

MONDAY, APRIL 7, 2014

The Pender County Board of Commissioners met in regular session on Monday, April 7, 2014 at the Topsail High School Performing Arts Center, 245 St. John's Church Rd., Hampstead, NC.

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

MEMBERS ABSENT: Jimmy Tate.

OTHERS PRESENT: Mickey Duvall, County Manager/Clerk to the Board; Trey Thurman, County Attorney; Butch Watson, Finance Officer/Assistant County Manager; Glenda Pridgen, Deputy Clerk to the Board; other staff and members of the Press and public.

CALL TO ORDER

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

INVOCATION

Vice Chairman McCoy offered the Invocation.

PLEDGE OF ALLEGIANCE

Commissioner Brown led the Pledge of Allegiance.

EXCUSE COMMISSIONER

It was noted that Mr. Tate could not attend the meeting due to job obligations. Mr. Brown made a motion to excuse Mr. Tate, Mr. Ward seconded the motion and it was unanimously approved by a 4-0 vote.

PUBLIC INFORMATION

1. Surf City Mayor Zander Guy/Cape Fear Community College President Ted Spring: Update on Cape Fear Community College-Surf City Location.

Mayor Guy thanked the Board for all the good they do throughout time, and particularly for funding for education. Mr. Guy gave a history of the Cape Fear Community College Surf City location. His remarks included: Alston Burke donated the land; land clearing is going on now; the building is 12,000 sq. ft. with sixteen classrooms; Bordeaux Construction out of Durham is the contractor; they are looking at December 14, 2014 as a completion date and hope the first class starts in February or March, 2015; they anticipate 800 students the first year; and the School is not just for Surf City, but for the whole east side. Mayor Guy named what types of classes they will initially have and said they held public information meetings to get input of what type of classes people want. Mr. Williams remarked he is glad to see this come to fruition, and Commissioner Tate had really pushed hard for it. President Ted Spring and Senior Vice President for Business and Institutional Services Camilla Rice of Cape Fear Community College were also present.

Item No. 8 was moved up due to the family in attendance having other obligations.

8. Parks and Recreation Supervisor Dee Turner: Update on Hampstead Kiwanis Park, Including Recognition of the Family of J.J. Smith, Sr. for their Contribution of \$30,000 toward the New Softball/Baseball Field and their Pledge for an Atlantic Seafood Scoreboard.

Ms. Turner explained: Seed money for a new baseball/softball field at Hampstead Kiwanis Park was made possible by a \$30,000 donation by the J.J. Smith, Sr. Family; Pender County added \$40,000 to the donation and construction plans for the J.J. "Doodley" Smith field began; in addition to this field, another parking lot and roadway with an ingress/egress off Country Club Road will be constructed; rough grading and drainage work in the new field area has been completed; the fencing is currently being installed; the power and well will be installed when it becomes dry enough for the heavy equipment to access the area; following the completion of the power and well installation, the irrigation system will be installed; sprigging of the hybrid Bermuda, Celebration, will be done in mid to late May; the field should be ready for play in the fall; the Smith Family business, Atlantic Seafood, has also pledged to donate a scoreboard for this new field similar to the one they donated two years ago for Darden Field at the Park; and construction of the new parking lot and roadway will begin when it becomes dry enough for the heavy equipment to access the field. Mr. Williams commended the Smith Family. He read a Certificate of Appreciation which recognized them for their generous donation and pledge to the Hampstead Kiwanis Park, and for their dedication to Pender County. Mr. Williams then presented the certificate to Joseph Smith and his family, noting Joseph Smith is the grandson of J.J. Smith, Sr.

2. Citizens for Hampstead Bypass.

The following Hampstead citizens spoke on behalf of the Hampstead Bypass and specifically against the Mid-town Interchange:

Charla Webster-Pleased to announce the formation of "Citizens for Hampstead Bypass"; their main goal is to stop the midtown ramp; the ramp will end at historic Chapel Pond; 1300 people have signed the petition against the 3rd ramp.

Mike Nadeau-Why are three interchanges needed; Engineer designed the plan based on what they were given by DOT; Upchurch said no specific analysis was done specifically for Hampstead; future numbers of DOT's traffic pattern are not correct; they asked DOT for Hampstead specific analysis.

Jim Dyer-Concerned about dumping all that traffic in mid-town; no one he talked to thinks they need a 3rd interchange; asking Board of Commissioners to help.

Patty Rouse-DOT never did a formal study and Citizens for Hampstead Bypass hired a transportation engineer to do a study and he said the DOT traffic analysis is more than double what it will be. Ms. Rouse read results from the study and read quotes from a manual.

Al Sidbury-Don't want or need 3rd interchange and DOT funds are already tight. Mr. Sidbury gave history of Chapel Pond.

Jack Swann-They tried to have a bypass in 1991; they want to make it clear that they want the Bypass; they don't need a 3rd interchange; the 3rd interchange was in the original; DOT should erase it out; \$30 million for a mid-town interchange that is not needed is too much.

3. North Carolina DOT District 3 Engineer Karen Fussell: Update on the US Highway 17 Bypass.

Ms. Fussell spoke concerning traffic forecasting and different models used. She said the mid-town interchange was part of the original plan and their staff said it is needed.

Jay McGinnis of NC DOT-He is project engineer; when they were getting really close to finishing the study, they evaluated around twenty-three alternatives; during the public hearing there was strong interest from the public about having northern access; because of endangered species they would not be able to get permission for the original plan; they have environmental approval; they held workshops; current project is funded for right-of-way acquisition.

James Upchurch of NC DOT-He is with the Transportation Planning Branch; they put out a Traffic Forecasting Report; they studied future traffic needs; they used a Travel Demand Model; have no other tool to develop forecast; info was put out to the public; site specific tool not appropriate to use for project forecasting; they collect traffic info on all the roads; DOT used growth assumption based on info given to them by the MPO; this area grows much faster; this is a regional project.

Edith Peters, a Consultant for DOT, gave a history of what her firm did versus what the consulting firm for Citizens for Hampstead Bypass did.

Other discussion included forecasting growth; the three interchanges; average annual daily traffic volume; growth patterns; thru traffic versus local traffic; DOT's model showing more traffic coming in at morning than leaving in the evening; diversion rate; difference in beach towns; the midtown interchange.

Following more input from Mr. Nadeau, Ms. Fussell explained: DOT had different forecasts than the Citizens for Hampstead Bypass group; data can be interpreted in different ways; you can put the same information in and it can come out two different ways; you can put different information in and get the same result; if DOT could do the interchange in the north that could handle all the traffic, they would love to cut the mid-town interchange, but they don't want to build something that will fail.

4. Pender EMS & Fire, Inc. Director Woody Sullivan: Update on Pender EMS & Fire, Including the New Scotts Hill Station.

Mr. Sullivan distributed handouts and delivered a PowerPoint presentation entitled "Pender EMS and Fire, Inc. Update April 7, 2014." The presentation included: July 2013-Merger with Hampstead, Sloop Point and Long Creek Grady; August 2014-32 Full-time Firefighters started work at Sloop Point, Hampstead, Long Creek and Fire Administration; September-Lowered ISO at Station 28 Hwy 210 West Hampstead & Pender EMS & Fire, Inc. was recognized as a teaching institution for the Department of Insurance; October 2013-Completed plans for Station 18, Scotts Hill & Station 29, 421 South and Surf City Volunteer Asset Merger Completed; February 2014-Purchased used fire truck with extra tall ladder, which can be used at the Pender Commerce Park; March 2014-broke ground at new Scott's Hill Station 18; Summary of Current Staff; Summary of Current Stations; and Summary of Current Fleet. Mr. Sullivan explained each category in detail and demonstrated with drawings and maps. Board members asked questions throughout the presentation. The entire presentation is on file with the permanent records in the Clerk to the Board's Office.

Utilities Director Michael Mack gave a 2014 Projects Update and delivered PowerPoint Presentations on the following projects:

5. **Pender Utilities Director Michael Mack: Update on Old Topsail High School Renovation to County Offices/Sheriff's Substation and Auditorium.**

The presentation included: History-Charles Boney, the grandson of the original architect is the lead architect in the renovation project; Original Construction Ledger showing construction began in 1924 at a total cost of \$52,698; Services to be provided; Before Demo; After Demo; Auditorium-Before Demo; and Auditorium-After Demo.

6. **Pender Utilities Director Michael Mack: Update on Pender Commerce Park.**

The presentation included: History; Property Purchase; and Wastewater Treatment Plant. Mr. Mack explained that since the Park now has a tenant, the County has moved forward with the construction of infrastructure and a Wastewater Treatment Facility. He said on March 21, 2014, the Board of Commissioners held a Groundbreaking Ceremony and announced the plant to be known as the "Melinda K. Knoerzer Adaptive Ecosystem Reclamation Facility" in honor of and dedicated to the memory of a long-serving County employee who lost her courageous battle against ovarian cancer in July 2013.

7. **Pender Utilities Director Michael Mack: Update on Hampstead Solid Waste Convenience Site Relocation Project.**

Mr. Mack explained the Solid Waste Convenience Site Project Schedule and the timeline. The Schedule included: Design/Permitting: March 2014-August 2014; Bid/Award: September 2014-November 2014; Convenience Center Construction: December 2014-April 2015; Scale Relocation Construction: December 2014-April 2015; and Project Close out/Start up: April 2015-May 2015.

Mr. Mack explained each category in each project in detail and demonstrated with drawings and maps. Board members asked questions throughout the presentations. The presentations are on file in their entirety with the permanent records in the Clerk to the Board's Office.

PUBLIC COMMENT

Steve Donatone of Hampstead thanked the Board for having a meeting in Hampstead; read the definition of Bypass; spoke about the mid-town interchange, saying most people don't want it; and spoke about public trust in Government Officials.

Hiram Williams of Hampstead thanked the Board for coming to Hampstead; commended the Board on the Old Topsail School project; and thanked DOT officials for coming and listening to citizens.

CONSENT AGENDA

Mr. Williams presented the four items on the Consent Agenda and asked for any discussion or questions. Mr. McCoy made comments concerning Item No. 11, noting the donations received for the Equine Facility at the Animal Shelter. Mr. Williams noted Mr. McCoy and his family helps out a lot at the Animal Shelter. Mr. Brown made a motion to approve the Consent Agenda, Mr. McCoy seconded the motion and the Consent Agenda was unanimously approved by a 4-0 vote as follows:

9. Approval of Minutes: Regular & Closed Session: March 17, 2014.
10. Resolution Authorizing Approval of Tax Releases and Refunds.
11. Resolution Authorizing Approval of Purchase Order to Horizon Structures, LLC for the Purchase of a 3 Stall Horse Barn: \$7,229.
12. Proclamation by the Pender County Board of Commissioners: Spring Litter Sweep: April 26-May 10, 2014.

RESOLUTIONS

13. **Resolution Authorizing Revised Language Regarding Designated County Smoking Areas to be added to the Pender County Personnel Policies and Procedures Manual.**

Human Resources Director Denise Mulhollen explained: Tobacco use and tobacco products have been linked to preventable, premature deaths in the United States; the regulation and control of smoking, tobacco products and e-cigarettes in buildings and vehicles owned or leased by Pender County is a matter of vital concern, affecting the public health, safety and welfare of all persons employed by or transacting business with Pender County; this policy covers all employees and other persons in County buildings or vehicles; the Board is being asked to amend the policy to add verbiage pertaining to smoking, using tobacco products and e-cigarettes only in clearly marked County designated smoking areas; and to amend the title of Section 17. Smoking and Tobacco Use to Smoking, Tobacco Use and E-Cigarette Use of the Pender County Employee Personnel Policies. Mr. McCoy said people say that smoking only affects themselves, but it does have effects on others. Mr. Ward asked if this would affect all tobacco products and Ms. Mulhollen responded affirmatively. Mr. Ward asked about disciplinary actions. Mr. Mulhollen explained that disciplinary action could range anywhere from warnings to dismissal for the use of tobacco in a non-designated area. She said the type of disciplinary action will be up to Department Managers and it would be on a case-by-case basis. Mr. Ward said he knows Ms. Moser and Ms. Mulhollen worked hard on this, but he can't support it if County employees who use tobacco products are going to be disciplined for it. Mr. McCoy made a motion to approve the resolution, Mr. Brown seconded the motion and it was approved by a 3-0 vote, with Mr. Ward voting against it.

14. **Resolution Authorizing Sole Source Procurement of "Sustainable Water" Technology Design to Include in the Plans and Specifications of the Competitive Bid process for a General Contractor to construct Phase II of the Commerce Park Wastewater Reclamation Facility.**

Mr. Mack explained: McKim & Creed is nearing completion of the Phase II plans, specifications, and competitive bid documents for completion of the Melinda K. Knoerzer Adaptive Ecosystem Reclamation Facility now that Phase I is under construction; this next phase of the process will solicit bids from Pre-Qualified General Contractors for the construction of the main process components and structures of the facility; in order for the County to obtain the innovate and unique technology envisioned for the plant, the competitive bid documents must stipulate that only "Sustainable Water" treatment technology will be acceptable and approved for use on this project; all General Contractors will then use "Sustainable Water" as a sub-contractor and all will be provided the same price from Sustainable Water to include in their bids; this process will require the Board to authorize the sole source procurement of "Sustainable Water" as the technology designer and provider on this Reclamation Facility; staff and McKim & Creed have consulted with County Attorney Thurman on this process and are recommending the Board authorize the sole source procurement process. Mr. Thurman said we can't just say we want Sole Source, there has to be a need for it. Tim Baldwin of McKim & Creed said the way this system is done makes it unique, and it is not something we can adapt to from others. Following discussion and questions by Board members, Mr. McCoy made a motion to approve the resolution, Mr. Brown seconded the motion and it was unanimously approved by a 4-0 vote.

15. **Resolution Authorizing Amendment to the Incentive Agreement between Pender County and RC Creations, LLC; and Amendment to Change Name from RC Holdings, LLC to RC Creation Holdings, LLC.**

Mr. Thurman explained: Pender County previously entered into an Incentive Agreement with RC Holding so that the Company would build and operate a seafood processing facility; in order to facilitate the financing for construction of the processing facility, RC has requested that the County agree to allow the bank making the loan have a first lien position; the County will be financially protected by an irrevocable letter of credit in the amount of Eight Hundred Thousand Dollars (\$800,000); the Company is also requesting that the agreements be modified to reflect that the name of the LLC will be RC Creation Holdings, LLC.; this is in the nature of the technical correction required because the previous name of RC Creations, LLC is not available as a registered name; neither of the amendments will require the County to expend any additional funds or place the County at risk; and the amendments will assist the Company in securing the necessary financing so that the anticipated increase in tax base and jobs can be finalized. Richard Nordt of RC Holdings and his Attorney Ricky Biberstein were present to answer any questions. Mr. Brown asked if none of the changes will affect protection of the County and Mr. Biberstein responded the bank is primarily responsible for the changes. Mr. Ward asked what the County will do if the company files bankruptcy. Mr. Thurman said we can pursue the Letter of Credit. Mr. Nordt said if the Company "pulls the plug" the County is guaranteed \$800,000. Following more discussion and questions, Mr. Brown made a motion to approve the resolution, Mr. McCoy seconded the motion and it was unanimously approved by a 4-0 vote. Mr. Thurman said the Board had already agreed to extend the contract through April 30, 2014, but he is now asking them to extend it through May 31, 2014, in case something comes up. Mr. Brown made a motion to extend the contract through May 31, 2014, Mr. Ward seconded the motion and it was unanimously approved by a 4-0 vote.

DISCUSSIONS

16. **Discussion and Possible Reassignment of Commissioner Appointment.**

Mr. Brown said he has to look into something concerning this item and asked to have it tabled indefinitely at this time. The Board gave a nod to tabling the item.

17. **Discussion of Topsail Island Bridge Replacement-Existing Bridge Ownership.**

Planning and Community Development Director Kyle Breuer explained: Pender County was contacted by the consultant working with NC DOT for the Topsail Island bridge replacement (B-4929) project to see if there is a use for the bridge by the County; if an agency is interested in assuming ownership of the bridge, they would be required to preserve and maintain it; to date, the County does not have a specified use for the bridge; North Topsail Beach, Surf City and Topsail Beach were approached and all declined future ownership of the bridge; and Surf City's current manager would continue discussion if the County is interested and has a determined use. No formal decision was made.

APPOINTMENTS

18. **Resolution Authorizing Approval of Appointment to the Southeastern Economic Development Commission Board.**

Mr. Williams said there are two vacancies and two applicants for this position. Mr. Brown said one of the applicants currently serves on this Board; there was another gentleman who had showed interest in sitting on this Board; and after looking at the item further, he discovered there are two positions open at this time. Ms. Pridgen noted these are four-year positions and the current applicant may exceed the Board's ten-year limit, but SEDC has nothing in its by-laws against him serving another four-year term. Mr. Brown made a motion to re-appoint Patrick Whitfield to the SEDC Commission, and to

appoint Garry Silivanch, both to serve four year terms representing Citizen Positions, with terms to expire January 31, 2018. Mr. Ward seconded the motion and it was unanimously approved by a 4-0 vote.

ITEMS FROM THE COUNTY MANAGER

Dr. Duvall's items included: The budget is going well. County Employee Tony Clewis will do a four-day run on April 23, 24, 25 & 26 to benefit "Women of Hope" a cancer support group. Melinda Knoerzer's family will participate on the last day of the run. With respect to the a request to the Board for support of WW II Coastwise Merchant Marines, Dr. Duvall said Senator Burr's Office said they would prefer to hold off on it. Discussion concerning putting the item on an agenda. Mr. Brown said he can't support it right now.

ITEMS FROM THE COUNTY ATTORNEY

Mr. Thurman said pertaining to the Alastar case, the neighbors are appealing the Special Use Permit and it will be in Court the week of April 22, 2014.

ITEMS FROM THE COUNTY COMMISSIONERS

Mr. Brown said he has an item for Closed Session concerning a piece of property. Mr. Brown said there is speculation about what is being asked for in the budget. He instructed Dr. Duvall to get a list of all county employees' pay; and all school employees' pay, including contract employees. Mr. Williams said he wants to piggyback on Mr. Brown's concerns; he wants to see when the last time our own employees had a raise; and when the last time school employees had a raise. Mr. Ward asked since we didn't have a Budget Summit, can IT post something? Mr. Williams said they can post summaries.

Mr. Williams thank Dr. Duvall for representing the county at the Hampstead Kiwanis Park event last Saturday. He thanked Dr. Duvall and Mr. Watson for all the functions they attend on behalf of the County.

Mr. Brown requested that the County Manager have an office at the Old Topsail School when it is complete.

CLOSED SESSION

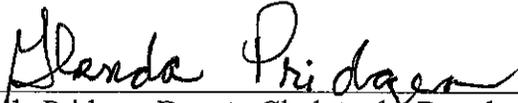
At 8:00 p.m., Mr. Brown made a motion to enter into closed session, pursuant to NCGS 143-318.11: 3) to consult with an attorney employed or retained by the public body in order to preserve the attorney-client privilege between the attorney and the public body, which privilege is hereby acknowledged. General policy matters may not be discussed in a closed session and nothing herein shall be construed to permit a public body to close a meeting that otherwise would be open merely because an attorney employed or retained by the public body is a participant. The public body may consider and give instructions to an attorney concerning the handling or settlement of a claim, judicial action, mediation, arbitration, or administrative procedure. If the public body has approved or considered a settlement, other than a malpractice settlement by or on behalf of a hospital, in closed session, the terms of that settlement shall be reported to the public body and entered into its minutes as soon as possible within a reasonable time after the settlement is concluded; and 5) to establish, or to instruct the public body's staff or negotiating agents concerning the position to be taken by or on behalf of the public body in negotiating (i) the price and other material terms of a contract or proposed contract for the acquisition of real property by purchase, option, exchange, or lease; or (ii) the amount of compensation and other material terms of an employment contract or proposed employment contract. Mr. McCoy seconded the motion and it was unanimously approved by a 4-0 vote. Upon

motion by Mr. Ward, second by Mr. Brown and unanimously approved by a 4-0 vote, the Board exited the Closed Session at 8:08 p.m. There were no announcements made upon exiting the Closed Session.

ADJOURNMENT

There being no further business, the meeting adjourned at 8:08 p.m.

Respectfully Submitted,



Glenda Pridgen, Deputy Clerk to the Board

Reviewed By:

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