

MONDAY, SEPTEMBER 16, 2013

The Pender County Board of Commissioners met in regular session on Monday, September 16, 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: Mickey Duvall, County Manager/Clerk to the Board; Butch Watson, Finance Officer/Assistant County Manager; Trey Thurman, County Attorney; Glenda Pridgen, Deputy Clerk to the Board; other staff and members of the Press and public.

CALL TO ORDER

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

INVOCATION

Commissioner Tate offered the Invocation.

PLEDGE OF ALLEGIANCE

Commissioner McCoy led the Pledge of Allegiance.

PUBLIC HEARINGS

1. **Public Hearing on the Proposed Closeout for the FY 11 CDBG-Scattered Site Housing.**

The public hearing opened at 4:00 p.m. and closed at 4:06 p.m. Chip Bartlett, Program Administrator of Holland Consulting, explained: Pender County was awarded a CDBG Scattered Site Housing Grant from the Division of Community Assistance in the amount of \$400,000 to assist low-moderate income households with severe housing needs; the funds were released in 2012; the original project proposed to accomplish four clearances and four reconstructions; upon approval of a program amendment, the project was able to complete four clearances and two reconstructions; they are in the process of completing two off-site relocations and hope to finish within the next thirty days; the grant budget involved Rehabilitation/Reconstruction-\$340,000, Clearance-\$20,000, Administration & Planning-\$40,000; no local match was involved with this grant; as part of the closeout, the County is required to hold a public hearing for citizen comments prior to submittal of the Certificate of Completion to the Department of Commerce; and no other action was required after the public hearing. No one from the public wished to speak.

2. **Public Hearing and Resolution Approving Grant Application and Authorizing Grant for the Rural Operating Assistance Program (ROAP) Operated by Pender Adult Services (PAS) for FY 2013-2014: \$167,766.**

The public hearing opened at 4:06 p.m. and closed at 4:10 p.m. Pender Adult Services Director Wes Davis introduced Transportation Coordinator Valerie Sutton. Mr. Davis explained the programs included in the Rural Operating Assistance Program application and their duties are: Elderly & Disabled Transportation Assistance Program provides operating assistance for the public transportation of elderly and disabled citizens; Employment Transportation Assistance Program provides operating assistance for the public transportation of persons with employment related transportation needs; and

Rural General Public Program provides operating assistance for the public transportation of persons living in non-urban areas of the county. Mr. Davis said no County funds are involved. Mr. Williams asked how this compares to last year and Mr. Davis said there is an \$18,686 increase this year. He said they may be able to do more because of this increase, but it may not be much because of gasoline costs. There ensued discussion of fuel costs. Mr. McCoy asked about getting more fuel-efficient vehicles. Mr. Davis responded the vans are beyond the agency's control because they are state recommended. He said they do have one minivan but safety is a factor with minivans. Ms. Sutton further explained fuel issues and issues with the vans. No one from the public wished to speak. Mr. Tate made a motion to approve the resolution, Mr. Williams seconded the motion and it was unanimously approved.

PUBLIC INFORMATION

There were no items for Public Information.

PUBLIC COMMENT

Mr. John Westbrook, a Burgaw citizen and Downtown Burgaw antique store owner, spoke of his concerns about moving the existing Courthouse outside of Downtown Burgaw. Mr. Westbrook's comments included: He thanks the Board for participating with the Town to renovate the Old Jail; he is against moving the Courthouse outside of Burgaw; the Courthouse will provide more service Downtown; he is an architect and he designed and oversaw the renovation of the Burgaw Depot; and he asked if the Board is considering moving the Courthouse outside of Downtown. Mr. Brown's response included: The Board has been looking for property in and around Burgaw for a new jail; they are looking at purchasing enough property that can be expanded on for future needs; the County has to have a new jail; the Board has not discussed moving the existing Courthouse; there may be future plans for the new Jail property; at this point, they are not looking at moving the Courthouse or building a new courthouse; any discussion concerning the courthouse would be for an annex; and there has been no conversation and no indication of moving the current Courthouse. Mr. Williams said he reiterates Mr. Brown's comments. Mr. Westbrook said the Board shouldn't even look into moving the Courthouse in the future and the Courthouse is absolutely essential to Downtown. Mr. McCoy said we may have a courthouse annex later; and our Courthouse is the prettiest one in the State or anywhere. Mr. Westbrook said anything done with the Courthouse would have to be done in conjunction with the Historic Preservation Society. Mr. Westbrook said being an architect, he will offer the Commissioners free architectural service advice to the Board. He said he is scared of facing the possibility of losing the courts from the current site, and moving the Jail out of Downtown would create the inefficiency of having to move the prisoners back and forth. Mr. Brown thanked Mr. Westbrook for the offer of free advice and Mr. Ward said we would love to have that free advice. Mr. Williams said moving the prisoners in five minutes will be better than having to move them to other counties. He added "we definitely need a new jail." Mr. Westbrook spoke about the old Jail and the possibility of utilizing the space upstairs. Mr. Brown reassured Mr. Westbrook that this Board is not considering moving the Courthouse from Downtown Burgaw.

CONSENT AGENDA

Mr. Brown presented the four 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:

3. Approval of Minutes: Regular and Closed Session: September 3, 2013.
4. Resolution Approving Budget Ordinance Amendment to Establish an Expenditure and Revenue Line on the County General Ledger for the Duke Energy Low Income Grant Program: \$64,941.

5. Resolution Authorizing Execution of Reimbursement Resolution for Pender Commerce Park Infrastructure and Wastewater Treatment Facility Projects.
6. Resolution Authorizing Purchase of Training Vouchers from New Horizons for IT Training in the Amount of \$32,150 and Master Technology Lease Agreement in the Amount of \$6,600 to Manage and Support the County's Virtual Infrastructure.

RESOLUTIONS

7. **Resolution Authorizing the Purchase/Acquisition of County Vehicles and Financing of Permitting Software through a Lease Purchase/Installment Purchase Agreement.**

Mr. Watson explained: The total annual installment payments are not-to-exceed \$250,000 on the vehicles for the three and five year terms; the lease purchase/installment purchase agreement of the vehicles is similar to what we did last year; and this financing will also include the previously approved Permits Suite Software, which will benefit the Health Department, Utilities, Planning and Emergency Management. Mr. Tate asked how much we saved last year and Mr. Watson responded probably \$100,000. He said we also saved on vehicle maintenance costs. Mr. Brown asked how many years we would have to go to realize how much savings we have accomplished and Mr. Watson responded three to five years. Mr. McCoy made a motion to approve the resolution, Mr. Tate seconded the motion and it was unanimously approved.

8. **Resolution Authorizing Approval of New Insurance District Line for the Hampstead Fire District.**

Pender EMS & Fire Chief Woody Sullivan explained: On September 9, 2013, the North Carolina Department of Insurance approved the new Pender EMS & Fire, Inc. Substation Number 28 located at 2479 NC Hwy. 210 West; it is necessary for the Pender County Board of Commissioners to amend and approve the new fire insurance district lines for the Hampstead Fire District; approving the new boundaries of this insurance district will drop insurance ratings for 454 residences from a 9/10 ISO rating to an ISO Class 7 rating; and Station 28 was inspected by the Department of Insurance last week and will be re-inspected in twelve months. Mr. Brown asked if these savings are a direct result of the merger and Mr. Sullivan responded affirmatively. Mr. Williams said several people in his neighborhood had gone to their insurance companies to see about getting their rates lowered, and now it has happened. After more discussion, Mr. Williams made a motion to approve the resolution, Mr. McCoy seconded the motion and it was unanimously approved.

9. **Resolution Authorizing Acceptance of the Professional Engineering Services Agreement of McKim & Creed for the Pender Commerce Park Wastewater Treatment Facilities and Issuance of a Purchase Order to McKim & Creed in the Amount of \$1,500,000 for the Design, Permitting, Bid/Award, Construction Administration and Inspection Required for the Completion of the Project.**

Utilities Director Michael Mack explained the Scope of Work of the proposal includes: Pre-design Phase; 30% Preliminary Design Phase; Final Design Phase; Bidder Pre-Qualification Phase; Bid & Award Phase; Construction Phase; Post-Construction Phase; Special Inspections Services; and a built in Unallocated Budget Allowance of \$230,000 that will be set aside for any changes in the scope of work that are unforeseen at this time. He said the \$230,000 may or may not be used, but they don't want to have to come back to the Board if they "run into a hiccup" along the way, so they had McKim & Creed build it in the budget. Mr. Mack said McKim & Creed is very ultimately familiar with our wastewater treatment plant; they have worked with Pender and New Hanover Counties for some years; they were hired by Cape Fear Public Utilities Authority for the NPDES permitting process; they are the group that brought us the concept of the Living Machine Technology that we are all so excited about; and Tony

Boahn of McKim & Creed has been involved in this with Pender County from the beginning. (Mr. Boahn was in the audience). Mr. Williams commented that for folks hearing about this for the first time, it sounds like a lot of money to spend in one night, but it has been coming for years and he is glad we are finally here. Mr. McCoy said to make the Park work, we must have infrastructure. Mr. Tate said it always adds a level of professionalism to projects when McKim & Creed is involved. Mr. Williams said WBD, Duke Energy folks and people like that have been telling us this is a “chink in the armor”, this puts us much, much further up the list when site recruiters are trying to find places for their clients, and this is going to be a world class facility. Mr. Thurman said McKim & Creed’s General Conditions are not in the package. Mr. Mack said he has them and they are the same ones we have been using. Mr. Thurman said that he has always had some objections that he and Mr. Boahn always argued about in the past, and he would ask the Board to let him make his normal amendments that he has always made in the past. Mr. Thurman commented the following with respect to provisional sole sourcing: The Board has to make findings that need to be addressed at the appropriate time; the contract says we are going to proceed with sole sourcing; obviously if the Board is not convinced, and to be honest, he advises the Board that he is not convinced that sole sourcing is met; we can’t do that so he wants some recognition of that in there; and generally you don’t get to just say we are only going to look to one person when you are spending public money. Mr. Williams said he thinks sole sourcing is the technology; we are not saying we will sole source that contract. Mr. Thurman said but we are providing the guts of the treatment that we only have one place to go to; the Board has to make findings along those lines; this needs to be addressed; we will need to add this to every contract we do in the future; and we need to get confirmation that the contractor meets applicable legal provisions as set forth in the North Carolina General Statutes pertaining to sole sourcing. Following more discussion, Mr. Williams made a motion to approve the resolution, contingent on the County Attorney’s review with legal revisions. Mr. Tate seconded the motion and it was unanimously approved.

10. Resolution to Approve Organizational Changes within the Department of Social Services to Meet Compliance with NC FAST.

DSS Director Dr. Reta Shiver delivered a presentation entitled NC FAST Requirements which included: Technology-IT Assistance; Document Imaging; Training; Additional Mail Functions; Additional Clerical Functions; and Trouble Shooter. Specific action requested was to: Create a position of Trouble Shooter-a staff member experienced in eligibility determination who would serve as the “go to person” for staff who experience problems associated with the new system, individual would serve as liaison between DSS and State NC Fast Representatives; upgrade the mail clerk’s position to Processing Assistant V in order to comply with the mandatory changes in the NC FAST system; and contract as necessary for clerical assistance. Dr. Shiver noted the State will reimburse Pender County 50% of the costs for salaries for each upgrade or position requested. Problems with the system included: Because DSS lacks the sufficient number of staff to serve clients timely as required by regulations, staff has to work overtime; if staff cannot work extra hours, clients will not receive mandated services timely; there is the potential for 6,000 citizens eligible for Health Care Coverage beginning October 1, 2013; since Medicaid began using the NC FAST System, system glitches slows service, learning curve slows service, and more cases added to workload slows service; and Fall is the busiest season at DSS. Mr. Brown commented: He contacted Representative Millis and Senator Rayborn earlier today; he has been on the phone with Raleigh half the day; this program is supposed to make things more efficient, not harder; and the Board received a letter today from State DSS Director Black indicating three options the State can help the County with. Dr. Shiver said Mr. Black is talking “apples” and she is talking “oranges.” She said he is talking Food Stamps and she is talking Medicaid and Affordable Health. Dr. Shiver asked DSS Worker Sherry Horrell to come forward and give more information. Ms. Horrell spoke of an incident that happened last week when one application alone took 2 ½ hours to complete,

and it took four tries to get the application to submit. She said Raleigh sent a person to help them out for 2 ½ days only. Mr. Brown asked if Pender is the only county having to have additional help and Dr. Shiver responded “no.” She said we are not getting enough time from the Trouble Shooter from Raleigh, the Trouble Shooter floats from County to County, and Medicaid will get backlogged the same as Food Stamps are backlogged. Dr. Duvall said he called DHHS State Director Mr. Wayne Black directly and Mr. Black indicated to him he would do everything possible to help Pender County, and said Raleigh is now immediately implementing three additional options for County Social Services Departments. The options upon request are: 1) Send in additional “DHHS State Staff” to physically help DSS Departments directly work and input the backlog cases (at the request of the DSS Director); 2) send some of these backlog cases directly to DHHS in Raleigh to be worked directly by Mr. Black’s staff there; or 3) a combination of options 1 and 2. Mr. Williams commented: The letter from Mr. Black doesn’t specify any particular program; it seems getting assistance from Mr. Black would have a better effect than going out and advertising for temporary help; we need to clarify the letter; and the letter is being interpreted in different ways. Mr. Tate commented: During Mr. Black’s presentation at the last meeting, Mr. Black indicated that Dr. Shiver needs more help and now he is indicating other options; he doesn’t understand why Mr. Black is now saying something entirely different; he wants to make sure people that need food and medical assistance get the help they need; and he sees the need for more workers for DSS. Mr. Brown commented: Why should counties have to bear the expense of Raleigh’s glitches; if Raleigh is going to push this down to us, let Raleigh send resources to us; Raleigh previously told us there will be no unfunded mandates; and these are unfunded mandates. Dr. Shiver commented: She asked for extra people at budget time and she was turned down; what Raleigh is offering is not going to be sufficient; and clients are suffering as a result of the new system. Mr. Brown said he wants Mr. Black to know we need help and they should provide it. Mr. Tate said he has heard about unfunded mandates ever since he has been on the Board since 2007. Mr. Tate then made a motion to approve the resolution; the motion died for lack of a second. Mr. Williams asked the Manager to clarify with Mr. Black if they are going to get some help down here, and to make sure we understand what Mr. Black is offering. Mr. Brown said he is aggravated with the State and they need to provide us resources because they pushed this on us. Mr. Ward said he recommends we go with Option 3 of Mr. Black’s e-mail. Mr. Tate said we need to get the workers the State is offering here tomorrow. Dr. Shiver said her staff can’t make any more comp time because Dr. Duvall said they have to abide by policy, and said they have been backlogged since November. Mr. Brown asked if they have been in training that long and Dr. Shiver responded “no, they were working.” Mr. Brown asked why the system goes down and how often; Dr. Duvall said it is on the State’s end. Mr. Tate asked if DSS doesn’t get any additional staff, how they will solve the problem. Dr. Duvall responded we will take Mr. Black up on his offer of using Options 1 and 2. Dr. Shiver said that is not going to be enough, and said DSS is only trying to help citizens that need help. She spoke concerning disgruntled clients calling DSS and cursing them out. Mr. Ward said they shouldn’t allow people to curse at them. Mr. Ward asked how much it would cost to add the additional staff and where the funds would come from. Dr. Shiver said it would cost \$39,359 and Dr. Duvall said if approved by the Board of Commissioners, the funds would have to come from Contingency Fund 999. Mr. Ward said everything is taken from Contingency and said we should ask the State to pay 100% of the costs for the system. Mr. Brown asked why we shouldn’t use the help the State is providing, rather than the county paying for it. Board members were concerned about the change from Mr. Black’s presentation at the last meeting and this e-mail. Board members agreed they want to help the citizens of Pender County, but if the State is offering assistance, we should take it. Dr. Duvall said he will contact Mr. Black in the morning and tell him Pender County needed over-the-shoulder help as well as the ability to send cases to Raleigh for DHHS to input, but we need help now to get the DSS caseload back to normal.

11. Resolution to Approve Use of DSS Year-End Close-Out Funds to Meet Compliance with NC FAST.

Dr. Shiver explained her workers have had to accumulate comp time working with the NC FAST System, they don't have time to take the overtime off, and she is asking that the workers get paid for the comp time they have accumulated. Mr. Brown said since he has been on the Board, they have tried to help citizens in every way, but he doesn't see why we have to provide help for NC FAST, and the State should provide the assistance. In response to question, Human Resources Director Denise Mulhollen said there are nine individuals who are above the forty-hour limit of overtime as of August 17th, and it would cost \$35,422.62 to pay it out. Mr. Brown asked if Dr. Shiver has money in her budget to cover this and Dr. Shiver responded affirmatively. Mr. Thurman said it is money that DSS didn't spend last year, and the excess goes back into the General Fund. Mr. Thurman explained: We can't deny people to take their comp time; excess comp time is a liability to the County; and we need to use the excess funds to take down some of the comp time. There was discussion concerning comp time had been paid out before for the Sheriff Department. Mr. Tate made a motion to approve the resolution, Mr. Ward seconded the motion and it was unanimously approved.

APPOINTMENTS

12. Resolution Authorizing Approval of Appointment of Commissioner to the CoastalCare Area Board.

Mr. Brown explained this vacancy occurred when Mr. Rivenbark left the Board of Commissioners. Dr. Duvall said he had been in touch with CoastalCare Area Director Foster Norman; and if no BOCC member wants to be appointed to CoastalCare's Board, the BOCC can appoint Dr. Duvall, but CoastalCare would have to amend its by-laws. It was noted that Don Hall of the CoastalCare Area Board wants Mr. Ward to be appointed to this Board, because of his law enforcement background. Mr. Ward said he will do a study and get back to the Board with a recommendation. Mr. Williams made a motion to put this on the next agenda; no second was made. Other discussion included: The Area Board's meetings; where the meetings are held; how often they meet and the times; other counties that are a part of CoastalCare; whether they can function without a Commissioner; changing their by-laws; appointing a designee; and asking CoastalCare if we can actually appoint someone other than a Commissioner. Mr. Williams said some of these boards don't actually require a commissioner; some like to have a commissioner representative when it comes to asking for funds. Mr. Ward noted the Deputy Clerk said all the other counties have commissioner representation. Dr. Duvall will get more information and the item will be discussed at a future meeting.

13. Resolution Authorizing Approval of Two Members to the Pender EMS & Fire Relief Board.

Mr. Sullivan explained he would like to withdraw this item because of a change he recently found out about, and he had given the Board of Commissioners misinformation. The North Carolina General Statute was changed in 2011 and was brought into law on June 19, 2012, as An Act to Revise the Residency Requirements for Members of the Board of Trustees of the Firemen's Local Relief Fund. The revised law states the members can be a resident of the fire district and must be appointed to the Board of Trustees by the local governing body. Mr. Sullivan said the two positions need to be advertised for Hampstead, Long Creek, Scotts Hill, Sloop Point and Surf City Fire Districts. It was the consensus of the Board to withdraw the item.

14. Resolution Authorizing Approval of Appointment to the Pender County Council on Community Affairs, Pender County Fire Commission and Pender County Tourism Development Authority.

Mr. Brown introduced the resolution. Mr. Tate gave applicant Kenneth Keith's credentials and said he highly recommends Mr. Keith for this position. Mr. Tate made a motion to approve the appointment of Mr. Keith to the Pender County Council on Community Affairs representing District 5. Mr. Williams seconded the motion and it was unanimously approved. Mr. Tate said applicant Greg McNeil is a long-time county resident and is an outstanding citizen. Mr. Tate made a motion to approve the three-year re-appointment of Mr. McNeil to the Pender County Fire Commission representing the Penderlea Fire District, with term to expire June 30, 2016. Mr. Williams seconded the motion and it was unanimously approved. Mr. McCoy said applicant Kelsey Seitter does a good job for the Burgaw Chamber of Commerce. Mr. McCoy made a motion to approve the appointment of Ms. Seitter to the Pender County Tourism Development Authority representing the Chambers of Commerce, with term to expire August 31, 2015. The terms are rotated every two years from Topsail Beach to Hampstead to Burgaw. Mr. Ward seconded the motion and it was unanimously approved. Mr. Ward agreed with Mr. McCoy that Ms. Seitter does an excellent job for the Burgaw Chamber.

ITEMS FROM THE COUNTY ATTORNEY

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

ITEMS FROM THE COUNTY MANAGER

Dr. Duvall presented the following items: 1) The "Walk for Pink Heals Cape Fear" event to be held at the Pender County Government Center on Wednesday, September 18, 2013 from 9:00 a.m. to 12:00 noon. The Pink Heals Cape Fear Inc. helps people battling cancer with a focus on women-Dr. Duvall thanked Ms. Mulhollen, Ms. Simmons and other staff on the Pink Heals Committee for helping with this event; 2) the Opening Celebration of the W. Dallas Herring Collection at the Main Library Meeting room on Saturday, September 21, 2013 at 10:30 a.m.; and 3) Wilmington Business Development's invitation to their Annual Business Meeting on Thursday, October 3, 2013 at 5:00 p.m.-Governor Pat McCrory will be the keynote speaker.

ITEMS FROM THE COUNTY COMMISSIONERS

Mr. Tate presented an invitation to the Dedication of the Penderlea Homestead Museum Annex, "The Tractor Shed" on Saturday, October 12, 2013 at 11:00 a.m. The Dedication will be held on the Penderlea Homestead Museum grounds. Mr. Tate said he told a member how Mr. Thurman is a "Gentleman of History" and they are extending a special invitation to Mr. Thurman. Mr. Tate said the Penderlea Homestead Museum is a 1938 project and the citizens have worked hard to keep it up. Mr. Tate said he commends this Board and he is proud that the Board stepped up to save the Dallas Herring Collection. He said everywhere he goes he hears wonderful things concerning this and people will be coming from all over the State. Mr. Tate said he agrees with Dr. Duvall in thanking staff for helping with the "Walk for Pink Heals Cape Fear" Event, which helps cancer patients. He said tomorrow will make four years since his mother transitioned from earth to heaven. He said he knows other folks that are in similar situations, with family and friends facing cancer.

Mr. McCoy said he is thrilled about the new Library collection, it is amazing and it is a big boost for Burgaw. He said people will come from all over looking up the history of their families and loved ones.

Mr. Ward said at the NCACC Annual Conference, he sat in a workshop with NACo President Linda Langston who spoke concerning Emergency Response Plans and counties' response to natural or manmade disasters. He said he would like our Emergency Management Office to see where we stand with our Emergency Response Plan. Mr. Ward said he and the Principal of Topsail Elementary School discussed the fence in front of the School and the need to add guardrails. He said there is a lot of traffic

on Hwy 17, a lot of children go out there and play, and we need to initiate conversation with DOT to see if we can get guardrails there. Mr. Ward gave an example of a man that ran into Hampstead Furniture's building. Mr. Williams said he will chime in with Mr. Ward on this, and said the playground comes right up to the right-of-way. Dr. Duvall mentioned the traffic study and other information from the NC DOT regarding NC Hwy. 11 in Pender County. Mr. Williams said he sent Mr. Tate a note thanking him on this. Mr. Tate said he commends Mr. Williams for sending the note. He said they don't always agree, but receiving private unsolicited notes saying thank you means a lot to him. He said Mr. Williams taught him how to let things go, even if you don't always agree. Mr. Brown agreed with Mr. Tate. All members agreed that even if they don't agree on things, at the end of the day, no one should walk out angry at each other.

Mr. Williams spoke concerning a new field at Hampstead Kiwanis Park and parking issues at Kiwanis and Pender Parks. He said he will bring these items back to a future meeting.

Mr. Ward said we should remember those gunned down at the Washington Naval Yard earlier today.

CLOSED SESSION

At 6:10 p.m., Mr. Williams 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; 4) to discuss matters relating to the location or expansion of industries or other businesses in the area served by the public body, including agreement on a tentative list of economic development incentives that may be offered by the public body in negotiations. The action approving the signing of an economic development contract or commitment, or the action authorizing the payment of economic development expenditures, shall be taken in an open session; 5) to establish, or to instruct the public body's staff or negotiating agents concerning the position to be taken by or on behalf of the public body in negotiating (i) the price and other material terms of a contract or proposed contract for the acquisition of real property by purchase, option, exchange, or lease; or (ii) the amount of compensation and other material terms of an employment contract or proposed employment contract; and 6) to consider the qualifications, competence, performance, character, fitness, conditions of appointment, or conditions of initial employment of an individual public officer or employee or prospective public officer or employee; or to hear or investigate a complaint, charge, or grievance by or against an individual public officer or employee. General personnel policy matters may not be considered in a closed session. A public body may not consider the qualifications, competence, performance, character, fitness, appointment, or removal of a member of the public body or another body and may not consider or fill a vacancy among its own membership except in an open meeting. Final action making an appointment or discharge or removal by a public body having final authority for the appointment or discharge or removal shall be taken in an open meeting. Mr. McCoy seconded the motion and it was unanimously approved. The Board exited the closed session at 7:20 p.m.

Mr. Tate made a motion to come out of closed session, Mr. Williams seconded the motion and it was unanimously approved. Mr. Brown apologized to the audience for being late coming out of Closed Session.

Mr. Brown announced that the Board needs to address an item that was taken up in closed session. He said the item is to appoint an individual as Health and Human Services Director, a role in which the County Manager is currently serving. Mr. Tate made a motion to "give advice and consent" to the County Manager to appoint Social Services Director Dr. Reta Shiver to the position and Mr. Ward seconded the motion. The motion was denied by a 3-2 vote, with Mr. Tate and Mr. Ward voting in favor, and Mr. Brown, Mr. McCoy and Mr. Williams voting in opposition. Mr. Williams then made a motion to "give advice and consent" to the County Manager to appoint Health Director Carolyn Moser to the position, and Mr. McCoy seconded the motion. The motion was approved by a 3-2 vote, with Mr. Brown, Mr. McCoy and Mr. Williams voting in favor, and Mr. Tate and Mr. Ward voting in opposition. Discussion ensued concerning Ms. Moser's position and it was established that Ms. Moser is already on staff, and she would be serving in a dual capacity as Health Director and Health and Human Services Director. Mr. Thurman clarified that this action does not result in anyone losing their job, this is not an additional hire, and it is not adding another physical role. Mr. Ward asked about the Attorney's earlier recommendation. Mr. Thurman said the Manager and Human Resources Director had conferred with the School of Government about options, and they learned that the position could be advertised in-house, advertised outside, or the appointment could simply be made by reorganizing and adding additional responsibilities to an existing qualified employee's position. Mr. Thurman said the Board got advice from the Human Resources Director and the UNC School of Government and made their decision. Mr. Ward said he wants to make the clarification that he would have gone with the Attorney's recommendation for advertising. Mr. Tate said he has nothing personal against Ms. Moser, but he supports Dr. Shiver. He said he has known Dr. Shiver a long time, she does a good job, she has the credentials for the position, she has more than thirty years of experience in Pender County, she holds a Doctorate Degree in Public Administration and she is the most qualified for the position. Mr. Tate also made the statement that no one will lose their job. Dr. Duvall said that he is now obligated under the NC General Statutes which supports the Board of Commissioners' "advice and consent" to the County Manager regarding the appointment of a Consolidated Human Services Director, and now was formally making the appointment of Ms. Moser as Health and Human Services Director, as advised by a majority of the Board. Mr. Ward asked how Ms. Moser's salary will be adjusted and Mr. Thurman responded the County Manager will adjust her salary with consultation and input from the Human Resources Director under the County Personnel Policy. Mr. Brown said Ms. Moser meets the State Statute requirements, you can't just put anyone in the position and the Board has the right to appoint someone. Mr. Ward said he agrees with Mr. Tate concerning Dr. Shiver's credentials and years of service. Mr. Tate asked what Ms. Moser's salary would be. Ms. Mulhollen, Pender County Human Resources Director, said she doesn't have the salary in front of her, but it would be evaluated fairly and consistently with other North Carolina counties our size and compatible peer group/credit ranking. Mr. Tate said we need consistency in adjusting salaries.

Mr. Thurman reminded the Board of another item to be added to the agenda. Mr. Williams made a motion to add another item to the agenda, Mr. Tate seconded the motion and it was unanimously approved. The item to be considered was a "Resolution Granting Access to County Owned Property for the Purposes of Evaluation and Suitability for Potential Industrial or Commercial Operations." Mr. Williams made a motion to approve the item, Mr. Ward seconded the motion and it was unanimously approved.

PUBLIC HEARINGS: READDRESSING/BOND ORDERS/SPECIAL USE PERMITS/ TEXT AMENDMENTS/ RESOLUTIONS

15. Public Hearing and Resolution to Readdress Mae Drive.

The public hearing opened at 7:30 p.m. and closed at 8:37 p.m. GIS Administrator Dan Cronin distributed maps of Mae Drive. Addressing Coordinator Jan Dawson explained: At the time the addresses were issued, Mae Drive was a through street that connected The Manor at Mill Creek with Majestic Oaks; numbers were assigned beginning in The Manor at Mill Creek; the preliminary map that was signed by the Addressing Coordinator did not show the gate easement; the final map of record did show a gate easement, however, the Addressing Coordinator did not sign off on this map; due to the recent installation of the gated fence in The Manor at Mill Creek, the residents of Majestic Oaks now have to access their property on Mae Drive from Majestic Oaks Drive-thus causing the numbering scheme on Mae Drive to be in descending order; numbering in descending order is a direct violation of Pender County's Property Addressing Ordinance; if the gate hadn't been put up, Mae Drive would have continued as a through street; after the gate was installed the two residents in The Manor at Mill Creek changed their address to reflect the road name of Round Table Lane as shown on the subdivision map; both Mae Drive and Round Table Lane are private roads; to avoid conflicts and delays with emergency and public safety responses, and to provide for conformance with the County's Addressing Ordinance, the request is made to readdress Mae Drive; and IT nor Planning has control of the gate situation.

The following residents of Mae Drive made comments:

Lisa Crowell-480 Mae Dr.: There is another entrance to Mae Drive; we need to maintain current numbers; there is no need to reassign numbers; the house numbering system should remain the same; there is no road change; the only change is the gate; it shouldn't make a difference if the numbers go from smaller to larger, or vice versa; what is the benefit of changing the numbers now; please do not support the proposal to change the numbers.

Ronald Crowell-480 Mae Dr.: The mail, 911, none of that is changing; numbers are on every mailbox and house and there is no problem finding the houses; changing the numbers is not solving a problem; asked Board to postpone this and have a hearing on the Ordinance; and Article 2 of the Ordinance says nothing about where the road begins and ends.

Brian Floyd-447 Mae Dr.: Emphasize to the Board to not support changing the numbers; there are only three houses on The Manor, and twenty-two on Mae Drive; he is a firefighter; there is no problem getting there; they haven't had any problems; multiple families are military; and everything is working fine as it is.

Anthony Kent-169 Mae Dr: His GPS has old address; if they take the gate down, it may go back the old way and the Board may have to do this all over again; and the gate impedes deliveries, buses, etc.

Mr. Williams said he understands the ordinances but his concern is folks buy something and then further down the road, they get something else.

Kevin Kruse-166 Mae Dr.: Where does Number 1 start? Mr. Thurman explained the numbering system and said it is rare for anyone to be Number 1 under any circumstances.

Melissa Kruse-166 Mae Dr.: Does the Board have to go by the Ordinance exclusively, or are they taking the residents' concerns into consideration? Mr. Brown said nothing is predetermined and the Commissioners can vote any way they want to.

Ms. Kruse: It will cost at least \$176 per household to get everything changed; the gate is not even a permanent fixture; fire trucks won't go through the gate; and the developer could take the gate down in a couple of days.

Mr. Williams said if we make an exception here, it opens up a can of worms, and said he went through this same situation with his street. Mr. Ward asked what qualifies as a gate and Mr. Breuer said just to address interconnectivity, any time two developments have the potential to connect, the streets have to be designated as public. He said Planning can't stop the developer from putting the gate up because it is a private right-of-way, he can only speak to ordinances Planning controls and can recommend, and Planning doesn't have anything that would have stopped them from putting up the gate. Ms. Kruse asked if it is possible to postpone the decision and let the fire marshal or someone go out and measure the gate.

Other discussion included: Investigating the gate; what would happen if the gate comes down; the Fire Marshal initially fielded the gate issue; the Fire Marshal has been to the site; the entrance off Overlook; fire trucks and other emergency equipment getting into the main entrance; the developer can put up a gate or do whatever he wants unless the Fire Marshal has something; the Fire Marshal was given a key to the gate; if the developer can change the name of the road; if residents were aware it could be a gated community-the people at The Manor knew but the people at Majestic Oaks didn't know; conditions of roads in subdivisions; the County allows access easements; ordinance and guidelines; clearing up all questions; the gate wasn't across the road in the beginning; the developer put up the gate to market the subdivision; if the developer misrepresented, it can be taken to the Real Estate Commission; and residents at the Manor at Mill Creek have access to get into Majestic Oaks but the residents of Majestic Oaks don't have access to get into The Manor.

It was the consensus of the Board to table the item to the October 21, 2013 meeting. Mr. Breuer said he or Ms. Dawson will call the Fire Marshal or Deputy Fire Marshal tomorrow to see if they have anything. Mr. Breuer said he will go out and investigate, but his investigation will pertain solely to the entrance of The Manor at Mill Creek.

16. Public Hearing and Resolution Authorizing Adoption of a Bond Order Extending Time for the Central Pender Water and Sewer District to Issue General Obligation Water Bonds from November 7, 2013 to November 7, 2016 for the Construction of a Water Distribution System to Serve the District.

The public hearing opened at 8:37 p.m. and closed at 8:38 p.m. Mr. Mack explained this is just a formality to extend the bonds for three years. No one from the public wished to speak. Mr. Ward made a motion to approve the resolution, Mr. Williams seconded the motion and it was unanimously approved by a 4-0 vote. Mr. McCoy had stepped out of the room temporarily.

17. Public Hearing and Resolution Authorizing Adoption of a Bond Order Extending Time for the Moores Creek Water and Sewer District to Issue General Obligation Water Bonds from November 7, 2013 to November 7, 2016 for the Construction of a Water Distribution System to Serve the District.

The public hearing opened at 8:38 p.m. and closed at 8:39 p.m. Mr. Mack explained this is the same as Item No. 16, except it is for Moores Creek. No one from the public wished to speak. Mr. Ward made a motion to approve the resolution, Mr. Tate seconded the motion and it was unanimously approved.

Mr. Breuer introduced new staff members Megan O'Hare and Dorothy Ariail.

18. Public Hearing and Resolution Requesting Approval of a Special Use Permit for the Construction and Operation of a 250-Foot Self-Support Wireless Telecommunication Tower, Located along the Southern Portion of W. Strawberry Lane, Approximately 1,000 Feet West of the Intersection of Strawberry Lane and US Highway 117, Rocky Point.

The public hearing opened at 8:40 p.m. and closed at 9:02 p.m. Mr. Thurman swore in the witnesses. Planner Ed McCarthy delivered a presentation which included demonstration of site maps. Mr. McCarthy explained the Background; Land Use Proposed; Definition of Telecommunication Tower; Property Record Number and Location; Zoning District of Property; Project Description; and Evaluation. With respect to Project Description, Mr. McCarthy said the location does not meet setback standards for the eastern side yard setback, as it is proposed to be set back 136', and as a result, the applicant is requesting a reduction in setback standards based on Section 5.3.11.P.2.b of the Pender County Unified Development Ordinance. Attorney Jonathan Yates and Keith Powell of Optima, and Attorney Scott Holmes, were present to give additional information and to answer any questions. Mr. Yates and Mr. Powell said Pender County's Planning staff is great and have been very helpful to them with projects. The gentlemen's comments included: It will be a monopole tower; they are designing it for AT&T; AT&T is dedicated to getting coverage in Pender County; they have met all required criteria; their plan is to get the tower closer to the industries in the area and further away from residencies; they need help on the setbacks; and if need be, they will put more landscaping in and around the base. Mr. Brown said his concern is what would happen if the tower fell. Mr. Yates said during Hurricane Katrina, they didn't have problems with towers falling; the trouble came from boats and other objects flying into the towers. There was discussion and questions concerning the location. Mr. Brown said he doesn't like the additional height, and Mr. Powell said this tower is moderate compared to ones around it. Mr. Tate asked if they would consider the Chairman's recommendation of lowering the height and the response was that they could accommodate an increase in the setback to 250' from the eastern property line. Following more discussion, Mr. Tate made a motion to approve the resolution, with adjustment to the setbacks as duly noted. Mr. Williams seconded the motion and it was unanimously approved.

19. Public Hearing and Resolution Requesting Approval of a Special Use Permit for the Operation of a Wholesale Trade Business, Located along the Northern Portion of US Highway 421 Approximately 2,900 Feet South of Bell Williams Road, Burgaw.

The public hearing opened at 9:02 p.m. and closed at 9:10 p.m. Mr. Thurman swore in the witnesses. Mr. McCarthy delivered a presentation which included demonstration of site maps. Mr. McCarthy explained the Background; Land Use Proposed; Property Record Number and Location; Zoning District of Property; Project History; Project Description; and Evaluation. With respect to Project History, Mr. McCarthy said the SUP for the original operation was approved on January 21, 2009. With respect to Project Description, Mr. McCarthy said the applicant's current submittal is requesting the following modifications to the 2009 SUP: Applicant would accept deliveries from external parties; install a 350 sq. ft. weigh scale on site; and modify the hours of operation on Saturdays from 8:30 a.m.-1:00 p.m. to 8:30 a.m.-3:00 p.m. The Applicant and Owner, James Faircloth commented: He is asking for these modifications because of the economy; people are taking their metal to Wilmington and Jacksonville; he wants to be able to buy from the public; and everything else will remain the same. Following remarks

by Board members, Mr. Tate made a motion to approve the resolution, Mr. Williams seconded the motion and it was unanimously approved.

20. **Public Hearing and Resolution Requesting Approval of an Amendment to the Pender County Unified Development Ordinance to Amend Sections 2.4.1. and 2.4.7., to Reflect Updated Voting Procedures for the Board of Adjustment, as well as Amending the Definition of Unnecessary Hardship Pursuant to New Statutory Guidelines in Accordance with H.B. 276 - An Act to Clarify and Modernize Statutes Regarding Zoning Boards of Adjustment.**

The public hearing opened at 9:10 p.m. and closed at 9:11 p.m. Planner Megan O'Hare explained the Text Amendment Proposal; Background; Administrator/Planning Board Recommendation; Evaluation; Comprehensive Land Use Plan Compliance; and Staff Recommendation. With respect to Background, Ms. O'Hare said the text amendment is the result of recent legislative changes in an effort to modernize Board of Adjustment Statutes effective October 1, 2013. No one from the public wished to speak. Mr. Williams made a motion to approve the resolution, Mr. Tate seconded the motion and it was unanimously approved.

21. **Public Hearing and Resolution Requesting Approval of an Amendment to the Pender County Unified Development Ordinance; Section 7.10, Off-Street Parking and Loading/Parking Requirements by Adding a Parking Study Option.**

The public hearing opened at 9:11 p.m. and closed at 9:29 p.m. Mr. McCarthy explained the Text Amendment Proposal; Background; Administrator/Planning Board Recommendation; Evaluation; Comprehensive Land Use Plan Compliance; and Staff Recommendation. Planning Board member Wally Baker distributed information and spoke concerning the recommendations the Planning Board had made at its September 10, 2013 meeting. Mr. Baker was concerned that the wording in this item does not contain the changes that were discussed and approved by the Planning Board. The changes he was referring to were: Dates of the NC DOT traffic volume count(s) would be included in the UDO; and Mr. Breuer and the County Attorney would change the wording to remove the requirement that the Administrator or Planning Board would be responsible for the Applicant's submitted data. Mr. Baker said the legal responsibility for the accuracy of the applicant's submitted data should be the applicant's responsibility, and not Pender County's. Mr. Breuer said the changes are included. Following other comments by Mr. Breuer and Board members, Mr. Williams made a motion to approve the resolution, as presented by Planning staff. Mr. Tate seconded the motion and it was unanimously approved.

ADJOURNMENT

There being no further business, Mr. Tate made a motion to adjourn, Mr. McCoy seconded the motion and the meeting adjourned at 9:29 p.m.

Respectfully Submitted,



Glenda Pridgen, Deputy Clerk to the Board

Reviewed By:



Mickey Duvall, Clerk to the Board/Ann Coombs, Administrative Assistant