

JANUARY 3, 2005

The Pender County Board of Commissioners met in a regular session on Monday, January 3, 2005, at the Pender County Public Assembly Room, 805 South Walker Street, Burgaw, North Carolina.

MEMBERS PRESENT: Chairman Eugene Meadows, Vice Chairman Stephen Holland, and Commissioners Bill Moore, F.D. Rivenbark and David Williams.

OTHERS PRESENT: Andy Hedrick, County Manager and Clerk to the Board, Paul Parker, Assistant County Manager, Trey Thurman, County Attorney, Melinda Knoerzer, Deputy Clerk to the Board.

CALL TO ORDER

Chairman Meadows called the meeting to order at 10:00 a.m.

INVOCATION

Mr. Meadows offered the invocation.

PLEDGE OF ALLEGIANCE

Mr. Williams led the Pledge of Allegiance

Since the presentation for item number 1 had not yet arrived, Chairman Meadows moved to the next items on the agenda.

CONSENT AGENDA

2. Approval of Minutes: Regular Meeting: December 20, 2004

Mr. Meadows first addressed item number two and asked for any discussion. Upon a motion made by Mr. Rivenbark and seconded by Mr. Holland the Board unanimously approved the minutes of the regular meeting of December 20, 2005.

Mr. Meadows then presented the remaining two items on the Consent Agenda and asked for any discussion or comments. Upon a motion made by Mr. Williams and seconded by Mr. Holland the Consent Agenda was approved as follows:

3. Resolution Approving Tax Releases and Refunds as Presented
4. Budget Ordinance Amendment, Hampstead Kiwanis Park: \$250,000

PUBLIC INFORMATION

1. Wes Davis, Pender Adult Services – North Carolina Department of Transportation FY 2005-2006 Application for Community Transportation Program Assistance – Federal Section 5311 & State Funding

Mr. Davis said that Pender Adult Services has been the lead agency for transportation in Pender County for Senior Citizens and Disabled adults to be transported to medical appointments and Senior Center functions. He said this program provides funding for capital equipment, which provides new vans, and for administrative services. He said this year's program would provide \$73,532 and requires a local match of \$11,029.80.

Mr. Hedrick said that Mr. Davis is making this presentation because starting last year, staff decided that all grant applications needed to be approved by the Board first. He said that if the Board votes to support this matter, it needs to plan to provide half the local match, or \$5514.90 from the FY2005-2006 budget. He said this amount is close to the amount budgeted in this current fiscal year. Whereupon, Mr. Rivenbark made a motion to approve this matter. This motion was seconded by Mr. Holland and carried by unanimous vote of the Board.

Mr. Hedrick suggested that while Mr. Davis is present, the Board should address item number 6, which is related to Pender Adult Services

6. Resolution to Increase Contribution to Pender Adult Services and to Approve a Budget Ordinance Amendment: \$4,122

Mr. Hedrick said that since the budget allocation was made to Pender Adult Services, the state local match requirements increased to 25% from 10%, and they have faced cuts in the United Way program dollars for the Meals on Wheels program. Mr. Hedrick said that if the County allocates an additional \$4200 out of Contingency, Pender Adult Services can leverage that to \$42,000 and that is a good way to spend County dollars. Mr. Davis said the money for this program comes from the Home Care and Community Block Grant. He said they have 100 people on a waiting list to receive Meals on Wheels. He said the longer they can be kept in their homes, the better it is for everyone. Upon a motion made by Mr. Rivenbark and seconded by Mr. Williams, the Board unanimously approved item number 6 as follows: that an additional appropriation of \$4,122 is granted to Pender Adult Services to provide additional service for seniors in Pender County. The following budget amendment is approved:

Increase Expenditures

690-4123000 Senior Citizen Services \$4,122

Decrease Expenditures

999-499400 Contingency \$4,122

The Chairman/County Manager is authorized to execute any and all documents necessary to implement this resolution.

Mr. Hedrick instructed Mr. Davis to coordinate the details with Cindy Jones.

5. Resolution to Amend Pender County Personnel Policy for Retiree Health Insurance Benefits

Mr. Hedrick said that the County presently has a very generous health care benefit for individuals that serve 20 years or more because the structure rewards long periods of service with a paid benefit upon retirement. He said this proposal would allow a smaller number of people to pay and stay on the county health insurance program, if they qualify. He said this proposal requires qualifications as follows:

1. Be a minimum of 60 years of age on the date of retirement
2. Have worked and been covered by the County's group health insurance coverage for a minimum of five years on the date of retirement.
3. Have at least 20 years of creditable service with the North Carolina Local Government Employee's Retirement System on the date of retirement.

He said this proposal is worthy of consideration because as the County begins to attract professionals to work here, who may wish to spend their last working years in government

service in Pender County, this could give us a competitive edge. He said the soon-to-be retired Tax Assessor, Harold Triplett, could be the first to be subject to this policy. He said this would apply to a rare few employees and would not open the "flood gates". Mr. Rivenbark asked if this could become a large liability as this program progresses. Mr. Hedrick said that this is certainly taking on people who are most likely to file a health insurance claim, and could potentially cause problems. Mr. Moore asked if there were any actuarial studies on the potential liability. Mr. Hedrick said, "No, but even Actuaries make assumptions". Mr. Moore then asked if there were any studies concerning how other counties handle this type of situation. Mr. Hedrick said he had not consulted any other counties. He said that there is no benefit to taking on a risk unless it might have a long term benefit of getting a good experienced employee come to work in Pender County for 10 years or more. He said, if you viewed this benefit as a recruitment tool, it might be attractive to the people in their late 40's or early 50's to entice them into final employment with Pender County. He said if they viewed this as being a benefit at the end of their working years, they might be more inclined to come to work for Pender County.

Mr. Hedrick said this policy was previously amended to include two-term elected officials who pay their own premiums. Mr. Moore asked how many of the 100 counties have this type of policy. Mr. Hedrick said he did not know, but it is likely scattered. He offered to conduct further research for discussion at a future meeting. Mr. Moore said that his wife is retired from Wake County and she has this benefit. Mr. Rivenbark made a motion to table this matter pending further information. Mr. Williams offered a second, stating that he likes this idea as a recruitment tool. The motion carried by unanimous vote of the Board.

7. Resolution to Approve Budget Amendment for County Commissioner Travel

Mr. Hedrick said that at the last meeting, Mr. Rivenbark requested consideration of the County paying a portion of his travel to a National Association of Counties conference. Mr. Hedrick said this resolution estimates the cost of travel and registration for that conference, and includes \$1125 for three Commissioner registrations for "Essentials of County Government" school in Chapel Hill. He said these amounts would come from the Contingency, leaving a healthy balance in that account. Upon a motion made by Mr. Moore and seconded by Mr. Williams, the Board unanimously approved item number 7 as follows: that the following budget amendment is approved:

<u>Increase Expenditures</u>		
410 405500	Training	\$1,565
410 401400	Travel	\$1,325
<u>Decrease Expenditures</u>		
999 499400	Contingency	\$2,890

The Chairman/County Manager is authorized to execute any and all documents necessary to implement this resolution.

ROCKY POINT/TOPSAIL WATER AND SEWER DISTRICT

Chairman Strickland convened the Board as the Directors of the Rocky Point/Topsail Water and Sewer District at 10:22 a.m.

8. Resolution to Approve Contract with Town of Wallace for Additional Water Capacity

Mr. Hedrick said that this contract was negotiated and agreed to in 2003, however it was never formalized. He said this would increase the amount of water Pender County could purchase from 500,000 to 800,000 gallons of water per day. He said this amount would be necessary to supply water to the newer phases of the district currently under construction. He said once this is in place, then we can begin to discuss additional capacity beyond the 800,000 with the Town of Wallace. Mr. Rivenbark asked what the original length of time on this contract was and Mr. Hedrick responded that it is twenty years, with an option to renew for an additional ten years. Mr. Rivenbark asked if the rate was locked in. Mr. Hedrick said that the Town of Wallace has increased prices twice, however we chose not to challenge this as we are still getting a good deal on the price. Mr. Holland said that we need to pursue options on additional capacity as soon as possible. Mr. Hedrick said this step is necessary first. Mr. Meadows asked how much capacity these lines could handle at maximum. Mr. Hedrick said he believed the lines were designed to handle up to 1.2 million. Upon a motion made by Mr. Rivenbark and seconded by Mr. Holland, the Board voted unanimously to approve item number 8 as follows: that the attached contract between the Rocky Point/Topsail Water and Sewer District and the Town of Wallace is approved. The Chairman/County manager is authorized to execute any and all documents necessary to implement the resolution.

Chairman Meadows then reconvened the regular meeting of the Pender County Board of Commissioners

DISCUSSION

9. 2005 Spring Retreat – Dates and Topics

Mr. Hedrick said the Board traditionally conducts the spring retreat in February or March, coincidental with the first meeting of the month, and generally held on the east side of the County. Mr. Moore asked about the possibility of rotating this retreat around the county and holding it here in Burgaw this year. He said the Board would be attending the Municipal Association Dinner in Surf City on January 14th. He asked why they couldn't hold it somewhere where they could stay at home. Mr. Meadows said that he stays at home and drives back and forth to the retreat when it is held at Topsail Beach or Surf City. Mr. Williams said he is "baffled" at the idea of not holding this on the island. Mr. Moore suggested it could be held at Camp Kirkwood or at the Burgaw Country Club. Mr. Rivenbark made a motion to have the event at Topsail this year and look at holding it in Burgaw next year. Mr. Williams asked for clarification of the motion and Mr. Rivenbark confirmed it is a two-part motion, to hold this year's retreat at Topsail, and to hold next year's in Burgaw. Mr. Moore seconded this motion. After some discussion on the intent of Mr. Holland's vote, it was determined that the outcome was unclear, since Mr. Moore and Mr. Rivenbark voted in favor of the motion and Mr. Meadows and Mr. Williams voted in opposition. Mr. Holland said the reason this event is traditionally held on the island is that this is the only time of the year we meet there. Mr. Rivenbark disagreed, stating that the only fair way to conduct it is to share the wealth around the County. He said that the County spends big money to hold this event on the island. Mr. Rivenbark then called for a "Division of the House". Upon a re-vote, the motion failed, with Mr. Meadows, Mr. Williams and Mr. Holland voting in opposition.

After further discussion on the dates of the event, and a motion and second by Mr. Williams and Mr. Rivenbark, the Board voted 4 to 1 to hold it on February 28 and March 1, 2005. The Board

asked Mr. Hedrick to see if the Mainsail Restaurant in Surf City would be available once again for this event.

As for the topics of discussion, Mr. Hedrick said this is the first time the Board gets a look at 2005 Budget priorities. In addition, he noted that long range water supply planning and sewer options are important for discussion. Mr. Williams said he would like to discuss Industrial Development and asked if Wilmington Industrial Development could be invited. Mr. Holland said he would like to discuss school funding. Mr. Hedrick said that if the Board moves toward a Spring Bond Election, this matter may have already been decided. Mr. Hedrick said he would ask the department heads to get their big numbers together early for capital expenditures in excess of \$5000 and additional personnel requests. The Board said they appreciated hearing about these requests at the retreat and gave their consensus to conduct the retreat in the same format. Mr. Hedrick asked the Board members to forward any additional topics to staff by the end of January.

10. Applications for Community Development Block Grant – Scattered Site Housing Grant

Mr. Hedrick introduced Community Services Coordinator, Karen Barnhill, and stated that Pender County has been participating in the Concentrated Needs grant programs and Scattered Site programs available from the Division of Community Assistance since the 1990's. He said projects have been conducted in each Commissioner district: Rocky Point, Willard, Burgaw and currently in Hampstead. Mr. Hedrick said the County is currently administrating two CDBG projects. He said when the newest grant opportunity became available, staff notified the municipalities and offered to allow any one of them to administrate this program, but none indicated their willingness to do so. He said some municipalities wanted houses repaired, but did not want to administrate the grant. He said the County has many open projects and the ongoing requirements of the grant program place a demand on staff far into the future. He said County staff now has to deal with liens on these properties for ten years into the future, yet no administrative dollars are provided for this purpose in this grant. Mrs. Barnhill explained that all houses must be pre-selected and included in the grant application. Mr. Hedrick said "If you accept this money, you accept it with all the strings attached to it". He recommended that Pender County decline to apply in this round and give the municipalities one more opportunity to apply on their own.

Mr. Rivenbark asked the difference between the Concentrated Needs and Scattered Site programs. Mrs. Barnhill explained that the Scattered Site program comes up every three years and the County automatically qualifies for this money. By contrast, she said the Concentrated Needs program is competitive, and the County cannot apply for more until an existing program has reached a certain percentage of completion. Mr. Hedrick stated that any municipality that would like to apply could do so, but he would like to see the County get caught up on the current programs.

Mr. Meadows asked what the responsibilities would be. Mr. Hedrick said the biggest responsibility comes when the money is accepted, and you then must make all decisions that comply with their rules. He said the County has had to repay the State for misjudgments made in utilizing these funds. He said the County attempts to make decisions that propagate the "good" of the program, but all situations are not always clear. He said that the best decisions are

sometimes challenged three years later in an audit. Mr. Thurman said that as the County works through the Hurricane recovery programs, it faces ten years of exposure involving the various interpretations of various State level workers into the future. He said they come back to question situations well into the future, leaving the County exposed to liability. He said this has happened in the past and has cost the County money. He reminded the Board that the County is responsible for the paperwork and follow-through involved in canceling more than 300 deeds of trust from the hurricane recovery program alone. Mr. Meadows asked, "what is the life of our responsibility"? Mr. Hedrick said the liens are required, up to ten years, to prevent someone from having a "shack" repaired to livable status and selling it to make a profit. In addition, he said the requirement for continued flood insurance has created a nightmare with the state has instructed the County to foreclose on these properties. He said this program no longer allows you to "build and walk away". He said the County currently pays a staff person to work 20 hours per week to deal with post-Hurricane Floyd Recovery. He said the Board adopted a policy that the County would not subordinate liens, and in this time of refinancing, staff gets phone calls from lenders and program participants regularly asking for reconsideration of this policy – all of which takes a great deal of staff time.

Mr. Rivenbark asked if the work "exposure" equates to "liability" and Mr. Hedrick answered in the affirmative. Mr. Moore asked how many houses would be fixed under this process. Mrs. Barnhill said that \$400,000 would fix six or seven houses, depending upon the number of replacement versus repair projects are included. Mrs. Barnhill said the County has a housing needs list with over 800 names on it. Mr. Hedrick said these programs help, but do not eliminate these problems.

Martin Beach, Interim Town of Burgaw Manager, said he understands that the towns are not eligible to apply under Scattered Site, only on Concentrated Needs. He said he understands liability concerns, but in all cases the County hires a consultant to do the work. He suggested the liability be shared with the consultant, by writing this into the initial contract. Mr. Thurman said that the County has money escrowed from the last consultant on Hurricane Recovery, but this merely creates a "right" to sue someone else. He said the State doesn't care about the Consultant and they would come after the County. He said the County could, in turn, go after the consultant, but it would bear the cost of litigation. Mr. Moore asked how much money the County has had to repay. Mr. Thurman said there was an incident, based on a decision made by former County Manager, Martin Beach, where \$24,000 was extended to a person who chose not to use it to repair a house, but instead paid off debts and moved into a travel trailer. He said the State later deemed this an improper use of those funds and the County had to repay that. Mr. Meadows asked what action the Board would like to take in this matter. Mr. Williams made a motion to accept the Manager's recommendation. This motion was seconded by Mr. Holland and carried by a vote of 4 to 1, with Mr. Moore voting in opposition.

11. Report on Tornado Area Debris

Karen Barnhill reported that a Committee had been established to administrate \$17,000 in private donation money that came from the state. She said they received 52 applications and the money was awarded to 24 applicants. Mr. Holland asked how 52 applications were received when only 24 houses were affected. Mr. Hedrick said there were many instances of multiple families living in the same residence. He said one applicant lived in Hampstead at the time of the tornado.

Mr. Parker said the construction and demolition debris from the homes is still situated on the side of the road, some of it on the state right of way. He said they estimate 3500 cubic yards of debris with 1000 of that on the state right of way. He said, based on FEMA estimates, there should be around \$50,000 for removal from the state right of way, and the total clean up would be \$150,000. Mr. Hedrick said the county could apply to the state for reimbursement, however, since no FEMA declaration was issued, the County would only be reimbursed 75%. He said this is information received from “public assistance” people at the state level. Mr. Meadows asked if there was any guidance on how to submit that request for repayment. Mr. Hedrick said we continue to get conflicting information. He said that in October, he and Chairman Strickland, Representative Justice, Finance Officer Cindy Jones and Emergency Services Coordinator, Eddie King traveled to Raleigh to meet with the head of Emergency Management, Dr. Taylor. He said at that meeting, Dr. Taylor gave the County every assurance and every indication they would help clean this up, but at that time, were still awaiting final determination by FEMA. He said once FEMA turned down the State’s application for a third time, this became a “State Declared” disaster. He said that people from the State office of Emergency Management accompanied representatives of the Small Business Administration here to this building where they both took applications for individual assistance. He said the County can now seek contribution through the “Public Assistance” component, to reimburse for overtime paid and the initial cleanup from the health hazards as declared by the County Health Director. He said staff is of the opinion that we are eligible for 75% reimbursement. He said the County directed folks to move that debris to the State right of way, based on information contained in a memo from the Governor’s office. He said now that the NC Department of Transportation has declined to remove this waste, we are trying to determine if it is eligible for reimbursement at 75%. Mr. Hedrick said he spoke with Robert Vause of the NC DOT last week and he confirmed that his department has received no direction and no funding to remove this debris. He said he would be asking the Legislative Delegation at lunch today to assist in this matter. He said at the very least, he would like the Board to authorize staff to solicit bids for this cleanup based on the estimated yardage, so that when we get to the point where funding is clarified, we will be ready to move. The Board gave their consensus to direct staff to proceed with the bid process for removal of this debris.

ITEMS FROM THE COUNTY MANAGER

Mr. Hedrick offered the following items of information:

1. Letter from Shiloh Columbia Fire Department regarding donation of a 1973 pumper truck
2. Letter from Howard Sill regarding his resignation from the Hampstead Fire Department Board of Directors
3. Pender County Municipal Association Meeting – January 14, 2005 - who will attend?
4. Bidding Process for Grading at Hampstead Kiwanis Park

Mr. Hedrick commended the Shiloh Columbia Fire Department for keeping the county informed of their equipment and capital purchases. Mr. Holland questioned the necessity and Mr. Hedrick said it is offered in the “General spirit of keeping the County Commissioners informed of their activities”.

With regard to Howard Sill’s resignation letter from the Hampstead Fire Department, Mr. Williams asked if there are more out there. Mr. Hedrick said he has heard there might be, but this is the only one received to date. Mr. Holland said that Mr. Sill’s letter indicates that everything is running smoothly, and asked why everyone was resigning if that is a fact. Mr.

Hedrick said it is likely a challenge to serve, as a non-fire-fighter, on this type of board. Mr. Meadows commended Mr. Sill and the other members of that board for their dedication and commitment.

Mr. Hedrick informed the Board that there might be some bidding activities on the Hampstead Kiwanis Park and staff hopes to have additional information by the first meeting in February.

ITEMS FROM THE COUNTY ATTORNEY

Mr. Thurman said that he has items to discuss with the Board in closed session.

ITEMS FROM THE COUNTY COMMISSIONERS

Mr. Williams asked for an update on the tennis court situation at Pender High School. Mr. Hedrick reviewed the history of the tennis court project relative to the abandoned Pender Central Park project. He said the Board of Education contributed land to the Town of Burgaw and the Town of Burgaw, in turn, contributed \$40,000 to the County to build a tennis facility for use by Pender High students. He said staff is now working on getting the "Pender Central Park" back together. He said we have received good news from the Army Corps of Engineers as they have determined only 4 acres (of the proposed park lands) is wetlands. He said the Board would hear more on this proposal at the next meeting. He said it appears that the Pender High students would be better served by having a tennis facility on their school property, rather than at a remote location requiring transportation. He said the School needs to determine where those could be built at PHS. Coincidentally, he said there is a private effort afoot at Topsail High School, where five tennis courts have been built and are made available for public use, to complete the 6th and final tennis court. He said there are no plans for tennis facilities at the Hampstead Kiwanis Park. He said there may be some need for the County to support the completion of the facility at Topsail High School. Mr. Rivenbark asked when this would be budgeted. Mr. Hedrick said money is currently available in the old Pender Central Park Project for Pender High School (based on older costs), but if the County wants to assist in the Topsail High School project, new money would have to be found. Mr. Williams said he just wanted to make a "plan" to move ahead with both projects.

Mr. Moore made a motion to instruct the County Attorney to cease all litigation activities with respect to the case of Pender County versus Bartlett (redistricting litigation). This motion was seconded by Mr. Rivenbark and failed on a vote of three to two, with Chairman Meadows and Commissioners Holland and Williams voting in opposition.

Chairman Meadows then read a letter report from Harvin Quidas, Regional Long Term Care Ombudsman for the Cape Fear Council of Governments, Area Agency on Aging. He read the report of the Nursing/Adult Care Homes Advisory Committee and commended this group for their excellent work. He said the individual members of this committee as follows Hazel Wells, Mickey King, Peggy Casey, Ann Tortorice, Jeannie Smith, and Doris Naumann. He said, as the Commissioner representative to this Board, he is proud to serve with these dedicated individuals.

Mr. Holland asked for a resolution in support of the Pender Memorial Hospital Surgery Center. Mr. Rivenbark motioned that a resolution of support be sent from this Board to the permitting authorities in Raleigh, to let them know that we feel strongly about this. Mr. Williams seconded this motion. Mr. Hedrick agreed to coordinate with the hospital Director on this resolution.

PUBLIC COMMENT

Alma Woods, a CDBG program participant, came forward and said that she received a \$19,000 benefit to fix her home. She said the interest rate on her regular home loan is 15%, but she has an opportunity to refinance at a rate of 10.5%, and borrow enough to pay off her bills. She said this is only possible if the County would subordinate its position to the new lender and asked if the County would do this. She asked if there would be any way to help her out.

Mr. Holland asked if the County could do this. Mr. Thurman reminded the Board that they had adopted a policy not to subordinate. He said a person borrowing money could continue to borrow, increasing their debt, and the County would still be liable for a portion of the indebtedness until the lien totally expired ten years later. Mr. Thurman said the reason the Board adopted this policy was to protect the County from potential risk, because the State would still look to the County for the money. Mr. Hedrick said this is a “no win” situation, but everyone who participated in this program understood the conditions at the outset. Mrs. Woods said the County is in the 9th position now, and said she thinks there must be a way to make this work. Mr. Thurman said she could repay the money and satisfy the lien. Mrs. Woods asked if she could pay and the County would hold her payment in escrow. Mr. Thurman said that any funds received must go directly to the State. The Board declined to change their policy on subordination and thanked Mrs. Woods for her understanding.

CLOSED SESSION

At 10:45 a.m., Mr. Rivenbark made a motion to enter into closed session pursuant to N.C.G.S. 143-318.11 (3) to preserve the attorney client privilege and specifically to discuss Pender County versus Union Rescue and Pender County versus Bartlett, (5) to discuss a potential real property acquisition, and (6) to discuss a personnel matter. Mr. Williams seconded this motion and it carried by unanimous vote.

At 12:28 p.m., the Board recessed closed session to have lunch with the Legislative Delegation and members of the Board of Education. Closed session was resumed again at 2:32 p.m.

At 3:27 p.m., the Mr. Rivenbark made a motion to come out of closed session, which was seconded by Mr. Williams and carried by unanimous vote of the Board.

Mr. Rivenbark made a motion to appoint Cindy Jones Interim Budget Officer, effective Feb. 1, 2005 and serving until such time as a new County Manager is hired. The motion included an increase in pay of \$1000 per month during the time she serves in this capacity. The motion was seconded by Mr. Holland and carried by unanimous vote of the Board.

Mr. Rivenbark then made a motion to appoint Paul Parker Interim County Manager, effective February 1, 2005 and serving until such time as a new County Manager is hired. The motion included an increase in pay of \$1000 per month during the time he serves in this capacity. Mr. Williams seconded this motion and it carried by unanimous vote of the Board.

Mr. Rivenbark then made a motion to direct County Manager Hedrick to advertise the County Manager position, with the salary range being \$80,000 to \$95,000 and to direct that these ads be placed with the North Carolina Association of County Commissioners, and on two occasions in

the Raleigh News and Observer. Mr. Williams seconded this motion and it carried by unanimous vote of the Board.

At 3:30 p.m., Mr. Moore made a motion to adjourn, which was seconded by Mr. Williams and carried by unanimous vote of the Board.

Respectfully Submitted,

Melinda Knoerzer
Deputy Clerk to the Board