

MAY 21, 2012 – 4:00 P.M.

The Pender County Board of Commissioners met in regular session on Monday, May 21, 2012 at Scotts Hill Baptist Church, Cross Point Center, 185 Scotts Hill Loop Rd., Wilmington, NC.

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

MEMBERS ABSENT: Vice Chairman Jimmy Tate.

OTHERS PRESENT: Dr. Mickey Duvall, 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 4:07 p.m., thanked and welcomed all, and asked attendees to please be respectful of the Church building.

INVOCATION

Commissioner Williams offered the Invocation.

PLEDGE OF ALLEGIANCE

Commissioner Rivenbark led the Pledge of Allegiance.

EXCUSE COMMISSIONER

Mr. Brown announced Mr. Tate will not be at the meeting. 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 HEARING/RESOLUTION

1. Public Hearing and Resolution Requesting Authorization to Submit a Program Amendment for FY 2010 CDBG Economic Recovery Program.

The public hearing opened at 4:10 p.m. and closed at 4:12 p.m. Housing Director Judy Herring introduced Jessie Miars of Holland Consulting. Ms. Miars explained the County's \$500,000 CDBG-ER Program grant has surplus funds available for the addition of one low-income dwelling unit for moderate rehabilitation; and a public hearing is required to consider the program amendment prior to submitting the amendment to the NC Division of Community Investment and Assistance for approval. Mr. Rivenbark made a motion to approve the resolution, Mr. Williams seconded the motion and it was unanimously approved by a 4-0 vote.

ADDENDUM

Mr. Brown said there is a request by the North Carolina Association of County Commissioners (NCACC) to add a resolution to the agenda requesting support of Senate Bill 433. He said he had spoken with Rebecca Troutman of NCACC and Representative Carolyn Justice, they are in Short Session now, this item could be taken up at anytime, and that is the reason for the urgency. Mr. Rivenbark made a motion to add the item, Mr. Williams seconded the motion and it was unanimously approved by a 4-0 vote to add the following resolution:

15a. Resolution by the Pender County Board of Commissioners in Support of Senate Bill 433. S433 is a bill to be entitled "An Act to Promote Efficiency and Effectiveness in the Administration of Human Services and to Strengthen the Local Public Health Infrastructure by Establishing a Public Health Improvement Incentive Program and Assuring the Provision of the Ten Essential Public Health Services. Dr. Duvall explained the resolution, noting this is one of the top items the General Assembly is considering. Mr. Ward asked if this hadn't come up before and Mr. Brown responded "yes." Mr. Brown explained this action does not say a county must participate and said it had already passed the Senate. Mr. Rivenbark said if adopted, it would give the County leverage in dealing with human services agencies. After more discussion, Mr. Rivenbark made a motion to approve the resolution, Mr. Williams seconded the motion and it was approved by a 3-1 vote, with Mr. Ward voting in opposition.

PUBLIC INFORMATION

2. Steve Garrett, Teacher: Recognition of Topsail High School Electric Vehicle Class.

Mr. Garrett introduced the seven students who were in attendance and explained: This is their 9th consecutive National Championship in the EV Challenge competition; this is his 12th year with the program; the class includes three seniors; and this class is not just about the cars, but other components, such as volunteer services. Mr. Garrett also listed the vehicles the class had converted. Mr. Williams said Mr. Garrett is a former teacher of his and he is impressed by these students winning a national competition.

3. Ruth Glaser, Pender Memorial Hospital: Hospital Update, Including Renovation Plans and Equipment Upgrade.

Note: Ms. Glaser's report/update was given after Mr. Roenigk's. Ms. Glaser apologized for being late because she misunderstood and thought the meeting was going to be at 5:00. Ms. Glaser listed the accomplishments of Pender Memorial and assistance by New Hanover Memorial Hospital. She said New Hanover has provided a lot of funding since they took over Pender in 2004. Mr. Brown noted he had gotten lots of compliments on the Skilled Nursing Unit of the Hospital. Ms. Glaser said an upcoming project the Hospital has is for a new CT Scanner, and gave an update on it. The update included: The current scanner is 208 feet from the Emergency Room and the new one will be moved closer to the Emergency Room; the Emergency Room registration will be moved and renovated resulting in a larger one; and the new scanner will take better pictures. The benefits of the new scanner will be: more privacy; improved speed; proximity to the Emergency Room; match quality of facility to quality of care; improved security of building; and improved diagnostic capability. The proposed timeline is construction will be complete July, 2013. Mr. Ward asked if there had been an increase in mental health patients and Ms. Glaser responded affirmatively. Mr. Ward said deputies are spending a lot of time at the hospital with mental health patients and discussion of mental health patients and security ensued. Mr. Ward noted New Hanover Hospital has special police for those purposes. Mr. Rivenbark, Commissioner representative on the Hospital Board, made remarks, including funding from New Hanover Regional is funding this Board doesn't have to provide to Pender Memorial.

4. Ken Vafier, Planner: Update on Pender County Comprehensive Transportation Plan (CTP)

Mr. Vafier explained: A kickoff meeting for Pender County's Comprehensive Transportation Plan (CTP) was held on January 3, 2011; a steering committee was formed with representatives from each of the partnering agencies; the committee met monthly until April, 2012 to make

recommendations to the existing and future comprehensive transportation network for the study area; and a 30-day public comment period will begin and run through late June, followed by the formal local adoption process in July, 2012. Mr. Vafier listed the Steering Committee participants and the agencies they represented. Mr. Vafier introduced Shane York, Transportation Engineer with the NC Department of Transportation and the Wilmington MPO Coordinator. Mr. York distributed handouts and gave an executive summary of The Pender County Comprehensive Transportation Plan and draft Pender County Comprehensive Transportation Plan Recommendations. The summary includes achievements of the Pender County CTP, and the recommendations include minor widening improvements. The handouts also included highway maps, pedestrian maps, bicycle maps and a public transportation and rail map; Mr. York explained each map. Board members thanked Mr. York for his presentation.

5. Dale Roenigk, School of Government: Update on Pender County's Overall Financial Condition.

Mr. Brown said this item is a spinoff of Dr. William Rivenbark's presentation at the Board's Planning Summit in January when some of the Commissioners were not present and he requested the School of Government to make another presentation. Mr. Brown introduced Mr. Roenigk. Mr. Roenigk delivered a PowerPoint presentation entitled "North Carolina Financial Condition Analysis" which highlighted and compared with surrounding counties General Funds, Governmental Activities, and Water and Sewer Funds. The counties compared were Pender, Columbus, Duplin, and Sampson. Mr. Roenigk noted this information is updated from the information presented in January, and said there are some issues with some of the funds. With respect to Governmental Activities, explanations included: Charge to expense ratio dropped; quick ratio-measuring liquidity; and unrestricted net assets. With respect to General Fund, explanations included: Fund Balance high but has been declining; debt to assets ratio above peers; Debt Service ratio in middle of peers; and Capital Assets condition ratio. With respect to Water and Sewer, explanations included: Balance between resources and outflow; charge to expense ratio dropped; liquidity as measured by quick ratio is low; solvency as measured by net assets ratio; and capital condition ratio. Mr. Roenigk said key observations are: Governmental Activities – negative inflow turning positive; declining liquidity and solvency; high debt and low condition of Capital Assets; Water and Sewer – negative inflow turning positive; negative charges to expenses turning positive; low liquidity and solvency; high debt; and good capital condition. Mr. Ward said Pender's bond rating had just been upgraded to AA and how is that compared to the negatives in Mr. Roenigk's report. Mr. Roenigk said the bond rating is a national rating and North Carolina is in much better shape in a national rating than some other states. There was more discussion and questions by Board members. Mr. Roenigk said there are no warning lights at this time, but the Board should pay attention to the negatives. Mr. Brown said he wants to take a look at some of the negatives with the County Manager and Finance Officer to see if they can see some things to improve. Mr. Roenigk said all the counties' information can be seen on the State Treasurer's website. Board members thanked Mr. Roenigk for the presentation.

PUBLIC COMMENT

No one wished to speak under public comment.

CONSENT AGENDA

Mr. Brown presented the five items on the Consent Agenda and asked for any discussion or questions. There being none, Mr. Williams made a motion to approve the consent agenda, Mr. Rivenbark seconded the motion and the Consent Agenda was unanimously approved as follows by a 4-0 vote:

6. Approval of Minutes: Budget Work Session with Departments; and Regular and Closed Session Meetings of May 7, 2012.
7. Resolution Accepting Petition to Add East Belair Court in Summit Ridge Subdivision, Rocky Point, to the State Maintained System and Authorizing the County Manager to Submit the Petition to N.C. Department of Transportation.
8. Resolution Authorizing a Budget Amendment to Approve Increase in Health Department Revenues and Expenditures for Fiscal Year 2011-2012: \$3,425.
9. Resolution Increasing Purchase Order to Dr. Michael Bannan for Change Order to Increase FY 2011-2012 Dental Contract: \$36,400.
10. Resolution Authorizing a Purchase Order to Troxell Communications, Inc., in the Amount of \$11,246.23 for the Purchase and Installation of a Large Theater Size Projector at the Heide Trask High School Auditorium.

Clerks Note: Due to illness, the minutes had not been completed at the time the agenda was printed so therefore, they were not included.

RESOLUTIONS

11. **Resolution to Support the Election Boards Association of North Carolina Request that HAVA Funds be Included in This Year's Budgets and that said Funds be Provided to the State Board of Elections for the Counties to Improve the Elections Process.**

Elections Director Dennis Boyles said he is representing the Election Boards Association of North Carolina and the local Board of Elections. Mr. Boyles explained: Approximately \$4.8 in HAVA funds are not included in the State's budget this year; the Election Boards Association is requesting that these funds be included; and HAVA funds can be used instead of counties' general funds to assist in the elections process. Following discussion, Mr. Rivenbark made a motion to approve the resolution, Mr. Williams seconded the motion and it was unanimously approved by a 4-0 vote.

12. **Resolution Requesting Approval of Amendment No. 1 to Holland Consulting Planners Inc.'s Contract for CDBG Economic Recovery (CDBG-ER) Program Administration.**

Ms. Herring explained: Additional services are required of the Consultant as a result of the amendment for FY 2010 CDBG Economic Recovery Program, with respect to the public hearing in Item No. 1 on the agenda; and funds will be paid from the grant and not with County funds. Mr. Williams made a motion to approve the resolution, Mr. Rivenbark seconded the motion and it was unanimously approved by a 4-0 vote.

13. **Resolution Authorizing Contract Award for FY 10 CDBG-ER Program.**

Ms. Herring explained this contract is for construction out of the same funds from the \$500,000 CDBG ER grant previously mentioned; and this construction is for the last alternate on the 2011 Scattered Site list. Mr. Rivenbark made a motion to approve the resolution, Mr. Williams seconded the motion and it was unanimously approved by a 4-0 vote.

14. **Resolution Approving Loan Financing for the Long Creek-Grady Volunteer Fire Department.**

Emergency Management Director Tom Collins explained the resolution saying the refinancing will not exceed the 25% debt limit, and if anything, it will reduce the debt limit. Mr. Ward asked if the financing was done through the County would it save them money and Finance Officer Butch Watson said if the County did the financing, we would charge them the same interest rate as a bank. Mr. Watson said he spoke with fire departments about going forward he could be the conduit for

them and he can look for the best rates. Mr. Brown said the departments can use Mr. Watson if they want, but we won't require them to. There was more discussion of financing and other fire department matters. Mr. Collins noted he has asked the COG to do a Master Plan of the fire departments, including information on financing, substations, improving ratings, etc., and will bring the Master Plan back to the Board. Mr. Ward made a motion to approve the resolution, Mr. Williams seconded the motion and it was unanimously approved by a 4-0 vote.

15. Resolution to Unfreeze One Environmental Health Program Specialist.

Mr. Brown explained Mr. Tate requested this resolution after he had a one-on-one meeting with Health Director Carolyn Moser. Mr. Ward said he was still prepared to say no to this but Mr. Tate made him see it differently after his meeting with Ms. Moser. Mr. Ward made a motion to approve the resolution, Mr. Rivenbark seconded the motion and it was unanimously approved by a 4-0 vote. Ms. Moser said she and Mr. Tate had a very productive meeting and she is sorry he is not here so she can show him her appreciation. Mr. Brown said he appreciates Mr. Tate's and the rest of the Board's support.

APPOINTMENTS

16. Resolution to Consider Approving Appointment to the Pender County Parks and Recreation Board.

Mr. Brown introduced the resolution and said he does not personally know the applicant, but has heard only positive things about him. Mr. Rivenbark made a motion to approve the appointment, Mr. Williams seconded the motion and it was unanimously approved by a 4-0 vote that Gregory Goble is appointed to the Pender County Parks & Recreation Board to serve a three-year term representing District 4, with term to expire June 30, 2015.

ITEMS FROM THE COUNTY MANAGER

Dr. Duvall said Standard and Poor's has upgraded Pender County's bond rating to AA-. He said with respect to Mr. Roenigk's earlier report, some of his numbers may have been outdated because we provided live numbers to Standard and Poor's and received good results. Dr. Duvall also said this is the eighth straight year the County hasn't increased taxes. Mr. Brown said Mr. Roenigk's report was necessary.

ITEMS FROM THE COUNTY ATTORNEY

Mr. Thurman said he has items for closed session. Mr. Thurman also reported legislation had been passed requiring mental health agencies to merge with other counties to form area authorities which must contain a minimum population of at least 500,000. Mr. Thurman said he has documentation from Southeastern Mental Health Center's attorney regarding the merger and asking the counties to appoint the current SEMH Board members to the new entity, to serve staggered terms.

ITEMS FROM THE COUNTY COMMISSIONERS

Mr. Ward thanked Mr. Watson and Dr. Duvall for achieving the new bond rating.

Mr. Rivenbark, who represents the Pender County Commissioner position on Southeastern's Board, gave a history of Southeastern Mental Health. He noted reorganization is ongoing all over the state and SEMH chose partners that were available for partnering.

Mr. Brown said he would like to recognize Chris May of Cape Fear Council of Governments and said the COG does a great job for us.

CLOSED SESSION

At 5:45 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; and 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. Mr. Williams seconded the motion and it was unanimously approved by a 4-0 vote. The Board actually went into closed session at 6:30 p.m. At 7:07 p.m., Mr. Rivenbark made a motion to exit closed session. Mr. Williams seconded the motion and it was unanimously approved by a 4-0 vote. There were no announcements made upon exiting the closed session.

PUBLIC HEARINGS: FIRE DEPARTMENT/BUDGET/ SPECIAL USE PERMITS/ LAND USE AMENDMENT/RESOLUTIONS

17. Public Hearing to receive Public Comment on the Proposed Hampstead Fire Department Substation in Scotts Hill and to Receive More Detailed Information/Facts/Statistics from the Fire Department.

It was noted that this is not really a public hearing, but rather a public comment session. Mr. Brown again thanked and welcomed all to the meeting, thanked the Church for the use of this nice facility, and reminded folks to be respectful at the House of God. Mr. Brown said the meeting was moved over here because of the proximity to items of interest. Mr. Williams made remarks including: They now know more about fire ratings; folks had questions, and they have all the players here that can answer the questions; and ½ of fire tax of this area goes to Hampstead and ½ to New Hanover County. Mr. Collins said most of Scotts Hill District is covered by New Hanover and New Hanover will soon have a 4 rating. Mr. Williams said that is how we got to this part. Mr. Collins introduced the Fire Discussion Panel which consisted of: Lynn Lanier-Hampstead VFD; Bryant Waters-Department of Insurance (DOI); Charles Newman-Pender Fire Marshal; Donnie Hall and Matt Davis-New Hanover Fire Dept.; Bruce Sandy-Pender Communications; David Stancil-Pender EMS; and Warren Lee-New Hanover EM. Mr. Waters explanations included: ISO ratings; response times; requirements by the DOI; how to improve ratings; New Hanover's rating versus Hampstead's; the process of getting lower rates; and what has to happen if you build a substation. Mr. Collins distributed a chart with some insurance companies' premiums on it, demonstrated the Scotts Hill Fire District line, and demonstrated where the proposed substation would be located.

Citizens were allowed to speak and ask questions of the panel. Some of the comments and questions are as follows:

William Wicks asked if emergency medical services would be provided and it was explained that Hampstead Fire Department now comes as First Responder.

Bob Simon – Hampstead Fire Department is not here to put anything on citizens; rather, citizens requested this.

John Peterson – With respect to the impact on insurance rates, this is more of a safety issue for him; and he wants someone to address the taxes they pay. Mr. Williams again explained right now ½ goes to New Hanover and ½ goes to Pender – either way the taxes go, these responders don't stop at county lines.

Milford Smith – Experienced an actual house fire; recognized Mr. Lanier and other firefighters in the area; want responders as close as possible.

Cora Howland – Six years ago they had a small fire; Hampstead VFD saved their house; Ogden was out on another call; and had been told their insurance bill went up because of the ISO rating.

Barbara Nelson – She lives right at 4.9 miles from Porter's Neck; effective July 1, her insurance premium will go down by \$823 with the 4 rating, but will go up by \$412 with the 7 rating; savings will be really significant as of July 1; and the Scotts Hill community will easily save a quarter of a million dollars in insurance premiums.

In response to a question from the audience, Mr. Lanier explained how the Hampstead Fire Department is staffed and how the future one in Scotts Hill would be staffed. Mr. Williams explained: a lot of our fire departments have paid personnel; volunteers are getting harder to find; the whole climate is changing; and the fire departments are coming to the Commissioners asking for help.

Bryant Shephard of Maple Hill – He understands Maple Hill's tax rate will go up to \$.11 and no one has been over to talk to them. Mr. Ward said he will get with Mr. Shephard and give him explanations.

Freddy Justice – Concerned about if the fire department gets a call and there is only one engine in the area. The response was someone has to always be on guard, and a district can't be left unprotected. Mr. Lanier said one man will roll out and by the time he gets there, others will be responding.

Mike Harrison asked about the size of station, the cost and how are we going to pay for it. Mr. Lanier explained the total costs and financing of the project. Bob Reid added 2 ½ years ago, the building could be built with the tax rate remaining the same. He said Scotts Hill Fire District will support the building of the building.

Mr. Ward asked for a show of hand of people who live in Scotts Hill Fire District.

Jimmy Suggs – Thanked the Board for bringing the meeting here; thanked the panel for coming to answer questions; said Hampstead and New Hanover are dedicated; asked that in light of the fact that this area already has good service, are there any other areas close to Hampstead that a substation would better benefit; and if we could get an agreement with developers to contribute to building a building. Mr. Newman said yes there are other areas that could be identified. Mr. Thurman said there was a site on the west side of Highway 17 once. Mr. Brown asked if everyone

wants to stay with New Hanover, will the fire department be obligated with the property they have invested in and Mr. Lanier responded yes. Mr. Reid explained the money spent to date is \$235,450.

Mr. Brown asked for a show of hands for the ones that want to remain with New Hanover and the ones that want to continue with constructing the substation. More people indicated they want to continue with the substation.

The item will be on the June 4 agenda to be considered for vote.

Mr. Brown asked if anyone else had any questions they needed answered and no one responded.

18. Public Hearing on the Pender County FY 12/13 Submitted Budget.

The public hearing opened at 10:55 p.m. and closed at 11:07 p.m. Dr. Duvall distributed handouts, delivered a Power Point presentation and explained each topic. The presentation was entitled "Pender County FY 12/13 Budget Highlights", and included: FY 12/13 Budget Assumptions; FY 12/13 Budget Summary (Projected); FY 12/13 Projected Budget Summary General Fund Information; Undesignated/Unreserved Fund Balance; Undesignated Fund Balance-Percent of Current Year Expenditures; Undesignated Fund Balance (General Fund); FY 12/13 General Fund Revenue Sources (Projected); FY 12/13 General Fund Appropriations (\$49,614,197); FY 12/13 General Fund Revenues; FY 12/13 Property Tax Revenues; FY 12/13 Property Taxes Distribution \$32,243,274; Tax Rate; Recommended Increased FY 12/13 Budget Spending by County Department; FY 12/13 Pender County Public Schools; Public Utilities; FY 12/13 Public Utilities Budget-Water & Sewer Fund; FY 12/13 Solid Waste Budget; FY 12/13 Capital Improvements; Summary of General Fund; FY 12/13 Fiscal Cost Saving Initiatives; and FY 12/13 Budget Process & Adoption Calendar. The entire presentation is on file with the permanent records in the Clerk to the Board's office. There was no public comment on the proposed budget.

19. Public Hearing and Resolution Requesting Approval of a Special Use Permit by Gold Mine Investments, Inc., on Behalf of Richard E. Hazel, for the Operation of a Sweepstakes Center, Located at 16647 US Highway 17, Hampstead.

The public hearing opened at 11:08 p.m. and closed at 11:20 p.m. Mr. Thurman swore in the witnesses. Planner Ben Andrea explained the Special Use Permit request and demonstrated the location and surrounding properties with maps. Mr. Andrea explained the Land Use Proposed; Property Record Number and Location; Zoning District of Property; Project Description; and Evaluation. With respect to the description, Mr. Andrea said the proposed hours of operation are from 12:00 p.m. to 12:00 a.m. Monday through Saturday, and 1:00 p.m. to 12:00 a.m. on Sunday; and the proposed use would be located in a unit within an existing commercial facility that features a total of four units. With respect to evaluation, Mr. Andrea explained: Advertisements for the proposal have been placed and adjacent property owners were notified; the request is in compliance with the Unified Development Ordinance, 2005 CAMA Land Use Plan, and 2010 Comprehensive Land Use Plan; the site is in a commercial area surrounded by existing commercial uses, some single family residential uses, and one institutional use; and listed the conditions to consider in issuing the special use permit. Mr. Rivenbark asked how far the site is from St. Johns Church and Mr. Andrea said he thinks approximately 400 feet. A gentleman in the audience was concerned about the hours of operation, parking issues and safety for his employees. Mr. Andrea said he cannot address conflicting parking issues among tenants. Mr. Thurman said a certain amount has to be worked out with the tenants and the landlord. Mr. Brown asked if the site has security and Mr. Andrea responded affirmatively. Mr. Williams made a motion to approve the Special Use Permit Request, Mr. Ward seconded the motion and it was unanimously approved by a 4-0 vote.

20. Public Hearing and Resolution Requesting Approval of a Special Use Permit by Claude Harry Fowler, for the Operation of an RV Park, Located on Fowler Lane, Currie.

The public hearing opened at 11:21 p.m. and closed at 11:25 p.m. Mr. Thurman swore in the witnesses. Planner Ken Vafier explained the Land Use Proposed; Property Record Number and Location; Zoning District of Property; Property Description; and Evaluation. With respect to Project Description, Mr. Vafier said the site currently functions as E & H Mobile Home Park with 15 available mobile home lots, and as such, several services are already established. With respect to Evaluation, Mr. Vafier said the proposed use is in compliance with the Unified Development Ordinance, 2005 CAMA Land Use Plan, and 2010 Comprehensive Land Use Plan; and there are no specific conditions to point out. Mr. Brown asked if anyone is opposed to the SUP. No one in the audience responded. Mr. Rivenbark made a motion to approve the Special Use Permit Request, Mr. Williams seconded the motion and it was unanimously approved by a 4-0 vote.

21. Public Hearing and Resolution Requesting Approval of an Amendment to the Pender County Land Use Plan, Future Land Use Map, by Grayling Shingleton, to Reclassify Property's Future Land Use Classification from Conservation to Rural Growth, Located North of Hoover Road on JA Drive, Hampstead.

The public hearing opened at 11:25 p.m. and closed at 11:30 p.m. Planner Ashley Frank explained the Land Use Proposed; Property Record Number and Location; Zoning District of Property; Project Description; and Evaluation. With respect to Description Ms. Frank said the applicant is requesting approval of an amendment to the 2010 Comprehensive Plan Future Land Use Map; the proposed amendment would change one tract totaling \pm 110 acres Future Land Use Classification from Conservation to Rural Growth; the adoption of the 2010 Comprehensive Land Use Plan Future Land Use Map placed the subject property into the Conservation Land Use Classification; the property is located within the Coastal Pender Study Area; and according to Pender County Utilities, the subject property is too far from current water lines to require mandatory connection even if a developer added 100+ lots. Mr. Williams said no one was aware that Mr. Shingleton's property had been put in the Conservation District until recently. Mr. Williams made a motion to approve the Amendment Request, Mr. Ward seconded the motion and it was unanimously approved by a 4-0 vote.

22. Public Hearing and Resolution Requesting Approval to Disinter Graves, Located off Watts Landing Road, Hampstead.

Note: Board members acknowledged the large number of people attending the meeting to hear this item. Mr. Williams made a motion to move the item up on the agenda, Mr. Rivenbark seconded the motion and it was unanimously approved by a 4-0 vote. The item was heard following Item No. 17. The public hearing opened at 9:00 p.m. and closed at 10:25 p.m. Mr. Andrea explained: Owners Robert and Marianne Orr are requesting the consent of the Board to disinter forty-six marked and two unmarked graves within a 0.08 acre cemetery located on their property off Watts Landing Road; the owners are seeking the consent of the Board pursuant to the requirements set forth in North Carolina General Statute § 65-106; and the owners have contracted with an archaeological consulting firm to assist in evaluating the proposed disinterment, movement, and reinterment of the subject graves. The Orrs were seeking to remove the cemetery with reference to Section 4 of the Statute: "By any person, firm, or corporation who owns land on which an abandoned cemetery is located after first securing the consent of the governing body of the municipality or county in which the abandoned cemetery is located." Mr. Andrea explained the Article defines abandoned as "ceased from maintenance or use by the person with legal right to the

real property with the intent of not again maintaining the real property in the foreseeable future.” Mr. Andrea stressed that staff cannot and will not make a determination on whether the cemetery is abandoned. Mr. Thurman’s comments included: The Orrs do not wish to maintain the cemetery, but the descendants wish to maintain it; this issue has escalated into a civil court case; rules were established by special court proceedings; the Clerk of Court can allow descendants to go on the property to visit the graves; if the cemetery goes away, that right goes away; and there are people that have the right to go to the cemetery now. Mr. Brown asked Mr. Thurman for his definition of abandonment and Mr. Thurman responded there is no clear definition of abandonment. Andrew McVey, Attorney for the Orrs, spoke on their behalf. Mr. McVey’s comments included: There was no case from the Appellate Court; the Orrs own the property; the descendants have a right to visit the property but they don’t have a legal right to the property; the descendants don’t intend to use the cemetery in the future; if the Board denies the Orrs, it will be setting dangerous precedents; and the Orrs want the cemetery moved because they are subject to two lawsuits by the descendants. Ms. Orr distributed photos of the cemetery and explained: She has been in court all day; she thanks the Board for letting her speak because part of the reason she was in court was to keep her and her family from speaking tonight; the request to disinter the cemetery is their last resort because they had been abused, sued and harassed for the past eight years; the cemetery is 230’ from her front door; they never blocked anyone from the cemetery; all the people have access to it; the dispute began in 2004 when Robert King said her horses were in the cemetery; Mr. King sued them over a fence, sued to increase hours they can visit the cemetery, sued them over road rights to the water; and they put up a fence but the descendants wanted a different type fence. Ms. Orr’s daughter Laura spoke on behalf of her family. Ms. Orr said Mr. King wanted to use the cemetery as part of a historic project and she offered to move it to his property; and she does have a special interest in the cemetery. Robert Orr reiterated the things Ms. Orr spoke of and said when they brought the property 21 years ago, they had no problem. Attorney Gary Shipman said he represents Robert King and others. Mr. Shipman’s comments included: The descendants’ rights to the cemetery have been recognized by the Clerk of Superior County; in 2005 the Orrs tore down the fence; in 2009 a Superior Court Judge affirmed the Clerk of Courts’ decision; the cemetery is not abandoned; it is sacred and hallowed ground and is protected from interference; his clients have a right to visit without interference; a Judge had asked where the Orrs plan to reinter the bodies and the Orrs attorney couldn’t answer that; and the Orrs brought the property subject to the right of the descendants to visit the cemetery. In response to request by Mr. Thurman, Mr. Shipman distributed information to the Board showing the easement for the descendants. Mr. Ward asked if Mr. Shipman had ever heard of any private cemetery anywhere being protected and Mr. Shipman responded affirmatively. Mr. Brown said it is right for folks to have access to take care of the cemetery, but would it not be the property owners right to determine whether a fence would go upon the property and the type of fence. Mr. Shipman said the Clerk of Superior Court can decide if the relatives have a right to erect a fence. Mr. Thurman said they have a right to reasonable access, a right to maintain the cemetery, and the dispute goes back to the Clerk of Court. Mr. Ward asked why the Commissioners should get involved if it is in the courts. Mr. Shipman said the cemetery is not abandoned and the Board of Commissioners don’t have authority to grant the Orrs the right to disinter it. Mr. McVey commented: There are many misconceptions with this item; the court case with the fence goes back to the 1960’s and the Orrs didn’t own the property then; the Clerk of Court didn’t order a fence be erected; Ms. Briley said if the Orrs wanted to erect a fence, it could be a fence of their choice; Judge Spainhour did not ask them what they intended to do with the grave; Mr. Clauser has done this 150-200 times; and the Orrs do not take the request lightly. Mr. Williams said Judge Spainhour didn’t ask, but he is asking – where do they plan to put the graves. Mr. McVey could not provide a clear answer. Mr. Brown said they should have a plan in place where they are going to put the graves?

The following other citizens spoke:

Bob King – He has grandparents buried in the cemetery; a civil war veteran is buried there; he asked the Orrs to put up the fence after the horses got into the cemetery; the cemetery has been there 100 years; and the Orrs changed the cemetery's name from King to Atkinson Cemetery.

Bill King – His grandfather Arthur William King and his uncle are buried there; he is speaking on behalf of his relatives and friends; he helped his father maintain the cemetery until he went away to college and Viet Nam; his father continued to maintain it until his health failed; the current owners knew the cemetery was there when they bought it in 1990; the dispute started when the horses started coming through the fence; and he has written statements of opposition from others who have relatives in the cemetery (these were given to Mr. Thurman).

Walter Canady – Mr. Canady gave a history of Benjamin Bethea, a veteran who came up from South Carolina who is buried there and asked why Mr. Bethea should be disturbed.

Charles Atkinson – All four of his great grandparents are buried there; the cemetery should not be moved; he has nothing against the Orrs; he is pleading with all to compromise; and who cares about a fence.

Unidentified Lady - Asked Mr. Causer where they would relocate the graves to and he told her they would find a suitable site.

Mr. Brown asked all the people in the audience that have relatives buried in the cemetery to stand and the majority of the audience stood. Mr. Brown wanted to move ahead with the meeting. Mr. Ward said he is not ready to vote because he hadn't heard from everyone. Mr. Brown said they are all saying the same thing. Mr. Brown asked how many folks that didn't speak are for the move. Only a few raised their hands. Mr. Ward said if they put their name on the paper, they should be allowed to speak. Mr. Brown said they are all saying the same thing.

The following then spoke:

Frances King Gressom – She and her sister didn't want the graves moved but they were in agreement with the Orrs; they think it is something personal with her brother; she doesn't think it is all about the cemetery; and the Orrs never wanted anything but a home for their children.

Mr. Williams' comments included: We are just pawns tonight, this should never have come before us; and the Board is being used as bargaining chips for both sides.

Mr. Brown said the two parties need to sit down and let someone mediate them to work out the problems.

Mr. Ward's comments included: He would love for them to go back and talk to defuse the situation; he believes in protecting property rights; he is not ready to make a motion or second with what he sees before him now; he would be ready to agree with Ms. Orr tonight; he doesn't want to see the cemetery moved but she owns the property and pay taxes; he does not want this to come back before him but the Board wouldn't want his decision tonight; and hopefully, the two attorneys can work out something.

Mr. Brown's comments included: He considers a grave a sacred thing; the people that won the property shouldn't have to go through with what they are; others should have the right to visit the graves; he agrees with Mr. Ward that they should go through mediation to try to work something out; some of it is personal; and he would like to delay a decision for sixty days while they try to work it out.

After more discussion, Mr. Ward made a motion to table the resolution, Mr. Rivenbark seconded the motion and it was approved to table the resolution to July 23, 2012 by a 3-1 vote, with Mr. Williams voting in opposition.

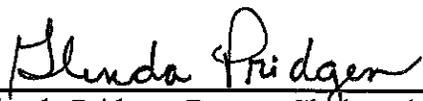
Councilmen Larry Coombs and Ed Broadhurst from Topsail Beach thanked the Board for assisting Topsail Beach and Surf City with Beach Nourishment; protection of tax base interests on the coast; the keeping the inlets open; and the new boat launch.

Maple Hill residents Cindy Moore and Leslie Greene spoke out against the County raising their fire taxes from 4.7 cents per \$100 to .11 cents. Ms. Moore and Mr. Greene noted they are members of the fire department but it would be a hardship on members of the community on fixed incomes. Mr. Williams explained this is not a county request, but one from the fire department. Ms. Moore said they have been deceived then because they were told the opposite. Mr. Brown said the tax increase is not set in stone and things could change before the tax rates are adopted along with the budget.

ADJOURNMENT

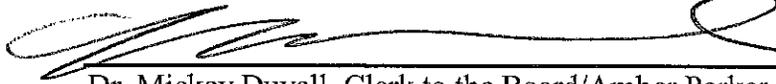
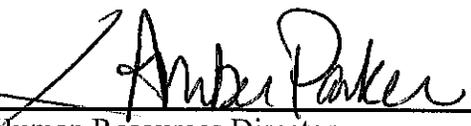
There being no further business, the meeting adjourned at 11:30 p.m.

Respectfully Submitted,



Glenda Pridgen, Deputy Clerk to the Board

Reviewed By:

Dr. Mickey Duvall, Clerk to the Board/Amber Parker, Human Resources Director.

Planning Items Reviewed By:



Planning Staff