

TUESDAY, JANUARY 3, 2012

The Pender County Board of Commissioners met in regular session on Tuesday, January 3, 2012 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: 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 Rivenbark offered the Invocation.

PLEDGE OF ALLEGIANCE

Commissioner Williams led the Pledge of Allegiance.

PUBLIC INFORMATION

There were no items under Public Information.

EXCUSE COMMISSIONER

Chairman Brown noted Mr. Tate would not be present today because of a medical emergency and said Mr. Tate sends his apologies. Mr. Rivenbark made a motion to excuse Mr. Tate, Mr. Williams seconded the motion and it was unanimously approved by a 4-0 vote.

PUBLIC COMMENT

All public comment heard from the audience concerned the US Highway 17/NC 210 Corridor Study and Carolina Water versus Pender County. Speakers and comments included:

Eric Litvak – The study is not focused on traffic flow; medians themselves need to be connected to the connector roads (he named some of the roads); he is not for or against the study.

Tom Dugan – Tremendous local support; the Board not doing anything one way or the other is not an option; supports the Board's vote to move ahead with the recommendation of the study; the Board needs to move forward on a vote for safety.

Chris Hemp – Speaking for the elderly and other families that can't attend; Board must put safety first; in the interest of the public, safety should come before financial concerns; asked Board to support the study.

Dennis Coen – Almost every trip into Hampstead is an event; for the safety of the community, the business community needs to remember that their customers are the ones traveling on that road; he asks the Board to support the study; read a statement from the *Star News* of a similar situation in Leland.

Joyce Owens – The County needs to appeal the Judge's decision on Carolina Water; there are problems now and will be even more problems if the SUP is allowed to expand; trucks are still tearing the roads up in the neighborhood; wants it to be on record that they are still having problems.

Karen Gonzales – Board of Education Member; not for or against the median-concerned about safety; there are lots of school buses up and down Highway 17.

William Rivenbark – Transportation Director for Pender County Schools – They have five buses traveling south on Highway 17, with two doing double routes; need stop lights or some kind of signal; wants to sit down with DOT before the Board makes a decision.

Mr. Brown noted we did have public hearings on this and one of them was held at a school. Mr. Williams said signal lights issue will be addressed in the design stage, and we are not there yet.

Mary Owen – Bought a lot at Harbor Village some years ago; was told they there was infrastructure and the only thing she needed to do was get a tap from Carolina Water, but she still hasn't been able to tap on; it is unfair that a utility that meets all the guidelines still can't sell her one tap; sat through the court proceedings.

Karna Godridge – Read fact on safety incidents on Highway 17; addressed each Commissioner individually on what was spoken at the public meetings they attended; the right thing to do is consider safety; "We the People" want safety. Mr. Ward asked if "We the People" is an organization and Ms. Godridge responded said no, she was speaking about the majority of people in Hampstead.

Steve Berlin – Unless we do something now, more deaths are going to occur; we need the median and wider, safety turn lanes. Mr. Berlin asked Mr. Rivenbark if it was Route 53 in Burgaw, would it have been addressed before now; and asked Mr. Brown if he wants another death on his record.

Allie Sheffield – Lives in Topsail; the Board of Commissioners asked DOT to make a recommendation now the Board should follow it; it is scary to go through Hampstead; urges the Board to adopt the recommendation of DOT as its only option.

Rodney Simpkins – Carrying a "Say No" sign is not saying they are not for safety-they just want another option; a median would consist of an unlimited number of turns, with not a single light to support them is a problem that has not been identified; traffic rushes into Hampstead from the north and south; a stop light will answer these problems; he is against the median.

Nicholas Pryor – Thanked the Board for reconsidering this item; here to support a median; spoke of Hampstead Incorporation; spoke of an editorial in a newspaper-there is no Town of Hampstead and no police force-the paper gave false information.

Tony Musolino – For 5.4 miles we are going to spend \$5.4 million; that money could be given to the unemployed; will concrete median decrease speed-no; will traffic be reduced?

Frank Taylor – Director of Operations for Go Gas; spoke of Mr. Wessel’s letter the Board received; if the Board decides to endorse the corridor study, they should consider the large fuel tankers that turn in; they should consider safety.

Scott Gerow – Carolina Water’s expansion was permitted by the State; some developers put pipes in the ground depending on this expansion; wants to reiterate everything he said in the last meeting.

Fred Albrecht – Been in Hampstead since 1949; seen a lot of accidents, most of them caused by speed; the people hollering about medians are the ones causing accidents; we need to take a deep second look before we make a decision; need traffic lights and more law enforcement for speeders; median won’t stop speeding.

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 by a 4-0 vote:

1. Approval of Minutes: Regular & Closed Session Meeting of December 12, 2011.
2. Resolution Approving Tax Releases and Refunds as Listed Herein.
3. Resolution Authorizing a Contract and Purchase Order (not to exceed \$7,000.00) for FY 2011 CDBG-SS Housing Grant Administrative Application and Preparation of a 2011 CDBG-Scattered Site Housing Grant Application to Holland Consulting Planners, Inc.
4. Resolution Authorizing Purchase Order to and Financial Services Contract with Alvin W. Barrett, Jr. in an Amount Not-to-Exceed \$7,500.00.
5. Resolution Authorizing Issuance of Purchase Order to NetMotion for Software Maintenance and Support in the Amount of \$5,765.76.
- 6a. Resolution Authorizing Purchase Order to Custom Data Processing, Inc. (CDP) for Software Licenses and Training for Environmental Health Program: \$11,470.00.
- 6b. Resolution Authorizing a Budget Amendment to Approve Increase in Health Department Revenues and Expenditures for Fiscal Year 2011-2012: \$8,655.00.

RESOLUTIONS

7. Resolution Endorsing Concepts Set Forth in the US 17/NC 210 Corridor Study.

Planning Director Kyle Breuer explained this item was discussed at the December 12, 2011 Board meeting, no action was taken and Board members requested that it be brought back for further discussion and consideration. Mr. Rivenbark said we have a lot of dissension over this and asked if the money proposed for the safety improvements could be used for the Hampstead By-Pass. Allen Pope of NC DOT responded “no, those are two separate pots of money”. Mr. Rivenbark asked if this Corridor Study can be tweaked-his concern is the fuel tankers causing more problems. Mr. Pope said this is only a concept and they need the Board’s endorsement of the study so they can develop a plan, establish cost and hold other public meetings. Mr. Rivenbark spoke about connector streets and asked “didn’t we add extra law enforcement for the

area?" Mr. Williams said we do have the ability to have connector streets but when it was discussed, nobody wanted it to go through their neighborhood. Sheriff Smith said they didn't add any new officers but they did use some of the ones they already have for additional support in the area. Mr. Rivenbark asked about stop lights. Mr. Pope said it costs between half a million and three quarters of a million dollars to install a traffic light. He said if the study is approved they can come up with a plan that addresses all the problems he heard. Mr. Ward said when he asked if this original study was the one that is going to be done, he was told definitely yes, and now they are saying we can take other comments. He said he is hearing two different stories. Mike Kozlosky of WMPO said based on what Mr. Pope said, this study will go out for further detailed planning and design. Mr. Pope said we can always come back but we can't give a definitive plan today. Mr. Ward commented: he is hearing one thing here and another there; what DOT is presenting is not about safety; he is upset; discussed the median; Mr. Lewis of the consultant firm told him the proposed plan in the study was the plan and would move forward with no more public hearings; they are being given mixed signals; he needs some clarification; the whole thing seems political; and when he asked if this is what we want to go out, he was told yes. Mr. Pope said the Corridor Study provides a concept, once a concept is endorsed they can work on the design, then seek funding. Mr. Ward asked why can't they do it in phases and spoke about an accident that happened at Go Gas. Mr. Pope responded they were looking at receiving funding for the whole project. Mr. Brown commented: he appreciates Mr. Kozlosky and DOT for getting the study together; he did have concerns but his concerns have been addressed; what it comes down to for him, he has to look at what is going to save the most lives; DOT did provide that this is not over yet; the community will have the opportunity to have comments on design; and he is going to support this. Mr. Pope said they are going to do what they can to make Highway 17 as safe as possible for all citizens who travel it. Mr. Williams then made a motion to approve the resolution, stating that this is not the design phase, we are voting on concept. Mr. Rivenbark seconded the motion and it was approved by a 3-1 vote, with Mr. Ward voting against it.

A short break was taken at 5:15.

8. Resolution Authorizing Termination of Transportation and Medical Examiner Services Contract with Wilmington Mortuary Services; and Authorizing Award and Contract Negotiation for Transportation and Medical Examiner Services for Pender County.

Mr. Benton explained: At the November 7th Board meeting the Board requested proposals be solicited for the County's transportation and medical examiner services; the current contract for these services has been with Wilmington Mortuary Services since 2006; the contract runs with the fiscal year, and can be terminated without cause with 90 days written notice; a formal Request for Proposals was made available on November 14th and proposals were due on November 30; the Request for Proposals was mailed to Andrews Mortuary-Wilmington, Dunn Funeral Home-Burgaw, Hardee Mortuary Service-Wilmington, Harrell's Funeral Home-Burgaw, Nixon-Lewis Funeral Home-Burgaw, Pender EMS and Rescue-Burgaw, Quinn McGowan Funeral Home-Burgaw, and Wilmington Mortuary Service-Wilmington; it was also posted on the County's web site, and advertised in the local government news section of the Topsail Voice and Pender Post; proposals were received from Andrews Mortuary and Crematory of Wilmington, Debnam Services of Burgaw, Harrell's Funeral Home of Burgaw, and Thomas Transport of Hampstead; and Debnam Service's proposal seems to be the most suitable. Mr. Brown clarified that the current provider said if we don't keep him, we won't have a medical

examiner. Mr. Benton said that is correct and medical examiner services will be addressed in the new contract. Mr. Rivenbark made a motion to approve a resolution authorizing termination of the contract with Wilmington Mortuary Services; and authorizing an award and contract negotiations for transportation and medical examiner services to Debnam Services of Burgaw, to be effective upon the expiration of the 90 day termination period with the current vendor. Mr. Williams seconded the motion and it was unanimously approved by a 4-0 vote.

9. Resolution Amending the Pender County Pay & Classification Plan.

Health Director Carolyn Moser explained: Contract staff has been isolated from many departmental policies and expectations, increasing organizational difficulties and conflicts; the situation has the potential to negatively impact revenue base; they can provide for services more effectively, more productively, and perhaps even at less cost with the position as an employee; and this will be their last pay and classification change for a while. Mr. Brown asked if this will save money and Ms. Moser responded affirmatively. Mr. Brown said the Health Board supports moving these positions from contract to employees, he supports it and it will give Ms. Moser better access to have them as employees rather than contract. Mr. Williams made a motion to approve the resolution, Mr. Rivenbark seconded the motion and it was unanimously approved by a 4-0 vote.

APPOINTMENTS

10. Resolution Approving Appointment to the Pender County Planning Board.

Mr. Rivenbark said that traditionally, we normally reappoint citizens to Board who ask to be reappointed. Mr. Rivenbark made a motion to approve the following three-year reappointments to the Pender County Planning Board, with terms to expire January 31, 2015: Malcolm Boney representing the Professional position, and Bill Marshburn representing an At-Large position. Mr. Williams seconded the motion and it was unanimously approved by a 4-0 vote.

PUBLIC HEARING

11. Public Hearing to Receive Public Comment on Proposed Options for Creating New County Commissioner Voting Districts.

The public hearing began at 5:30 p.m. Mr. Benton explained: The Board has worked for several months to develop various options for new Commissioners districts; the Board has chosen a very open and transparent process; the purpose of the new districts is to correct a significant imbalance in district populations that has occurred since the last redistricting in 1995; five options for consideration have been prepared, but this does not preclude creating and consideration of other options; and after the public review and input period, a final option will be selected by the Commissioners to be submitted to the County's legislative delegation for consideration during the General Assembly short session. Mr. Brown said this will balance out the populations of the districts. Mr. Rivenbark pointed out that when appointing people to Boards and Commissions, this gives the districts more people to choose from. Mr. Williams said: Mr. Rivenbark made a very good point; they want to assure as even a population as they can get; Option 4 seems to be the one that assures it most; they are going by census blocks; and Option #1 is the one they came up with in Raleigh when he and two other Commissioners traveled there to plan creating the maps. Mr. Rivenbark said choosing Options 1 or 4 would give him too long of a drive from one end of his district to the other. There was discussion of driving distances by other Board members. Mr. Benton said there will be a second public hearing on February 6th at the Surf City Welcome Center. Mr. Ward asked about the Board of Education and Mr. Brown said the Board of Education followed what the Commissioners did the last time

there was redistricting. After more discussion of the Board of Education, the public hearing closed at 5:47 p.m. No formal action was required.

ITEMS FROM THE COUNTY MANAGER

Mr. Benton spoke about a letter from Integra Water stating they effectively decided to terminate their agreement with Pender County and instead pursue the project as a public utility, working directly with N.C. Utilities Commission. Mr. Brown asked how that affects the folks who already paid and Mr. Thurman said they will be refunded from the Escrow Fund. He said letters were sent to those folks saying they would be getting refunds. Mr. Williams said he commends the Board of Commissioners for trying to work with a private corporation but we could not make any financial guarantee with General Fund funds, and also Integra kept changing the proposal. Mr. Thurman said he talked with several developers and they said they are still interested if the County does anything along these lines. Mr. Benton said Mr. McDonald of Integra called to thank the Board for working with them.

ITEMS FROM THE COUNTY ATTORNEY

Mr. Thurman said he wants to discuss Carolina Water in closed session, along with other items.

ITEMS FROM THE COUNTY COMMISSIONERS

None of the Commissioners had any additional items.

CLOSED SESSION

At 5:55 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, in particular Carolina Water versus Pender County, Pender County Superior Court Order 08 CVS 243; 4) to discuss matters relating to the location or expansion of industries or other businesses in the area served by the public body, including agreement on a tentative list of economic development incentives that may be offered by the public body in negotiations. The action approving the signing of an economic development contract or commitment, or the action authorizing the payment of economic development expenditures, shall be taken in an open session; 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. Mr. Williams seconded the motion and it was unanimously approved. The Board exited the Closed Session at 6:35 p.m.

In open session, Mr. Williams made a motion to approve a Special Use Permit for Carolina Water, Special Use Permit 07-11-19-35, with the conditions which are attached and made a part of these minutes as referenced herein. Mr. Rivenbark seconded the motion and it was unanimously approved by a 4-0 vote. Mr. Williams made a motion to continue this meeting until Monday, January 9, 2012 at 2:00 p.m.; Mr. Rivenbark seconded the motion and it was unanimously approved.

ADJOURNMENT

There being no further business, the meeting was continued at 6:37 p.m.

Respectfully Submitted,



Glenda Pridgen, Deputy Clerk to the Board

Reviewed By:



Rick Benton, Clerk to the Board

Pender County Planning and Community Development

Planning Division
805 S. Walker Street
PO Box 1519
Burgaw, NC 28425



Phone: 910-259-1202
Fax: 910-259-1295
www.pendercountync.gov

January 3, 2012

Mr. James Fentress
Stroud Engineering, PA
102 D Cinema Drive
Wilmington, NC 28403

RE: Special Use Permit 07-11-19-35

Dear Mr. Fentress,

Pursuant to Pender County Superior Court Order 08 CVS 243, in the matter of *Carolina Water Service, Inc. of North Carolina vs. Pender County and the Pender County Board of Commissioners*, this notice shall serve as an approval for the referenced Special Use Permit case.

Please note the following conditions of approval:

1. No junk, debris trash or inoperable vehicles, recycled or salvaged materials shall be stored on the site outside a completely enclosed building.
2. No project activity shall commence on the site including clearing and grading until a Final Zoning Permit has been issued.
3. No permanent personnel occupancy on-site will be allowed.
4. All operations must follow federal, state, and local standards, regulations, ordinances, permits, statues, and/or laws.
5. The project must have commercial site plan review for a zoning permit.
6. Type B buffer requirements must be met with either existing vegetative cover or landscaping if existing vegetative cover is insufficient.
7. The project shall be developed in accord with the provisions of the Pender County Zoning Ordinance and the applicant's final revised site plan as approved by the Zoning Administrator and the conditions contained in this permit.
8. Any violations of the conditions of this permit, confirmed by the Zoning Administrator shall result in this permit becoming void, if not corrected within 30 days of receipt of the notice of violation with a scheduling of a public hearing with the Board of Commissioners at the next available meeting the 31st day of receipt of the notice of violation for a revocation.
9. The obligations imposed by this permit will be the responsibility of the property owner and operator and shall continue in effect until all conditions of this permit and other permits have been complied with and the Pender County Planning Department has made a final inspection of the site and provided a written certification that the site is in compliance.
10. Truck traffic shall be limited to no more than 2 sludge hauling trucks per week, operating from 9:00-11:00 AM on one day per calendar week.