

## OCTOBER 17, 2005

The Pender County Board of Commissioners met in a regular session on Monday, October 17, 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:** John Bauer, County Manager, Paul Parker, Assistant County Manager, Trey Thurman, County Attorney, Melinda Knoerzer, Deputy Clerk to the Board, members of the Press and public.

### CALL TO ORDER

Chairman Meadows called the meeting to order at 4:00 p.m.

### INVOCATION

Chairman Meadows offered the invocation.

### PLEDGE OF ALLEGIANCE

Mr. Holland led the Pledge of Allegiance.

### PUBLIC INFORMATION

**1. Crystal Moore, Citizen Soldier Support Program, Community Liaison, Southeastern North Carolina – Proclamation: Military Personnel and Families Appreciation Day in Pender County**

Ms. Moore gave a detailed presentation explaining the origin and mission of the Citizen Soldier Support Program. Chairman Meadows read the proclamation and presented it to Ms. Moore, who thanked the Board for their support.

### CONSENT AGENDA

Chairman Meadows presented the seven (7) original plus two (2) additional items (8a and 8b) on the Consent Agenda and asked for any comments or discussion. Upon the motion of Mr. Williams, second by Mr. Rivenbark and unanimous vote, the Consent Agenda was approved as follows:

2. Resolution Approving Minutes of Special Joint Meeting: October 3, 2005  
And Minutes of the Regular Session: October 3, 2005
3. Resolution Approving Tax Refunds and Releases as Presented
4. Resolution Authorizing Expenditures for Commissioner Travel to the NACo Legislative Conference, March 2006: \$2100
5. Budget Ordinance Amendment: General Fund: Juvenile Crime Prevention Council: \$3065 Decrease
6. Resolution Approving a Contract with and Authorizing a Purchase Order to Modular Technologies, Inc.: \$15,886
7. Resolution Accepting State-Applicant Disaster Assistance Agreement for Public Assistance and Designating Applicant's Agent: Hurricane Ophelia
8. Proclamation: Medical-Surgical Nurses Day in Pender County: November 1, 2005

- 8a. Budget Ordinance Amendment: Pesticide Grant: \$166.65 Decrease
- 8b. Budget Ordinance Amendment: CJPP: \$211 Increase

**PUBLIC HEARING**

- 9. Public Hearing: Pender County Industrial Facilities and Pollution Control Financing Authority: Prestige Label Co.: Industrial Development Revenue Bonds: \$3,000,000, and**
- 10. Resolution Approving in Principal of Industrial Project for H.E.Y. Realty, LLC and Prestige Label Co., Inc., and the Financing thereof with Industrial Development Revenue Bonds in the Principal amount of up to \$3,000,000**

Mr. Bauer said this hearing is to take public comment on the potential for the Pender County Industrial Facilities and Pollution Control Financing Authority (the "Authority") to issue a maximum of \$3,000,000 in Industrial Development Revenue Bonds for the expansion of Prestige Label Co., Inc. (the "Company"). He said that Wilmington Industrial Development Director Scott Satterfield was present to answer any questions, and introduced Mr. John T. Earwood, attorney with the Raleigh office of Hunton & Williams. Mr. Earwood explained that he is hired by the Authority and paid by the Company. He said he is here to ask for approval, in principal, of these Industrial Development Revenue Bonds. Mr. Earwood said that H.E.Y. Realty, LLC and Prestige Label, Inc. wish to purchase new equipment to enter into a flexible packaging line that would permit, among other functions, shrink-wrapping to better serve their customers. He said this expansion would eventually allow them to increase the number of jobs by 10 to 12 positions. He explained the process as follows: County issues tax exempt bonds, loan proceeds go to the Company, Company enters into an agreement to repay the principal and interest of the bonds to either a bank or private placement entity. He said neither the County nor any other tax payers are responsible for repayment because the end purchaser would look to that bank or private placement entity to make payments should the company fail to do so.

Chairman Meadows opened the public hearing at 4:13 p.m. Commissioner Williams said that the consideration here is not simply for the job being created, but also for the \$3,000,000 in additional taxable property. Mr. Bauer confirmed that there would be an increase in the business/personal property tax "base" of this Company by an amount to be governed by the tax depreciation schedules. He said there is no exposure to the County and that this money would never "go through" the County's books. Mr. Earwood said these are processed through the Authority and are issued at a tax exempt interest rate, which makes this a very attractive financing tool for business expansion. County Attorney Thurman asked if there is a cap on the amount of Industrial Development Revenue bonds that the County could issue and Mr. Earwood said there is "no" cap. There being no further comments, Chairman Meadows closed the public hearing at 4:15 p.m. Mr. Williams made a motion to approve this action as presented. Mr. Rivenbark provided the second, and the Board voted unanimously to approve item number 10 as presented.

- 11. Project/Budget Ordinance: 2005 Crisis Housing Assistance Funds (CHAF) Program: \$181,000 and Resolution Authorizing Contract with Holland Consulting Planners, Inc. as Grant Administrator: \$15,000**

Mr. Bauer presented this item dealing with repair and replacement of homes damaged in the 2004 Hurricane season. He said this is in the initial amount of \$181,000 but that could increase

as additional applicants are deemed “approved”. He said that Holland Consulting Planners, Inc. won the competitive bid for the County’s 2005 CDBG- Scattered Site Grant Administration and they have been handling this grant program as well. He noted this entity has no relationship to Commissioner Holland. After a brief discussion regarding funding, Mr. Rivenbark motioned to approve, which was seconded by Mr. Moore. The Board voted unanimously to approve item number 11 as presented.

**11a. Resolution Approving a Contract with Whitehead, Inc., for Removal and Disposal Of Hurricane Ophelia Vegetative Debris and Authorizing a Purchase Order: Not To Exceed \$32,844**

Mr. Bauer asked the Board to act on this resolution which was not ready at the time the regular agenda was finalized. He said the informal bid for debris removal work was sent to seven (7) local firms and only one (1) bid response was received. He said staff would like to act quickly to have the debris removed before another month’s rent was incurred. He said Whitehead Inc.’s, proposed rate is \$12 per cubic yard, which includes hauling and disposal at Running Deer Landfill. He said the Emergency Management Director received “preliminary” approval for this action from the State. He said that Mr. Parker would make sure staff was present to verify the amounts. Upon the motion of Mr. Rivenbark, second by Mr. Williams, and unanimous vote, the Board approved item 11a as presented.

**ROCKY POINT/TOPSAIL WATER AND SEWER DISTRICT**

Chairman Meadows convened the Board as the Directors of the Rocky Point/Topsail Water and Sewer District

**12. Resolution for the issuance of \$5,723,000 Water Bond Anticipation Notes for Rocky Point/Topsail Water & Sewer District**

Mr. Bauer said this action would replace the existing Bond Anticipation Notes with Water Bonds. He said water revenues would be used to pay off the debt associated with these bonds, and Board approval is required by USDA. He said all fees would be paid out of the District’s revenues and project funding. Mr. Williams noted that at the recent Economic Development conference, he was encouraged by the countywide and regional approach to water and sewer. Mr. Bauer explained that the original construction bonds would expire, and these would supplant them, at a similar interest rate. Mr. Parker added that these bonds were initially sold in December of 2003 and have been extended twice since then. He said this is a construction loan that must be renewed until the project is completely built. Upon the motion of Mr. Rivenbark, second by Mr. Moore, and unanimous vote, the Board approved item number 12 as presented.

Chairman Meadow re-convened the regular session of the Board of Commissioners

**RESOLUTIONS**

**13. Resolution Approving Appointment of Citizens to Boards, Commissions, Etc.** Mr. Bauer explained that this appointment would replace a member who has served on the Planning Board for ten (10) years, but whose term is not complete until the end of January, 2006. Mr. Holland made a motion to appoint Mr. Marshburn to the Planning Boarding Board effective upon the end of Mr. Leslie Green’s term in 2006. Mr. Williams seconded this motion and it carried by unanimous vote.

**DISCUSSION/WORK SESSION**

#### 14. Web Property Assessment Administration System

Mr. Bauer said that “Keystone”, i.e., the current Tax Office software program, has a Property Assessment Administration Program that would permit the County to make tax information available via the Internet. He introduced Keystone representative, Carol Davis, who gave a live demonstration of specific information that could be made available. Mr. Bauer said that if the Board approved of moving in this direction, staff would begin disseminating this information to realtors, attorneys, and bankers to see how they like it and if they would use it. He said the goal of increasing information availability over the Internet is to increase customer service, decrease travel, and decrease phone calls.

Ms. Davis demonstrated the information available from the Chowan County website. She said for security purposes, the County should designate a separate webserver to host this information, which would be updated at intervals to be determined by the County (i.e. weekly, nightly, etc.) She said that Counties may choose to provide information as far back as ten (10) years. Register of Deeds information could also be made available in this application.

Tax Collector Barbara Murray said she would like to make this available because it would reduce the number of attorney and mortgage company telephone calls to her office. Tax Administrator Stan Vance said there are other types of applications that could accomplish the same outcome and suggested those be pursued. I.T. Director, Bernie Merritt said he is comfortable that this product is out of “beta testing” and Pender County would not be the “guinea pigs”.

Mr. Moore inquired about the time involved to launch the program. Ms. Davis said it is simply a matter of configuring the webserver and transferring all tax information to that. She estimated no more than two (2) hours to one (1) night “overnight” to initially load, depending on how far back in time Pender wishes to make available. She said updates take a maximum of two (2) hours after the initial information is loaded. She said the server could be configured to be “unavailable” at a designated time each day or week to accomplish this pre-set update process.

Mr. Bauer suggested staff proceed to contact realtors and lawyers for their input and give the Commissioners a report in 30 to 45 days. He said money could be made available to accomplish this if it is the desire of the Board to do so, or it could be programmed in the 2006-07 fiscal year budget. Mr. Thurman confirmed with Ms. Davis and Ms. Murray that the security on confidential information contained in the Tax Collector’s Office would not be compromised. Ms. Murray said that Motor Vehicle information would be screened out as well.

Mr. Williams made a motion to proceed with the testing phase and evaluate after the test period. This motion was seconded by Mr. Rivenbark and carried by unanimous vote.

#### ITEMS FROM THE COUNTY MANAGER

Mr. Bauer presented the following items of interest:

1. Expenditures Beach Renourishment: Surf City: \$547,703 through June 30, 2005
2. Expenditures Beach Renourishment: Topsail Beach through October 3, 2005:

FISCAL YEAR	FEDERAL	STATE	LOCAL
FY 01-02	242,506	40,417	40,417
FY 02-03	474,767	84,548	84,548

FY 03-04	668,114	111,352	111,352
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3. NC D.O.T. notification that King Drive in Surf City has been adopted into the State Maintained System.
4. Congressman Mike McIntyre letter of response to resolution on shoreline preservation funding.
5. Memo regarding Mental Health Funding cuts.
6. Cooperative Extension Monthly Report – September 2005
7. Planning/Inspections Statistical Report: January 2005 – September 2005
8. Letter from Charter Communications re: rate increases.
9. Letter from Governor Easley re: NC D.O.T. response to vegetative debris near curbsides of residences in Pender County.
10. US Army Corps of Engineers Public Notice re: Emergency Permit Processing Procedures for Hurricane Ophelia.
11. Letter from St. Helena to Town of Burgaw asking for sewer treatment capacity.
12. FEMA Declaration: Hurricane Ophelia
13. Veteran’s Day Parade: November 12, 2005
14. Letter of commendation for Stephen Carpenter

Mr. Bauer said that after the regular meeting on November 7<sup>th</sup>, the Board is invited to lunch and to hear a brief report from Cooperative Extension.

Mr. Bauer highlighted the fact that Mental Health Funding cuts (item 5) are imminent and substantial. Mr. Rivenbark, who serves on the Southeastern Mental Health Board said the state is trying to unload the costs on the County. Mr. Bauer then commented on the new report from the Planning/Inspections Department. He said the values are based on a flat \$54 per square foot, not the actual value, therefore, this is a “conservative” estimate of growth.

Mr. Bauer said the County had just received a response proposal from the Town of Burgaw regarding potential sewer capacity, for the “St. Helena Project”. Mr. Meadows acknowledged the presence of the Burgaw Town Manager, Mr. Martin Beach. Mr. Bauer said that staff would review the Town’s proposal and discuss it with the Town. He said he would like to bring back an agreement for the Board’s consideration soon and to move forward on this grant.

**ITEMS FROM THE COUNTY ATTORNEY**

Mr. Thurman reported that he and Mr. Bauer attended a mediation in the Shingleton versus Pender County matter and may have something to report after closed session.

**ITEMS FROM THE COUNTY COMMISSIONERS**

Mr. Rivenbark said that several states have passed laws to prevent “identity theft”. He suggested this Board begin to pursue this with our state legislators in the next session.

Mr. Williams stated the Economic Development Summit was a great success and he looks forward to doing it again next year.

Mr. Meadows said he had received an e-mail message from Carey Disney Ricks, of Business Alliance for a Sound Economy (BASE) proposing the formation of a committee to support or work with the Inspections Department, and to mediate between Inspections and permittees. Mr.

Bauer said he had not received this particular e-mail; however, he had spoken with Ms. Ricks regarding impact fees, moratoriums, and discussions held at the joint meeting of the schools. He said that a discussion on the potential to increase inspections fees would be a part of the budgetary process. Mr. Meadows said he would be opposed to any committee interfering with the work of the Inspections Department, who are duty-bound to enforce the state building code.

#### **PUBLIC COMMENT**

No one came forward for public comment.

#### **CLOSED SESSION**

At 5:15 p.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 to discuss the matter of Farnell Shingleton v. Pender County, et al. The second was provided by Mr. Williams and followed by a unanimous vote.

#### **OPEN SESSION**

At 5:25 p.m. Mr. Rivenbark made a motion to come out of closed session, Mr. Williams provided the second and the Board voted unanimously to resume open session after the dinner break.

**7:00 P.M.**

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

**OTHERS PRESENT:** John Bauer, County Manager, Paul Parker, Assistant County Manager, Trey Thurman, County Attorney, Melinda Knoerzer, Deputy Clerk to the Board, members of the Press and public.

Mr. Rivenbark made a motion to excuse Mr. Holland (who did not return for this session), which was seconded by Mr. Williams and carried by a vote of 4 to 0.

#### **PUBLIC HEARINGS/ZONING MAP AMENDMENTS**

##### **16. Zoning Map Amendment, Caison Properties, LLC (18.22 acres, Sloop Point Road, US 17)**

Mr. Brian Chambers presented this application for Zoning Map Amendment, changing 18.22 acres from R-20 Residential to PD, Planned Development. He said this approval would bring all adjacent properties under the same classification. He said the surrounding land use is residential, vacant and forestry, and the use would not be inconsistent with either the 2005 Land Use Plan or the Zoning Ordinance. He said staff recommends approval and the Planning Board voted to approve this rezoning at their October 4, 2005 meeting. Chairman Meadows opened the public hearing at 7:01 p.m. Since no one came forward to speak, Chairman Meadows closed the public hearing at 7:02 p.m. Mr. Williams made a motion to approve the rezoning as submitted by staff. Mr. Moore offered the second, and the Board voted 4 to 0 to approve item number 16.

**17. Zoning Map Amendment, Terra Vista, Inc. (5.3 acres, NC 210)**

Mr. Frank Palmer presented this application for Zoning Map Amendment, changing 5.3 acres from FA, Flood Hazard Area, to RA, Rural Agricultural. He said prior to the November 2003 county-wide rezoning, this parcel was zoned RA. He said the new flood maps show this property is no longer within the “unnumbered A zone”, or Flood Hazard Area. He said the surrounding land use is forestry, vacant and residential, and this proposal is not inconsistent with the 2005 Land Use or the Zoning Ordinance. He said the Planning Board voted to approve this rezoning at their October 4, 2005 meeting. Chairman Meadows opened the public hearing at 7:04 p.m.

John Lacer, owner, said he intends this to be used for residential purposes, and he is currently remodeling the former store to be a single family home. There being no further comments, Chairman Meadows closed the public hearing at 7:06 p.m. Mr. Moore made a motion to approve the item as presented, Mr. Williams provided the second, and the Board voted 4 to 0 to approve item number 17.

**PUBLIC COMMENT**

Robert Stephens, owner of 300 acres in Canetuck (3.75 miles from the Cape Fear River) said he has been told by the Pender County Planning Department that he cannot build a new home on his land without a “No Rise Certification”. He said they bought the home and the land, intending to retire there, but the home was completely destroyed in a fire. He said the prior home was on a slab and it did not flood during Hurricane Floyd. He said his proposed new home is to sit on 42 inches of block, yet he still needs a “No Rise” and an “Elevation Certificate”.

Frank Palmer explained that a “No Rise” certificate assures proposed construction would not adversely affect other homes already existing in the area by increasing water levels. Mr. Stephens said that in Pender County , 58 acres or 6% of the County is deemed to be in a “Non-Encroachment Area”. He said he would get the “No Rise” and the “Elevation Certificate” because he must proceed with construction or risk loosing his contractor. Mr. Stephens said he met with an engineer who is qualified to perform this work; however it will take him 2 to 3 months to complete

Mr. Williams said the Board was informed about this at a prior meeting and the County is protesting the flood maps with FEMA. Mr. Stephens said he appreciates that, however, before he is able to drive the first nail in his house he will have in excess of \$10,000 in permits. He asked for some consideration from the County to issue him a permit to begin construction while the certifications are being prepared.

Mr. Palmer explained that the County is bound by the FEMA regulations and legally cannot issue the building permit without jeopardizing the entire County’s Flood Insurance Program and FEMA benefits. Mr. Palmer said the FEMA “Non Encroachment Area” goes from 300 feet to 6 miles wide and is completely arbitrary. He said he has already sent one protest letter and has prepared a second protest letter to put in the hands of our congressional delegation. When asked what the Commissioners could do for Mr. Stephens, Mr. Palmer stated that letters to Senator’s Dole and Burr and Congressman McIntyre outlining this personal hardship would be appropriate. He said FEMA can be asked to redefine the non encroachment area. Mr. Palmer said that all protests go to Washington DC and he is doing all he can, based on his experience in that town.

Mr. Bauer suggested a possible trip to Washington DC to meet face to face to resolve this matter. He asked about the possibility of resolving this with a "Letter of Map Amendment" (LOMA). Staff will pursue all options under the circumstances. Mr. Stephens thanked the Board for their time but pointed out that he feels it is unfair to make him go through this when people building on the beach do not have to.

There being no further business to come before the Board, Mr. Williams made a motion to adjourn, Mr. Rivenbark provided the second and the Board voted unanimously to adjourn at 7:28 p.m.

Respectfully Submitted,

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Melinda Knoerzer  
Deputy Clerk to the Board

Reviewed By:

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John Bauer  
Clerk to the Board

Planning Items Reviewed By:

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Frank Palmer  
Director of Planning