

## MARCH 13, 2006

The Pender County Board of Commissioners met in regular session on Monday, March 13, 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, and Bill Moore.

**MEMBERS ABSENT:** David Williams.

**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 10:05 a.m.

### INVOCATION

Mr. Moore offered the invocation.

### PLEDGE OF ALLEGIANCE

Mr. Meadows led the Pledge of Allegiance.

### PUBLIC INFORMATION

Mr. Holland presented to Mr. Rivenbark the "2005 Lynwood Norris Outstanding Executive Board Member Award" awarded by the Cape Fear Council of Governments (COG). The COG announced the award at their annual meeting on February 23, in which Mr. Rivenbark was unable to attend due to illness.

### CONSENT AGENDA

Mr. Holland presented the eight (8) items on the Consent Agenda and asked for any questions or discussion. There being no questions or discussion, Mr. Rivenbark made a motion to approve the Consent Agenda, Mr. Meadows seconded the motion, and the following items on the Consent Agenda were unanimously approved:

1. Approval of Minutes: Regular Board Meeting: February 20, 2006; and Closed Session: February 20, 2006.
2. Resolution Approving Tax Releases and Refunds as Presented.
3. Budget Ordinance Amendment: Public Assistance: EDTAP: \$370 Increase.
4. Budget Ordinance Amendment: Environmental Health: \$4,802.70 Increase.
5. Budget Ordinance Amendment: Health Promotion: \$14,807 Increase.
6. Budget Ordinance Amendment: Health: Communicable Disease: \$17,516 Increase.
7. Budget Ordinance Amendment: Rocky Point/Topsail Water & Sewer District: Phase IV Water Project: \$2,653,000 Increase.
8. Resolution Authorizing a Purchase Order to Bellsouth to Purchase a Cisco Switch for the Administration Building, Due to Network Expansion: \$3,006.

### RESOLUTIONS

**9. Resolution Authorizing the Execution of a Contract with Thompson, Price, Scott, & Co. P.A. for Audit Services for the Fiscal Year Ending June 30, 2006: \$31,000.**

Mr. Bauer explained that an independent financial audit is mandated by the state. He said this resolution is similar to the one done last year except it will be budgeted next year out of "Non-Departmental" instead of out of "Finance" because the audit applies to all county departments. Mr. Meadows made a motion to approve the resolution, Mr. Moore seconded the motion, and it was unanimously approved.

**9a. Resolution Appointing Interim Statutory Finance Officer.**

Mr. Bauer distributed the resolution and explained it. He said Bond Counsel notified him that Ms. Amy Coker, Deputy Finance Officer, needs to be appointed as Interim Finance Officer for the bond signing to be held on March 20<sup>th</sup>. He said NCGS 159-124 says that each local government "shall" appoint a Finance Officer and NCGS 159-25 sets out the duties that must be performed by the Statutory Finance Officer, including maintaining "records concerning

bonded debt.” He said NCGS 159-28 requires preaudit and disbursement certifications to be signed by the Statutory Finance Officer (or a Deputy specifically authorized to execute these certifications). Mr. Rivenbark made a motion to approve the resolution, Mr. Moore seconded the motion, and it was unanimously approved.

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

**10. Resolution for a Bond Sale by Rocky Point-Topsail Water & Sewer District.**

Mr. Holland convened the Board as the Rocky Point/Topsail Water & Sewer District Board. Mr. Bauer explained the resolution. He said this resolution does the following: formally authorizes the sale of \$5,723,000 in water bonds to retire the existing water bond anticipation notes, thereby providing permanent financing; formally pledges the County’s taxing power to provide for payment on the bonds, if that becomes necessary, ie. if water user fees, impact fees, etc. are inadequate; approves the proposed form of the bonds themselves; states the County’s agreement to comply with the relevant provisions of federal tax law; and authorizes County staff to complete the process of issuing the bonds. Mr. Bauer said Mr. Jessup had prepared the cover letter and consulted with Mr. Thurman on this matter and that Mr. Jessup will be here on March 20<sup>th</sup> for the bond signing. Mr. Moore asked why this wasn’t done before now and Mr. Parker explained that you have to spend the money first. He said you spend the money and when you get near the end of the project, someone buys the bonds. He said after all loan monies are spent, the bonds can then be sold. Mr. Bauer said this is the permanent financing which “takes out” the construction financing. Mr. Meadows made a motion to approve the resolution, Mr. Rivenbark seconded the motion, and it was unanimously approved. The Board then resumed as the Pender County Board of Commissioners.

**WORK SESSION**

**11. Employee Health Insurance: Trends.**

Mr. Bauer explained that this information is from MedCost – our current national health insurance administrator, which is represented by a local firm out of Wilmington. The document provided by MedCost provides information on administration and stop-loss insurance renewal cost; self funding review; annual claims comparison; dental claims administration renewal cost; and suggested allocation rates. Mr. Bauer said most of this year’s savings came out of administration. He said we will again bid out health insurance proposals for FY 06-07 and compare them with NCACC’s. He noted NCACC changed their health plan from Blue Cross/Blue Shield to Cigna because administrative costs were lower. He said that during a seven (7) month period, we had an overall increase of 6% in claims. He said 80% of claims are generated by 20% of employees. He said the real medical claims are heart attacks, cancer, etc. He noted that dental claims are “not so costly.” Mr. Bauer noted to Mr. Rivenbark that we are still trying to get information on an Employee Health Incentive Program that Mr. Rivenbark had requested at an earlier meeting.

**APPOINTMENTS**

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

Mr. Bauer read the resolution. Mr. Meadows made a motion to approve all the appointments, Mr. Rivenbark seconded the motion, and it was unanimously approved as follows:

<b>BOARD/COMMITTEE/COMMISSION</b>	<b>APPLICANT/ CURRENT MEMBER</b>	<b>TERM EXPIRATION</b>	<b>REPLACES</b>
<b>Board of Adjustment</b>	Erwin L. Kane (Applicant)	3/13/06 – 1/4/09	Karen Rouse
<b>Library Board</b>	Shelby W. Battle (Applicant)	3/13/06 – 1/31/09	James Faison, Jr.
<b>Tourism Development Authority</b>	William Johnson	TDA to Set Term	Ken Johnson

**13. ITEMS FROM THE COUNTY MANAGER**

Mr. Bauer distributed a hand-out from Marlowe & Company, the company hired to lobby for water facilities’ funds for Pender County. Mr. Bauer said Marlowe representatives arranged for him and them to meet face-to-face individually with the legislative appropriation staff of Senator Elizabeth Dole, Senator Richard Burr and Congressman Mike McIntyre during the NACo conference held in Washington, DC. He said the County is seeking \$5 million per year for three (3) years to supplement the County’s funds in building water facilities. He said that amount will be extremely difficult to obtain but “we have to start somewhere.” He said we will also obtain funding through USDA grants and loans, and there will be a bond referendum in the fall, and it will take a 45% match to “get there.” He said Marlowe has put the application together. Mr. Bauer said Marlowe prepared letters of support for Commissioners to sign and send to Senators, Congressman McIntyre and other entities that might benefit in support of the project. He said Marlowe will also set up meetings for Commissioners to personally visit Senators and Congressman McIntyre

individually. He said any or all Commissioners can go, but at least one (1) Democrat and one (1) Republican should go. He said it will be a one-night stay with potential dates of March 28<sup>th</sup> – March 30<sup>th</sup> or April 4<sup>th</sup> – April 6<sup>th</sup>. He said other counties are also asking for funding for various projects.

Mr. Bauer then distributed and explained a resolution entitled **“Resolution Supporting Federal State and Tribal Assistance (STAG) Grant: Water Plant and Facilities: \$5,000,000.”** Mr. Moore asked can the match be more than 45% if necessary and Mr. Bauer responded “yes.” He said we are not locked into 45% but that is the minimum required local share for a STAG Grant. He said we are trying to get this project started relatively quickly. Mr. Holland said we should go after any funding right away and said “this is a step in the right direction.” Mr. Rivenbark made a motion to approve the resolution, Mr. Moore seconded the motion, and it was unanimously approved. In response to question by Mr. Meadows, it was clarified the resolution would be numbered number 9b.

There was discussion of whether there needs to be a vote to excuse Mr. Williams. Mr. Thurman said he doesn’t have to be excused and clarified that his absence won’t count as a “yes” vote for Mr. Williams.

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

1. Information on donation to Topsail Township Friends of the Library.
2. Pender County Inspections Statistical Report – through February, 2006.
3. Letter from Town of Surf City regarding voting districts’ boundaries in Pender County.
4. Resolutions from Town of Burgaw with respect to the NC Hwy 53 By-pass.
5. Letter from N.C. Department of Commerce with respect to the North Carolina Small Cities Community Development Block Grant (CDBG) Annual Performance Report (APR): Number 04-C-1255.
6. Letter from N.C. Department of Commerce with respect to the North Carolina Small Cities Community Development Block Grant (CDBG) Annual Performance Report (Apr): Number 04-C-1415.
7. Letter from North Carolina Department of Commerce with respect to submittal of the Equal Employment Procurement and Section 3 Plans: Number 05-C-1415.
8. FY 06-07 Budget Estimate: Governing Body Dues and Subscriptions Detail.
9. Public Schools of North Carolina Low Wealth Supplemental Funding: FY 06-07.
10. Letter from Donald Sullivan to Ren Holt and Frank Palmer with respect to a request for electrical inspection.
11. Letter from Donald Sullivan to Sheriff Smith with respect to the powers of the Office of the Sheriff.
12. Letter from Christopher Pinket with respect to request to the Planning Department for public records.
13. Article from February 2006 edition of *County Lines* with respect to Durham County’s case in impact fee appeal.
14. Article from February 2006 edition of *County Lines* with respect to Buncombe County’s digital records project helping clear space and save money.
15. Memo from Warren Wilson, Architect, with respect to proposed kitchen renovations for the Jail.
16. Letter from NCACC with respect to Risk Control Service Call on February 15, 2006.
17. Small Farms Week Flyer – March 19-25, 2006.
18. Letter from TRS with respect to sales tax data for retail sales and contractor statements.
19. Letter from North Carolina Association of County Veterans Service Officers with respect to Veterans Service Officers being fully trained and accredited.
20. Memo from Bernie Merritt, IT Director, with respect to Renewal Agreements with Bellsouth.
21. N.C. League of Municipalities workshop for Manager Evaluation and Board Self-Assessment.
22. Bid results for Phase IV construction Rocky Point/Topsail Water and Sewer District.

With respect to Item Number 1, Mr. Bauer said this is a private donation and it is made to the Topsail Township Friends of the Library – not to Pender County.

With respect to Item Number 2, Mr. Bauer noted there is a drop in the number of February permits from last year and Mr. Holland responded there is a drop in all construction – including the beaches.

With respect to Item Number 4, Mr. Rivenbark made a motion to support both resolutions, Mr. Moore seconded the motion, and it was unanimously approved; Mr. Bauer would draft and sent to N.C. DOT and the Town.

With respect to Item Number 8, Mr. Bauer said this will be a part of the upcoming budget.

With respect to Item Number 9, Mr. Bauer explained that 35% of lottery funds will be distributed only if the effective tax rate exceeds the State average effective tax rate. He said our effective tax rate **does not** exceed the statewide average. Mr. Moore asked how do you calculate the average effective rate and Mr. Bauer explained that the rate is calculated by multiplying the gross tax rate by the sales to tax ratio. There was general discussion of the lottery such as when it will start, the law suit against it, and fire and EMS tax rates not being included in the “gross tax rate.” Mr. Bauer noted that he had discussed with Woody Sullivan, EMS Director, that the EMS budget will be treated like other county departments. He said no outside agency increase will beyond 5% except the Schools.

There was discussion of public records with respect to Item Numbers 10, 11 and 12. Mr. Thurman clarified that if someone requests a hard copy of something, we have to produce it. He also clarified that video tapes are public records. It was noted that county staff can charge for producing these items. Mr. Moore asked if the individuals in Items 10, 11 and 12 are getting what they are asking for and Mr. Bauer said we’re still working on some of them. Mr. Moore asked if Planning Board meetings are recorded and Mr. Thurman responded affirmatively. Mr. Thurman noted that there is no requirement that any meetings be recorded.

With respect to Item Number 13, Mr. Bauer said he had talked with someone from Cabarrus County and he is trying to get information from them on how they receive donations from developers. He noted Cabarrus gets more than \$4000 per lot and that they treat it as donations, not fees. He said they receive the donations either at the time of sale or time of the permit.

With respect to Item Number 14, Mr. Bauer said we are trying to get as much digitized as possible.

With respect to Item Number 19, Mr. Bauer said our Veterans Service Officer has been fully trained and accredited.

With respect to Item Number 20, Mr. Bauer said we are trying to get Hampstead at the Burgaw level of speed and less expensive.

Mr. Moore asked what is new with the St. Helena Sewer Project. Mr. Parker said we’re doing a sign-up campaign until April 3, 2006. He said letters were sent out to the residents and the County Manager’s Office will remain open until 7:00 p.m. several nights to take sign-ups. There was general discussion of the Sewer Project. Mr. Bauer said he apologizes on behalf of the County Manager’s Office for any misconceptions. He said 193 sign-ups are mandatory in order to get the \$2.7 million grant. He said if the residents don’t want to sign up, we can not accept the grant money. He said residents would be paying a \$1,000 tap fee to get a \$14,000 to \$15,000 system. He said we’re trying to keep the monthly fee to around \$40. He said if the residents are happy with their current septic tanks, that’s fine. He said the Board can make any suggestions they want; no suggestions were forthcoming.

#### **ITEMS FROM COUNTY ATTORNEY**

Mr. Thurman said there will be a hearing next Monday regarding Mr. Bob Kilroy’s suit over a subdivision and rights to right-of-way. He said this suit is between two (2) private individuals and the County is only involved because of the County’s Subdivision Ordinance. Mr. Thurman said he may not be at the 4:00 meeting next Monday because he may still be in court.

#### **ITEMS FROM COUNTY COMMISSIONERS**

Mr. Moore made a motion to instruct the County Attorney to end the Pender County vs. Bartlett lawsuit on redistricting. Mr. Meadows seconded the motion and it was approved by a three-to-one vote with Mr. Holland casting the dissenting vote. Mr. Thurman noted that the dismissal will be for the County. He said you can’t dismiss against individuals (Commissioners) and that the Commissioners will have to pay as individuals if the County is dismissed.

Mr. Meadows said he wants to go into Closed Session. It was noted to have Public Comment before the Closed Session.

Mr. Rivenbark said He is “real proud to be here.”

Mr. Holland said he received a letter from Mr. Theodore Proukou of Safe Haven and a copy of the letter Mr. Bauer sent Mr. Proukou in response. He said he had called Mr. Proukou after receiving his letter and basically told him the same thing Mr. Bauer later told him in his response letter.

### **PUBLIC COMMENT**

Mr. Gary Guthrie spoke about concerns with Pender Adult Services no longer being able to provide transportation for the elderly and disabled. He said PAS could no longer provide round trips for \$8. He spoke about an article by Trista Talton that ran in the *Wilmington Morning Star* but said he had spoken to Judy Cromer of Pender Adult Services and Ms. Cromer said there are lots of agencies getting assistance from the County. He said Pender County could offer additional assistance. Mr. Rivenbark asked about local funding and Mr. Bauer said the County does provide a local match to PAS. Mr. Bauer said he will get with Mr. Davis to evaluate the situation. Mr. Rivenbark noted Southeastern Mental Health had similar problems in which they were allotted a certain amount but things came up later. Mr. Meadows said we do the budget starting the first of the fiscal year and we “can’t help what happens during the year.” Mr. Holland agreed with Mr. Meadows that Commissioners set funding for agencies during the budget process, and there could be changes in the agencies later during the fiscal year that the Board can’t control. Mr. Holland said the Board “can’t raise taxes but so much” and that one of our biggest problems is that we don’t have large industry in the County as some other counties do.

Mr. Meadows asked what is the status of the Noise Ordinance and Mr. Thurman said he has a version that will possibly be presented at an April Board meeting.

Mr. Meadows noted the quality of the video of the meeting is not good and the sound track is not good. Mr. Bauer said we are continuing to work on this problem, that it is an ongoing project.

Mr. Elloyd McIntyre, owner of Land Oaks Subdivision, spoke about his concerns about getting water taps along Pine Village Dr. He said he is willing to pay the initial fee but can’t afford to pay the monthly fee on each tap. Mr. Parker was instructed to consult with Mr. McIntyre on this and Mr. Parker met with Mr. McIntyre immediately.

### **CLOSED SESSION**

At 11:38 a.m. Mr. Meadows 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. Meadows seconded the motion and the Board unanimously approved going into closed session.

A break was taken at 11:38 and the Board then went into closed session.

### **ADJOURNMENT**

The Board came out of closed session at approximately 12:45 p.m. and the meeting adjourned.

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