

**APRIL 17, 2006**

The Pender County Board of Commissioners met in regular session on Monday, April 17, 2006, at the Pender County Public Assembly Room, 805 South Walker Street, Burgaw, North Carolina.

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

**MEMBERS ABSENT:** None.

**OTHERS PRESENT:** John Bauer, County Manager; Paul Parker, Assistant County Manager; Trey Thurman, County Attorney, Glenda Pridgen, Deputy Clerk to the Board; other staff and members of the Press and public.

**CALL TO ORDER**

Chairman Holland called the meeting to order at 4:05 p.m.

**PUBLIC INFORMATION**

**Recognition of Former Sheriff Michael H. Harvell & Former Commissioner Gordon Jones – Deceased.**

Mr. Holland read a memo from the County Manager recognizing Former Commissioner Gordon H. Jones and Former Sheriff Michael Harvell who had recently passed away. The memo gave a summary of both gentlemen's accomplishments and services to the County. There was then a moment of silent prayer.

**INVOCATION**

Mr. Rivenbark offered the invocation.

**PLEDGE OF ALLEGIANCE**

Mr. Meadows led the Pledge of Allegiance.

**PUBLIC INFORMATION (Continued)**

**Woody Sullivan: Pender EMS Volunteer EMS & Rescue, Inc.: Designate Pender County as a "Heart-Safe Community."**

Mr. Woody Sullivan, Director of Pender EMS, Russell Haywood, Training Coordinator for Pender EMS, and Mark Walker of the American Heart Association, were present to give a presentation and answer any questions the Board may have. Information packets were also distributed. Mr. Sullivan explained that for the past year, Pender EMS has been trying to reduce overall average response time, especially for cardiac arrest situations. He said they approached the American Heart Association to recognize their efforts by designating Pender County as a "Heart Safe Community" and he is asking the Board to endorse this. Mr. Haywood and Mr. Walker gave presentations and highlighted some of the points of the program. Mr. Walker said this program originated at Harvard University. He said the overall goal is to reduce the death rate of cardiac arrest cases by 25%. It was noted that Pender County would be the first county in the State of North Carolina to achieve this designation. It was also noted that there would be no local funds requested from the County – that this program would be strictly grant funded. There was discussion of how this program serves the rural communities using Sheriff's deputies and fire departments. It was also noted that Pender EMS and the Health Department will be partnering together to make this a success. Mr. Rivenbark made a motion that the Pender County Board of Commissioners support the concept of Pender County being designated as a "Heart-Safe Community." Mr. Williams seconded the motion and it was unanimously approved.

**Martin Beach & Pete Cowan: Town of Burgaw Request: Wallace Wastewater Treatment Plant Capacity: Proposal #2.**

Mr. Bauer said Mr. Cowan and Mr. Beach are here to answer any questions. Mr. Cowan said he and Mr. Beach had had met with Mr. Bauer and Mr. Parker to discuss this and they now want to go to the next level. Mr. Williams said he thinks it's a "win-win" situation for the County and the Town. Mr. Moore made a motion that in addition to the one (1) million gallon per day (GPD) that the County has already agreed to sell the Town of Burgaw, that the Board approve the following: 1) the County will allow the Town to utilize the other one million GPD of capacity (that the

County owns) in the Wallace Wastewater Treatment Plant until such time as the County may need it; 2) the Town agrees to put in at least a 16 inch line from Burgaw to The Wallace plant; 3) the Town also agrees that all County customers that want to tap into the line will be allowed to tap into the line at the same cost as other Town Customers including impact fees, (subject to the one million gallon limitation) and capacity of the line; 4) the Town also agrees to purchase such additional capacity from the Town of Wallace that would insure the County owns one (1) millions GPD; and 4) that the Town will pay for capacity as it uses it. Mr. Rivenbark seconded the motion and it was unanimously approved.

## **CONSENT AGENDA**

Mr. Holland presented the five (5) items on the Consent Agenda and asked for any questions or discussion. Mr. Meadows asked about Item Number 6 and where the money is coming from. Mr. Bauer clarified the \$7,000 is coming out of Tourism funds. Mr. Rivenbark made a motion to approve the Consent Agenda as presented, Mr. Williams seconded the motion, and the Board voted unanimously to approve the Consent Agenda as follows:

4. Approval of Minutes: Regular Board Meeting: April 3, 2006 and Closed Session: April 3, 2006.
5. Budget Ordinance Amendment: WIC-Health Department: \$3,000 Increase.
6. Budget Ordinance Amendment: Tourism General Fund: Promotions: \$7000 Increase.
7. Budget Ordinance Amendment: Emergency Management: N.C. Emergency Management Grant: \$8,469 Increase.
8. Resolution Authorizing a Purchase Order to Tim's Heating & Air Conditioning, Inc. to Replace Indoor Evaporator Coil on the Existing AC Unit at the Pender County Sheriff Department – E911 Communicator Center: \$5,875.

## **PUBLIC HEARING**

9. **Public Hearing & Resolution Authorizing FY 05-06 Rural Operating Assistance Program Grant Application: \$52,138 (Reduced from \$53,667 in 05/06).**

Mr. Holland opened the public hearing at 4:50 p.m. Mr. Bauer said there are representatives present to answer any questions: Wes Davis and Judy Cromer from Pender Adult Services, and Lisa Worley from the Department of Social Services. Mr. Bauer clarified with Mr. Davis that the resolution should read “FY 06-07” instead of “FY 05-06.” Mr. Williams made a motion to approve the resolution, Mr. Moore seconded the motion, and it was unanimously approved.

## **RESOLUTIONS**

10. **Resolution Increasing Mileage Reimbursement Rate to Federal Rate of 44.5¢: Allowing Rate to Fluctuate.**

Mr. Bauer explained that this resolution is requesting the Board to allow the employee mileage reimbursement rate to increase to the current federal rate of 44.5¢ per mile and to allow it to fluctuate with the federal rate. Mr. Moore made a motion to approve the resolution, Mr. Williams seconded the motion, and it was unanimously approved.

11. **Resolution to Increase Water Capacity Fees to \$4 Per Gallon.**

Mr. Bauer explained that this resolution is asking the Board to increase the water capacity fee from \$2.50 per gallon of water to \$4 per gallon. He said the Water Feasibility Study revealed that the actual construction costs of water treatment plants are approximately at or in excess of \$4 per gallon. Mr. Moore made a motion to approve the resolution, Mr. Williams seconded the motion, and it was unanimously approved.

12. **Resolution Approving the Offer of Thurman Dudley to Purchase a 0.25 Acre Parcel, Pin # 2393-675570, Deed Book 851, Page 288, for the Amount of \$3,374, Subject to the Upset Bid Procedures of Pender County.**

Mr. Bauer explained the resolution. He said the \$3,374 Mr. Dudley is offering is the present tax value of the land and that Mr. Dudley has paid a 5% deposit. Mr. Rivenbark made a motion to approve the resolution, Mr. Williams seconded the motion, and it was unanimously approved.

## **DISCUSSIONS/WORK SESSIONS**

13. **Commissioners' Districts: Discussion & Possible Vote.**

Mr. Bauer said these are the same maps and said he had conversed with Commissioners concerning the difference in Map #1 and Map # 4. Mr. Williams made a motion to approve Map #4, Mr. Moore seconded the motion and it

was unanimously approved. Mr. Williams then made a motion as follows: Also, a proposal to possibly request the N.C. General Assembly to give Pender County the sole authority to amend its own voting districts, per census data, may also be considered. Mr. Moore seconded the motion and it was unanimously approved. It was noted that this action cannot commit future boards to this. Mr. Thurman was instructed to draft legislation and bring back to the Board at the next meeting.

**14. Fire Districts’ Tax Increase Requests: Public Hearings Schedule.**

This item was discussed at some length. Mr. Williams said citizens of the respective districts should be surveyed. Mr. Bauer said the Fire Chiefs have said they have surveyed citizens in their respective districts and people generally agreed with increasing tax rates in order to get better fire service. There was discussion of the proposed increases and how they would affect citizens’ tax rates. The Board agreed to Mr. Bauer’s suggestion to have the public hearings as follows instead of having eight separate public hearings: Pender Central – combine with the regular May 15<sup>th</sup> budget public hearing, Maple Hill, Atkinson and Northeast Pender separately, combine Long Creek and Rocky Point, and combine Shiloh and Penderlea.

**15. Schools’ Recreation Agreement.**

Mr. Bauer said this agreement surfaced during discussions with the Parks and Recreation Director about the upcoming recreational program. He said he is bringing it to the Board and the Board of Education to reaffirm the cooperative spirit of both boards.

**16. Major Utility Projects Update.**

Mr. Bauer said some of the major utility projects are: 2 MGD Water Plant, Water Transmission Project: \$17.5 Million; Water Distribution Projects, Each District; \$2.7 Million Unsewered Communities Grant; Highway 17 Sewer Facilities; and Water Plant preliminary engineering. He said his main reason for bringing regular updates to the Board is to keep people informed.

Mr. Parker gave some highlights of his memo to Mr. Bauer with respect to the Phase V Water Project.

**APPOINTMENTS**

**17. Resolution Approving Appointment of Citizens to Board, Commissions, etc.**

Mr. Rivenbark said Ms. Bost is a good member of the Health Board and a Senior Vice President at New Hanover Regional Medical Center. He said Ms. Bost should be reappointed to serve a full term and other Board members agreed. Mr. Rivenbark made a motion to approve the following appointments, Mr. Williams seconded the motion, and it was unanimously approved:

<b>BOARD/COMMITTEE/COMMISSION</b>	<b>APPLICANT/ CURRENT MEMBER</b>	<b>TERM EXPIRATION</b>	<b>REPLACES</b>
Health Board	Corine Bellamy (Current Member)	4/17/06 – 1/31/09	N/A
“ “	Roberta Bost “ “	4/17/06 – 1/31/09	N/A

**18. ITEMS FROM THE COUNTY MANAGER**

Mr. Bauer presented the following Items of Interest and explained some of them in detail:

1. Letter from Governor Michael F. Easley to announce that \$32,680 in financial assistance for the Mill Creek Dredging project has been approved.
2. Letter and Certificate of Completion from N.C. Department of Commerce with respect to Closed Pending of CDBG Number 02-C-0963.
3. Letter from N.C. Department of Transportation with respect to NC 53 Burgaw Bypass (R-3302).
4. Pender County Planning Department Code Enforcement Office Quarterly Report – First Quarter 2006.
5. Pender County Inspections Statistical Report – Through March, 2006.
6. Pender County Emergency Management Quarterly Report: January – March, 2006.
7. Pender County Cooperative Extension Monthly Report: March, 2006.
8. Resolution from Sampson County Supporting NCACC Medicaid Relief Task Force Proposal.
9. Beaver Management Assistance Program Report.

## **ITEMS FROM THE COUNTY COMMISSIONERS**

Mr. Rivenbark asked about the Sandy Harris case and Mr. Thurman said the other party hired an attorney and that it may go to trial. He said he had spoken with Ms. Harris on several occasions.

### **CLOSED SESSION**

At 5:35p.m. Mr. Rivenbark made a motion to enter into closed session pursuant to NCGS 143318.11: (3) To consult an attorney employed or retained by the public body in order to preserve the attorney-client privilege; and (6) To consider the qualifications, competence, performance, character, fitness, conditions of appointment, or conditions of initial employment of an individual public officer or employee or prospective public officer or employee; or to hear or investigate a complaint, charge, or grievance by or against an individual public officer or employee. The Closed Session will not include discussion of the appointment of a member of the public body, or a vacancy on the public body, and any final action on appointment, discharge or removal by the public body will be made in public session. Mr. Williams seconded the motion and the Board unanimously approved going into closed session. A break was taken and the Board went into closed session at 5:45 p.m. At 6:30 p.m., Mr. Rivenbark made a motion to come out of closed session, Mr. Williams seconded the motion, and the Board unanimously approved coming out of closed session. No public announcement or public decision was announced in the public open meeting.

### **PUBLIC HEARINGS & ORDINANCES/SPECIAL USE PERMITS:**

#### **19. Amendment to the Pender County Noise Ordinance.**

The public hearing opened at 7:15 p.m. Mr. Bauer said the public hearing is being held to amend the Pender County Noise Ordinance to contain the following language: It shall be unlawful to play amplified music, be it from a recorded, transmitted or broadcast source, at any time on any day of the week, in such a manner as to be detrimental to or interfere with the life, health or comfort of a reasonable person. This prohibition shall apply to both fixed and mobile sources, including motor vehicles. This prohibition shall not apply to the live playing of a musical instrument, or the amplification of a musical instrument which is being played live. There was no public comment and the public hearing closed at 7:16 p.m. Mr. Meadows made a motion that the amendment be approved, Mr. Williams seconded the motion, and it was unanimously approved.

#### **20. Ordinance Adopting Road Names and Number Ranges – Washington Acres.**

The public hearing opened at 7:16 p.m. Ms. Dawson explained that this action is a continuation of trying to relieve some of the addressing problems in Hampstead. She said Battery Lane is the only one that is an actual name change – the others are number ranges. There were no questions or comments and the public hearing closed at 7:18 p.m. Mr. Williams made a motion to approve the ordinance, Mr. Meadows seconded the motion, and it was unanimously approved.

#### **21. Ordinance Adopting Road Names and Number Ranges – Deadwood Trail.**

The public hearing opened at 7:18 p.m. and Ms. Dawson explained the ordinance. She said the residents of the road signed a petition to have the road name changed. The public hearing closed at 7:19 p.m. Mr. Moore made a motion to approve the ordinance, Mr. Williams seconded the motion, and it was unanimously approved.

#### **22. Special Use Permit: Child Care Center, Sharon Henry, Applicant.**

The public hearing opened at 7:19 p.m. Mr. Thurman swore in the witnesses. Mr. Palmer read the action requested, history/background, evaluation, and conditions of the Special Use Permit. It was noted that Ms. Henry is already a licensed daycare owner but is trying to expand her existing daycare center. Board members asked several questions and the public hearing closed at 7:20 p.m. Mr. Moore made a motion to approve the special use permit request, Mr. Williams seconded the motion, and it was unanimously approved.

#### **23. Special Use Permit: Commercial Warehouse, Michael G. Nadeau Applicant.**

The public hearing opened at 7:20 p.m. Mr. Palmer read the action requested, history/background, evaluation, and conditions of the Special Use Permit. Mr. Palmer noted there is already an office building on the property permitted by the County, and this action is just seeking a special use permit for building a warehouse. Board members asked several questions and discussed the request and the public hearing closed at 7:30 p.m. Mr.

Williams made a motion to approve the special use permit, Mr. Rivenbark seconded the motion, and it was unanimously approved.

**24. Special Use Permit: Extension of Hours of Operation and Elimination of Timelines to File for Future Special Use Permits, Martin Marietta Corp. Applicant.**

The public hearing opened at 7:30 p.m. Mr. Holland asked to be excused from voting on this item due to him starting up a similar operation. Mr. Williams moved to excuse Mr. Holland, Mr. Meadows seconded the motion, and it was unanimously approved. Mr. Palmer read the action requested, history/background, evaluation, and conditions of the Special Use Permit. Mr. Palmer explained that the current mining area and operation contains enough rock to last an estimated 8 years and that the current timeline exceeds that which is permitted by the special use permit. Mr. Palmer said representatives from Martin Marietta are in attendance to answer any questions.: Paxton Badham, Ray Thatcher and Doug Pope from Martin Marietta, and their attorney R.V. Biberstein. Mr. Biberstein and Mr. Pope spoke and explained what the situation was. It was noted that Martin Marietta did a noise test and didn't pick up anything on the other side of the berm. Mr. Jocko Shiver, a citizen of Moore Town, which is near the excavation site, asked Martin Marietta members several questions with respect to the operations. He said Martin Marietta is being unreasonable in asking the timeline be expanded and said that he can hear noise from the operation at night. Board members asked several questions and discussed the request. The public hearing closed at 8:03 p.m. Mr. Meadows made a motion to deny the hours of extension but it died for lack of a second. Mr. Williams made a motion to approve the special use permit request, Mr. Moore seconded the motion, and it was approved by a vote of 3 to 1, with Mr. Meadows casting the dissenting vote.

**25. Special Use Permit to Construct and Operate a Dry Boat Storage, Retail Sales, and Service Facility, H. Allen Wooten Applicant.**

The public hearing opened at 8:04 p.m. Mr. Palmer read the action requested, history/background, evaluation, and conditions of the Special Use Permit. He said this had previously been approved in 2002 but the permit had subsequently expired. He said the applicant has complied with all the conditions. The public hearing closed at 8:08 p.m. Mr. Williams made a motion to approve the Special Use Permit request, Mr. Rivenbark seconded the motion, and it was unanimously approved.

**ITEMS FROM THE COUNTY COMMISSIONERS (Continued)**

Mr. Williams said he met with Rodney Simpkins again and Mr. Simpkins said he went to the Board of Equalization & Review. He said he explained to Mr. Simpkins that nothing can be done about his situation until the next revaluation. Mr. Williams said he met with the Town of Topsail Beach and CAMA folks to talk about beach renourishment and said the CAMA folks aren't doing enough to help the Towns. He said the County needs to ask the Legislators for help.

Mr. Holland said he had gotten complaints about the concessions stand and bathrooms at Pender Memorial Park. Mr. Bauer said we are looking into this problem. He said we're working with Ms. Turner and Burgaw Dixie Youth to make improvements.

**ITEMS FROM THE COUNTY ATTORNEY**

There were no items from the County Attorney.

Mr. Bauer distributed a note from Kim Segal of Marlowe Company with respect to meeting with staff from the offices of Senator Burr, Senator Dole and Congressman McIntyre on May 10<sup>th</sup>. Mr. Bauer also distributed a flyer for 2006 County Assembly Day to focus on Medicaid relief which will be held on May 17th. He encouraged Board members to attend both events. Mr. Williams said he will be attending this event.

At 8:23p.m. Mr. Rivenbark made a motion to enter into closed session pursuant to NCGS 143318.11: (3) To consult an attorney employed or retained by the public body in order to preserve the attorney-client privilege; (5) To establish, or 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 or 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; and (6) To consider the

qualifications, competence, performance, character, fitness, conditions of appointment, or conditions of initial employment of an individual public officer or employee or prospective public officer or employee; or to hear or investigate a complaint, charge, or grievance by or against an individual public officer or employee. The Closed Session will not include discussion of the appointment of a member of the public body, or a vacancy on the public body, and any final action on appointment, discharge or removal by the public body will be made in public session. Mr. Williams seconded the motion and the Board unanimously approved going into closed session. At 8:55 p.m., Mr. Rivenbark made a motion to come out of closed session, Mr. Meadows seconded the motion, and the Board unanimously approved coming out of closed session. No public announcement or public decision was announced in the public open meeting.

**PUBLIC COMMENT**

There was no public comment

**ADJOURN**

The meeting adjourned at 8:55 p.m.

Respectfully Submitted,

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Glenda Pridgen  
Deputy Clerk to the Board

Reviewed By:

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John Bauer  
Clerk to the Board

Review of Planning Matters:

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Frank Palmer  
Planning Director