5) to establish, or to instruct the public body's staff or negotiating agents concerning the position to be taken by or on behalf of the public body in negotiating (i) the price and other material terms of a contract or proposed contract for the acquisition of real property by purchase, option, exchange, or lease; or (ii) the Amount of compensation and other material terms of an employment contract or proposed employment contract; and 6) to consider the qualifications, competence, performance, character, fitness, conditions of appointment, or conditions of initial employment of an individual public officer or employee or prospective public officer or employee; or to hear or investigate a complaint, charge, or grievance by or against an individual public officer or employee. General personnel 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. The closed session will include the case of Carolina Water versus Pender County. Mr. Williams seconded the motion and it was unanimously approved. The Board exited the Closed Session at 7:00 p.m. There were no announcements upon exiting the Closed Session.

PUBLIC HEARINGS/CORRIDOR STUDY/ZONING AMENDMENTS/RESOLUTIONS

18. Public Hearing for the U.S. Highway 17/N.C. 210 Corridor Study.

Mr. Brown opened the public hearing. Mr. Breuer recognized transportation consultant Keith Lewis, Project Manager, Martin/Alexiou/Bryson, PC. Mr. Lewis noted the recommendations are for short and long term improvements to the Us Highway 17 and NC Highway 210, and that there had been a great deal of public input into this process. Mr. Lewis delivered a Power Point presentation which included: Project Purpose and Study Area; Existing Conditions; Future Conditions; Recommendations; and Additional Considerations-Median Treatments, Cost Estimates and Funding. Mr. Brown then recognized public comment. Tom Dugan noted that there are many interests in the corridor recommendations and improvements, and provided a handout entitled "Safe Access is Good for Business." Frank Taylor, representing the Go-Gas business, noted his business would suffer with the changes proposed if provisions were not made for the large tankers. Doug Hefernan noted he is a business owner and is not in favor of the proposed median, noting it would create more accidents and cause speeding to increase. Tony Musolino said the Town of Havelock has been through this process with a median, and noted the Mayor's opposition. He said NC DOT would push the recommendations through regardless of local input. Chuck Wilson provided a one page handout entitled "Support Medians," and said medians can be positive and would have little impact on businesses, according to studies. The public hearing closed. Mr. Breuer informed the Board the schedule provides that a resolution of support for the corridor study recommendations will be on the December 12 BOCC agenda for consideration. The Board is not being asked to endorse any specific design recommendations along the corridors, only the general concept of the recommendations for improving and assuring safety along the two corridors.

19. Public Hearing and Resolution Requesting Approval of an Amendment to the Pender County Unified Development Ordinance (UDO): Sections 2.4.1.B.2, 3.10.3.K, 3.11.1.C.7, 5.2.3, 5.3.11.F-O, 6.2.C.18, 6.3.C.27, and Appendix A; Creation of Section 3.5.4.I, 3.9.3.I, 5.3.11.P, 9.4.2.A.1.h; and Revising References and Language in Articles 1-12 and Appendix A.

Mr. Brown opened the public hearing. Mr. Breuer explained: The proposed amendment clarifies various issues that have arisen concerning reviewing and permitting portable storage containers; Board of Adjustment members' term of office; site plan's period of validity; defining public and private water and wastewater systems; at their November 1, 2011 meeting, the Pender County Planning Board voted unanimously to pass a motion recommending approval of this request; and as the Planning Administrator, he respectfully recommends amending the UDO. The public hearing closed. Mr. Williams made a motion to approve the amendment request, Mr. Tate seconded the motion and it was unanimously approved.

20. **Public Hearing and Resolution Requesting Approval of a Text Amendment to the Pender County Unified Development Ordinance (UDO), Section 5.2.3, Table of Permitted Uses, Specifically to Allow Five Classifications of Wood and Metal Product Manufacturing to be Permitted via Special Use Permit in the GB, General Business Zoning District.**

The public hearing opened. Mr. Breuer explained: The Applicant, Seashore Builders, Inc., is making the request to amend this section of the UDO; at their October 4, 2011 meeting, the Planning Board voted unanimously to pass a motion to approve the amendment, with a revision to remove two previously requested uses-NAICS 321999 and 332999; and the specific request is now to allow the following uses: Truss Manufacturing-NAICS 321214, Prefabricated Wood Building Manufacturing-NAICS 321992, and Prefabricated Metal Building and Component Manufacturing-NAICS 332311. The public hearing closed. Mr. Williams made a motion to approve the text amendment request, Mr. Rivenbark seconded the motion and it was unanimously approved.

PUBLIC COMMENT

Chairman Brown reopened the public comment period. George Mara and Dave Morrison spoke regarding the recent court ruling by Judge Cobb overturning the Board's decision to deny a special use permit to Carolina Water Services, Inc. for a Waste Water Treatment Plant expansion. Mr. Mara and Mr. Morrison asked the Board to consider appealing the ruling, due to the expert testimony in the record. Mr. Thurman noted he had discussed this issue with the Board, and a decision would be made by the Board within the time frame required for filing an appeal.

ADJOURNMENT

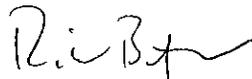
There being no further business, the meeting was recessed to 2:00 p.m. on November 28, 2011.

Respectfully Submitted,



Glenda Pridgen, Deputy Clerk to the Board

Reviewed By



Rick Benton, Clerk to the Board



Planning Staff