

## TUESDAY, FEBRUARY 19, 2013

The Pender County Board of Commissioners met in regular session on Tuesday, February 19, 2013 at the Public Assembly Room, 805 S. Walker St., Burgaw, NC 28425.

**MEMBERS PRESENT:** Chairman George Brown, presiding; Vice Chairman Fred McCoy; and Commissioners Jimmy Tate, Chester Ward, and David Williams.

**MEMBERS ABSENT:** None.

**OTHERS PRESENT:** Dr. Mickey Duvall, County Manager and Clerk to the Board; Trey Thurman, County Attorney; Melinda Knoerzer, 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. and thanked and welcomed all.

### INVOCATION

Commissioner McCoy offered the Invocation.

### PLEDGE OF ALLEGIANCE

Commissioner Ward led the Pledge of Allegiance.

Mr. Brown said there is a last minute item requested to be added to the agenda and since the next Board meeting is not until March 18, it would be best to add it on today. Upon the motion of Mr. McCoy and second by Mr. Williams, the Board unanimously agreed to add the following item to the agenda: Resolution Authorizing Purchase Order for OB/GYN Service Contract for Remaining Fiscal year 2012-2013: \$6,000. It will be discussed later in the agenda.

### PUBLIC INFORMATION

**1. Judge James Faison/District Attorney Ben David: New Anti-Bullying Policy Efforts.**

Both the Judge and the DA were detained in court today and requested this matter be presented at a future meeting.

**2. Craig Stinson, Executive Director, Topsail Chamber of Commerce: Presentation on New Initiatives of the Topsail Chamber.**

Mr. Stinson thanked the Board and introduced himself, stating that he took over last summer. He said they are reevaluating and building programs and their territory is from Hampstead to Sneads Ferry, including the Towns of Topsail Beach and Surf City. He said they are marketing under the new banner "Discover Topsail". Mr. Brown asked about the Town of Topsail Beach's 50<sup>th</sup> anniversary kickoff and Mr. Stinson indicated that he would be working with the Town on that celebration. Mr. Williams noted that Mr. Stinson arrived at a very busy time of the year, and Mr. Stinson said he is originally from this area. He asked the Board to let him know if there is anything their Chamber can do for the County and promised to keep the Board advised of their progress.

**3. Claudia Stack, Head of the Grassroots Campaign to Save the Rosenwald Schools of Pender County: Presentation on Upcoming Events Related to Historic African American Schools in the Region.**

Ms. Stack commended the Board for their efforts to preserve the old Topsail School. She prepared a power point presentation showing the many African American schools still left in the area. She said that by the 1930's, there were 19 schools on 15 different sites throughout Pender County. She explained that the Rosenwald schools were built in the 1920's and 1930's in collaboration between Julius Rosenwald and Booker T. Washington, and except for her work on this topic, there has been no official effort to preserve this segment of history. She showed photos of the following schools: The Vista school next to Manhollow Baptist church on route 17 in Hampstead, Rocky Point Training School, Scott's Hill (Browntown) now a craft store, Currie School on route 210 near 421 (State Architect said this has the most complete interior), Canetuck (now a community senior center), Lee Webb School in Maple Hill (also has complete interior), another in Maple Hill, Willard School (behind the Outreach Center and possibly moved onto that site from somewhere in Watha, Union Chapel Church on Highway 421, and an old photo of the Halfway Branch School. Commissioner Tate said the Willard Outreach and Willard Community has come together and are working to preserve the Willard School building. Some of these structures are on private property and some are on public lands. Ms. Stack invited all to attend some upcoming events starting with a conference at UNCW (Watson School of Education) entitled "Focus on African Americans and Education." She said this would be held on Friday March 22, 2013 from 8:30 am to 2:00 pm. She said this event is being partially sponsored by Pender County Tourism, The Historic Wilmington Foundation, and the State Division of Tourism. In addition, she said there will be a tour of the schools the day after the conference and that registration will be handled out of Wilmington. She said the tour will culminate at Canetuck School at 1:00 p.m. with a luncheon and some entertainment. She said we can find information at her website at [www.underthekudzu.org](http://www.underthekudzu.org). Chairman Brown stated that folks in these communities held fund raisers to build these schools, and when asked if there were any taxpayer dollars involved, Ms. Stack responded, "no". He asked who owned these schools originally. Ms. Stack said it was a "leap of faith" for the African American Communities who raised the money and built the structures and then turned them over to the local Board of Education. She said the typical funding structure was that the local community raised 20% and that was matched by 20% from the Rosenwald Foundation, with the balance coming from the schools. While the schools owned them for a period of time, they were auction off in the 1950's.

**4. Woody Sullivan: Pender EMS & Rescue, Inc.-Fund Balance Disbursement.**

Mr. Sullivan said he is here to request the annual fund balance distribution. He said there is \$265,000 left from June of 2012 and they prefer to take payment now since they acquired the 15 acres of land surrounding their new building. He said they had challenges with the site work on the new EMS Building in Burgaw and this will help with that. Mr. Williams noted that there was an effort afoot to get the legal issues resolved. Mr. Sullivan explained the history of problems in the parking lot and problems with the warranties on the heating and air handlers in the building. He said they have hired a forensic construction expert and have almost \$200,000 in claims. He said they were able to negotiate a good price on the 15 acres surrounding the building and now they can expand the retention pond and use extra land for drainage mitigation. Mr. McCoy said he was surprised they were permitted to build there in the first place. Mr. Sullivan said it passed all initial evaluations and if everyone listened to each other during construction, we would not be in this situation. He said that out of all the buildings he has built, this is the first with any problems. Mr. Williams said that when the building is functioning as it was built to function, it will be an excellent facility. Mr. McCoy asked about pre-engineering and Mr. Sullivan

responded that all that was worked out pre-construction. Mr. Sullivan said he has also had a nightmare with 6 liter diesel engines on Ford trucks not lasting 100,000 miles, and Ford is not backing the warranty. He stated they have blown six engines in ambulances since the beginning of the fiscal year. He said they have purchased five ambulances since July to get the chassis to use in rebuilding them as gasoline burning (V-10) engines. Mr. McCoy asked again about the 15 acres and Mr. Sullivan said that it will help with drainage, as they can now build a traditional French drain system and they can now put swales in. He said they had to build a retention pond because they disturbed more than one acre of land in the original construction. He said the cost of repairs to the parking lot was \$160,000 and the HVAC system rework is now up to \$25,000. Mr. Williams said the center is still well located and the collaboration of the County and Pender EMS on this project was very good. Mr. Sullivan said one of their fears was that another structure might be built in front of them and drainage directed at them. He stated that by owning the surrounding lands they now control all of that. He said they were able to purchase the land for \$480,000 and it appraised for \$840,000. Mr. Ward asked where the money is coming from and Mr. Sullivan said from excess money not paid out to contractors and based on growth in collections from prior years. He said it varies from \$150,000 to \$300,000 and this year happens to be \$265,000 in "leftover money." Mr. McCoy asked who the civil engineers were that worked on this project and Mr. Sullivan said that Walton Engineering and ECS did initial engineering, but this was a USDA project and many other engineering firms were involved with soils testing, bore testing, etc. Mr. Tate thanked Mr. Sullivan for meeting with him and stated he attended their board meeting last week. He said he heard the drivers talking about the need for vehicle repairs and said it is very important to make these repairs. As for land acquisition he said that stands to save this Board and this County money. Mr. Tate said he offers his full support especially after what he learned in the meeting. After a brief discussion, it was determined this had to be added to the agenda. Whereupon Mr. Tate made a motion to add this item to this agenda and Mr. Williams offered the second. The motion passed unanimously. Mr. Tate then made a motion to approve the disbursement of these funds, which was seconded by Mr. Williams. Mr. Ward then asked Mr. Watson to verify he has discussed this with Mr. Sullivan and Mr. Watson confirmed this will help Mr. Sullivan's balance sheet. Mr. Sullivan also said that the experts they have hired have a high degree of confidence that this is what needs to be done. The motion was approved by unanimous vote.

## **PUBLIC COMMENT**

No one signed up to speak under Public Comment.

## **CONSENT AGENDA**

Mr. Brown presented the six items on the Consent Agenda and asked for any discussion or questions. There being none, Mr. Tate made a motion to approve the consent agenda, Mr. Williams seconded the motion and the Consent Agenda was unanimously approved as follows:

5. Approval of Minutes: Regular Session of February 4, 2013.
6. Resolution Accepting Petition to Add Asa Lane in Long Creek to the State Maintained System, and Authorizing the County Manager to Submit the Petition to N.C. Department of Transportation.
7. Resolution Approving Budget Ordinance Amendment for Low Income Energy Assistance Program (LIEAP): \$53,672.
8. Resolution Authorizing Purchase Order for Medical Transportation Services: \$100,000.
9. Resolution Authorizing Purchase Order to Phoenix Rising Advertising for the Design, Printing and Shipping of 35,000 Pender County Visitors' Guides: \$13,855.

February 19, 2013

Page 3 of 16

10. Resolution Adopting an Order for the Tax Collector to Advertise 2012 Taxes.

## RESOLUTIONS

11. **Resolution Supporting Legislative Goals Adopted by the Membership of the North Carolina Association of County Commissioners (NCACC) at the NCACC 2013 Legislative Goals Conference.**

Dr. Duvall said he attended the NCACC 2013 Legislative Goals Conference to represent Pender County as the voting delegate. He summarized the top five goals that were adopted and said he voted in favor of all of them. He detailed discussion of the Top Five Goals for 2013-14 as follows: Oppose shift of state transportation responsibilities to counties; reinstate ADM and lottery funds for school construction; oppose unfunded mandates and shifts of state responsibilities to counties; ensure adequate mental health funding; and preserve the existing local revenue base. Chairman Brown said there is \$4 million in HAVA funds being held at the federal level and if they were released that could be very beneficial. Mr. McCoy made a motion to approve the resolution, Mr. Williams seconded the motion and it was unanimously approved.

12. **Resolution Amending the FY 12-13 Budget Ordinance Authorizing Additional Funding for Jail Contract Detention: \$170,000.**

Sheriff Carson Smith said everyone is aware of the overcrowding situation in the jail. He said that at the beginning of FY 2012-13 they had an inspection and as a result, immediately had to move folks out of the jail to other counties. He said the figure estimated at budget time was \$140,000 but that has been exhausted and they are now asking for an additional \$170,000 to last through the end of this fiscal year. He said they average a dozen to 14 inmates per month. He said others who are a security risk or who need psychiatric assistance go to "Safe Keeping" at Central Prison, where they have a medical ward on site. He said the cost for this care is \$120/day. He said they have done their best to estimate what would be needed to get them through the end of the year and came up with \$170,000. He said they propose to take this out of the contingency fund. Mr. Williams said he hoped we were close to taking the next step to deal with the overcrowding situation. Sheriff Smith said they had one weekend where 24 people had to go out because of jail maintenance issues. Chairman Brown said that this total of \$310,000 would go a long way toward a down payment on a new jail. The Sheriff thanked the board for their willingness to pursue construction of a new jail. Chairman Brown asked total cost over the past few years for this expenditure and the Sheriff said they could come up with those figures. He recalled that two years ago, it was under \$200,000 and in prior years it averaged \$50,000 to \$60,000. Mr. Tate asked why they could not foresee the need for an additional \$170,000 at budget time and the Sheriff said that after the jail inspection in June of 2012, after the budget was approved, the State required them to move people out. He said they had inmates on cots and had to move them out. He said that starting immediately, they had to spend more per month than was budgeted. Mr. Williams said because of inmate classification, they must keep certain inmates separately. Mr. Tate asked if the County is reimbursed for federal prisoners being housed and the Sheriff responded that they are not taking on any outside prisoners because we don't have room for the regular inmates. He said with the new jail, since it will be built for many more to be housed in the future, there will be excess capacity. Mr. Tate asked if any of this \$170,000 goes to facility maintenance and the Sheriff said, "No, all that money goes to pay outside agencies to house our inmates." Mr. Tate asked, since we are looking at building a new jail facility, could some of the maintenance items be deferred? The Sheriff responded that these are all emergency maintenance items, such as leaking pipes, etc. He said even if we start the engineering process today, it will take three years to get the jail built and they must provide a safe area in the interim. Mr. McCoy asked if other Counties do this. The Sheriff listed a few

that have new jails, indicating that we have one of the oldest facilities in the area. Dr. Duvall said currently there is \$510,000 in contingency, which after this \$170,000 leaves \$340,000 left in contingency. He said he has an additional funding item to discuss later in the meeting. The Sheriff said we pay \$40 per inmate per day to New Hanover and \$50 to Brunswick County. He said Onslow has a higher rate than New Hanover and Brunswick at \$60 per inmate per day. Mr. Tate made a motion to approve the resolution, Mr. Williams seconded the motion and it was unanimously approved.

**13. Resolution Approving Contract and Purchase Order for Design and Associated Services for the Development of Millers Pond Park.**

Planner Dee Turner explained that the County has received a trust fund grant for development of this park in September of 2012. She clarified the amounts involved and explained that the total grant is \$325,090, of which \$162,545 is coming from the State and \$162,545 is the match from the County. For phase I they need to hire an engineering firm to obtain permits and create documents for construction. She said they solicited firms in the form of a request for qualifications which a review team subsequently narrowed to three firms that were interviewed. She said Coastal Land Design was chosen to perform duties listed in the proposed fee schedule attached with the resolution, in an amount not to exceed \$25,000. She said this amount is budgeted as part of the PARTF grant, and introduced Mr. Frank Braxton from Coastal Land Design, whom she said is here to answer any questions. Mr. Brown clarified that this work will include a picnic shelter and rest room lighting, a play area, extra pier, canoe/kayak launch. Mr. Tate said he had the opportunity to visit the park and it is very nice. Mr. Brown agreed it is a great place to take the family and enjoy the outdoors. In response to Mr. McCoy's question, Ms. Turner estimated the depth of the pond is about six to seven ft. Mr. Tate made a motion to approve this item, which was seconded by Mr. Williams and carried by a vote of 4 to 1 with Mr. Ward voting in opposition. Mr. Ward asked about the structure of the parks and recreation department. Ms. Turner said the Division of Parks and Recreation is under the Planning and Community Development Department. Mr. Brown gave a brief history of how it was combined with Planning. Mr. Williams asked about flagging off the field at the ball field at Hampstead Kiwanis Park.

**14. Resolution Authorizing a Contract with and Purchase Order to Carolina Property Maintenance and Landscaping for Mowing of Solid Waste Sites: \$6,320.**

Utilities Director Michael Mack explained that it has been two years since we bid this, and that a bid was solicited in January to mow all thirteen sites and twelve bids were received. He said a copy of the proposed contract is attached, requiring mowing every two weeks for six months. Mr. Mack said we were nervous about the winning bid as it was half of what we have paid in the past, but all references checked out well. Mr. Tate asked if this was bid with underutilized business considerations. Mr. Mack said that was not a requirement of the bid proposal. Mr. Ward asked about trimming the bushes at the Highway 17 Hampstead convenience site. It was discussed that the County maintains them and they can be cut back. Mr. McCoy said the rocks have washed out and pot holes have developed at the Whitestocking site. Mr. McCoy asked how many sites are leased and staff responded "seven are leased and six (including the Transfer Station) are owned." Mr. Mack stated we have a budget to maintain those sites and we work with Waste Industries who alerts us when attention is needed. Mr. Tate made a motion to approve the resolution, Mr. McCoy seconded the motion and it was unanimously approved.

**15. Resolution Adopting Animal Shelter Policies and Procedures.**

Darlene Clewis, the new manager of the Pender County Animal Shelter, came forward and announced that they are proposing new policies and procedures for the facility. She said these policies were developed with the assistance of Dr. Duvall and Human Resources Director, Ms. Mulhollen. Dr. Duvall said that he and Chairman Brown visited the Brunswick County Animal Shelter which is a very well run facility, and they borrowed some of the policies from them. He said this is a living document and will require changes along the way but is a good foundation and a good start. He said there is a proposed waiver of liability, policies and procedures, and volunteer procedures manual. When asked if the attorney had a chance to review these documents, Mr. Thurman stated that he had and proposed to change the waiver language to reflect that "Pender County" and not the animal shelter is the beneficiary. He said the animal shelter is not a separate legal entity. Ms. Clewis said she also toured the Brunswick facility and took their orientation. Mr. Tate asked if they have an agreement with a vet now to evaluate animals to determine if they are "save-able and Ms. Clewis said "Yes". He asked who pays for this service and Ms. Clewis said with donations, fund raisers, and the County. He then questioned the requirement for telephone with employees. He said the policy states they shall be available by phone and Mr. Brown asked how you could require the employees to have a telephone. Mr. Tate wanted to make sure that the County Personnel policy reflects what is in this proposed document. He asked if that is for new or existing employees. Ms. Mulhollen came forward to clarify that as of now that is not a requirement per the job description, but will amend the policy if approved here today. Mr. Thurman said the policy states they must have a home phone, but that could also be satisfied with a cell phone. Mr. Thurman cautioned that "on call" time could give rise to "overtime." Mr. Williams suggested deleting that part and moving forward with the rest. Mr. Tate said he wants to make sure these policies reflect the overall personnel policy. Mr. Ward asked Dr. Duvall who is in charge of the Shelter. Dr. Duvall said that Ms. Clewis is answering to the County Manager and she is running the Shelter. Ms. Clewis said there are a total of two full-time and one part-time attendant. Mr. Ward stated that control was given to the County Manager's office from the Sheriff's department. He asked if Dr. Duvall hired Ms. Clewis to manage the shelter, and he responded that he needed a manager to run the facility and she had been there for 17 years, so he put her in that position. He asked if the position was offered to anyone else, and Dr. Duvall responded, "No, but that is something we can do in the future." Mr. Ward then asked about Article XXV "Animal Shelter Fees", asking why the fees can be waived at the discretion of the Shelter Manager. Ms. Clewis said when the shelter is full they do free adoptions rather than euthanasia, but still charge the \$6 for rabies vaccination. She said if officers bring in an animal and the owner pays a citation fee, she does not charge them the redemption fee. Mr. Ward asked if this could be changed and Mr. Thurman said, "yes." He asked if we keep records of those who adopt and Ms. Clewis responded in the affirmative, stating that Chameleon is the program that keeps up with adoptions. Mr. Ward said he thinks people need to pay this as part of becoming a responsible pet owner and that everyone must be treated the same and fairly. Mr. Williams said he agrees with Mr. Ward in that we need to remove the "politics" of this issue and treat everyone the same. Mr. Tate asked if there is anything this document does not do for her. Ms. Clewis stated she is trying to implement some new policies and procedures, including plans to have a mandatory orientation every six months and to require volunteers to adhere to the written policies. Mr. Brown stated that those rules are in there so if approved, this document would resolve those issues. Mr. Tate said he and Mr. McCoy have received numerous e-mails lately regarding the animal shelter. He said in the past they were always very complimentary but have become more negative lately. He asked what he should do about those e-mails and Ms. Clewis responded that he should stop addressing them, and instead forward them to her and she will respond. Mr. Brown said these guidelines will give

her the authority to apply all of these policies at the shelter. Mr. Tate asked what is being done with social media and asked if it is being utilized to market these animals. Ms. Clewis responded that they recently hired a person who comes in 19 hours per week as an office assistant and they take pictures for Pet Finder, Pet Harbor, FaceBook, and Paw Prints (print media). Mr. Tate expressed concern that new policies should reflect a requirement to post the animal's photo as soon after the three day hold as possible. Mr. McCoy asked for confirmation that they do not put certain breeds down because of their breed and Ms. Clewis said that has never been done at the shelter. Mr. McCoy said he was very impressed with the Animal Shelter. Mr. Ward asked what the purpose of the animal shelter is and Ms. Clewis responded that it is to take in stray and unwanted animals. She said they also accept those brought in to avoid them having to be caught and brought in later. Mr. Ward said he is hearing a lot of other functions. He said that when the sheriff was involved, they asked for people to clean the facilities and he does not want to see someone hired just to take pictures and to put items on social media. Mr. Ward said he has not received any e-mails and asked for a copy of all e-mails referencing the animal shelter. Mr. Tate, referring to Article II, asked for stronger language to make it a requirement that after the three day hold pictures would be posted within 48 hours. Mr. Williams said he also thinks that all fees should be mandatory and not "waived at the discretion of the Shelter Manager" because that opens up the process to controversy. Mr. Tate said that approval of this item will affect current employees' job descriptions and that needs to be clearly communicated. He said he is hearing that all people working out there do not understand their job descriptions. Mr. Ward asked if this is a shelter policy or employee policy. Ms. Mulhollen said there is also a separate volunteers section. Mr. Tate asked who in the County Government Organization has had a chance to review this policy before tonight. Ms. Mulhollen said that since the Sheriff Deputies interact with the Animal Shelter, they need to have a chance to review it. Dr. Duval said these policies separated the Animal Shelter from Animal Control, but they clearly need to interact. Mr. Tate said that any time a policy affects other departments they need to have a chance to review and "buy in". He said he does not want that to hold back this approval, and since this is a work in process we should go ahead and approve it so that they can begin to be implemented. Mr. Tate asked the frequency of the orientation and Ms. Clewis said she planned to offer it once every 6 months. Mr. Tate said this language needs to be incorporated into the policy. Mr. Ward asked that the language provide for orientation at least twice per year, alternating venue on the east and west side. Mr. Tate made a motion to approve the policies and procedures with the following revisions:

- 1- In the waiver language, change all references to "Pender County Animal Shelter" to "Pender County".
- 2- Article II, add to the last sentence reading "No pictures will be taken, posted or advertised until after a three (3) day hold", add - "and thereafter pictures shall be posted on social media within 48 hours".
- 3- Add that "Orientation shall be held two times per year, alternating the venue between the east and west side.
- 4- Article XXV, Remove all references to "Fees waived at discretion of Shelter Manager"

Mr. Williams seconded the motion and it was unanimously approved.

## **DISCUSSIONS**

### **16. Discussion of West Pender Rail-Trail Project and Options for 2011-2012 Recreational Trails Program Grant Contract.**

Planner Ben Andrea said he was here two weeks ago but the Board did not want to make a decision in Chairman Brown's absence. He reviewed the history of this project and provided a

Power Point presentation. He said the current grant entitled "The First Mile" is in the amount of \$72,404 and it expires on November 13, 2013. He said the matching funds consist of \$495 in volunteer time and \$17,606 in cash. He showed a map of the area of known as the East Coast Greenway and discussed its potential to link the future employment center, Pender Commerce Park with other areas of residential and commercial development. He said the end goal was to create just over 1 mile of a linear part. He said the only area focused on is the land at Pender Commerce Park, and described the trail in detail. Mr. Andrea said that where we have an issue is the effort to reconnect the rail line, where it terminates near Invista all the way to the Commerce Park along Highway 421. He said this was not an issue when the grant was applied for but came up after the contract was executed. He also said that a couple of weeks ago we received notice that an EDA grant has been awarded for the feasibility study on connecting the railway. He said the former rail corridor reverted back to adjacent property owners, and the former rail corridor also runs through one commercial parcel where they prefer to have the rail run behind their property. He said the MPO has passed a resolution to designate US Highway 421 as a Strategic Highway corridor, and he received information that this would likely NOT negatively impact the potential trail. Both RPO and MPO have passed resolutions of support encouraging DOT to undertake a feasibility study for a greenway connecting Wilmington and Fayetteville. Mr. Andrea said that back in December he inquired about changing the location of the trail with respect to the grant and was told that we could submit a project amendment but it would likely be denied. He said the grant will look heavily at the terminus points of trail and we have no valuable aspects such as a park, neighborhood, school, etc. Mr. Andrea outlined the options as follows:

- 1) Move forward with the contract as written and complete the work by Nov. 13, 2013. He said for this to happen staff would need to move quickly.
- 2) Cancel the contract which would allow for completion of rail study and to evaluate the conflicting uses. He said this could also be an opportunity to create the trail head and to save some money and allow time to deal with the parking issue.

He said the MPO planning boundary has recently changed which offers additional funding options and more personnel to help with planning. Mr. Williams thanked Mr. Andrea for running through this again. He said things have happened since we started down this road and he does not want to get caught up in going for short term gain. He said this is still a trail to nowhere and he is an "Option 2" guy. Mr. Andrea said that cancelling the contract now will not negatively affect our ability to get grants for this project in the future, as they are receptive to how the circumstances have changed since the inception. Mr. Brown asked about the contract deadline and Mr. Andrea responded that it expires November 13, 2013, having been applied for in 2011. Mr. Brown explained how if the County could bring rail service to that parcel it would greatly benefit our park. Dr. Duvall recounted discussions with Progress Energy, who is talking about moving their substation to within our park as a good first move on the rail study. Mr. Brown said we have seven to eight miles of water lines under encroachment agreements, along Highway 421 DOT right of way, and that may be a good place to put the walking trail. Mr. Williams said we can still support the project and not support this grant because the grant requires the trail to go in a specific location that could compromise the rail study and we don't want to paint ourselves into the corner. Mr. Brown said the last vote this Board took on this matter was to confirm that trail in the location designated by the Rail/Trail grant. Mr. Andrea said the Board does not have to vote to cancel the contract today, but if they wish to move forward, staff must begin quickly. Mr. Brown said we are putting off the inevitable and must make this decision. Mr. Tate said it sounds like it comes down to which effort we want to

support, the trail or the rail and that we can support the trail but not the funding mechanism for the trail. Mr. Tate said it sounds like the Board supports the trail so if we revert the grant back, is the board willing to continue in support of the trail. Mr. Williams said he is not ready to support it under those terms. He said it is supported in all of our planning documents and the Parks & Recreation plan. Mr. Brown said that if we do nothing, the grant will just expire. Mr. Tate said we owe it to the grant source to let them know if we are not going to use it. Mr. McCoy suggested moving it to the next meeting so he can get more information on this. Mr. Andrea said the two grant programs are not mutually exclusive in that both can be supported. Planning Director Kyle Breuer came forward and said if they vote to cancel the contract he would draft a resolution stating that and indicating this Board's continued support for the concept of a greenway trail. Mr. Williams made a motion for option, two including all of Kyle's language, Mr. Ward seconded the motion and Mr. Tate asked why this item was listed as "Discussion" if we needed a decision, same as the next item. He said this is very confusing to the public. Mr. Brown said we now need a unanimous vote to put it on the agenda, but it sounds like someone will not support. There was a motion made by Mr. Williams, but no second to put it on the agenda tonight. Dr. Duvall stated that some of these items he does not want them to have to vote on until after they can discuss it. Mr. Breuer stated that he would bring a resolution back on the next agenda.

**17. Discussion and Possible Adoption of School Security Proposal.**

No one from the schools was present to address this item. Mr. Ward said we have to discuss this now because when the schools came here during budget time, we discussed the resolution and we told them we would discuss this at our meeting. Dr. Duvall said they proposed two School Resource Officers (SRO's) for just the elementary schools, or seven SRO's, which would put one at every school, at \$30,333 per month (\$121,333 for the balance of this school year) or \$364,000 per year, plus the security cameras at \$107,000. Mr. Ward said he is not in favor of the security cameras because only a person with a gun will stop another person with a gun. Mr. Tate asked if we could add this to the agenda and vote on it tonight without further delaying the decision. Seven SRO's includes one for the early college. Mr. McCoy said he cannot vote for seven SRO's tonight. He indicated there may be some retired police officers willing to volunteer time. Mr. Ward said you don't want to hire volunteers because you don't know why they left their place of employment. There was a brief discussion of the amount left in Contingency. Mr. Ward said a vehicle is not necessary for the SRO, indicating that when he was an SRO he did not have a car; however, the downfall is that you want that presence to be a deterrent. A motion to place seven SRO's on the agenda for a vote by was made by Mr. Ward and seconded by Mr. Williams. Mr. McCoy voted in opposition therefore it was not added to the agenda.

**18. Discussion of Scotts Hill Fire District Substation.**

Mr. Watson said this is a discussion item because the resolution was passed on June 18<sup>th</sup> to enact the tax to pay for the land and to transfer the property in the name of the County. He said since that time, things have changed and Hampstead Volunteer Fire Department (HVFD) prefers to keep the land in their name. Mr. Williams said that a tax was enacted for a very specific purpose and there are only three people in this room who voted to enact that tax for that purpose, so he will defer to them. Mr. Watson stated that he had been speaking with Zac Snyder, the First Citizen Banker on this and he verified with the Local Government Commission (LGC) what needed to be done for the financing. He confirmed that the land is presently in the name of the HVFD despite the prior decisions of this Board to acquire this land for future use by the County. Mr. Watson said that sometime in late July, Mr. Snyder left the local First Citizens branch and communications began to deteriorate. Mr. Watson said some time later, Mr. Bob Reid of HVFD

contacted him wanting to get their money back for the reimbursement of the land purchase and their out of pocket expense and he informed them that this could not occur until the financing was in place. Mr. Thurman spoke with HVFD attorney from New Bern who indicated he would discuss this matter with his client, but he never returned a phone call. Mr. Thurman said a month passed and the attorney did not return a phone call but they became aware that a closing was pending. Mr. Thurman said he was mad with the attorney and felt like he had been "played". Mr. Brown said the land needs to be put in Pender County's name. Mr. Watson said he believed the HVFD financing went from a construction loan to a permanent loan, but he has not seen the documents. Mr. Ward asked how long it takes to transfer the land and Mr. Thurman said it could be completed in approximately two weeks. He said that HVFD closed on permanent financing on this lot, contrary to what the attorney represented to Mr. Thurman they would do. He said we were told their financing ended in June. Mr. Watson went to the bank and told them we would be stepping in, therefore was no rush. At the end of the year is when the tax money starts coming in. We have not reimbursed them for anything yet because they said they did not want to go through with what the board had approved. At that point, it was clear that HVFD did not want to do what the Board had voted to do. We agreed to let the fire tax buy the property so that if they ever wanted to put a fire house there they could. Mr. Watson said they are here tonight for direction since they (HVFD) have acted contrary to the vote and wishes of the County. Steve Donatone provided a timeline starting in November of 2009. He started with the vote on June 4<sup>th</sup> following the public hearing in Scotts Hill. Starting with vote on June 4<sup>th</sup> the Board of Commissioners voted to NOT continue with the project based on a petition. Mr. Brown took issue with his characterization that the decision was based on a petition stating that it was not. Mr. Donatone said the primary reason given was the newly learned information that New Hanover Fire Department had obtained a reduction in the ISO rating that is preferential for those in the Scotts Hill community. On June 18, 2012, the Board voted on the fire tax increase (1.2 cents) to cover the land purchase and the expenses. The HVFD was advised that the Memo of Understanding (MOU) had some technical problems and was being revised by the attorneys. This was addressed in a memo to Bob Reid from County Finance Director, Butch Watson. He said it provided that the final version would include signature lines for Pender County, New Hanover County and the HVFD. He said the "HVFD Board of Directors never received the MOU, and therefore never held a vote on it and in August of 2012 all invoices for the sale of the property were turned over to the County Finance Director". He said on September 11, 2012, having never received the final MOU, the HVFD Board of Directors voted to retain ownership of the land for use as a potential future fire department substation. He said the asking price was \$209,000 and they negotiated a sale price of \$155,000. Mr. Williams asked if it ever occurred to them to pick up the phone and call him, since he had defended the HVFD all the way through this matter. He said he was surprised no one called him. Mr. Donatone said there are communication problems on both sides of this issue that are not good. He said the HVFD Board learned they had a fiduciary responsibility that runs counter to relinquishing it for less than the purchase price, since it increased in value. Accordingly, they voted to retain the land. Mr. Williams said that by now the land is yours and the County cannot take it, and that HVFD has "drawn a line in the sand". Mr. Donatone said he is here for a discussion, not to play games and disputed that any line had been "drawn in the sand". Chairman Brown asked him to hurry up because he had some things he would like to say. Mr. Donatone continued that on October 1, 2012, the general membership of the HVFD voted to retain ownership of the land, and on October 24, 2012 the HVFD met with the County Manager and Finance Director and advised their intent to keep the property. He said this reduced the reimbursement amount from \$235,000 to roughly \$69,000 and reduced the tax burden for residents of Scotts Hill from having to pay the additional 1.2 cents fire tax for less than three years instead of over nine years, and he said that

both the County Manager and the Finance Director expressed support for this approach. He said we agreed that if any legal work needed to be done the County Attorney would contact the HVFD attorney, but apparently that was not communicated to the Board of Commissioners. He further stated that on October 31<sup>st</sup> the interest only note was reaching maturity and could not be extended and the HVFD modified to a conventional loan at 2.95%. On Nov. 14, 2012, the HVFD and Pender County attorneys talked and Pender County was again informed of the HVFD intention to retain the property, or so they were told. Attorney Thurman said he cannot speak to what Mr. Donatone just said but he (HVFD attorney) "never said that". Mr. Donatone said he is merely relaying what the HVFD attorney told him and he "did not want to get in the middle". Mr. Williams said, "Well you already are". Mr. Donatone continued, "On January 13, 2013 I received an e-mail from Commissioner David Williams asking for his take on an e-mail he had received from County Manager Mickey Duvall providing a copy of a letter sent to HFVD advising that since County Commissioners had voted on June 18 to reimburse the expenses of the HFVD through additional tax on Scotts Hill residents, the County Manger could not act upon HFVD's intention to retain the land." Mr. Donatone said he "responded the next day advising him of the October 24<sup>th</sup> meeting with the County Manager and Finance Director and he did not know where the communication breakdown had occurred" or that the Board of Directors of the HVFD had to get permission to retain or sell the land. He said he went on to advise that the Board of Directors of the HVFD had a fiduciary responsibility which they take seriously. He said they assumed that County Manager had advised the Board of Commissioners of the meeting with the HVFD. He said he next learned that a meeting was set for January 28<sup>th</sup> between the County Manager, Emergency Management Director Tom Collins and the Financial Director, and he asked David Williams to attend, however Mr. Williams was unavailable due to a planned vacation. He said that Chief Lynn Lanier, Bob Reid and he had met with the County Staff and once again there was agreement that the HVFD would retain ownership of the land and a significant reduction in the reimbursement from \$235,000 to \$69,000. Furthermore, he said it was agreed that Tom Collins would draft a resolution for presentation at a future Commissioner' meeting to finalize their understanding. He said they decided to report the outcome of that meeting directly to David Williams and George Brown, which they did in the form of an e-mail on February 7<sup>th</sup> and on February 8, 2013, he received a response from Chairman Brown saying "WOW, I was unaware that a vote of the HVFD could reverse a decision of the County Commissioners". He said Commissioner Williams advised he would discuss the matter with Chairman Brown and later reported that he agreed with Commissioner Brown and there would be NO resolution, but instead a discussion of what happened since the June, 2012 vote at the next Commissioner meeting. He said the Board of Commissioners never provided a finalized version of the Memorandum of Understanding and the HVFD is a not for profit with fiduciary responsibilities that they can be sued for breach of that responsibility. He said there are currently homes under construction in the HVFD service, proximate to the location of the land and there will soon be a need for a substation on that land. He said the HFVD has initiated a review of their ISO rating and depending on outcome, the current Homeowner cost difference for Scotts Hill residents may disappear, but ultimately building of the substation will be up to the people of Scotts Hill. He said "It is clear that the County Manager and the County Finance Director agree with the logic of the HFVD retaining the land and reducing the reimbursement" and "I would have to believe that the residents of Scotts Hill would not object to having their additional 1.2 cents fire tax go away in under three years, rather than over nine years". In a discussion with Mr. Tate Mr. Donatone said that over two meetings with County Staff no one expressed "objection" over the land being retained by the HVFD. Mr. Williams said that having "no objection" is not the same as "agreeing". Mr. Watson said staff told them we would bring the idea to the Board of Commissioners, but we did not have the authority to change what they voted on at the June 18<sup>th</sup>

meeting. Mr. Donatone said whether the current arrangement of sharing fire fighting responsibilities with New Hanover continues or not is up to the citizens of Scotts Hill and in any event, the substation in that location will allow for faster response times. He said the bottom line of the HVFD mission is the safety of the citizens of Pender County and their property and they know that a substation will need to be in that location. He said they want to make sure beyond all doubt that this land is available for that purpose, and while he does not envy them their jobs, the Board of Commissioners have a variety of competing priorities where they have but one. He said they want to make sure that this land is available for a substation and retaining ownership is the way they can accomplish that. Mr. Brown said they also have an obligation to Commissioners when taking tax money they have voted to give you. Mr. Brown asked Mr. Donatone if he was unaware of the intent of this Board when they passed the June 18<sup>th</sup> vote and he said "No". Mr. Brown said, "when you came to talk with David Williams and I before a meeting months ago, before you voted to retain ownership (in the side conference room) you said you wanted the people of Scotts Hill to continue to pay for the property while HVFD retained ownership. Mr. Donatone denied he said that stating, "you are putting words in my mouth". Mr. Brown continued that he was not putting words in his mouth and said Mr. Donatone said he wanted the fire tax to continue paying for the land and HVFD to keep the land and he said to Mr. Donatone, "so you want (to have) your cake and eat it too and that won't happen". Mr. Donatone asked another gentleman in the audience, Mr. Jerry McCaskill, who was in attendance at that meeting if he heard Mr. Donatone say that and Mr. McCaskill said, "No I didn't hear that". Mr. Brown said he must not have been listening. Mr. Donatone asked if Mr. Brown could show anything in writing that even implies this and Mr. Brown responded, "now you're going to say that because it wasn't written the statement didn't take place"? Mr. Donatone said, you said you don't play games but you are playing one now. Mr. Brown said he had heard all he intended to hear from him tonight. Mr. Donatone accused Mr. Brown of playing games and Mr. Brown said he is not playing games. Mr. Donatone asked Mr. Brown if he understands what a fiduciary responsibility is and Mr. Brown responded that he is very convenient with what he thinks his responsibilities are. Mr. Donatone said "I am not convenient with it, I verified it with legal counsel". Mr. Williams said all I hear is "they (County staff) didn't object" and economically the x's and o's make sense, that is beside the point because this board voted to enact this tax for a very specific purpose and this is about public trust. Mr. Williams further stated, "You talk about the money and the long term savings and I am not here to dispute that, I am not going to get into the "he said she said" and I have said the next discussion will be in an open forum. He asked if no one stopped to think that it would have gone smoother if you told us ahead of time that you were going to put this land into your name. He said the HVFD should have told the Board of Commissioners they were getting ready to do this. Mr. Donatone said there were lapses on both sides of the equation. Mr. Brown asked what part of the communication the night we made that vote did you not understand? Mr. Donatone said he understood it. Mr. Donatone said you have accused me of not telling the truth and another person at that meeting said he didn't hear me say that. Mr. Donatone said he respects everyone up there and we can have disagreements, but we don't have to fight over them. Mr. Brown said there is no fight here. Mr. Donatone said it is his belief that people can take your possessions, they can take your money, they can even take your life but they cannot take your integrity, you can only give that away and he resents Mr. Brown questioning his integrity. Mr. Brown said he is not questioning his integrity. Mr. Brown asked Mr. Donatone if, in all the e-mails he has read lately, was he not talking about letting the fire tax continue to pay for the property and you all to retain ownership? Mr. Donatone said "No, maybe that is where the misunderstanding is. The total reimbursement for the 1.2 cents is \$235,000 but we took all costs associated with the land out of that and said we don't want the \$235,000." Mr. Brown said that was the whole reason for the tax. Mr. Donatone

said that tax was still needed for the \$69,000 in expenses. Mr. Ward asked, how much is owed and Mr. Donatone said originally the resolution called for \$235,000". Mr. Ward said "I think we can give them the \$235,000, I am okay with that and with the land because we control the tax rate and can take that out of that tax rate if we need to." He said we set your fire tax rate, so out of that \$235,000 we can fix it so that people won't be charged again. Mr. Donatone said we are not asking for the money for the land and are only asking for \$69,000 for the extra expenses. Mr. Williams said his problem is not the figures at all, his problem is with the public trust because this goes back ten years and he has taken arrows for that Department that they don't even know about and has stuck his neck out many times, and he feels that the public trust has been violated because we voted to do one thing and another thing was done. Mr. Brown said "we passed a resolution and we voted to reimburse you, with the County to take ownership of the property, to protect you, so you would not feel like we had pulled the rug out from under you. I am trying to figure out how in all that you have presented tonight all the emails you sent, all the correspondence and lack of communication you keep talking about how you don't understand that you defied a resolution and in my opinion, that is how simple it is for me." Mr. Brown said at this point you have lost so much of my trust and I don't want you have a substation anywhere, I don't want to have to deal with any of you any more, that's what you have done to my trust, that is how simple all of this is for me." Mr. Brown asked the County Attorney to confirm that the HVFD now owns the substation property and Mr. Thurman concurred. Mr. Brown said, "There is nothing we can do about that-they defied the resolution that the commissioners passed (Mr. Thurman again concurred) and that's the bottom line and (to Mr. Donatone) you are up here defending your position and that tells me something I need to know tonight. Mr. Brown then said he has nothing else to say to Mr. Donatone-he said he is through with this and will be looking at the things he is talking about. Mr. Donatone said you are in charge here and you can set up any rules you want. Mr. Brown said, "I am not setting up rules that I want, I told you how plain it is for me". Mr. Brown asked if anyone else has any comments. Mr. Donatone said "he fully concedes communications should have been more timely, my question is this- we were attempting to save money as well, instead of these people being taxed for the next nine years, we thought this would be a good outcome, the tax is only necessary for \$69,000 and not \$235,000. We fully intend to protect the land for use as a future substation. We thought we were doing something that would be helpful to the County and to residents of Scotts Hill. We may not have handled it as expeditiously or as well as we should have. I understand your point and I understand your anger, but do you understand our motivation?" Mr. Brown said that from now on if there are any serious matters to discuss we will consult the HVFD Board of Directors, I am through with this now and we are moving on to the next item".

**Resolution Authorizing Purchase Order for OB/GYN Service Contract for Remaining Fiscal year 2012-2013: \$6,000**

Upon the motion of Mr. Williams and second by Mr. Tate the motion was unanimously approved.

**APPOINTMENTS**

**19. Resolution Approving Appointment of Steering Committee for Maple Hill Small Area Plan.**

Planning Director Kyle Breuer explained that staff held a kickoff meeting in Maple Hill on Saturday, January 26<sup>th</sup> to inform area citizens and stakeholders of the project and distribute applications to solicit participation in the Steering Committee. He said that staff is excited to move forward with this project and the meeting drew about 30 participants. He said this resolution asks for the appointment of the committee as proposed, and a willing County

Commissioner to join the committee. He explained that Planning Board members Malcolm Boney (Chairman) and Bill Marshburn (Vice Chair) were also recommended for the committee. Upon the motion of Mr. Ward and second by Mr. Tate, the Board unanimously approved these appointments and Mr. Ward agreed to serve as the Commissioner representative.

**20. Resolution Approving Appointments to the Pender County Nursing/Adult Care Homes Advisory Board.**

Mr. Ward made a motion to approve the appointment of Elaine Lyons to the Pender County Nursing/Adult Care Homes Advisory to serve a one-year term, with term to expire June 30, 2014. Mr. Tate seconded the motion and it was unanimously approved.

**ITEMS FROM THE COUNTY ATTORNEY**

Mr. Thurman stated that he had the pleasure of spending last Thursday in Bolivia with Ms. Moser on a Health Department Employee matter and the judge, as is absolutely standard in this situation, said she would take it under advisement and will let us know. He said this case involved incorrectly noted time on time sheets. He said he got to see Ms. Amber Parker as well as she was the HR Director at that time.

Mr. Brown said there is one item to discuss in closed session but the Board agreed to move right into the 7:00 p.m. hearing segment next and have closed session at the end.

**ITEMS FROM THE COUNTY MANAGER**

Dr. Duvall reminded the Board there is no meeting in early March due to the NACo Conference and the only meeting will be on March 18<sup>th</sup>. He also said that Chris May announces March 21<sup>st</sup> is the annual meeting of the Cape Fear COG at Scotts Hill Baptist Church Cross Pointe Center. Mr. Brown said he will be there.

**ITEMS FROM THE COUNTY COMMISSIONERS**

Mr. McCoy, referring to an article he read recently in the local press, said one of the County Officials hinted at a potential property tax increase. He stated that "he would not be supporting any tax increases; we have to learn to live on a budget."

Mr. Brown said he was just listing options and said if we do all we want to do it will require a tax increase. Mr. Williams said "You won't build a jail without one" so we should not be negotiating for the land if we aren't serious about building a jail. He said we control less than 20% of our budget.

Mr. Williams gave Mr. Breuer an envelope and asked him to delegate to someone to take care of the contents.

**PUBLIC HEARINGS: SPECIAL USE PERMITS/RESOLUTIONS**

**21. Public Hearing and Resolution to Rename and Readdress Bermuda Drive, Jamaica Drive, Key Largo Drive and E. and W. Nassau Road in Snug Harbor Subdivision.**

Addressing Coordinator Josh Norwood came forward and gave a Power Point presentation. He said this matter involves the southern portion of Snug Harbor. He showed the problem areas, which include duplicate road names of Nassau Road (containing seven addressable structures) and Nassau Drive (containing two addressable structures) so they recommended the two on Nassau Drive come up with a different name and they agreed on "Key Largo Drive".

He said normally if a road forms a "T" intersection as Nassau Road does with Bermuda Drive, we give it a directional street name (east/west/north/south). In this case, we are recommending East and West Nassau Road. He said with regard to numbering, there are some inconsistencies and our Ordinance states the numbers should be as consistent as possible. He said there are some problems and they propose to fix those along Nassau Rd. On Bermuda Drive and Jamaica Drive, he said our Ordinance states that as the road increases the numbers are in ascending order with even on the right and odd on the numbers on left. He said on both of the roads, the range starts on the wrong end with numbers on wrong sides. Mr. Williams said he sees Ms. Jan Dawson here and he recalled that she came to him after he had been on the Board for a couple of weeks and informed him of some addressing problems in Hampstead, including his home. He said at that time he suggested they start with his neighborhood, that way he could sympathize with others coming behind him. He said it is important for EMS to be able to locate your home consistently. He said he has a home office and it is an inconvenience to get a new driver's license, but he has felt their pain and he knows it is a major inconvenience to have to change your address. Mr. Norwood said he spoke with all involved and no one really had any complaints at the time. He said he likes to take time and talk with everyone involved and that is what he explains to them, that emergency calls are the most important reason to address properly. Mr. Thurman said there were no sign ups, and the lady that Ms. Dawson is speaking with now does not hear well. Ms. Dawson said she is not opposed to it, but she owns rental property there and she wanted to know what she needed to do. Mr. Norwood said her property is on Jamaica Dr. where most are rental homes or vacant, there are very few permanent residents. Mr. Brown asked if anyone opposes this and no one responded. Mr. Norwood said he had received no negative calls. Mr. Brown closed the public hearing and asked for a motion. Mr. Ward made a motion to approve this resolution, which was seconded by Mr. Tate and carried by unanimous vote.

**22. Public Hearing and Resolution Approving Three Proposed Road Names in Equine Acres Subdivision.**

Mr. Norwood explained that Equine Acres is in Rocky Point and was done in two phases. He said all lots are over ten acres thus it is not a subdivision and there was no Planning Board review required and no road names were listed on the plat. He said he spoke with several property owners interested in building and they all thought it would be best to let the developer name the three internal roads. He said the Developer came up with Equine Landing Drive, Camarillo Way and Mustang Point. He said that no property owners had any issues with these names, there is only one house under construction now but several might be on the horizon as eight or nine lots have been sold. He said it is timely to take this action now. No one had signed up to speak. Upon the motion of Mr. Williams and second by Mr. Ward, the Board voted unanimously to approve this item.

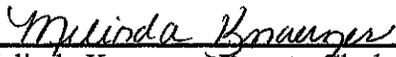
**CLOSED SESSION**

Mr. Ward made a motion to enter into closed session pursuant to NCGS 143-318.11(3) and (5) the motion was seconded by Mr. Williams and carried by unanimous vote. The Board retreated to the kitchen meeting room for dinner and closed session.

**ADJOURNMENT**

There being no further business, Mr. Tate made a motion to adjourn, Mr. Williams seconded the motion and the meeting adjourned.

Respectfully Submitted,

  
\_\_\_\_\_  
Melinda Knoerzer, Deputy Clerk to the Board

Reviewed By:

   
\_\_\_\_\_  
Dr. Mickey Duvall, Clerk to the Board/Glenda Pridgen, Administrative Assistant