

**REGULAR SESSION MINUTES OF THE
PAMLICO COUNTY BOARD OF COMMISSIONERS
MONDAY, AUGUST 05, 2019**

The Pamlico County Board of Commissioners met in regular session on Monday, August 05, 2019 at 7:00 pm in the Patsy H. Sadler room of the Pamlico County Courthouse. All Commissioners were present with the exception of Commissioner Pat Prescott. Also present were County Attorney Jill Quattlebaum, County Manager Tim Buck, Finance Officer Bill Fentress, and Clerk to the Board Courtney L. Norfleet.

Chairman Paul Delamar called the meeting to order.

Chairman Paul Delamar recognized Reverend Grady Simpson to lead the assemblage in prayer. Chairman Paul Delamar led the assemblage in the Pledge of Allegiance.

Chairman Paul Delamar asked if there were any corrections, additions, and/or deletions to the Monday, July 15, 2019 minutes. There being none, on a motion made by Commissioner Candy Bohmert and seconded by Commissioner Ed Riggs, the following resolution was unanimously approved.

BE IT RESOLVED, the regular session minutes of the Monday, July 15, 2019 meeting are hereby approved and the Chairman's signature is authorized thereon.

Chairman Paul Delamar asked if there were any additions, and/or deletions to the agenda. There was one (1). On a motion made by Commissioner Candy Bohmert and seconded by Commissioner Missy Baskervill, the following item was added to the Consent Agenda.

1. Water Department Positions & Salary – **Item 3a**

There were no members of the public to speak during public comment period.

The Board then turned their attention to the Consent Agenda. The Request for approval of RFP/Loan for Purchase of Sheriff Vehicles was pulled from the consent agenda and placed on the correspondence agenda.

On a motion made by Commissioner Ed Riggs and seconded by Commissioner Doug Brinson, the following resolutions were unanimously approved.

BE IT RESOLVED, the following Budget Amendments are hereby approved.

Department: **Health Department**

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 2019-2020

ACCOUNT NUMBER	ACCOUNT DESCRIPTION	AMOUNT (+) INCREASED	AMOUNT(-) DECREASED
105165-537000	HP Advertising	\$ 500.00	
105165-529000	HP Departmental Supplies		\$ 500.00

Reason for Budget Revision: Reallocation of funds to cover supplies needed for Bike Rodeo.

Department: **Sheriff Department**

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 2019-2020

ACCOUNT NUMBER	ACCOUNT DESCRIPTION	AMOUNT (+) INCREASED	AMOUNT(-) DECREASED
104310-539801	Controlled Substance Expenses	\$ 9,452.32	
100000-439900	Fund Balance Appropriation	\$ 9,452.32	

Reason for Budget Revision: To move unused funds to FY 2020.

Department: **Recreation Department**

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 2019-2020

ACCOUNT NUMBER	ACCOUNT DESCRIPTION	AMOUNT (+) INCREASED	AMOUNT(-) DECREASED
100228-436115	HHB Grant 19-017 Youth League	\$ 17,000.00	
106120-512600 19017	Salaries & Wages P/T	\$ 5,000.00	
106120-518100 19017	FICA Expense	\$ 400.00	
106120-518101 19017	Medicare Expense	\$ 100.00	
106120-519900 19017	Contracted Services	\$ 5,000.00	
106120-529000 19017	Departmental Supplies	\$ 5,000.00	
106120-529002 19017	Scholarships	\$ 1,500.00	

Reason for Budget Revision: To set up budget for HHB Grant 19-017 (Youth League).

BE IT RESOLVED, the request to renew meter reading contract is hereby approved.

METERMARK Contract – Meter Reading Services

THIS CONTRACT entered into this 1st day of August, 2019, by and between the Pamlico County, a body politic and corporation organized under the laws of North Carolina with an office located at 102 N. 4th Street, Bayboro, NC 28515, hereinafter referred to as the “Utility” and William J. Barber, dba. Metermark LLC hereinafter referred to as the “Contractor”.

In consideration of the mutual covenants and conditions hereinafter contained, the utility and the Contractor hereby contract and agree as follows:

WITNESSETH

1. **Scope:** The work to be done consists of furnishing meter readers to provide meter reading services for the Utility in strict accordance with the terms and conditions of the Contract. Said meters shall be residential meters, however, the Contractor agrees to read commercial meters as well if requested by the Utility. In performance of this Contract, the Contractor binds himself to the Utility to fully comply with all provisions, undertakings and obligations hereinafter set forth.
2. **Term:** This Contract shall continue for the term of 24 months, commencing on August 1, 2019.
3. **Compensation:** The Contractor shall be paid at the agreed upon unit rates set forth in the payment Schedule attached hereto. The Contractor shall invoice the Utility for services completed and the Utility shall pay the Contractor within 30 days after receipt of said invoices.
4. **Equipment and Transportation:** The Utility shall provide the electronic equipment necessary to read the meters: (3) Handheld Devices / (3) Touch-read Probes available daily. The Contractor shall provide the vehicles and uniforms for the Contractor’s meter readers.
5. **Read File Data:** The Utility shall include the following data fields in the “Read File” loaded into the handheld to be used for the read cycle:
 - Customer Name
 - Address
 - Meter Number
 - Route / Sequence Number
 - Any Locations / Comment / Special Instruction information pertaining to the read process.
 - MXU ID for any account which have Radio Read meters. (MXU ID is to be listed on the handheld “MXU ID”)

6. **Independent Contractors:** The Utility and the Contractor acknowledge that the relationship created under this Contract is that of independent contracting parties and this Contract does not create a general agency, joint venture, partnership, employment relationship or franchise between the parties. Neither party shall represent itself to be an agent of the other, nor shall it execute any documents or make any commitments to any contractual or other obligations with third parties.

7. **Obligations of the Contractor:**
 - a) The contractor shall (i) pay or withhold all local, state and federal taxes, when due, resulting from operation of the Contractor's business or the employment for the Contractors personnel, (ii) pay or withhold all amounts required under local, state and federal worker's compensation acts, disability benefit acts, unemployment insurance acts and other employee benefit acts with respect to the Contractor's personnel when due, and (iii) maintain insurance coverage necessary and adequate to automobile, commercial liability and statutory workers' compensation insurance.
 - b) The Contractor's agents, employees, contractors, subcontractors and other personnel shall comply with the Utility's rules and regulations pertaining to security and safety when they are located at the Utility's offices and while they are performing the work under the Contract.

- 8) **Permits and Licenses:** The Contractor shall obtain, at the Contractor's expense, all permits, licenses and bonds required by law or ordinance and maintain the same in full force and effect.

- 9) **Insurance:** The Contractor shall at all times during the Contract maintain in full force and effect Comprehensive General Liability, Workers' Compensation and property damage Insurance. The Contractor shall maintain policies in accordance with utility requirements, each policy containing a requirement that, in the event of change or cancellation, thirty (30) days' prior written notice shall be sent by mail to the Utility. Certificates of Insurance describing the coverage shall be furnished by the Contractor.

Amount of Coverages:

General Liability - \$1,000,000.00
Property Damage - \$1,000,000.00
Personal Liability - \$1,000,000.00

- 10) **Anti-Discrimination:** The Contractor, in performing the work or furnishing the services covered by this Contract, shall not discriminate against any person because of race, creed, color, national origin, sex, sexual orientation, or other legally protected status.

- 11) **Personnel:** The Contractor represents that it has, or will, secure at the Contractor's expense, all personnel required to perform the work and services outlined in this contract. Such personnel shall not be employees of or have any contractual relationship with the

Utility. All of the services required hereunder will be performed by the Contractor or under the Contractor's supervision, and all personnel engaged in the work shall be fully qualified and shall be authorized or permitted under state and local laws to perform such services.

- 12) **Indemnification:** The Contractor hereby agrees to protect, indemnify and hold harmless the Utility from and against any and all loss, expense, damage, charges and costs (including court costs and counsel fees) for injury or death of persons and injury to or destruction of property suffered or alleged to have been suffered as a result of any act or omission on the part of the Contractor or others whose services were engaged by the Contractor or anyone directly or indirectly employed or controlled by either of them in the course of performance of the work provided for in the Contract, except such injury, destruction or death as may be caused by the negligence or fault of the Utility.
- 13) **Termination:** Either party may terminate with or without cause upon (90) ninety days written notice to the other party.
- 14) **Assignment:** the Contractor shall not assign its rights and obligations under this Contract without prior written consent from the Utility. All terms and provisions of this Contract shall be binding upon the insured to the benefit of and shall be enforceable by the parties and their respective successors and permitted assigns.
- 15) **Entire agreement:** This Contract constitutes the entire agreement between the parties.
- 16) **Applicable Law:** This Contract shall be governed by the laws of the State of North Carolina. Venue for any action or proceeding shall be in Pamlico County, NC.
- 17) **Severability:** In the event that any term or provision of this Contract is determined by a court of competent jurisdiction to be void, unenforceable or contrary to law, the remainder of such term or provision shall be enforced to the maximum extent allowable and the remainder of this Contract shall continue in full force and effect.
- 18) **Information Correspondence:** Any information regarding Billing, Meter Reader Issues, Level-Of-Service and/or Contract Status between the Contractor and the Utility is confidential to the Contractor and Contract meter Readers. The Utility agrees that this information be provided to the Contract (William J. Barber) in the form of email or sealed envelope. This information will not be made available to anyone representing Metermark except William J. Barber without prior consent of William J. Barber. This does not preclude Utility from complying with North Carolina law concerning access to public records.
- 19) **Payment Schedule**

Contractor will provide necessary meter readers with uniforms to perform meter reading services for Utility.

Per Meter Rate (price includes vehicle)

\$ 1.16 (One-Dollar-Sixteen-Cents)

Contractor guarantees that all meters will be read accurately. Any inaccurate readings will be posted as a credit to the following months invoice at the agreed per-meter charge as follows:

- A) Number of inaccurate readings less than or equal to .5% of total read meter population will be refunded at \$1.16 (plus any fuel escalation / de-escalation charge) per meter.
- B) Number of inaccurate readings greater than .5% of total read meter population will be refunded at \$5.50 per meter.

Utility guarantees that an effective process for identifying and process incorrect meter reads will be developed with Contractor and implemented PRIOR to the first scheduled read under this contract.

Contractor guarantees that all meters will be read within 18 business days beginning the first business day of each month.

Utility guarantees that Contractor will be allowed at least 18 business days to read all meters covered under this Contract.

20) **Fuel Clause**

A fuel escalator / de-escalator will be used to adjust billing rates to account for changing fuel prices. A Base Index Price for fuels will be established upon the effective date of contract. The Base Index Price is pegged at the prices published by AAA Auto Club, Gas Prices, Fuel Gauge report, Self-Serve Unleaded Average Prices, Wilmington, NC. Found on the web at: <http://www.fuelgauge.com/> The average price for self-service unleaded regular in Raleigh, North Carolina as reported by the AAA Monthly Fuel gauge report for July 01, 2019 was \$2.60. This price will be used as the base price for the duration of the contract.

For each month of the year, commencing July 01, 2019, during the contract term and on or about the 1st day of each month the AAA Fuel Gauge Report will be monitored for price increase.

Please see the chart below for rates if fuel prices increase above the price of \$ 3.00 per gallon. In the event fuel prices increase above \$6.76 per gallon, either party reserves the right to further negotiations.

Fuel Price Per Gallon	Per Meter” Rate Adjustment	Fuel Price Per Gallon	“Per Meter” Rate Adjustment
\$3.00	+ \$.01	\$4.70	+ \$.16
\$3.10	+ \$.02	\$4.84	+ \$.17
\$3.20	+ \$.03	\$4.98	+ \$.18
\$3.30	+ \$.04	\$5.12	+ \$.19

\$3.40	+ \$.05	\$5.26	+ \$.20
\$3.50	+ \$.06	\$5.40	+ \$.21
\$3.60	+ \$.07	\$5.54	+ \$.22
\$3.70	+ \$.08	\$5.68	+ \$.23
\$3.80	+ \$.09	\$5.82	+ \$.24
\$3.90	+ \$.10	\$5.96	+ \$.25
\$4.00	+ \$.11	\$6.10	+ \$.26
\$4.14	+ \$.12	\$6.24	+ \$.27
\$4.28	+ \$.13	\$6.48	+ \$.28
\$4.42	+ \$.14	\$6.62	+ \$.29
\$4.56	+ \$.15	\$6.76	+ \$.30

IN WITNESS WHEREOF, Pamlico County and William J, Barber, dba. METERMARK, have caused this Contract to be executed as of the date first above written above.

APPROVED AS TO FORM AND LEGALITY:

BE IT RESOLVED, the request to hire three (3) individuals to fill positions for Field Operation Technician/Plant Operator I, Grade 60 at a rate of \$28,301, to shift existing employees with salaries under \$30,000 to a maximum of \$30,300, including office staff, and to authorize staff to make necessary Budget Amendments to facilitate the requests is hereby approved.

On a motion made by Commissioner Missy Baskervill and seconded by Commissioner Candy Bohmert, the following resolution passed by majority vote with Commissioners Ed Riggs and Carl Ollison casting dissenting votes.

BE IT RESOLVED, the request to enter into contract for a 3-year loan at 2.62% interest for a principal not to exceed \$245,000 for the purchase of six (6) Sheriff vehicles at a price of approximately \$230,000 is hereby approved.

On a motion made by Commissioner Missy Baskervill and seconded by Commissioner Candy Bohmert, the following resolution was unanimously approved.

BE IT RESOLVED, the request to authorize repayment of \$22,106 of unspent funds that were designated for OBCM and CC4C and of any necessary Budget Amendments to facilitate the action is hereby approved.

On a motion made by Commissioner Candy Bohmert and seconded by Commissioner Missy Baskervill, the following resolution was unanimously approved.

BE IT RESOLVED, the request to move forward with upgrades to the antenna and wiring to fully utilize the radio system in the amount of \$9,288.37 and authorization to make the necessary Budget Amendments is hereby approved.

On a motion made by Commissioner Ed Riggs and seconded by Commissioner Missy Baskervill, the following resolution was unanimously approved.

BE IT RESOLVED, Commissioner Paul Delamar will hereby serve as the alternate for Down East RPO.

On a motion made by Commissioner Missy Baskervill and seconded by Commissioner Doug Brinson, the following resolution was unanimously approved.

BE IT RESOLVED, the request to unseal closed session minutes pertaining to lawsuits *Burton Farm Development Company, LLC v. Pamlico County and Coastal Marketing & Development Company* and *Duncan Harrison v. Pamlico County* is hereby approved.

**CLOSED SESSION MINUTES OF THE
PAMLICO COUNTY BOARD OF COMMISSIONERS
MONDAY, APRIL 3, 2017**

The Pamlico County Board of Commissioners met in closed session pursuant to N.C. Gen. Stat. §143-318.11(a)(3) to consult the County's Attorney to discuss the lawsuit, *Burton Farm Development Company, LLC vs. Pamlico County*. All Commissioners were present. Also present were County Attorney Dave Baxter, County Manager Tim Buck, Finance Officer Bill Fentress, and Clerk to the Board Courtney L. Norfleet.

Attorney Baxter discussed with the Board the strategy moving forward in this litigation and various applicable legal theories. The Board discussed potential legislative relief and discussed the applicability and legality of such relief with Attorney Baxter.

No action was taken in closed session.

**CLOSED SESSION MINUTES OF THE
PAMLICO COUNTY BOARD OF COMMISSIONERS
APRIL 17, 2017**

The Pamlico County Board of Commissioners met in closed session pursuant to N.C. Gen. Stat. §143-318.11(a)(3) (Attorney-Client Privilege) to discuss the lawsuit, *Burton Farm Development Company, LLC v. Pamlico County*. All Commissioners were present with the exception of Commissioner Ann Holton. Also present were County Manager Tim

Buck, County Attorney Jim Hicks, Finance Officer Bill Fentress, and Clerk to the Board Courtney L. Norfleet.

Attorney Hicks informed the Board that the County's insurance carrier had agreed to provide legal representation, but without indemnification. Specifically, it has been assigned to Jim Morgan at Womble Carlyle. Mr. Hicks further discussed the merits and strategy related to the case; as well as updating the Board on a recent proposed statutory amendment which would allow impact fees, and which purports to retroactively modify the applicable Statute of Limitations.

No action was taken in closed session.

**CLOSED SESSION MINUTES OF THE
PAMLICO COUNTY BOARD OF COMMISSIONERS
MONDAY, MARCH 19, 2018**

The Pamlico County Board of Commissioners met in closed session pursuant to N.C. Gen. Stat. §143-318.11(a)(3)(6) (Attorney-Client Privilege) to discuss [REDACTED]

[REDACTED] the lawsuits: [REDACTED]

[REDACTED] *Coastal Marketing & Development Co., et. al. vs. Pamlico County*. All Commissioners were present with the exception of Commissioner Pat Prescott. Also present were County Attorney Jim Hicks, County Manager Tim Buck, Finance Officer Bill Fentress, Tax Administrator Sarah Davis, and Clerk to the Board Courtney L. Norfleet.

[REDACTED]

Attorney Hicks advised the Board as to the status of [REDACTED] these actions. He reported [REDACTED]

[REDACTED]
[REDACTED] that *Coastal Marketing* was a new action seeking a refund of impact fees previously paid to the Pamlico County Water Department. He reported that [REDACTED] *Coastal Marketing* had been referred to the County's insurance carrier, who would assign counsel to represent the County.

No action was taken in closed session.

**CLOSED SESSION MINUTES OF THE
PAMLICO COUNTY BOARD OF COMMISSIONERS
OCTOBER 15, 2018**

The Pamlico County Board of Commissioners met in closed session pursuant to N.C. Gen. Stat. §143-318.11(a)(3) (Attorney-Client Privilege) to discuss matters related to *Burton Farm Development, LLC v. Pamlico County*. All Commissioners were present with the exception of Commissioners Missy Baskervill and Paul Delamar. Also present were County Attorney David Baxter, County Manager Tim Buck, Finance Officer Bill Fentress, and Clerk to the Board Courtney L. Norfleet.

Attorney Baxter discussed that a mediation was scheduled for October 29, 2018 and that if the Board wished to give settlement authority to an individual Board member, it could do so in advance. Additionally, Mr. Baxter recommended that the Board come to a consensus on which Commissioners would negotiate on behalf of Pamlico County.

The Board discussed the procedural history and various aspects of the case. The Board came to a consensus that if the Plaintiff offers to settle in an amount \$250,000 or less, the offer would be conveyed to the full Board for consideration. The Board also came to a consensus that Chairman Riggs and Manager Buck would negotiate on behalf of Pamlico County at the mediation.

No action was taken in closed session.

**CLOSED SESSION MINUTES OF THE
PAMLICO COUNTY BOARD OF COMMISSIONERS
NOVEMBER 5, 2018**

The Pamlico County Board of Commissioners met in closed session pursuant to N.C. Gen. Stat. §143-318.11(a)(3) (Attorney-Client Privilege) to discuss matters related to *Burton Farm Development, LLC v. Pamlico County*. All Commissioners were present. Also present were County Attorney David Baxter, County Manager Tim Buck, Finance Officer Bill Fentress, and Clerk to the Board Courtney L. Norfleet.

Attorney Baxter, Chairman Riggs, and Manager Buck discussed the result of the mediation that occurred on October 29, 2018. The parties reached an impasse, but the mediation was held open. Subsequent to the mediation, Pamlico County's motion for summary judgment was denied. The Board discussed potential reasons for the denial and the various outcomes of a jury trial and multiple appeals. Attorney Baxter discussed that it may be advisable to move forward with appealing the denial of the County's summary judgment motion on the governmental immunity issue. The Board came to a consensus that an appeal on the immunity issue may be beneficial, but instructed Mr. Baxter to ensure that the County's insurance carrier would be amenable to paying the attorney fees and costs for such appeal.

The Board discussed the procedural history and various aspects of the case, including potential outcomes and financial impacts.

No action was taken in closed session.

**CLOSED SESSION MINUTES OF THE
PAMLICO COUNTY BOARD OF COMMISSIONERS
MONDAY, MAY 06, 2019**

The Pamlico County Board of Commissioners met in closed session on Monday, May 06, 2019 pursuant to NCGS §143-318.11(a)(3), Attorney-Client Privilege, to discuss pending litigation, Coastal Marketing and Development versus Pamlico County. All Commissioners were present with the exception of Commissioner Carl Ollison. Also present were County Attorney David Baxter and County Manager Tim Buck.

County Attorney David Baxter briefed the Board on a settlement offer from Coastal Marketing and Development in the amount of \$300,000.

On a motion made by Commissioner Candy Bohmert and seconded by Commissioner Missy Baskervill, the following resolution was approved by majority vote. Commissioner Ed Riggs cast a dissenting vote.

BE IT RESOLVED, Pamlico County Board of Commissioners hereby authorizes counsel Sonny Haynes to respond to the settlement offer from Coastal Marketing and Development and engage in settlement negotiations with respect to the pending litigation brought by Burton Farm Development Company.

**CLOSED SESSION MINUTES OF THE
PAMLICO COUNTY BOARD OF COMMISSIONERS
MONDAY, JUNE 03, 2019**

1 OF 2

The Pamlico County Board of Commissioners met in closed session on Monday, June 03, 2019 pursuant to N.C. Gen. Stat. §143-318.11(a)(3) to consult with the County Attorney regarding *Burton Farm Development Company, LLC v. Pamlico County* and *Coastal Marketing & Development Company and Duncan Harrison v. Pamlico County*. Attorney Baxter discussed the draft settlement agreements prepared to settle the pending capital reserve fee litigation cases instituted by Coastal Marketing and Burton Farm Development.

On a motion made by Commissioner Missy Baskervill and seconded by Commissioner Candy Bohmert, the following resolution was passed by majority vote with Commissioner Ed Riggs casting a dissenting vote.

BE IT RESOLVED, the Pamlico County Board of Commissioners hereby approves the settlement agreements in *Burton Farm Development Company, LLC v. Pamlico County* and *Coastal Marketing & Development Company and Duncan Harrison v. Pamlico County* contingent upon approval by the County Attorney as to form and to allow the Chairman to sign on behalf of Pamlico County.

On a motion made by Commissioner Candy Bohmert and seconded by Commissioner Missy Baskervill, the Board met in closed session under Attorney-Client Privilege pursuant to NCGS § 143-318.11(a)(3).

On a motion made by Commissioner Candy Bohmert and seconded by Commissioner Missy Baskervill, the Board went back into open session.

No action was taken in closed session.

There being no further business, on a motion made by Commissioner Candy Bohmert and seconded by Commissioner Ed Riggs, the Board adjourned until Monday, August 19, 2019 at 7:00 pm.

Chairman

Clerk to the Board