

**MONDAY, MAY 16, 2016 – 4:00 p.m.**

The Pender County Board of Commissioners met in regular session on Monday, May 16, 2016 at the Commissioner's Public Assembly Room, 805 S. Walker St., Burgaw, NC 28425.

**MEMBERS PRESENT:** Chairman George Brown, presiding; Vice-Chairman Fred McCoy; Commissioners Demetrice Keith, David Piepmeyer, and David Williams.

**OTHERS PRESENT:** Randell Woodruff, County Manager; Trey Thurman, County Attorney; Melissa Long, Clerk to the Board; Kathy Brafford, Finance Director; other staff and members of the Press and public.

**CALL TO ORDER**

Chairman Brown called the meeting to order at 4:01 p.m. and thanked and welcomed all to the meeting.

**INVOCATION**

Commissioner Piepmeyer offered the invocation.

**PLEDGE**

Commissioner Williams led the Pledge of Allegiance.

**ADOPTION OF AGENDA**

Mr. McCoy made a motion to adopt the agenda as written. Mr. Williams seconded the motion and it was unanimously approved.

**PUBLIC COMMENT**

No one wished to speak under Public Comment.

**CONSENT AGENDA**

Chairman Brown presented the items on the Consent Agenda and asked for any discussion or questions. Mr. Williams made a motion to approve the consent agenda as written. Mr. McCoy seconded the motion and the consent agenda was unanimously approved as follows:

1. Approval of Minutes: Budget Work Session: April 14 and Regular Meeting: May 2.
2. Approval of the Housing Department's 2016-17 Annual Plan.
3. Resolution Authorizing Approval of Surf City Pyrotechnic Display on July 3, 2016, in Accordance with North Carolina General Statute 14-413.
4. Resolution Authorizing Approval of Union Rescue Pyrotechnic Display on July 2, 2016, in Accordance with North Carolina General Statute 14-413.
5. Approval of a Budget Amendment to Approve an Increase in Health Department Revenues and Expenditures for Fiscal Year 2015-2016: Migrant Farm Workers' Grant Program \$9,500.

**APPROVALS AND RESOLUTIONS**

6. **Resolution to Approve the Sale of School Bonds and Refunding Bonds in the Amount of \$18 Million in School Bonds and up to \$15 Million in Refunding Bonds.**

Mr. Bob Jessup, Bond Counsel explained: This is the final step that needs to be made to sell these bonds. Mr. Jessup explained the projects and how the Bonds will be sold in relation to those projects.

Mr. Jessup then explained the change in the amount from the original draft of the resolution which is now \$27 million as it was just a place holder when the draft was sent over before a meeting with staff. This will reimburse the \$6 million that has already been advanced by the County to the School Board for all six projects as well as the \$18 million for the four smaller projects. The bidding status for the four smaller projects was also discussed. Mr. Jessup then noted that Ted Cole with Davenport was present to answer any questions as well as members from Pender County Schools. Discussion ensued regarding the updated resolution as it was not presented to the Board prior to the meeting. Mr. Piepmeyer asked that information be presented before meetings with enough time to review for consideration. Discussion then ensued as to the changes in the resolution: a) Increase up to \$27 million from \$18 million; b) Allows for Term Bonds; and c) Date changes. Mr. Thurman included that the proposed sale is June 7 and the Board will meet again June 6 should any last minute issues come up. Mr. McCoy asked about the interest rates of the bonds. Mr. Cole discussed the interest rates. Mr. Cole also reiterated that the amount in the resolution is a "not to exceed" amount and can be brought down based on the actual amount of the bids. There being no further discussion, Mr. Williams made a motion to approve the resolution with changes: a) Increase up to \$27 million from \$18 million; b) Allows for Term Bonds; and c) Date changes. Mr. Piepmeyer seconded the motion and it was unanimously approved.

**7. Proclamation of May as Foster Care Month.**

Health and Human Services Director Carolyn Moser began by recognizing Bertram Wilson and his staff who work so hard with the Foster Care Program. Chairman Brown read the proclamation. Ms. Moser and the Board thanked staff for their hard work. Mr. Williams made a motion to adopt the proclamation. Mr. McCoy seconded the motion and it was unanimously approved.

**8. Proclamation of Elder Abuse Awareness.**

Health and Human Services Director Carolyn Moser began by recognizing Jackie Williams, Alicia Williamson, and Allison Medders for their work with Adult Protective Services. Chairman Brown read the proclamation. Ms. Moser and the Board thanked staff for their hard work. Mr. Williams made a motion to adopt the proclamation. Ms. Keith seconded the motion and it was unanimously approved.

**9. Approval of a Purchase Order to Elections Systems & Software (ES&S) for Voting Equipment Licensing and Support in the amount of \$40,831.32 Including NC Taxes.**

Elections Director Dennis Boyles explained: Pender County purchased state certified voting equipment from Elections Systems & Software in March 2006. Then, Commissioner Chairman, Steve Holland signed a contract obligating the county to annual licensing and support fees for the life of this equipment as required by G. S. § 163-165.9(b2). These funds are due and payable by July 1st of each year. Mr. McCoy asked if this item had been budgeted for and Mr. Boyles confirmed it had. There being no further discussion, Mr. McCoy made a motion to approve the item. Mr. Williams seconded the motion and it was unanimously approved.

**10. Resolution Authorizing Appropriation of \$23,900 to make septic system repairs at Country Court Apartments.**

Housing Director Judy Herring explained: Country Court Apartments, a County owned property, has failing septic systems at three of the four buildings at the site. A repair permit has been issued for repairs. Requests for proposals were made and three bids obtained. Staff accepted the lowest responsible bid. That bid was from RSC Engineering. The bid price is \$23,900. The property does not have sufficient capital reserves to pay for repairs; therefore, staff is asking the County to pay for the

repairs. The repairs are needed immediately and cannot wait for the property to “save” enough capital reserve funds. Copies of all three bids received were provided to the Board. Discussion ensued as to the history of Country Court Apartments, the tenants who live there, emergency fund for the project, contingency, and specifics on the loan that is on the property including what is owed and renovation plans. The Board agreed that just like any other project they would like to see a future plan for this property. There being no further discussion, Mr. Williams made a motion to approve the item. Mr. McCoy seconded the motion and it was unanimously approved.

**11. Approval of the Cape Fear Workforce Development Consortium Agreement and to Appoint Commissioner Brown to the Workforce Development Consortium Board.**

Mr. Brown explained Cape Fear Workforce Development Consortium Agreement to the Board and the reason for this request. Mr. Williams made a motion to approve the resolution and appointment of Mr. Brown to the Workforce Development Consortium Board. Mr. Piepmeyer seconded the motion and it was unanimously approved.

**12. Approval of a Data Transfer Agreement By and Between Pender County and the Rocky Point/Topsail Water and Sewer District and Pluris Hampstead, LLC for the Provision of Monthly Water Usage Data from the District to Pluris for Billing of their Commercial Sewer Customers.**

Utilities Director Michael Mack explained: Pluris Hampstead, LLC has established a sanitary sewer system to serve the Hampstead and Scotts Hill areas of Pender County. As such, they have requested Pender County Utilities provide them with the monthly water usage data for those commercial sewer customers within the Pluris service area for their billing purposes. Currently, Pluris Hampstead is serving the Topsail Elementary/Middle and High Schools and is expecting to add the Hampstead Town Center soon. This request is only for their commercial sewer customers. The terms of the agreement stipulate that Pluris Hampstead agrees to pay \$2.00 per account, per month for the water usage data for commercial sewer customers in an Excel format. This charge will increase by ten percent after the first five years of the Agreement and every five years thereafter. Payment shall be made within thirty days of the date the District sends the billing data to Pluris. The District also agrees to provide Pluris reports of any commercial customer move-ins or move-outs that occurred during the month and of any water meter change outs. The Pluris Water and/or Sewer Customer Application requires the applicant to agree to Pender County Utilities providing their water usage data to Pluris for the purpose of calculating their sewer bill based on the volume of water used each month. Mr. Thurman has worked directly with the attorney representing Pluris Hampstead to clearly define the terms and conditions of the Data Transfer Agreement. This agreement is for twenty-five years. Mr. Thurman also commented on the agreement. There being no further discussion, Mr. Piepmeyer made a motion to approve the item. Mr. Williams seconded the motion and it was unanimously approved.

**13. Resolution Approving Execution of a Twelve-Month Contract with the Most Responsive and Responsible Low Bidder, Phillip’s Lawn Care, for Mowing the Pender Commerce Park Roadsides and Expanded Shoulder Area for an Amount of \$12,000.00.**

Utilities Director Michael Mack explained: Pender County Utilities solicited bids for mowing of the Pender Commerce Park Roadsides and Expanded Shoulder Area. On May 2, 2016 staff conducted a bid opening with the following results:

CONTRACTOR	BID AMOUNT (TWELVE MONTH TOTAL)
K&H Landscaping & Maintenance, LLC	\$8,640.00
Phillip’s Lawn Care Services	\$12,000.00

Barnhill Services	\$22,500.00
The Rashid Group, LLC	\$85,440.00

Staff recommends approval of this award to Phillip’s Lawn Care Services based on previous unsatisfactory experience with K & H Landscaping & Maintenance on the 13 Solid Waste Convenience Sites. Discussion ensued regarding the differences in bid prices, the reasoning for contracting this mowing out, and the process if this contractor is also unsatisfactory. There being no further discussion, Mr. Williams made a motion to approve the item. Mr. McCoy seconded the motion and it was unanimously approved.

**APPOINTMENTS**

**14. Approval of Appointment to the Pender County Board of Adjustment.**

Ms. Long explained: Christopher Smith is applying to serve on the Board of Adjustment for the first time. Mr. Smith has lived in Pender County since 1993 and served 10 years on the Planning Board in the past (2002-2012). Mr. Smith lives in District 5 which is currently vacant. This appointment will be for three years. These positions have been properly advertised. There being no discussion, Mr. McCoy made a motion to approve the appointment. Mr. Williams seconded the motion and it was unanimously approved.

**ITEMS FROM THE COUNTY ATTORNEY**

Mr. Thurman stated there was an item for closed session, item #3.

**ITEMS FROM THE COUNTY MANAGER**

Mr. Woodruff mentioned to the Board that when they have time, those attending County Assembly Day on May 18 should discuss travel plans and arrangements.

**ITEMS FROM COUNTY COMMISSIONERS**

Ms. Keith – Ms. Keith stated that she met with the Greater Currie Community Action Group recently and they discussed the Moores Creek Water District. Ms. Keith said that it was mentioned that there were concerns that citizens were getting refunds for taps already paid. Mr. Mack spoke stating that those were residents that would not be serviced under phase one and that their applications will be kept on file for further phases.

Mr. McCoy – Mr. McCoy commented on Spring Fest, adding that he attended the festival. He thanked the Health Department and Sheriff’s Department for participating in the event.

Mr. Piepmeyer – Mr. Piepmeyer stated that he met last week with David Wasserman and Representative Chris Millis regarding the Hampstead Bypass Funding Formula. He discussed and explained the specifics of the meeting. Mr. Piepmeyer further stated that he had received a phone call from Tom Eggleston, Commissioner at Topsail Beach regarding requesting additional funds for beach renourishment adding that Topsail Commissioners will be coming to the June 6 meeting to talk to the Board. Mr. Piepmeyer also suggested holding a joint meeting with Surf City Commissioners and Topsail Beach Commissioners in the fall. Lastly, Mr. Piepmeyer asked that the Sheriff present a state of affairs presentation at the June 6 meeting.

Mr. Williams – Mr. Williams stated that Representative Millis has introduced a Bill (HB 1106) in the house that will reallocate about \$500 Million back to Transportation Projects included in the Connect NC Bond. He asked that the Board consider a resolution at the next meeting in regards to HB 1106. Mr. Williams then made comments on beach renourishment with regards to the tax base.

Mr. Brown – Mr. Brown stated that he will be presenting two Golden Leaf scholarships next week for \$12,000 each. The first will be on Monday at Topsail High School at 5:30 p.m. and the other at Heidi Trask High School on Wednesday morning.

### **CLOSED SESSION**

At 5:26 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. Mr. McCoy seconded the motion and it was unanimously approved. The Board exited the Closed Session at approximately 6:24 p.m. No announcement was made following closed session.

### **PUBLIC HEARINGS: SPECIAL USE PERMITS/ZONING MAP AMENDMENTS/RESOLUTIONS**

#### **15. Resolution Requesting Approval of a Conditional Zoning Map Amendment from RP, Residential Performance zoning district to RA-CD 2, Rural Agricultural conditional zoning district.**

Chairman Brown opened the Public Hearing at 7:00.

Senior Planner Megan O'Hare explained: Charlotte P. Kelly, applicant and owner, is requesting a conditional zoning map amendment for one (1) tract totaling approximately 0.47 acres from RP, Residential Performance zoning district to RA-CD 2, Rural Agricultural zoning district. The request is to allow only the following NAICS uses: 453 Miscellaneous Store Retailers, 7222 Limited Service Eating Places and 445 Food and Beverage Stores. Ms. O'Hare discussed the specifications and reasons of the request. Brief discussion ensued as to the county-wide rezoning and understanding of the request. Ms. Kelly spoke to the Board and began by thanking the Planning Board for all of their help. Ms. Kelly then made comments on the rezoning in 2003 and that she did not know about it and found out when her new tenant moved in. She requested that the Board refund some of her money since she was unaware of the rezoning adding that there is a trash dump on the site. Ms. Kelly also noted the drop in assessed value for the property since beginning this process. The Board assured Ms. Kelly that all notices had been given as provided by the statute and apologized for the position that Ms. Kelly is in but added that they are not in the position to refund money. Mr. Williams stated that Ms. Kelly can appeal the property value if she wishes. There being no further discussion Mr. Brown closed the Public Hearing at 7:12 p.m. Ms. Keith made a motion to approve the rezoning. Mr. Williams seconded the motion and it was unanimously approved.

#### **16. Resolution Requesting Approval of a General Use Rezoning from IT, Industrial Transitional zoning district to RP, Residential Performance zoning district.**

Chairman Brown opened the Public Hearing at 7:13.

Senior Planner Megan O'Hare explained: Adam Batchler, on behalf of Batchlers, LLC. owner, is requesting approval of a general use rezoning of one (1) tract totaling approximately 6.023 acres from

IT, Industrial Transitional zoning district to RP, Residential Performance zoning district. Ms. O'Hare discussed the specifications of the request. Mr. Batchler spoke to the Board briefly stating that this request is just so he can put a home on the property and move his family up from Wilmington in order to shorten the commute. There being no discussion, Chairman Brown closed the Public Hearing at 7:17 p.m. Mr. McCoy made a motion to approve the rezoning. Mr. Williams seconded the motion and it was unanimously approved.

**17. Resolution Requesting Approval of a General Use Rezoning from RA, Rural Agricultural zoning district to RP, Residential Performance zoning district.**

Chairman Brown opened the Public Hearing at 7:17.

Senior Planner Megan O'Hare explained: Charles M. Elam II, applicant, on behalf of Southeast Custom Homes Inc., owner, is requesting approval of a Zoning Map Amendment of one (1) tract totaling approximately 39.48 acres from the RA, Rural Agricultural zoning district to the RP, Residential Performance zoning district. Ms. O'Hare discussed the specifications and reasons of the request. There was one person who was signed up to speak:

- Barbara Graham of 19030 Hwy 210, Rocky Point spoke regarding the issues that she has with this request. Her concerns included: advertising (not in Star News), site access, selling her property, traffic, and impacts on schools and population.

There being no further discussion, Chairman Brown closed the Public Hearing at 7:33. Mr. Williams made a motion to approve the item. Mr. Piepmeyer seconded the motion and it was unanimously approved.

**18. Resolution Requesting Approval of a Zoning Text Amendment to the Pender County Unified Development Ordinance to amend Section 4.14 Zoning District Dimensional Requirements, in order to align the minimum structure separation requirements with the setback requirements.**

Chairman Brown opened the Public Hearing at 7:33.

Senior Planner Megan O'Hare explained: Stroud Engineering, applicant, is requesting the approval of a Zoning Text Amendment to the Pender County Unified Development Ordinance. Specifically, the request is to amend Section 4.14 Zoning District Dimensional Requirements, in order to align the minimum structure separation requirements with the setback requirements in the GB, General Business zoning district. Staff is in agreement that it is good practice to have structure separation requirements the same as setback standards, and is proposing similar amendments in the RA, Rural Agricultural, RP, Residential Performance, OI, Office Institutional and EC, Environmental Conservation zoning districts. Ms. O'Hare further discussed the specifications of the request. Mr. Fentress briefly spoke to the Board requesting this change be made for consistency. Discussion ensued regarding how the current ordinance reads and its effects as well as how the requested changes will work. There being no further discussion, Chairman Brown closed the Public Hearing at 7:39 p.m. Mr. Williams made a motion to approve the item. Mr. Piepmeyer seconded the motion and it was unanimously approved.

**19. Resolution Requesting Approval of a Zoning Text Amendment to the Pender County Unified Development Ordinance: Article 1 General Provisions, Article 6 Development Requirements and Content, Article 7 Design Standards, Article 11 Enforcement and Penalties, Appendix A, and add Articles 12 and 13.**

Chairman Brown opened the Public Hearing at 7:43.

Senior Planner Megan O'Hare explained: Pender County, applicant, is requesting the approval of a Zoning Text Amendment to the Pender County Unified Development Ordinance: Article 1 General

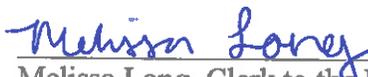
Provisions, Article 6 Development Requirements and Content, Article 7 Design Standards, Article 11 Enforcement and Penalties, Appendix A, and add Articles 12 and 13. Specifically, the request is to amend: the Traffic Impact Analysis requirements (Section 6.1.2.A.15, Section 6.1.3.A.7, Section 6.1.4.A.16, Section 6.3.C.7 and Section 6.4.A.20); replace references to the Coastal Pender Collector Street Plan with the Pender County Collector Street Plan (Sections 1.5, Section 7.2.6, 7.2.7, 7.5.1); and to incorporate the Addressing and Road Naming Ordinances into the Unified Development Ordinance (Articles 11, 12, and 13 and Appendix A). Ms. O'Hare further discussed the specifications of the request. There being no discussion, Chairman Brown closed the public Hearing at 7:43 p.m. Mr. McCoy made a motion to approve the text amendment. Mr. Williams seconded the motion and it was unanimously approved.

Mr. Thurman brought up the issue regarding sales tax recovery in the amount of \$240,000 in regards to school invoices and payments. Mr. Thurman stated that he tried to get clarity in the fall, but it looks like the County would be able to recover the full amount if done soon. Discussion ensued as to what recovering the sales tax would entail, the savings from collecting, and the cost to collect. The Board asked that staff set up a meeting with the schools to sort the matter out.

#### **ADJOURNMENT**

There being no further business, the meeting adjourned at 7:53 p.m.

*Respectfully Submitted,*



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Melissa Long, Clerk to the Board

*Reviewed By:*



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Arn Jones, Administrative Assistant II