

TUESDAY, JANUARY 17, 2012

The Pender County Board of Commissioners met in regular session on Tuesday, January 17, 2012 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 and Chester Ward.

MEMBERS ABSENT: David Williams.

OTHERS PRESENT: Rick Benton, County Manager and Clerk to the Board; Glenda Pridgen, Deputy Clerk to the Board; other staff and members of the Press and public.

CALL TO ORDER

Chairman Brown called the meeting to order at 4:00 p.m. and thanked and welcomed all to the meeting.

INVOCATION

Commissioner Rivenbark offered the Invocation.

PLEDGE OF ALLEGIANCE

Commissioner Ward led the Pledge of Allegiance.

EXCUSE COMMISSIONERS

Mr. Brown said Mr. Tate would be running late tonight, and Mr. Williams would not be here tonight, due to being out-of-town. Mr. Rivenbark made a motion to excuse Mr. Williams and Mr. Tate, Mr. Ward seconded the motion and it was unanimously approved by a 3-0 vote. Mr. Tate arrived a few minutes later.

Mr. Benton noted Mr. Thurman would also be late because he is in court. (Mr. Thurman attended the 7:00 portion of the meeting).

Mr. Brown announced that the Board of Health had requested that Item No. 8 be pulled from the Agenda.

PUBLIC HEARING

1. **Public Hearing and Resolution Approving Grant Application and Authorizing Local Share of Community Transportation Program Operated by Pender Adult Services for FY 2012-2013: \$26,475.00.**

The public hearing opened at 4:05 p.m. Valeria Sutton, Transportation Coordinator, and Wes Davis, Pender Adult Services Director, were present. Mr. Davis explained: Pender Adult Services (PAS) acts as Transportation Coordinator for Pender County; they operate the MV Transit Bus which provides transportation around Pender and New Hanover County; this year PAS is requesting \$205,169 from NC Department of Transportation, requiring a local match of \$26,475; this year's request contains \$86,000 to replace two vans that have exceeded their useful life; the service is required by law, to be provided for the benefit of the Department of Social Services clients, but is available to all residents of Pender County; and DOT's funding amount is approximately \$6,000 less than last year.

Mr. Brown asked for verification that the funding amount is less than last year's and Mr. Davis said it is less because they are requesting less capital this year. The public hearing closed at 4:10 p.m. Mr. Rivenbark made a motion to approve the resolution, Mr. Ward seconded the motion and it was unanimously approved by a 3-0 vote.

PUBLIC INFORMATION

2. Pender County Public School System Quarterly Bond Project Update.

Director of Auxiliary Services David Smith gave an update on the School Bond Fund Balance and proposed and finished projects. The proposed projects include: Burgaw Elementary-eight computers with accessories purchased; Topsail High-construction of the athletic facility to begin in late January or early February; Topsail Middle-reviewing bids for portion of roof replacement on the "B" wing; Topsail Elementary School: technology equipment purchased; Penderlea Elementary School-technology purchased; Rocky Point Primary-construction finished and all warranty work has been completed; West Pender Middle-completed renovations requested by the Principal, and technology equipment ordered; Heide Trask High-evaluated initial bids for the restroom facility for the softball and baseball fields and decided to rebid to try to reduce costs. Mr. Brown asked if the restroom facility funding will come from the \$429,058.45 that is left for that school and Mr. Smith responded "yes." Mr. Tate asked what type of equipment was purchased for Penderlea and Mr. Smith responded "security for certain areas." They then discussed the security at the school. Mr. Tate asked if they have Biology Labs and Mr. Smith responded "no." Mr. Tate said he is concerned that they don't have Biology Labs and we need to have sufficient tools for students to excel. Mr. Smith said Biology Labs will be addressed in the Five-Year Plan if other funds are not available. Mr. Tate asked if they have smart boards at Penderlea and Mr. Smith responded all the rooms have white boards and mimeo, which provide the same capabilities as the smart boards. Mr. Brown asked if technology is coming out of the same fund as construction and Mr. Smith responded yes, and they purchase technology equipment for a school from bond funds if there are funds available after the construction is completed for that particular school. Mr. Ward said Topsail High is working with the public to help keep costs down and asked if this is happening at Trask. Mr. Smith said they have not reached that point yet. Mr. Ward said he would like to see some volunteerism for the other high schools. Mr. Tate asked if there is a Head Start at Rocky Point Primary, and if that is why the report says equipment for smaller children. Mr. Smith said there is a Head Start there but they have their own playground

3. Ms. Rachel Manning, Vice-Superintendent, Pender County Schools: Introduction of Dr. Terri Cobb, Pender County Superintendent of Schools.

Mr. Brown welcomed Dr. Cobb. Dr. Cobb said: She met with Mr. Benton several times and they touched on the budget; she had met others in the community; thanked the School Board for their vote of confidence in her; she will do everything she can to make sure the children of this county get the best education possible; and she hopes to sit down with the board to talk about the budget and sit down with them at other times too. Board members thanked Dr. Cobb.

4. Mark Sutherland, Executive Director: Annual Update/Brief: Military Growth Task Force Activities.

Mr. Sutherland said the MGTF consists of nine counties in the region; this is his 3rd update to Pender County; and it is the last one because the MGTF will soon be dissolved. The update included Purpose-Provide Final MGTF Update; Agenda; Mission; Resources; Pender County Contributions, Including In-Kind Contributions-David Williams & Chris May represent Pender and Jimmy Tate, Kyle Breuer, Lauren Kolodij and Mark Seitz represent Pender as PlanIt EAST Delegates; Work Product;

Ongoing/Continuing; Regional Growth Management Plan; Comparative Communities-Purposes of Study, Selection Criteria, Candidate Regions; Commonalities; Growth Analysis: Our Region-Assumptions; Major Takeaways; Regional Forum; MGTFF's Future; Exercise EnvisionEast 2050; and PlanIt East-Envision 2050. The entire update is on file with the permanent records in the Clerk to the Board's office. Mr. Sutherland made very positive comments concerning Mr. Breuer. Mr. Tate said he attended some of their meetings in Kinston and he was pleased with the information they gave him. Mr. Brown thanked Mr. Sutherland for his hard work.

5. **George Mara, Chairman, ABC Board: Update Regarding Proposed Changes to Pender County's ABC Enabling Statutes.**

Mr. Mara recognized the ABC Board's Attorney, Robert Kenan, General Manager Patsy Blake and Finance Officer Dianne Chadwick. Mr. Mara distributed handouts to the Board which contained information concerning ABC distribution options. Mr. Mara spoke about the Atkinson ABC Store and noted it still is not profitable. Mr. Mara said the ABC Board is asking for support of three proposed changes they want: Board of Commissioner appointment of all ABC Board members (he said this is currently done but the statute states a variety of representation required); allowing the ABC Board to determine store locations within the County; and amending the net profit distribution formula. He said the ABC Board wants the Board to call a meeting with them and all municipalities, with a representative from each town. All agreed and Mr. Benton was instructed to set up the meeting. Mr. Benton said after the meeting, a resolution can be prepared for the County and all the towns to give to legislators. The ABC Board's Attorney Robert Kenan spoke and explained about sharing the profits among all the municipalities of the County and not simply the ones with ABC stores. He said he, the County Manager and County Attorney worked together with them to work out the formula. Mr. Mara said if they can get the changes to the county's delegation before the short session of the General Assembly in May, they will be able to close the Atkinson store by the end of the fiscal year.

PUBLIC COMMENT

Robert Kenan spoke concerning the new Pender County GIS System, saying that he uses it all the time and it is not user friendly at all; a lot of other attorneys, appraisers, etc. use the system and they don't like it either; they like the old one better; and the County should either design a better system or go back to the old one. Mr. Benton agreed that the new system is not user friendly.

CONSENT AGENDA

Mr. Brown presented the three items on the Consent Agenda and asked for any discussion or questions. Mr. Ward said he has questions concerning Item No. 7a. Mr. Rivenbark made a motion to approve the remainder of the consent agenda, Mr. Tate seconded the motion and it the remainder of the Consent Agenda was unanimously approved by a 4-0 vote as follows:

6. Approval of Minutes: Regular and Closed Session Meeting of January 3, 2012.
- 7b. Resolution Approving Purchases Orders for Health Department Dental Service Contracts for Fiscal Year 2011-2012: \$11,000.
- 7a. **Resolution Approving Purchase Order for Health Department Medical Billing Services Contract for Fiscal Year 2011-2012: \$10,400.**

Mr. Ward asked if this is an increase, decrease or the same. Ms. Moser explained this is a temporary individual that was working through a Senior Agency program and her time on the program ran out. She said Ms. Brooks has years of experience working in billing. Mr. Ward said he was looking to see

if we could do something like the Tax Office does by contracting the billing out. Mr. Brown explained this billing is different than the Tax Office and can't be contracted out. Mr. Tate asked if we have seen an increase in clients going into the Health Department within the last year. Ms. Moser responded "yes, but not including Primary Care chronic cases." Mr. Rivenbark then made a motion to approve the resolution, Mr. Ward seconded the motion and it was unanimously approved by a 4-0 vote.

RESOLUTIONS

8. Resolution Approving Amending Health Department Fee Schedule for Fiscal Year 2011-2012.

Mr. Brown explained the Board of Health requested this item be pulled from the agenda to make amendments to it. Mr. Tate asked why they are changing it. Mr. Brown said the Health Board wants to make some changes to the fee schedule and they want to clean it up and send it to the Board with the changes already made. Mr. Rivenbark made a motion to pull the resolution from the Agenda, Mr. Tate seconded the motion and it was unanimously approved by a 4-0 vote.

9. Resolution Authorizing Submission of a Parks and Recreation Trust Fund (PARTF) Grant Application for Millers Pond Park in the Amount of \$ 325,090.

Planner Dee Turner explained: At the November 15, 2011 Parks and Recreation Advisory Board meeting, the Board unanimously approved submittal of an application for the 2012 PARTF grant cycle for further development of Millers Pond Park; the project cost estimates are \$325,090; the project will include a handicap accessible picnic shelter/restroom facility, handicap accessible walkway from shelter to parking area, fishing pier, canoe/kayak launch area, enhancements to the nature/walking trail, landscaping and utilities; and they held a public meeting on January 10th and received all positive comments. Mr. Ward said he cannot support this right now; he is concerned that the grant requires a 50% local match-the Commissioners have their budget coming up and there are other more pressing needs than parks' funding. Mr. Brown asked if the Board has set aside money for Parks and Recreation funding and Mr. Benton said they did set aside money two years ago. He said the PARTF grant application was submitted last year, but there was much competition and Pender didn't get approved. Mr. Tate said he is concerned that the total grant is not \$325,090-the County would have to pay \$162,545, but the Board cannot come up with a little bit of funding for the Atkinson Library. It was noted that the Atkinson Library is not a part of the County's Library System, and Atkinson did not want to be a part of the County's system. Mr. Ward said he would like to see more volunteerism and contributions to this project, as was done with the Hampstead Kiwanis Park on the eastern side of the County. Ms. Turner noted PenderWatch and Conservancy had shown an interest in developing the canoe/kayak launch area. After more discussion of donations to non-profit groups, Mr. Tate made a motion to approve the resolution, Mr. Rivenbark seconded the motion and it was approved by a 3-1 vote, with Mr. Ward voting in opposition.

APPOINTMENTS

10. Resolution to Consider Approving Appointments to the Pender County Board of Health, Pender County Library Board & Southeastern Economic Development Commission.

Mr. Brown explained there are four applicants for the vacancies on the Health Board that are currently serving interim positions; he would like to see them all reappointed; there are two new applicants applying for the Public Member vacancy; and there are three vacancies for the Public Member position. Mr. Rivenbark made a motion to approve the following appointments to the Health Board, Mr. Ward seconded the motion and it was unanimously approved: Dr. Michael Cherubini to serve a three-year term representing the Dentist position, with term to expire January 31, 2015; Kimberly

Collins to serve a three-year term representing the Nurse position, with term to expire January 31, 2015; and Jan Dawson and Jack Swann to serve three-year terms representing Public Member positions, with terms to expire January 31, 2015. Mr. Brown said with reference to the other Public Member position, he would like to see someone from the West side of the County step up. He said maybe we can let the Board of Health have some input, as we previously did with Pender Memorial Hospital. Mr. Brown asked and Ms. Pridgen confirmed that the two applicants for the Library Board are current members. Mr. Rivenbark made a motion to approve the following reappointments to the Library Board, Mr. Tate seconded the motion and it was unanimously approved: Shelby Battle to serve a three-year term representing District 3, with term to expire January 31, 2015; and Kathleen Sabella to serve a three-year term representing District 1, with term to expire January 31, 2015. Mr. Brown asked what the term is for the SEDC position and Mr. Benton responded it is a four-year term. Mr. Rivenbark noted Mr. Biberstein had served on that Board for many years. Mr. Rivenbark made a motion to reappoint Mr. Biberstein to the Southeastern Economic Development Commission to serve a four-year term representing Pender County, Mr. Tate seconded the motion and it was unanimously approved. Mr. Ward spoke concerning people on boards that have relatives who are employees of the County, and conflicts of interest. Mr. Benton said we do have a draft policy but the Board had never adopted it. It was the consensus of the Board to discuss this item at a future meeting. Mr. Tate asked if we keep attendance records on these Boards. He said boards' members should be more than just a "warm body."

ITEMS FROM THE COUNTY MANAGER

Mr. Benton said that with respect to the 2012 CDBG Scattered Site Program coming up, the NC Division of Community Assistance has requested that a Commissioner sit on the initial committee when the applicants are chosen. He said any Board member can volunteer and asked the members to let us know if anyone is interested in serving.

ITEMS FROM THE COUNTY ATTORNEY

Mr. Thurman had not arrived yet.

ITEMS FROM THE COUNTY COMMISSIONERS

Mr. Rivenbark said he has some literature on health and wellness to give to the County Manager.

Mr. Tate said he was contacted by someone in the legal community concerning a person wanting to do community service work on a private road. He said he wanted to see if the Board had any concerns with this. No one had any concerns and Mr. Tate said they will proceed.

Mr. Ward asked if the Board could review the Noise Ordinance to possibly implement some changes in the times. Mr. Benton said he had recently received a noise complaint and had turned it over to the Sheriff. Mr. Brown said he had also received noise complaints. It was the consensus of the Board to discuss the Noise Ordinance at the February 6th meeting.

Mr. Brown reminded members of the upcoming League of Women Voters meeting to which all elected officials are invited. The League is concerned about the proposed legislation requiring citizens to present a photo i.d. at polling sites.

Mr. Ward said at the County Commissioner School last year, there were 4-H groups that participated and he would like to invite Pender County youth to take a look at participating this year. Mr. Benton

noted Dr. Shiver had expressed some interest in participating and he had sent a note to all departments asking for their interest in being involved.

CLOSED SESSION

At 5:40 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. Mr. Tate seconded the motion and it was unanimously approved. The Board exited the Closed Session at 7:00 p.m. There were no announcements made.

PUBLIC HEARINGS/RESOLUTIONS/ZONING AMENDMENTS

11. Public Hearing and Resolution Requesting Abandonment from the State Maintained System a Portion on Test Farm Road (SR 1308) in Willard, North Carolina.

The public hearing opened at 7:00 p.m. Glenn Crews of N.C. DOT explained they are only deleting the maintenance of the roadway and not deleting the right-of way, which is the railroad. Mr. Tate noted this is in his district and that he will vote for anything Mr. Crews recommends. The public hearing closed at 7:07 p.m. Mr. Tate made a motion to approve the resolution, Mr. Rivenbark seconded the motion and it was unanimously approved.

12. Public Hearing and Resolution Requesting Consideration to Close a 32' Wide Easement Known as Howard Avenue as Shown in Map book 27, Page 64 of the Pender County Register.

The public hearing opened at 7:00 p.m. Planner Ken Vafier explained: This right of way is not currently recognized in the County GIS system as a named roadway or easement; access to the adjacent properties along Howard Avenue are not utilizing this 32' wide easement; the result of this closure will divide the right of way and convey the property to the adjacent property owners along the

easement; they have since found out a part of the road is already closed; and deed work was done but it did not disclose that this part had been closed by the Board of Commissioners in 1995. Mr. Ward asked if this is a private road and Mr. Vafier responded "yes." Mr. Ward said if it is a private road, we need clarification of what they are requesting. Mr. Benton said one of the adjoining property owners made the request. Mr. Vafier said the property owners do not use the road for access, and the property will revert back to the owners. Mr. Hiram Williams said he is one of the adjacent property owners and he wants to make sure the property reverts back to the property owners. Mr. Thurman said it reverts back to the owners by general statute but Mr. Williams can get it certified if he wants to. Mr. Williams noted he is not objecting to the closing. Mr. Jimmy Ellington, who requested the closing, was present but was not requested to speak. It was reiterated that the property owners made this request. Mr. Ward made a motion to approve the request, Mr. Tate seconded the motion and it was unanimously approved.

13. Public Hearing and Resolution Requesting Approval of a Zoning Map Amendment for a General Use Rezoning of 4.84 Acres from PD, Planned Development District, to GB, General Business District, Located at the Intersection of US Highway 17 and Headwaters Drive, Hampstead, NC.

The public hearing opened at 7:07 p.m. Mr. Vafier explained: The applicant, Admah Lanier, on behalf of the Lanwillo Development Company, is proposing a Zoning Map Amendment for a general use rezoning for 4.84 acres from PD, Planned Development District to GB, General Business District; the property is located at the intersection of US Highway 17 and Headwaters Drive in Hampstead; the General Business District is intended to accommodate uses which require close access to major highways; this is a general use rezoning which will encompass all uses permitted by right in the General Business District; and the district is established to provide convenient locations for businesses which serve the needs of surrounding residents, including office, retail, and personal services uses. Mr. Vafier demonstrated everything by Power Point, including maps. Mr. Ward was concerned that creating another road and adding another business entry would create more safety issues to the Highway 17 problems. He said if the applicant has to use Headwaters Drive, this could be an issue. Mr. Vafier said they will send a specific development proposal to the Technical Review Committee to evaluate it. Mr. Ward asked if Headwaters Drive is private. He said if it is private and the applicant can't use it, he'll have to make another business access and can make another entrance and exit. Mr. Benton said what Mr. Vafier is saying is that all of that will be decided by the appropriate agency once it is approved. Mr. Davis Carr said he is here on behalf of the applicant and they are bringing it back before the Board because the Planning Department told them to. Mr. Carr said Mr. Lanier wants to sell lots, Mr. Lanier owns all the property that is in there, Mr. Lanier developed all the lots in there, and Mr. Lanier owns the road system. No one was present to oppose the amendment. Mr. Ward said he is concerned why the people that opposed this are not here. Mr. Tate said if people were that opposed, they would be here. There was some discussion of lighting on the property. After more discussion and questions, the public hearing closed at 7:29 p.m. Mr. Ward made a motion to approve the resolution, Mr. Tate seconded the motion and it was unanimously approved by a 4-0- vote.

14. Public Hearing and Resolution Requesting Approval of a Zoning Map Amendment for a General Use Rezoning of Three Tracts Totaling 3.18 Acres from RP, Residential Performance District, to GB, General Business District, Located on US Highway 17, between Morris Drive and Buccaneer Boulevard, Hampstead, NC.

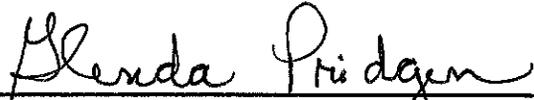
The public hearing opened at 7:29 p.m. Mr. Vafier explained the proposal is for a general use rezoning which will encompass all uses permitted by right in the General Business District. Mr. Vafier

explained the existing zoning, existing land use in the area; the 2005 CAMA Land Use Plan Compliance; and the 2010 Comprehensive Land Use Plan Compliance. Mr. Vafier demonstrated everything by Power Point, including maps. Mr. Rivenbark was concerned why the Planning Board voted 4-1 and not unanimously. Mr. Vafier summarized the concerns of the Planning Board. There was concern from Board Members about what the applicant puts there and how it will affect the neighbors. Mr. Brown asked what types of uses are allowed in residential performance and Mr. Vafier responded "mostly residential, with some low impact commercial uses, most of which require an SUP for approval." Mr. Brown asked what is General Business and Mr. Vafier replied with the ordinance definition of General Business. Mr. Vafier said even if something is permitted by right, it would still have to be reviewed by the Technical Review Committee. In response to question, Mr. Vafier said the Planning Board will have a discussion on whether zoning would be permitted by right or need to have an SUP. He will look at conditional zoning. The public hearing closed at 7:50 p.m. Mr. Ward made a motion to approve the request, Mr. Tate seconded the motion and it was unanimously approved.

ADJOURNMENT

There being no further business, the meeting was recessed at 7:55 p.m. to 8:00 Saturday morning.

Respectfully Submitted,



Glenda Pridgen, Deputy Clerk to the Board

Reviewed By:



Rick Benton, Clerk to the Board

Planning Items Reviewed By:



Planning Staff