

MONDAY, OCTOBER 21, 2013

The Pender County Board of Commissioners met in regular session on Monday, October 21, 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 Ward led the Pledge of Allegiance.

Mr. Williams made a motion to excuse Mr. McCoy until he arrives. Mr. Tate seconded the motion and it was unanimously approved by a 4-0 vote. (Mr. McCoy arrived a few seconds later).

PUBLIC HEARING

1. **Public Hearing and Resolution Approving Grant Application and Authorizing Local Share of Community Transportation Program Operated by Pender Adult Services for FY 2014-2015: \$228,822.**

The public hearing opened at 4:02 p.m. and closed at 4:05 p.m. Pender Adult Services Director Wes Davis and Transportation Coordinator Valerie Sutton were in attendance. Mr. Davis explained: Pender Adult Services acts as Transportation Coordinator for Pender County; they operate the MV Transit Bus which provides transportation around Pender and New Hanover Counties; patrons of this service pay \$3 each way for their transportation within the County and \$8 each way for transportation outside of Pender County; and they provide transportation for Pender Adult Services' clients and Department of Social Services' clients. Mr. Williams made a motion to approve the resolution, Mr. Tate seconded the motion and it was unanimously approved.

PUBLIC INFORMATION:

2. **Recognition of Pender County's Support of "Walk for Pink Heals Cape Fear" Event.**

Mr. Tate's comments included: He attended the event the County held; it is wonderful how employees collaborated together for this cause; Pat Simmons chaired the Committee and she put in a lot of hours; he commends the employees for their efforts to support an issue which affects so many of us, which is cancer; there were many different departments represented at the event; and he commends Danielle New and her

class, who also supported this cause. Mr. Tate asked Ms. New and her students to stand and asked for a round of applause for them.

Administrative Officer Pat Simmons explained: Pender County employees came together as a committee and sponsored the “Walk for Pink Heals Cape Fear” fundraiser on September 18, 2013; area businesses, churches, schools, EMS, Fire Departments and other organizations were invited to participate in helping people who are battling cancer; raffles, a silent auction, bake sales, donations and food items were provided; 100% of the money donated will be given to Pink Heals Cape Fear, Inc. to help families who are in need; this was one of the most rewarding projects she has participated in; and Pender High Teachers Danielle New and Elizabeth Cannon’s Health Occupation Class participated. A short video of the fundraiser was then shown. Ms. Simmons introduced the Pink Heals Committee and Woody Sullivan of Pender EMS, noting Pender Ems provided the Pink Hill t-shirts, and provided lunch to sell at the event. Ms. Simmons introduced Melinda Bradshaw of Pender DSS for having the highest raffle ticket sales within County Government. Mr. Tate presented Ms. Bradshaw with a certificate for the Department of Social Services. Ms. Simmons introduced Ms. New and her class for having the highest raffle ticket sales partnering as a community organization. She said every year the class supports a charity and this year they chose to join with Pender County in the Pink Heals Event. Ms. Simmons said she and Commissioner Tate attended one of their classes and listened to stories of people battling cancer. Mr. Tate presented a certificate to the class. Ms. Simmons said the mission of Cape Fear Pink Heals is to raise awareness and provide monetary support to those battling cancer. Ms. Simmons then introduced Trey Mintz, Vice President of Pink Heals Cape Fear. Mr. Brown presented Mr. Mintz with a check in the amount of \$4,314.47. Mr. Mintz thanked all, said it was a successful event, and said he hopes Pender County will continue with them as a partnership. Mr. Brown said he appreciates this effort and he is sure everyone appreciates it, especially the ones who have been affected by cancer.

3. Proclamation by the Pender County Board of Commissioners Recognizing the Month of September as “Brain Aneurysm Awareness Month.”

Mr. Ward said he would yield his comment time to Ms. Parris. Ms. Tammie Parris explained her personal experience with having a brain aneurysm; listed symptoms of the disease; what happens at the onset of the disease; and what happens afterwards, if you survive. Some of the statistics she listed included: Brain Aneurysms are “silent killers”; 6 million people in the United States have aneurysms right now; it is hereditary; women are more likely than men to have one; and explained the impact on lives during and afterwards experiencing a brain aneurysm. Ms. Parris said: Surf City and Topsail Beach have approved proclamations of support; she will be taking all the proclamations to Raleigh; she is advocating to save lives; there is a national campaign going on now in which you can sign a petition of support on-line that goes directly to Senator Mike McIntyre and Vice President Joe Biden; and she wants to “put North Carolina on the map” by having people sign the petition. Ms. Parris said she would like to have the link to sign the on-line petition put on Pender County’s website; Surf City, Topsail Beach, Holly Ridge, Caswell Beach, and North Topsail already have it on theirs; and she has asked New Hanover County and the City of Wilmington to put it on theirs. Mr. Ward made a motion to approve the proclamation, Mr. Williams seconded the motion and it was unanimously approved.

4. President Ted D. Spring, Cape Fear Community College: CFCC’s Alston W. Burke Campus in Surf City.

Dr. Spring said he thanks Ms. Parris, she did a wonderful job, she does a wonderful job making people aware and Ms. Parris also works at CFCC. Dr. Spring noted other CFCC and Surf City Officials are in attendance. Dr. Spring distributed drawings of the proposed campus and explained each one. He then explained the budget, noting the current funding includes: State Funds-\$1,736,826; Pender County-\$100,000; Town of

Surf City-\$500,000; and Town of Topsail Beach-\$100,000. Dr. Spring said Pender County had originally committed to \$300,000; they were given \$100,000; they were later told the \$200,000 was not available; and they are now coming back to ask the Board for the \$200,000. Mr. Williams noted Dr. Spring was very helpful working with Project Casper. Discussion by Board members included: The timeline (Dr. Spring said they expect it to be open in the fall of 2014); types of courses to be taught; community assessment meetings to see what classes the community wants; this campus will be good for young adults and the senior population; the Campus is in Surf City, but is for the whole county; a good investment for all of Pender County; and overcrowding at Pender Early College. Board members agreed that they did pledge and commit to \$300,000. Discussion ensued concerning the timeline for paying the funds and where they would come from. Dr. Duvall said the funds could be taken from the General Fund Contingency, which is totally different from the Unappropriated Fund Balance. Mr. McCoy was concerned about using reserves. Mr. Brown said we did commit to this, but he is also concerned about using reserve funds. Ms. Camilla Rice of CFCC came forward and explained \$100,000 could be given this fiscal year and \$100,000 next fiscal year. Mr. Williams said that is what he wanted to hear concerning the timeline for the funding. There was still concern about where the funds would be taken from and Dr. Duvall said there is \$60,000 to \$70,000 set aside within the General Fund Contingency Line Item #999 that can be used because we had an inactive hurricane season for the last couple years. Following more discussion, Mr. Tate made a motion to approve giving CFCC \$100,000 this fiscal year and \$100,000 FY 14-15. Mr. Williams seconded the motion and it was unanimously approved.

5. Matt Livingston, Manager, Town of Wallace: Annual Update on Airport Activities (Henderson Field).

Mr. Livingston delivered a PowerPoint presentation entitled "Airport Planning & Development/Henderson Field/Strategic Development Plan/September 13, 2013." The presentation included: Current Airport Property; 2013 Accomplishments & Goals; 2013 Project Costs and Funding; the Ultimate Layout Plan-5500' Runway; Runway Extension Benefits; 2014-2020 Plans and Goals; and 2014-2020 Project Costs. Mr. Livingston demonstrated and explained each category in detail. The entire presentation is on file with the permanent records in the Clerk to the Board's Office. Board members held discussion and asked questions. Mr. Livingston introduced Bill Cook, Airport Manager and Consultant Jason Kennedy, Engineer for W.K. Dickson. Mr. Cook made remarks concerning the Airport taking the overflow out of Wilmington. Mr. McCoy made remarks saying Mr. Cook does a good job. Mr. Tate said he agrees that Mr. Cook does a good job and said he is very impressed with Mr. Cook.

6. Update on State Transportation Improvement Program (STIP) and Pender County's Efforts for Local Prioritization.

Planning Director Kyle Breuer explained: In coordination with the North Carolina Department of Transportation, Wilmington Metropolitan Planning Organization, Cape Fear Rural Planning Organization, and the municipalities of Pender County, Planning staff administers a program to solicit local input for potential STIP projects; the next round of project prioritization from the MPO and RPO are due by January, 2014; in harmony with the Local Transportation Prioritization policy, staff is currently soliciting project ideas to be sent to our respective transportation agencies for ranking and inclusion into the STIP; along with citizen requested projects, staff will also include projects that have been considered and adopted into other local land use and transportation plans; Planning Staff will hold two public input meetings to solicit projects for prioritization on October 29 from 5:00 p.m. to 6:30 p.m. at the Pender County Administrative Building, 805 S. Walker Street, Burgaw, and on October 30 from 5:00 to 6:30 p.m. at the Hampstead Library, 75 Library Drive, Hampstead; and staff will be available to answer any public inquiries and all project submittals will be forwarded to the MPO and RPO based on the location of the proposal.

7. Recognition of Vencent Dodge, Recipient of the Steve Steinbeck Award.

Health Director Carolyn Moser explained: Several years ago Environmental Health was going through a bit of adversity, but has now done a 180° turnaround; statistics show Environmental Health has performed 133% more improvement permits than this time last year; and she wants to recognize her Environmental Health Staff. Environmental Health Staff was asked to stand and received a round of applause. Environmental Health Supervisor Doug McVey gave Environmental Health Program Specialist Vencent Dodge's credentials and explained: At the 29th Annual On-Site Water Protection Conference, Mr. Dodge received the 2013 Steven Steinbeck Award; the Award is given each year; and the award is named for Steve Steinbeck, a retired North Carolina State University faculty member who was well known for his research in the on-site wastewater field. Mr. Brown presented Mr. Dodge with a certificate. Mr. Ward asked Ms. Moser to elaborate on the percentage she gave earlier. Ms. Moser said Environmental Health has issued 394 improvement permits so far this year, compared to 146 at this time last year. Mr. McVey explained improvement permits are the permits when staff goes out and does the soil surveys, and construction authorizations are the permits when the people actually build the house. Mr. Ward thanked Ms. Moser and Environmental Health staff for what they are doing and all their good efforts. Other Board members thanked Ms. Moser and her staff.

PUBLIC COMMENT

Elections Director Dennis Boyles' comments included: He is here to represent smokers who work for the County; we went through this a few years ago; it is working fine the way it is now and he is asking the Board to leave the distances alone; what he is hearing is that smoking hurts others; everyone buys gasoline and gasoline has many dangers; we have vending machines that sell sodas, chips, etc. and those things are not good for your health; and if we move everything that is bad for us, we would have to move everything.

Ms. Jane Wood of the USDA and a resident of Pender County said she wants to go on record that she thanks the County for what it is doing about mold remediation in the Agriculture Building.

Ms. Dean Federonko said she also works in that building and she appreciates all the County is doing.

Dr. Duvall commented: There were some concerns about voters in the upcoming Election; they had a test run today and the polling place is safe; they will go on as normal and start remediation in certain parts of the building after the Election; everything is under control; and thanks to the folks in the building for bearing with us as we work to get this problem corrected.

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:

8. Approval of Minutes: Regular and Closed Session: October 7, 2013.
9. Resolution Accepting Petition to Add Jeff Lane and Jay Court in Hampstead to the State Maintained System, and Authorizing the County Manager to Submit the Petition to N.C. Department of Transportation.
10. Resolution Authorizing Approval of Amendment to Pender Commerce Park Restrictive Covenants.

11. Resolution Authorizing Budget Amendment to Approve Increase in Health Department Revenues and Expenditures for Fiscal Year 2013-2014: \$252,613.

RESOLUTIONS

12. **Resolution Requesting the Pender County Board of Elections to Conduct a Voter Referendum Election in May, 2014 on Whether On-Premises and Off-Premises Malt Beverage Permits May be Issued.**

Mayor Howard Braxton and other Town of Topsail Beach Officials were in attendance. Also in attendance were Pender County ABC Board Officials Attorney Robert Kenan, Chairman Don Hall and General Manager Dianne Chadwick. Mr. Braxton thanked the Board for supporting the Community College in their area and said you can never go wrong with supporting education. Mr. Hall came forward and introduced himself and Mr. Kenan. Mr. Hall said Mr. Kenan had spoken to someone in Raleigh; Raleigh failed to show up today; and Mr. Kenan can answer any questions the Board may have. Mr. Kenan said he spoke with North Carolina ABC Commission Administrator Mike Herring, and Mr. Herring said based on the resolution Topsail Beach's Attorney submitted to them, it appears fine and nothing is wrong with having an election on the sale of on-premise or off-premise malt beverages. Mr. Herring indicated that if the election fails, the previous election held in 1963 for approval to sell malt beverages in restaurants, private clubs or hotels would still be viable and nothing would change. Mr. Williams commented: We couldn't get our local representatives to introduce a bill for us; with the wording on this, what does it open up; he thinks the last juke joint in the County has finally been closed down; if something was done a certain way, it would have to be undone a certain way; and he is concerned what this may open up, or is he just being old fashioned. Mr. Thurman said not from his discussions. He said he spoke to Mr. Herring also, and that is why they tried so hard to limit it to just the Town; they tried everything they could come up with because not every place that wants to sell beer will be a book store; it does open the door to that; the board of Commissioners can't control alcohol sales; if something is permitted, the ABC Commission decides whether they can sell alcohol; the County can't say yes and can't say no. Mr. Kenan said the only thing the County could do is have some limit of control through Planning and Zoning. Mr. Brown said he had hoped it could go to the Town. Mr. Brown asked if we need more discussion on this and Mr. Tate said he is ready to vote on it. He said these gentlemen have been coming back month after month. Mr. Ward made a motion to approve the resolution. Mr. Williams said he will second the motion, but with reservations. He said we may be creating more work for the Sheriff Department and we will have to figure out other ways get Planning and Zoning to help us protect ourselves in the future. The vote was unanimous. Mr. Thurman expressed his appreciation to Topsail Beach Attorney Steve Coggins for his assistance.

13. **Resolution Requesting Approval of an Amendment to the Biggert-Waters Flood Insurance Reform Act of 2012.**

Mr. Williams explained: The Board has covered this item before in discussions; this is the formal resolution he is submitting; this Reform Act will greatly increase insurance rates for buildings in flood areas; and the resolution is in conjunction with ones that were approved by others around us. Mr. Williams made a motion to approve the resolution, Mr. Ward seconded the motion and it was unanimously approved.

14. **Resolution Authorizing Approval of Amendment to the Register of Deeds Records Retention and Disposition Schedule.**

Dr. Duvall explained: This resolution is in accordance to G.S. 121-5 and G.S. 132-3, in which counties may only destroy public records with the consent of the Department of Cultural Resources; this schedule is the primary way DCR gives its consent; the NC Department of Cultural Resources amended the Register of Deeds Records Retention and Disposition Schedule and it was published on October 10, 2012; and without approving this amendment, counties are obligated to obtain permission to destroy the affected sections. Mr.

Williams made a motion to approve the resolution, Mr. McCoy seconded the motion and it was unanimously approved.

15. Resolution Authorizing Pender County Emergency Management to Assist & Perform Inspections Services within the Town of Surf City.

Deputy Fire Marshal Tommy Batson explained Surf City is requesting assistance from the County to perform necessary fire inspections services on an as-needed basis for Level II and Level III inspections; and Surf City is requesting these services because their former Level III Inspector had left the Town. Mr. Williams made a motion to approve the resolution, Mr. Ward seconded the motion and it was unanimously approved.

16. Resolution Authorizing CodeRed Emergency Notification Purchase Order to ENC, LLC: \$19,000.

Emergency Management Director Tom Collins explained: Pender County had an Emergency Notification System, even before he came to the County; the County previously had a DeltaAlert system; CodeRed brought out DeltaAlert; this five-year contract will save the County \$5,000 a year; and this system includes unlimited National Weather Service alerts. Mr. Thurman said his concern was that we have to buy a full year's minutes and there are no rollover minutes. Following discussion and questions by Board members, Mr. McCoy made a motion to approve the resolution, Mr. Williams seconded the motion and it was unanimously approved.

17. Resolution Authorizing Approval of Grant Funds for the Shiloh/Columbia Volunteer Fire Department.

Mr. Collins explained: This is a grant from the International Paper Foundation in the amount of \$1,000; the funds will go towards the purchase of a fire truck; and the check is made out to Pender County and has to go through the County as Process Funds. Mr. Tate made a motion to approve the resolution, Mr. Williams seconded the motion and it was unanimously approved.

18. Resolution Authorizing Approval of Changes to the Constitution of the Pender County Firefighters Association.

Mr. Collins said he will have a presentation on the County's Emergency Response Plan at the last meeting in November. Fire Commission President Scott Sills explained that after the merger, they looked at the by-laws and came up with some proposed changes; and the changes have been approved by the Fire Commission. The proposed changes included adding four community members. Mr. McCoy made a motion to approve the resolution, Mr. Williams seconded the motion and it was unanimously approved.

19. Resolution Authorizing Approval to Prohibit Tobacco Use within 50 Feet of all Government Buildings and on County Property.

Ms. Moser explained: A lot of this came out of the Advisory Board of Health's discussion concerning e-cigarettes; there are two resolutions because Mr. Thurman wanted distinction between tobacco use and e-cigarettes; the Health Department already has the 50 feet smoking policy; and they get lots of complaints from people about walking in and out of buildings through cigarette smoke. Mr. Thurman said he did want the distinction made because e-cigarettes don't contain tobacco. Mr. Brown said he is not going to support banning smoking completely, but he is concerned about smoking at the entrances to buildings. Mr. Tate said banning smoking would be interfering with people's personal rights. There was more discussion concerning smoking at entrances. Other discussion included smoking at the DSS Building, smoking at the Courthouse, smoking at other government buildings, smoking in cars at government buildings, establishing designated smoking areas, and the county policy states designated areas, and doesn't state a distance. Ms. Moser said she thinks the DSS Building already has the 50 feet policy also. Clerk of Court Robert Kilroy spoke

concerning the smoking designation areas at the Courthouse and said it is working very well. After more discussion, Mr. Williams made a motion to table Items 19 and 20 until we can come up with a policy. Mr. Ward seconded the motion and it was unanimously approved. Dr. Duvall was instructed to come up with designated smoking areas away from entrances to the buildings.

20. Resolution Authorizing the Approval to Prohibit E-Cigarette Use within 50 Feet of all Government Buildings and on County Property.

This item was tabled along with the previous item.

21. Resolution Authorizing Approval of Revised Fiscal Policy Guidelines for the County of Pender.

Mr. Watson distributed a report and explained it is a refresher of what we talked about last spring. The report was contained information concerning the following: Peer Comparatives-Peer Comparatives Introduction, National Aa1 and Aa2 Counties; North Carolina Aa1 and Aa2 Counties, Rating Scale; Tax-Supported Payout Ratio-Ten Year Payout Ratio, Ten Year Payout Ratio Comparables, Debt Service; Existing Debt Ratios-Debt to Assessed Value, Debt to Assessed Value Comparables; and Existing Debt Rations-Debt Service vs. Governmental Expenditures, Debt Service vs. Expenditures Comparables. Mr. Watson explained each category in detail. Following questions by Board members, Mr. McCoy made a motion to approve the resolution, Mr. Williams seconded the motion and it was unanimously approved. The entire report is on file with the permanent records in the Clerk to the Board's Office.

22. Resolution Authorizing Approval of the 2014 Calendar of Meetings of the Pender County Board of Commissioners.

Dr. Duvall explained the proposed meeting schedule, noting the Budget Work Sessions and the months that have only one meeting. He said there will not be a Summit in January, as has been in the past. Board members agreed having the Summit in January and later having the budget work sessions was redundancy. There was discussion concerning attending NACo and NCACC Annual conferences. Mr. Tate made a motion to approve the resolution, Mr. Williams seconded the motion and it was unanimously approved.

23. Resolution Authorizing the County Manager to Enter into "Location Agreements" for the Purpose of Filming on County Property.

Dr. Duvall explained that over the last few years, requests to film in and around the Pender County Courthouse and Judicial Annex by the filming industry have become more frequent, and this resolution is requesting the Board to delegate the County Manager the authority to enter in Location Agreements with film producers desiring to use the facilities. Mr. Kilroy added he put together a basic minimum resolution, Location Agreement and Certificate of Liability Insurance Form to cover the County, so we won't need to go through all these mechanizations every time someone wants to come in and film. Mr. Williams made a motion to approve the resolution, Mr. Tate seconded the motion and it was unanimously approved.

APPOINTMENTS

24. Resolution Authorizing Approval of Appointment to the Pender EMS and Fire, Inc. Relief Fund Board and the Pender Memorial Hospital Board.

Mr. Brown introduced the resolution. EMS Director Woody Sullivan came forward and explained the Relief Fund Board is a five member board, with two members being appointed by the Board of Commissioners, two by his Board and one by the Office of the State Fire Marshal. Mr. Ward made a motion to approve the appointment of Edward Duffield and Joseph Futrell to serve a one-year term on the Pender EMS and Fire, Inc. Relief Fund Board, with term to expire October 20, 2014. Mr. Tate seconded the motion and it was unanimously approved. Ms. Pridgen explained Christopher Sikes is applying for a position on the Hospital Board, the two positions open are for Districts 2 and 5, and Mr. Sikes resides in District 3. During

discussion, Mr. Tate stated he would really like for someone who resides in District 5 to represent it. Mr. Ward made a motion to approve the appointment of Christopher Sikes to the Pender Memorial Hospital Board to serve a three-year term representing District 2, with term to expire July 25, 2016.

DISCUSSION

25. Discussion of Appointment to the CoastalCare Area Board.

Mr. Ward said he had been asked to serve on this Board but after finding out that the Board of Commissioners is now the Health Board, he would not have the time to serve on both boards. No other Commissioner wished to serve. Ms. Pridgen explained that the CoastalCare Board had changed its bylaws and the County Manager or Assistant County Manager could now be appointed. Mr. McCoy made a motion to approve the appointment of Dr. Duvall to serve a three-year term on the CoastalCare Area Board, with term to expire June 30, 2016. Mr. Tate seconded the motion and it was unanimously approved.

ITEMS FROM THE COUNTY ATTORNEY

Mr. Thurman said due to the time, he will defer his other items, but there are items for Closed Session.

ITEMS FROM THE COUNTY MANAGER

Dr. Duvall also deferred his items.

ITEMS FROM THE COUNTY COMMISSIONERS

Mr. Tate thanked Mr. Brown and Mr. McCoy for attending the Penderlea Homestead Day celebration, and thanked Mr. Brown for working with the community on the issues with the barn. Mr. Brown said this is a museum of sorts, it is on the National Register and there will be changes made in the UDO with special rules to cover these types of organizations. Mr. Tate also thanked Mr. Brown for attending the EMS Appreciation Service.

Mr. McCoy announced the passing of Clifton Moore, a well-known and well-respected citizen and attorney of Pender County. Mr. Moore had served as the County Attorney at one point and as Mayor of Burgaw.

Mr. Ward said with respect to information given to him by a gentleman at the last meeting concerning a tax issue, he would like to give the information to the Attorney and ask the Attorney to get with the Tax Assessor to see if there was a computer error or some other error.

CLOSED SESSION

At 6:40 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; and 5) to establish, or to instruct the public body's staff or negotiating agents concerning the position to be taken by or on behalf of the public body in negotiating (i) the price and other material terms of a contract or proposed contract for the acquisition of real property by purchase, option, exchange, or lease; or (ii) the amount of compensation and other material terms of an employment contract or proposed employment contract. Mr. Tate seconded the motion and it was unanimously approved. The Board exited the Closed Session at 7:18 p.m. There were no announcements made.

PUBLIC HEARINGS: SPECIAL USE PERMITS/ZONING MAP AMENDMENT/UDO AMENDMENT/ RESOLUTIONS

26. Public Hearing and Resolution to Readdress Mae Drive. (Tabled from September 16, 2013 Meeting.)

The Public Hearing opened at 7:20 p.m. Addressing Coordinator Jan Dawson explained: This item was tabled from the September 16, 2013 meeting; the Board had requested staff to investigate the situation of emergency equipment being able to enter The Manor at Mill Creek Subdivision. Ms. Dawson had included in the agenda packets pictures of a fire truck entering and exiting the subdivision. Ms. Lisa Crowell said since it appears the readdressing is going to happen, she would like to ask the Board for three things: 1) To not let this happen to anyone else; 2) to not reuse any of the current addresses; and 3) to wait until the New Year to implement the readdressing. Mr. Williams apologized to Ms. Crowell, said this same thing had happened to him before and said he agrees with Ms. Crowell about waiting until the New Year. Mr. Ward said he hopes the residents understand, but the Board has to abide by the Ordinance. Ms. Crowell asked when they will know the new addresses and Ms. Dawson said they will be sending out letters within a couple of weeks. There ensued discussion concerning when the new addresses would take effect and it was the consensus of the Board that it would not take effect until after January 1, 2014. The Public Hearing closed at 7:28 p.m. Mr. Williams made a motion to approve the resolution, with the stipulation that it will not go into effect until 2014. Mr. Ward seconded the motion and it was unanimously approved

Mr. Williams said he commends the whole Planning Department, but he really commends and appreciates Planner Ashley Frank for showing up on a Sunday to field questions at a Community Meeting concerning a new Subdivision, The Oaks at Sloop Point.

27. Public Hearing and Resolution Requesting Approval of a Special Use Permit for a Revision to an Existing Special Use Permit for a Nonmetallic Mineral Mining and Quarrying Operation, Located Approximately 450 Feet North of Sidbury Road, Hampstead.

The Public Hearing opened at 7:28 p.m. Mr. Thurman swore in the witnesses. Planner Ed 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 explained: The original 1999 permit was approved for the establishment of an 11.88 acre sand mine which consisted of a 2.18 acre pit mine area and the remainder of the 11.88 acres was approved to be mined in conjunction with the ditching of the roads; and a 23.9 acre expansion was approved in 2000. With respect to Project Description, Mr. McCarthy said the applicant is requesting a 4.38 acre expansion. Owner Jim Teachey explained: The mine was in existence when he purchased the property; the permit was signed over to him when he purchased the property; and he is now trying to expand the mine. Applicant Mark Walton explained: He is here to answer any questions; it is a sand mine; they are looking to level the mine; they are not looking to dig a pit; and they want to level it out with the road. Mr. Thurman asked if all the information that is in the application true to the best of his knowledge and Mr. Walton responded affirmatively.

The following area residents commented:

E.W. Fredrickson: Wants to know what this man's intentions are; in 1999, he and his neighbor had to rebuild their wells because of this mine; the owners drained the wetlands; there are endangered woodpeckers in this area; as long as they don't disturb his well, he has no problem; and he is concerned about gun shots he has heard back there. Mr. Teachey said they are not going into the water table.

Mickey Finn: The initial project was in 1999; they were notified but nothing happened; and they never received notice that it had started up again.

Stanley Griffin: Concerned about effect on water table; trucks coming in and out increasing traffic; mine hasn't been running in ten years, now all of a sudden they are operating again; and there will be dust problems. Mr. Williams stated these are not the same players as was back then. Mr. McCarthy said Planning defers a lot to the State and the applicant would have had to have State and Federal approval before Planning could issue final approval. Mr. Walton explained: The State will not allow mining in wetlands; Mr. Teachey wasn't the owner when the mine was in operation before; the permits have been in effect the whole time; there will be no water table issues because it is not a pit mine; the maximum depth will be twenty feet; and you would have to dig deeper than the well for the well to be affected. Mr. Thurman said the SUP the County issued the first time transferred with the land. Mr. Teachey commented: In regard to the wells, they are not going down into the water; they are just taking the top off; they want to bring about four acres down to the level of the road; it will be no more than six feet deep; they have been selling dirt out of the mine; fifteen to twenty loads of dirt is the most that would come out of there in one week; and the State has signs out saying "trucks entering road." Mr. Tate asked if a hydrologist had been out to measure the water. Mr. Walton said he does the hydrology work; Mr. Teachey has monitoring wells; conditions on the permit are from 1999; and the current permit says all conditions of the previous permit apply to this one. The Public Hearing closed at 8:00 p.m. Mr. Williams made a motion to approve the Special Use Permit Request, Mr. Ward seconded the motion and it was unanimously approved.

28. Public Hearing and Resolution Requesting Approval of a Special Use Permit for the Use of Other Schools and Instruction Operation Business, Located Approximately 3,100 Feet Southeast of the Intersection of Bethel Church Road and NC Highway 210, Currie.

The Public Hearing opened at 8:00 p.m. Mr. Thurman swore in the witnesses. Mr. McCarthy explained the Background; Land Use Proposed; Property Record Number and Location; Zoning District of Property; Project Description; and Evaluation. With respect to Project History, Mr. McCarthy explained during the March 18 2013 Board meeting, a Special Use Permit was denied for the operation of a trade and technical school, school and instruction facility and shooting range for first responders, law enforcement and military purposes. The permit was denied on the basis that it would impair the integrity or character of the surrounding or adjoining districts and properties, and would also affect the safety, health, morals, and welfare of the community or of the immediate neighbors of the property. Mr. Williams asked, for records sake, if they will be giving shooting instructions. Ed Gaskins, Counsel for the applicant, responded that the distinction between this application and the one from seven months ago is that this particular proposal does not involve an outdoor shooting range. He said he reviewed the proceedings on-line and the order. As reviewing the aforementioned sources, it was clear that the Board's order reflected that the focus was on the outdoor shooting range; this application does not include an outdoor range; and Mr. Cowden will come forward to explain what is in the application. Mr. Thurman said he received an e-mail from Attorney Grady Richardson earlier today stating that he is representing nearby property owners who wish to contend that granting this permit will be barred by res judicata and various estoppels claims. Mr. Thurman said that he had consulted with Mr. Breuer and given the fact that this does not include an outdoor shooting range, his advice to the Board is that res judicata would not be sufficient justification to prevent the Board from hearing

the applicant's proposal because, as proposed, there is a substantial difference between the two proposals. Mr. Richardson commented: He represents Audrey Mizrahi, Barbara Squires, Rosalind Squires, and Squires Land Company. He said they were here in March and the Board's motion to deny was not solely based on outdoor shooting range; his clients' had fifteen basis to their objections; the application was comprised of three components; and the applicant has only removed one component. Mr. Brown and Mr. Williams indicated that they know why they voted the way they did and that they are following the advice of their Legal Counsel. Mr. Gaskins moved to submit the application into evidence. Anthony Cowden, representing the property owner, listed his credentials. At Mr. Gaskins' request, Mr. Cowden stated his background and training. Mr. Gaskins instructed Mr. Cowden to address certain issues and Mr. Cowden addressed distance from the nearest residence, indicating that the nearest residence was approximately 2,100 yards from the household located on the adjacent eastern parcel; there will be no outdoor shooting; there will be indoor tactical marksmanship training (utilizing Simunition non-lethal marking rounds); and hours of operation. Mr. Cowden used as an example the New Hanover County Sheriff Deputy that was shot recently as an example of training needs. Mr. Richardson cross examined Mr. Cowden asking about hours of operation and if he will be providing training for private companies. There was discussion by Board members on how providing training for private companies is not relevant to the issue. Mr. Richardson said residents are concerned about their safety, health, morals and welfare. Mr. Cowden said there are procedures in place, and they do background checks and screen people. Mr. Richardson asked if the applicant plans to come back later to apply for a gun range permit. Mr. Gaskins objected and Mr. Thurman sustained the objection. Mr. Richardson said they will come back. Mr. Brown said Board members sitting up here are not stupid.

The following area residents commented:

Barbara Squires: The applicant didn't bring the community together and explain anything to them; this is a rural area; people are fearful of someone coming in and simulating war.

Ted Brown: Why is the owner not here; will training be contained in this one acre tract; just getting their foot in the door; who's going to watch over all this. Mr. Breuer said if Planning knows of anything going on that shouldn't be, they will look at it.

Nancy Keith: Outdoor shooting range was the main problem; what is the practice shooting material made of; debris runoff in the bays in the area; special species in the bays; ecological and environmental impacts.

Kenneth Keith: The applicant changed tactics; couldn't get it passed before, now they've changed wording; will bring back in the future; who are they training; military and law enforcement train their own; these facilities being built in surrounding counties; it is a "Trojan Horse" story; when they come back a different Board will be sitting.

Robert Stallings: One acre of land-how big is the structure; training on ATV's-where will they train; military training-why can't they do it in Jacksonville.

Mary Bordeaux: Her family ride horses and hunt; there is wildlife, wild turkeys, Venus Fly Traps and bears-who is going to protect them? Mr. Tate asked how would this project affect wildlife and Ms. Bordeaux responded the noise will drive animals out.

Rocky Watts: Not about patriotism; about money and business; they never got with the neighbors; this shows no respect for anybody; strictly business; don't go stepping on little people to get what you want;

disrespectful last time; what concerned him last time was his grandchildren – a bullet could hit them; what kind of training in that small building.

James Rowell: A lot has been said and a lot has been destroyed; no trust; can you trust what he brought you; he has destroyed the peace; Board needs to find out where he is going next before they make their decision.

Mr. Ward asked if the neighbors were notified. Mr. McCarthy said they are only required to notify the adjacent property owners and they did. He said the legal notice was posted in the newspaper and signs placed on the property.

Mr. Cowden: They followed every rule every step of the way; they are not required to notify everyone; nowhere in his conversation did he say this is patriotic; they are not trying to slide anything by anybody; and they removed the one thing everybody was so upset about.

Audrey Mizrahi: Mr. Cowden called to let her know he was going ahead with the second permit; she told him she didn't understand why they are going ahead when all the neighbors are opposed to it; and he said that was the cheapest piece of property they could find. Mr. Cowden denied saying that.

Mr. Tate commented: He likes to see communities come together; did Mr. Mr. Cowden contact people in the neighborhood; a major component had been removed; he took the comment seriously that someone made earlier that the Commissioners don't come out in that area; and he understands some of their concerns. The Public Hearing closed at 9:50 p.m.

Mr. Brown asked if anything had been presented tonight that can help him make his decision. Mr. Thurman said if any Board member has any concerns or can't base his decision solely on the testimony he heard tonight, he can recuse himself from voting. Mr. Thurman said if the gun range issue comes back, his advice to the Board would be not to hear it again. Following more discussion, Mr. Tate made a motion to deny the Special Use Permit Request, based on Item No. G2 of the Special Use Permit-Review Criteria: "The requested use will not impair the integrity or character of the surrounding or adjoining districts, not adversely affect the safety, health, morals, or welfare of the community or of the immediate neighbors of the property." Mr. McCoy seconded the motion and it failed by a 3-2 vote, with Mr. Tate and Mr. McCoy voting in favor of denying it and Mr. Brown, Mr. Ward and Mr. Williams voting against denying it. Mr. Williams then said based on the testimony he has heard here tonight, he will make a motion to approve the Special Use Permit Request. Mr. Ward seconded the motion and it was approved by a 3-2 vote, with Mr. Williams, Mr. Ward and Mr. Brown voting in favor of it, and Mr. Tate and Mr. McCoy voting against it.

29. **Public Hearing and Resolution Requesting Approval of a Zoning Map Amendment for a General Use Rezoning of One Tract Totaling 16.586 Acres from PD, Planned Development District, to OI, Office and Institutional District, Located at 312 Transfer Station Road, on the South Side of US Highway 17, between Annandale Trace and Leeward Lane, Hampstead.**

The Public Hearing opened at 10:04 p.m. Mr. Breuer explained the Rezoning Proposal; Property Record Numbers, Acreage, and Location; Policy Compliance; Planning Board Recommendation; Description; and Evaluation. With reference to the Planning Board Recommendation, Mr. Breuer said the request was denied by a 3-2 vote. The Planning Board recommended the applicant, Pender County, submit a conditional rezoning application with conditions established to mitigate noise and other impact on properties nearby. Adjoining property owner Jamie Jernigan spoke. Mr. Jernigan commented: He is one of the two private property owners at this site; if the Convenient Center is moved here there would only be a ten foot buffer between it and his property; liquids from the Convenience Center spill all over; employees take a water hose

and wash liquids into the dirt; and this could affect his own water. There was discussion concerning moving the Convenience Center to this site. Utilities Director said the proposed By-Pass has almost forced our hand to move it. Mr. Mack explained employees keep the Convenience Center sites clean, the ones with concrete do get hosed off. He said there is a wastewater treatment plant at the Transfer Station, and the water is treated and used again. After more discussion, the Public Hearing closed at 10:40 p.m. Mr. McCoy made a motion to deny the Zoning Map Amendment, Mr. Williams seconded the motion and it was unanimously denied, based on the Planning Board's recommendation to submit a conditional rezoning application, with conditions established to mitigate noise and other impacts on properties nearby.

30. **Public Hearing and Resolution Requesting an Amendment to the Pender County Unified Development Ordinance Amending: Section 3.5.2.D, Addressing the Waiver Criteria for Master Development Plan Requirements in the Commercial and Industrial Districts; Section 5.2.3, Table of Permitted Uses by Adding the Use of an Industrial Park to the General Industrial (GI) Zoning District; Section 5.3.11, Adding Use Standards to Industrial Parks Located within the GI District, and Adding a Definition of an Industrial Park to Appendix A.**

The Public Hearing opened at 10:40 p.m. Mr. Breuer explained the Text Amendment Proposal; Background; Administrator/Planning Board Recommendation; Amendment Outline; and Evaluation. The Public Hearing closed at 10:41 p.m. Mr. Williams made a motion to approve the UDO Amendment, Mr. Ward seconded the motion and it was unanimously approved.

ADDENDUM

23a. **Authorization for Manager to Execute Two Original Counterparts of Two Power Line Easements to Duke Energy Progress for the Pender Commerce Park.**

Dr. Duvall presented to the two easements to the Board. Mr. Williams made a motion to add the item to the agenda, Mr. Ward seconded the motion and it was unanimously approved.

23b. **Resolution Authorizing \$55,440 be Allocated and purchase Orders be Approved for the Construction of a Parking Lot and Roadways within Hampstead Kiwanis Park.**

Mr. Williams presented and explained the item. Mr. Ward made a motion to add the item to the agenda, Mr. Tate seconded the motion and it was unanimously approved. Mr. Williams made a motion to approve the item, Mr. Ward seconded the motion and it was unanimously approved.

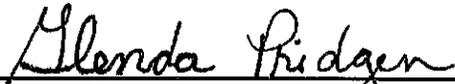
CLOSED SESSION

The Board re-entered closed session at 10:50 p.m. and exited at 11:04 p.m.

ADJOURNMENT

There being no further business, the meeting adjourned at 11:04 p.m.

Respectfully Submitted,



Glenda Pridgen, Deputy Clerk to the Board

Reviewed By:



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