

**REGULAR SESSION OF THE PAMLICO COUNTY BOARD OF COMMISSIONERS
MONDAY NOVEMBER 17, 2014**

The Pamlico County Board of Commissioners met in regular session in the Pamlico County Courthouse Courtroom. All Commissioners were present with exception of Commissioner Jimmy Spain. Also present were Attorney Dave Baxter, County Manager Tim Buck, Finance Officer Bill Fentress and Clerk to the Board Kathy P. Cayton.

Chairman Paul Delamar called the meeting to order.

Chairman Paul Delamar asked if there were any corrections, additions and/or deletions to the November 3, 2014 meeting minutes. There being none, on a motion made by Commissioner Carl Ollison and seconded by Commissioner Jimmy Spain, the following resolution was unanimously approved.

BE IT RESOLVED, the minutes of the November 3, 2014 regular and closed session minutes were hereby approved and the Chairman's signature is authorized thereon.

Chairman Paul Delamar then asked if there were any members of the public to speak during public comment period. There were ten (10) citizens signed up to speak.

- Mr. Julian Boughton: In support of Spring Creek Farms, LLC. Mr. Boughton stated it is an opportunity to increase tax rate and several jobs.
- Ms. Carol Small: Encouraged Board to support legal action against Spring Creek Farms, LLC. to preserve wetlands.
- Mr. Travis Graves: Lower Neuse Riverkeeper encouraged Board to support legal action against Spring Creek Farms; LLC stating the work being done was not only illegal, but unethical.
- Mr. Todd Miller: Encouraged Board to support the legal action. Southern Environmental will provide legal service at no cost.
- Mr. Ron Zielinsky: Stated he is involved in building an artificial reef and stated that silt run-off affects the area. Some areas that he has been working in have up to seven (7) feet of silt.
- Ms. Alice Petree: She has only lived in Pamlico County for two (2) years and would hate to see something happen to our waterways the way it had in the Chesapeake Bay area.
- Mr. Tom McElroy: He feels that out of state developers come here and ruin what they moved here to enjoy.
- Mr. Michael Tigar: Stated he was a lawyer and a law teacher. He has represented many people. He said if you travel the Intercoastal waterways you will see they are littered with debris left by developers. He does not want to see that happen here.

- Mr. Alan Prospt: He stated he believes that 90% of the Spring Creek Farms, LLC (aka as Atlas Tract) is wetlands and requested the Board right a wrong.
- Mr. Bill Hines: He is in support of legal action against Spring Creek Farms, LLC. He said that hydrology is important in maintaining our ground water. He feels that short term profits are causing us to sell off our children's future.

Chairman Paul Delamar then recognized Mr. Derb Carter, Senior Attorney of Southern Environmental Law Center who came before the Board representing concerned citizens. He ask that Pamlico County join in a letter to the U.S. Corps of Engineers and the U.S. Environmental Protection Agency notifying Spring Creek Farms, LLC that along with the North Carolina Coastal Federation they intend to sue them under the Clean Water Act regarding the Atlas Tract. He went further to discuss what the process would be. He stated that under the Clean Water Act, any person who intends to enforce wetland protection provided by Federal law must provide a 60-day notice of intent to sue to the agency and/or the person alleged to be in violation of the Act. If the Corps, EPA, and Spring Creek do not agree to bring their actions into compliance with the Clean Water Act, the Coastal Federation, and County if it joins, would file a lawsuit in the U.S. District Court for the Eastern District of North Carolina at the end of the 60-day notice period or shortly thereafter. The purpose of the notice letter and lawsuit would be to force the Corps and EPA to apply existing wetland protections as written and conduct a valid wetland delineation of the 251 acres that the agencies have determined do not contain wetlands, and to prevent Spring Creek from taking further unauthorized actions on the tract until a proper wetland delineation is conducted.

Chairman Paul Delamar then recognized Mr. Clark Wright, Attorney for Spring Creek Farm, LLC, who stated that he is a native of North Carolina and has been in Environmental Law for 30 years. He stated that the approximately 251 acre area that is of potential concern and some of the so-called "minor drainage" ditching activities were carried out by prior property owners approximately 20 years ago. He further stated that his client had no knowledge of that work, and that a review of aerial maps would not indicate whether such ditching did, or did not, qualify as allowable "minor drainage." He went on to note that whether the prior owners may, or may not, have exceeded the parameters of "minor drainage" as allowed under the "recapture" Section 404 (f) exemptions would be very difficult for anyone to determine today. Mr. Wright noted that there are a number of larger ditches that were dug well before the "minor drainage" and more restrictive wetlands rules went into effect, and thus any wetlands drained from those older, larger ditches would be completely legal. Mr. Wright stated that the minor drainage ditching in question may, or may not, have taken place in areas that otherwise at the time those ditches were dug could have qualified as wetland waters of the United States within the meaning of the relevant provisions of the Clean Water Act. Mr. Wright noted that it was his understanding that the EPA currently is concerned that if such "minor drainage" ditching work did operate to convert wetlands to uplands, that even though it is now over 20 years later, and even though his client was neither involved nor made aware of these issues (which would in turn have them qualify as an innocent purchaser for value), it could cause concern regarding his clients' plans to clear other such areas, maintain existing ditches and place these fertile land into agricultural

production. Mr. Wright then noted that his clients had gone to both state and federal regulators and both agencies visited the site and informed his client that their proposed agricultural activities were legal. Mr. Wright noted that the Army Corps of Engineers issued a formal "Jurisdictional Determination" on the 251 acre tract, finding that it did not contain regulated wetlands, and that Corps officials verbally had informed his client that most of the rest of the Atlas Tract also did not contain regulated wetlands.

Mr. Wright then asked that all concerned parties similarly look at the Atlas Tract as a whole, and seek to accomplish a constructive solution on the front end, without all the time, expense and uncertainty of federal court litigation, as was the case with the Parker Tract. He again noted that his client has made every effort humanly possible to consult with and work with all of the state and federal regulators that have jurisdiction over wetlands and water quality issues, and will continue to do so. Mr. Wright requested that constructive dialogue designed to reach a win-win solution begin between himself as a representative of Spring Creek, LLC and Southern Environmental Law Center as a representative of the select Pamlico County residents to try and resolve this issue without having to do so in the court system. His client would like to move forward with appropriate agricultural activities on the majority of this valuable farm and forestry property while also protecting identified riparian buffer areas, jurisdictional wetland areas, and also implementing so-called "best management practices" designed to greatly reduce the chance of any off site potential nutrient runoff.

Chairman Paul Delamar thanked both gentlemen for their presentations and the citizens for sharing their concerns.

On a motion made by Commissioner Ann Holton and seconded by Commissioner Christine Mele, the following resolution was passed by majority vote. Commissioner Kenny Heath cast a dissenting vote.

BE IT RESOLVED, the Pamlico County Commissioners request a dialogue will be opened by all parties to resolve the issues of the proposed action regarding the Atlas Tract also known as Spring Creek Farms , LLC and that a report be submitted to the Board of Commissioners by January 19, 2015.

Chairman Paul Delamar then asked if there were any additions and/or deletions to the agenda. There was one addition. A motion was made by Commissioner Ann Holton and seconded by Commissioner Christine Mele, the Board unanimously approved the addition of the Register of Deeds resolution to the Consent Agenda.

The Board then turned their attention to the Consent Agenda.

On a motion made by Commissioner Christine Mele and seconded by Commissioner Pat Prescott, the following resolutions were unanimously approved.

BE IT RESOLVED, the following budget amendments are hereby approved.

The original budget is being revised with this Budget Revision. A Budget Amendment will revise the total dollar amount, either increase or decrease, of the original Budget Ordinance. A Line Item Transfer will revise the dollar amounts allocated between different programs in a department with more than one budget code or different line items within a single department code but will not increase or decrease the Budget Ordinance.

FISCAL YEAR 2014-2015

ACCOUNT NUMBER	ACCOUNT DESCRIPTION	AMOUNT (+) INCREASED	AMOUNT(-) DECREASED
105164 532001	POSTAGE		\$125.00
105164 537000	ADVERTISING	\$125.00	

Reason for Budget Revision: To move money into advertising as part of our Agreement Addenda.

Department: Environmental Health

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FISCAL YEAR 2014-2015

ACCOUNT NUMBER	ACCOUNT DESCRIPTION	AMOUNT (+) INCREASED	AMOUNT(-) DECREASED
105180 529000	DEPARTMENTAL SUPPLIES		\$1,500.00
105180 538100	PROGRAMMING	\$1,500.00	

Reason for Budget Revision: To move budget to cover the cost of virtualizing permitting software.

Department: DSS

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FISCAL YEAR 2014-2015

ACCOUNT NUMBER	ACCOUNT DESCRIPTION	AMOUNT (+) INCREASED	AMOUNT(-) DECREASED
105373 519900III	LEVEL III CONTRACTED SERVICES		\$3,808.00
100212 435520	CARE MGMT. LEVEL III		\$3,427.00
100000 439900	FUND BALANCE APP.	\$381.00	

Reason for Budget Revision: To adjust the budget due to a reduction in funds.

Department: Senior Services

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FISCAL YEAR 2014-2015

ACCOUNT NUMBER	ACCOUNT DESCRIPTION	AMOUNT (+) INCREASED	AMOUNT(-) DECREASED
100214 434948	SHIIP		\$468.00
104948 519900	CONTRACTED SERVICES		\$133.00
104948 531000	TRAVEL		\$200.00
104948 532001	POSTAGE		\$135.00

Reason for Budget Revision: To adjust line items to actual funding and cost.

Department: Senior Services

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FISCAL YEAR 2014-2015

ACCOUNT NUMBER	ACCOUNT DESCRIPTION	AMOUNT (+) INCREASED	AMOUNT(-) DECREASED
104934 512100	SAL. WAGES	\$23,822.00	
104934 518100	FICA	\$1,477.00	
104934 518101	MED. EXP.	\$ 345.00	
104934 518200	RETIREMENT	\$1,684.00	
104934 518300	INSURANCE	\$7,070.00	
104934 518500	UNEMPLOYMENT	\$ 214.00	
104934 518600	WORK. COMP.	\$ 466.00	
104930 512100	SAL. WAGES		\$23,822.00
104930 518100	FICA		\$ 1,477.00
104930 518101	MED. EXP.		\$ 345.00
104930 518200	RETIREMENT		\$ 1,684.00
104930 518300	INSURANCE		\$ 7,070.00
104930 518500	UNEMPLOYMENT		\$ 214.00
104930 518600	WORK. COMP.		\$ 466.00

Reason for Budget Revision: To move funds that were put in Senior Center that should have been put in appropriate program.

Department: Senior Services

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FISCAL YEAR 2014-2015

ACCOUNT NUMBER	ACCOUNT DESCRIPTION	AMOUNT (+) INCREASED	AMOUNT(-) DECREASED
104945 512100	SAL. WAGES	\$13,000.00	
104945 518100	FICA	\$ 1,370.00	
104945 518101	MED. EXP.	\$ 320.00	
104945 518200	RETIREMENT	\$ 1,562.00	
104945 518300	INSURANCE	\$ 7,070.00	
104945 518500	UNEMPLOYMENT	\$ 214.00	
104945 518600	WORK. COMP.	\$ 260.00	
104930 512100	SAL. WAGES		\$13,000.00
104930 518100	FICA		\$ 1,370.00
104930 518101	MED. EXP.		\$ 320.00
104930 518200	RETIREMENT		\$ 1,562.00
104930 518300	INSURANCE		\$ 7,070.00
104930 518500	UNEMPLOYMENT		\$ 214.00
104930 518600	WORK. COMP.		\$ 260.00

Reason for Budget Revision: To move funds that were put in Senior Center that should have been put in appropriate program.

BE IT RESOLVED, the following Tax Releases and Reliefs are hereby approved.

Name	Year	Tax/Ticket	Reason	Amount
Whitaker Point Prop.	10-14	20601/6386735	Not in Oriental	\$1,270.86
Gibson, Dawn	2012	0038797/6502360	Never received tags	\$ 160.16
Whitaker Point Prop.	2014	20601	Not in Oriental	\$ 290.35
Woodard, Anthony	2014	7069067/6564071	Boat double listed	\$ 7.23
Greene County Health	2014	30532/6556108	Property exempt	\$ 735.38
Zeren, John	2014	259/6550194	Boat not in County	\$ 949.98

Potter, Troy Jr.	12-14	4416500/6558738	Error in class code	\$ 209.31
Noe, Jerry	11-14	9077/6446857	Boat double-listed	\$ 202.07
Port Vandemere	11-14	27235/6435724	Board of E &R appeal	\$4,319.30

BE IT RESOLVED, the request to reimburse Mr. Glen Hopkins the \$100.00 he paid for an architectural report on his home in the 2012 CDBG Project is hereby approved.

BE IT RESOLVED, the revised Southeast Pamlico Fire District Map to include the new Pamlico Fire Department Substation Response Area is hereby approved.

BE IT RESOLVED, the following resolution is hereby approved.

**RESOLUTION OF SUPPORT FOR TOWN OF ORIENTAL GRANT APPLICATION
FOR NCDOT BICYCLE & PEDESTRIAN PLANNING GRANT**

WHEREAS, The Town of Oriental, one of the nine incorporated municipalities within Pamlico County, has applied for an NCDOT Bicycle & Pedestrian Planning Grant; and

WHEREAS, the Pamlico County Board of Commissioners agrees with the Town of Oriental that funding from this grant would assist the Town of Oriental in its long-held desire for a bicycle and pedestrian corridor that would serve to connect the two separated (by the unbridged waters of Whittaker Creek) areas of the Town and reduce the public safety hazards of walking or cycling on sections of state roads having speed limits of up to 55MPH, or having to transit by automobile, in order to go from the largely residential area to the commercial areas of the Town; and

WHEREAS, this Board adopted a Resolution endorsing the Croatan Regional Bicycle Plan on December 2, 2013 and the Oriental Bicycle & Pedestrian Plan serves as a constituent part of such regional plan.

NOW, THEREFORE, be it RESOLVED that the Pamlico County Board of Commissioners supports the application of the Town of Oriental for an NCDOT Bicycle & Pedestrian Planning Grant to facilitate the preparation of a comprehensive Municipal Bicycle/Pedestrian Plan.

Adopted this the 17th day of November 2014.

BE IT RESOLVED, that Mr. Willard Huff is hereby appointed to the Coastal Carolina Regional Airport Board to replace Mr. Warren Bruce.

BE IT RESOLVED, that Friday December 19, 2014 is hereby approved for the Employee Luncheon.

BE IT RESOLVED, the following resolution is hereby approved.

RESOLUTION SETTING REGISTER OF DEEDS OFFICE HOURS

WHEREAS, GS 153-94(b) requires that the Board of county commissioners set county office workdays and hours, and

WHEREAS, the Pamlico County Board of Commissioners requires that the Register of Deeds Office be open for business, Monday through Friday from 8:00 until 5:00 p.m.

WHEREAS, there are only two employees in the Register of Deeds Office, and when both are present, each takes a separate lunch break so that the office can remain open to the public, but when one employee is out for sickness, workshops, training, vacation, etc., the office has traditionally closed for a one-hour lunch break; however there has never been an official resolution to that effect.

NOW THEREFORE BE IT RESOLVED that the Pamlico County Register of Deeds Office may, if needed, close for lunch between the hours of noon and 1:00 p.m.

Adopted this the 17th day of November 2014

On a motion made by Commissioner Christine Mele and seconded by Commissioner Ann Holton, the following resolution was unanimously approved.

BE IT RESOLVED, the request for a leak adjustment for Water Customer Number 279698 is hereby approved.

The Board then turned their attention to the correspondence agenda.

On a motion made by Commissioner Ann Holton and seconded by Commissioner Kenny Heath, the following resolution was unanimously approved.

BE IT RESOLVED, the request from the Sheriff-Elect Chris Davis to purchase new stationary, Sheriff Seal and Uniforms is hereby approved. Funds are available in the Sheriff budget lines.

On a motion made by Commissioner Pat Prescott and seconded by Commissioner Carl Ollison, the following resolution was unanimously approved.

BE IT RESOLVED, the request for a public hearing to be held on Monday January 5, 2015 regarding the Joint Resolution for Amendments to Subdivision Ordinance and Group Housing Ordinance in Regard to the Federal Fair Housing Act is hereby approved.

On a motion made by Commissioner Ann Holton and seconded by Commissioner Christine Mele, the following resolution was unanimously approved.

BE IT RESOLVED, that Commissioner Kenny Heath will be the voting delegate for the Legislative Goals conference.

There being no further business on a motion made by Commissioner Ann Holton and seconded by Commissioner Kenny Heath, the Board adjourned until Monday December 1, 2014 at 7:00 p.m.

Chairman

Clerk to the Board