

**PASQUOTANK COUNTY, NORTH CAROLINA
MARCH 10, 2008**

The Pasquotank County Board of Commissioners met today in a regular meeting on Monday, March 10, 2008 in Courtroom C in the Pasquotank County Courthouse.

MEMBERS PRESENT: Cecil Perry, Chairman
Marshall Stevenson, Vice-Chairman
Matt Wood
Bill Trueblood
Lloyd E. Griffin III
Jeff Dixon

MEMBERS ABSENT: Jimmie Harris (*Due to Illness*)

OTHERS PRESENT: Randy Keaton, County Manager
Rodney Bunch, Asst. Manager for Planning & Economic Dev.
R. Michael Cox, County Attorney
Karen Jennings, Clerk to the Board

The meeting was called to order at 7:00 PM by Chairman Cecil Perry. Rev. Mike Frese, Pastor of First United Methodist Church, gave the invocation and Vice-Chairman Marshall Stevenson led in the Pledge of Allegiance to the American Flag. Chairman Perry welcomed everyone present.

**1. CONTINUATION OF PUBLIC HEARING ON ZONING VARIANCE REQUEST
ZV 08-01:**

Chairman Perry declared the meeting to be a continuation of the public hearing on Zoning Variance Request ZV 08-01. Planning Director Shelley Cox and Bill Brumsey, attorney for Walton Carter, the applicant, were sworn in by the Clerk to the Board.

Mrs. Cox explained that the request from Walton Carter is for a variance to allow two lots on Sandy Road to be classified as buildable which are not within 1,000 feet of a public water system as required by Article 8, Section 8.02 (Note 9) of the Pasquotank County Zoning Ordinance. Both lots are greater than ten acres and did not require subdivision approval. She stated that on January 28, 2008 Walton Carter submitted an application for a variance for two lots that are not within 1,000 feet of a public water supply. The parcels are owned by Tonter Investments, Inc. and are identified as parcels 3A and 3D on an amended exempt subdivision as recorded in Map Book 46, Page 12 on September 11, 2007. The parcel that was originally divided consists of 46.18± acres and has frontage on Sandy Road which is maintained by the N.C. Department of Transportation. The area is zoned A-1, Agricultural on the Pasquotank County Zoning Maps.

Mrs. Cox advised that there are four findings of fact the Board must make in considering a variance request. These findings are:

1. *That special conditions and circumstances exist which are peculiar to the land, structure, or building and which are not applicable to other land, structures, or buildings in the same district;*
2. *That literal interpretation of the provisions of this ordinance would deprive the applicant of rights commonly enjoyed by the other properties in the same district under the terms of this Ordinance;*
3. *That the special conditions and circumstances do not result from the actions of the applicant; and*
4. *That granting the variance requested will not confer on the applicant any special privilege that is denied by this ordinance to other land, structures, or buildings in the same district.*

Mrs. Cox stated that staff recommends denial of this request based on the known facts included in this analysis and the following conclusions:

1. *There are no special circumstances that exist that are peculiar to the two parcels involved in this request.*
2. *Properties in the A-1, Agricultural zoning district are allowed to have structures built upon them if they meet the provisions of Section 8.02 (Note 9) of the Zoning Ordinance or if they were created prior to September 4, 2007.*
3. *The applicant created the two lots, which are not within 1,000 feet of a public water supply, through the exempt subdivision process.*
4. *The Zoning Ordinance requires that buildable lots be located within 1,000 feet of a public water system. To approve this request will confer on the applicant special privilege that would be denied other land that is not within 1,000 feet of a public water supply.*

Mr. Bill Brumsey, speaking on behalf of the applicant, Walton Carter, stated that the issue is 1,000 feet. He said the property is directly on Sandy Road, with parcel 3A having 895 feet of frontage on Sandy Road, and parcel 3D having 960 feet of frontage on Sandy Road which is a well traveled state-maintained gravel road. The site is about a half mile south of Mill Pond Road which is the closest public water service. Mr. Brumsey responded to the four findings as follows:

1. *The special conditions that exist that are not applicable to other land in this district are that it is not within 1,000 feet of the public water service. Other parcels in the district are within 1,000 feet and the only thing that keeps these parcels from being buildable without a variance is the 1,000 feet requirement.*
2. *The literal interpretation of the ordinance does deprive the owner of rights that are commonly enjoyed by other properties in the same district because these two lots were created at the same time as lots 3B and 3C. The lots were put to record on September 11, 2007. Parcel 3B was issued a building permit on November 14, 2007 for a commercial pole barn without any variance required by the county. Mr. Brumsey said the surrounding properties have already successfully applied for and received a building permit under the same exact conditions that exist for Parcels 3A and 3D.*

3. *Mr. Brumsey stated that these lots were created by a subdivision of property that was put to record on September 11, 2007. He said Mrs. Cox has classified this as the applicant creating the conditions that make the variance necessary. He stated that the applicant created the lots, but did not create the condition that makes the variance necessary. He said the condition making the variance necessary is that the lots are 1,000 feet from a public water source. He said it would be erroneous to say that the applicant is the one that created the problem because the applicant did not create the property being 1,000 feet from a public water source. Mr. Brumsey stated this is the only condition that is keeping this from being a buildable lot without a variance.*

4. *The granting of the variance will not confer any special privilege that is denied by the ordinance to other land, structures, or buildings in the same district. Mr. Brumsey stated that many parcels in the same district are within 1,000 feet of a public water source, so special privileges would not be given to this particular property because there are many other properties in the same district that do not require a variance simply because they are within 1,000 feet of a public water source. He reiterated that Lot 3B which was created at the same time as Lots 3A and 3D was in fact granted a building permit on November 14, 2007.*

Mr. Brumsey said Mr. Carter is applying for permits to build single family dwellings on these lots. He stated that the county's main concerns in adopting the zoning amendment that is causing the need to apply for the variance were issues concerning access for public services. He said this property is directly on Sandy Road and there is no problem with access so he does not believe some of the concerns regarding access for public services apply to these particular lots. He added that a parcel to the southeast of this property has been zoned R-15 and he understands another field to the south is also slated for possible rezoning to R-15. He said there are residences to the north that are zoned residential.

Commissioner Bill Trueblood said Mr. Brumsey had alluded to the fact that the county had issued a building permit to C.A. Perry to build a pole barn on Lot 3B. He stated that he believes there is nothing that would prevent the county from issuing a permit to build a pole barn on any of these lots since this is allowed in an agricultural zone. Mr. Brumsey said the zoning ordinance text provides that no structures, regardless of their use, shall be permitted on parcels similarly situated without a variance. Mrs. Cox stated that anything that is considered a bona fide agricultural related use is allowed to build anywhere in the county. She said she understands the C.A. Perry structure was an agricultural related structure and that parcel was within 1,000 feet of a public water system which would qualify. She noted that a bona fide agricultural related structure would be allowed on Lots 3A and 3D.

County Attorney Mike Cox asked if Mrs. Cox would like to question Mr. Brumsey and she did not. He also asked if Mr. Brumsey would like to question Mrs. Cox. Mr. Brumsey asked if the closest public water access is in fact Mill Pond Road. Mrs. Cox responded that is correct. Mr. Cox asked the Board to accept the building permit provided by Mr. Brumsey as Exhibit A.

Chairman Perry asked if anyone else would like to address the Board regarding Zoning Variance Request ZV 08-01. At the absence of further comments, the public hearing was closed.

Motion was made by Matt Wood, seconded by Lloyd Griffin to deny Zoning Variance Request ZV 08-01 based on the following findings recommended by staff:

1. There are no special circumstances that exist that are peculiar to the two parcels involved in this request.
2. Properties in the A-1, Agricultural zoning district are allowed to have structures built upon them if they meet the provisions of Section 8.02 (Note 9) of the Zoning Ordinance or if they were created prior to September 4, 2007.
3. The applicant created the two lots, which are not within 1,000 feet of a public water supply, through the exempt subdivision process.
4. The Zoning Ordinance requires that buildable lots be located within 1,000 feet of a public water system. To approve this request will confer on the applicant special privilege that would be denied other land that is not within 1,000 feet of a public water supply.

The motion to deny carried unanimously.

2. APPROVAL OF AMENDMENTS TO THE AGENDA:

Chairman Perry asked if there were any amendments to the agenda. It was requested that the agenda be amended to add the following items recommended by the Finance Committee: 1) Approval of recommendation from Finance Committee to award the bid for renovation of the old library; 2) Approval of recommendation from Finance Committee to adjust landfill tipping fees.

Motion was made by Matt Wood, seconded by Lloyd Griffin to amend the agenda to add the two additional items recommended by the Finance Committee to the consent agenda. The motion carried unanimously.

Commissioner Wood requested that the agenda also be amended to add *Consideration of Bid for Nags Head Property* to the agenda under old business.

Motion was made by Matt Wood, seconded by Lloyd Griffin to amend the agenda to add consideration of the bid for the Nags Head property to old business. The motion carried unanimously.

County Manager Randy Keaton requested that two additional items be added to the agenda. He said a public hearing to amend the installment financing contract for the new jail had been advertised for tonight's meeting but was left off of the printed agenda, and this needs to be added. In addition, the Board needs to approve an Equal Employment and Procurement Plan related to the community development block grant that was received for the U.S. 17 North sewer line project.

Motion was made by Matt Wood, seconded by Jeff Dixon to amend the agenda

to add approval of the Equal Employment and Procurement Plan to the consent agenda and to add the public hearing on an amendment to the installment financing contract to public comments. The motion carried unanimously.

3. **ADOPTION OF RESOLUTION CONCERNING AMENDMENT TO
INSTALLMENT FINANCING CONTRACT FOR NEW JAIL AND RECESS
OF PUBLIC HEARING ON AMENDMENT TO INSTALLMENT
FINANCING CONTRACT:**

County Manager Randy Keaton outlined the proceedings provided by bond counsel relating to adoption of a resolution concerning an amendment to the installment financing contract for the new jail. Since Bank of America has not yet provided its financing proposal, it will be necessary to convene and recess the public hearing on the amendment to the installment financing contract.

* * * * *

Commissioner Perry introduced the following resolution, a copy of which had been provided to each Commissioner and which was read by its title:

**RESOLUTION MAKING CERTAIN DETERMINATIONS CONCERNING
AMENDING AN INSTALLMENT FINANCING CONTRACT TO
FINANCE A PORTION OF THE COST OF A NEW JAIL OF THE
COUNTY OF PASQUOTANK, NORTH CAROLINA AND APPROVING
CERTAIN ACTIONS RELATING THERETO**

WHEREAS, the County of Pasquotank, North Carolina (the “County”) has entered into an Installment Financing Contract, dated February 15, 2007, between Bank of America, N.A. (the “Bank”) and the County (the “2007 Agreement”) under which the County borrowed \$12,000,000 pursuant to G. S. § 160A-20, as amended, to provide funds, together with \$7,000,000 borrowed under another installment financing agreement that the County entered into in 2006 and other available funds, for the construction of a jail and related site improvements on approximately 15 acres of land owned by the County in the Pasquotank County Commerce Park and the acquisition of furnishings and equipment therefor (the “Project”); and

WHEREAS, the construction of the Project has been delayed and the Board of Commissioners for the County is considering amending the 2007 Agreement to comport with the current schedule for the construction of the Project; and

WHEREAS, the amendments to the 2007 Agreement would include extending its term to at least the current estimated completion date of the Project and possibly changing the rate of interest to be paid thereunder and would be in the form of a modification agreement between the County and the Bank (the “Modification Agreement”); and

WHEREAS, it is necessary to take certain related action at this time;

NOW, THEREFORE, BE IT DETERMINED AND RESOLVED by the Board of Commissioners for the County, as follows:

Section 1. The Board of Commissioners for the County (the “Board of Commissioners”) hereby finds and determines in connection with the Modification Agreement that (a) the proceeds of the 2007 Agreement, as amended by the Modification Agreement, will continue to be used to finance a portion of the cost of the Project to meet an urgent need for improved public safety facilities to serve the residents of the County and, accordingly, the Modification Agreement is necessary or expedient for the County, (b) the 2007 Agreement, as amended by the Modification Agreement, under current circumstances, is preferable to a bond issue of the County for financing the same purpose because there is not sufficient time to authorize and issue bonds of the County prior to the time when funds will be needed for such purpose, (c) the sums estimated to fall due under the 2007 Agreement, as amended by the Modification Agreement, are adequate and not excessive for its proposed purpose because they are based upon construction bids awarded by the County with respect to the Project, (d) the County’s debt management procedures and policies are good and its debt will continue to be managed in strict compliance with the law, (e) any increase in taxes necessary to meet the sums estimated to fall due under the 2007 Agreement, as amended by the Modification Agreement, will not be excessive because the County expects that it will not be necessary to increase taxes for such purpose and (f) the County is not in default regarding any of its debt service obligations.

Section 2. The County Manager, the Finance Officer and the County Attorney of the County are each hereby designated as a representative of the County to file an application for approval of the 2007 Agreement, as amended by the Modification Agreement, with the Local Government Commission of North Carolina and are authorized to take such other actions as may be advisable in connection with the negotiation of the Modification Agreement; and all actions heretofore taken by any of such officers or any other officer of the County relating to such matters on behalf of the County are hereby approved, ratified and confirmed.

Section 3. The Board of Commissioners hereby requests the Local Government Commission of North Carolina to approve the 2007 Agreement, as amended by the Modification Agreement, under Article 8 of Chapter 159 of the General Statutes of North Carolina, as amended.

Section 4. The law firm of Robinson, Bradshaw and Hinson, P.A., Charlotte, North Carolina, is hereby appointed special counsel to the County in connection with the 2007 Agreement, as amended by the Modification Agreement.

Section 5. This resolution shall take effect immediately upon its passage.

Upon motion duly made and seconded, the foregoing resolution was passed by the following vote:

Ayes: Commissioners Cecil Perry, Marshall Stevenson, Matt Wood, Bill Trueblood, Lloyd Griffin, and Jeff Dixon.

Noes: None.

Thereupon, the Chairman of the Board of Commissioners for the County of Pasquotank, North Carolina (the "County") announced that this was the hour, day and place fixed for the public hearing for the purpose of considering whether the Board of Commissioners for the County (the "Board of Commissioners") should amend an Installment Financing Contract, dated February 15, 2007, between Bank of America, N.A. (the "Bank") and the County (the "2007 Agreement") under which the County borrowed \$12,000,000 pursuant to G. S. § 160A-20, as amended, to provide funds, together with \$7,000,000 borrowed under another installment financing agreement that the County entered into in 2006 (the "2006 Agreement") and other available funds, for the construction and other accomplishment of the Project hereinafter described. The County has secured the repayment by it of moneys advanced pursuant to the 2006 Agreement and the 2007 Agreement by granting a security interest in all or a portion of the Project and certain related property. The amendments to the 2007 Agreement would include extending its term and possibly changing the rate of interest to be paid thereunder.

The Project consists of the construction of a jail and related site improvements on approximately 15 acres of land owned by the County in the Pasquotank County Commerce Park and the acquisition of furnishings and equipment therefor. The Project will house approximately 240 inmates initially and up to 400 inmates eventually from Pasquotank, Perquimans and Camden counties and will replace the existing Albemarle District Jail. The Project will be owned by the County and leased to the Albemarle District Jail Commission for operation.

Notice of this public hearing was published in the The Daily Advance not less than 10 days before the date of this public hearing.

The County Manager and the Finance Officer of the County then described the current status of the Project, the current plan of the County to continue to finance a portion of the cost of the Project pursuant to the 2007 Agreement and the need to amend the 2007 Agreement to comport with the current schedule for the construction of the Project.

The County Manager of the County then stated that the County had not yet received from the Bank a proposal to amend the 2007 Agreement that the County had expected to receive in response to the County's request for such a proposal and that it would be appropriate to recess this public hearing to March 24, 2008 for the purpose of considering such a proposal.

Thereupon, upon motion of Commissioner Lloyd Griffin, seconded by Commissioner Matt Wood, the Board of Commissioners determined to recess the public hearing to March 24, 2008 at the same place and time. Such motion was approved by the following vote:

Ayes: Commissioners Cecil Perry, Marshall Stevenson, Matt Wood, Bill Trueblood, Lloyd Griffin, and Jeff Dixon.

Noes: None

4. PUBLIC HEARING ON ZONING TEXT AMENDMENT ZTA 08-01 TO PERMIT RETAIL FURNITURE SALES IN THE I-1 INDUSTRIAL DISTRICT:

Chairman Perry declared the meeting to be a public hearing on Zoning Text Amendment ZTA 08-01. Planning Director Shelley Cox explained that this request by Mr. Johnny F. Layden is to

permit retail furniture sales in the I-1 Industrial district. She said the application was submitted in response to a zoning violation at 726 and 728 Pitts Chapel Road. This location is zoned I-1 Industrial and a retail furniture store opened at this location in December. Mrs. Cox stated that county staff agreed to delay further enforcement action until this request is reviewed by the Board of Commissioners, however if the request is denied, the store will have to relocate to an appropriately zoned site. She explained that the I-1 zoning district is defined as an area where manufacturing establishments may be developed. This may include limited retail outlets for products produced on the premises. The purpose of this district is to permit normal operations of almost all industries except those that would be detrimental to adjoining properties. Excluded from this district are those industries which deal primarily in hazardous products such as explosives. Mrs. Cox pointed out on a county map those areas of the county that are zoned I-1 Industrial and would be affected by this request. She said it is staff's opinion that retail sales of furniture does not fit within the definition of the I-1 zoning district. In addition, this use may not be compatible with uses that are currently permitted within the I-1 district, therefore staff recommends denial of this request. Mrs. Cox stated that the Planning Board reviewed this request on February 28, 2008 and voted 3-2 to recommend approval.

Attorney H.P. Williams, representing the applicant, explained that Mr. Layden has submitted this request to change the text of the zoning ordinance to permit the retail sales of furniture in the I-1 district. He stated that Mr. Miles Hurdle, who leases a building from Mr. Layden, came to the area to open a furniture store at the intersection of Pitts Chapel Road and Sand Pit Road. He checked with the city first to see what permits he would need and was told the building is in the county's jurisdiction. He checked with the county and found out there was no certificate of occupancy at the time, although Mr. Layden thought his contractor had gotten a certificate of occupancy. They then obtained the CO and there was no mention of the need for zoning at the time, so Mr. Hurdle opened his furniture business and found that he was in violation of the zoning ordinance. Mr. Williams stated that Mr. Hurdle is asking that the county permit the retail sale of furniture in the I-1 Industrial district. He noted that the Zoning Ordinance allows wholesale furniture sales from that premises now. He said that some of the wholesale businesses in the Commerce Park also sell retail although their products are not manufactured on site. He stated that Mr. Hurdle does a considerable amount of wholesaling of furniture, but he also wants to be able to sell retail. In the area where the furniture store is located, there is a church, vacant land on which a sand pit has been permitted, and several businesses, some of which are doing retail sales. Mr. Williams stated that although staff has recommended denial, the Planning Board voted 3-2 to recommend approval. He said he would suspect this is because of the need for economic development and the need for furniture stores in the area, as there are only two at the present time. He stated that Mr. Hurdle is making very appropriate use of the property and he would ask the Board to approve the text amendment.

Mr. Miles Hurdle stated that he has been in the furniture business for 30 years in High Point. He said he has had a lot of customers from the Elizabeth City area purchase furniture from his store in High Point. He stated that the reason people go to High Point to purchase furniture is because there is a need for furniture at a good price. He said the quality of his furniture is such that people will travel from all over the country to buy it. Mr. Hurdle explained that after looking at this need and having so many people ask him, he decided to come to Elizabeth City to sell furniture. He said he appropriately asked the questions as to what he needed to do. He stated that he approached the city for a permit and was told that he would have to go to the county to obtain a permit. He immediately called the county and asked what he would have to do to open a

retail furniture store and was told that the only thing he would need was a certificate of occupancy for the building. He then contacted Mr. Layden who obtained the CO. He said he called his company and had seven tractor-trailer loads of furniture shipped in at considerable expense, only to find out later that he was in violation. He stated that he didn't know how this could have happened. He said he appreciates the latitude given him by the Planning Board, but now he finds himself in a situation of trying to sell retail furniture where only wholesale is allowed. Mr. Hurdle said one of his biggest customers is Haynes out of Norfolk, Virginia and he sells to them wholesale. He also sells to Grand Furniture and has 60 to 70 manufacturers who put him in charge of getting rid of their samples. He stated that rather than sending the samples to Haynes and other furniture stores this year, he agreed to sell them in his store in Elizabeth City. He explained that he sells his merchandise at wholesale prices, but anyone can buy it. He said the furniture is sold wholesale, but wholesale to the public. Mr. Hurdle stated that he stands to lose because of the situations that were not his doing because he did ask the right questions, but got the wrong answers.

Rev. Brickhouse, Pastor of Pitts Chapel AME Zion Church, stated that he would like to speak on behalf of Mr. Hurdle. He said he was glad to see Mr. Hurdle's furniture business move in and believes it has been an asset to the area. He asked that the Board grant the text amendment so Mr. Hurdle can continue to operate his business as wholesale and retail.

Commissioner Lloyd Griffin asked if there was any consideration of allowing this as a conditional use permit instead of opening up the whole county for this type of business. Mrs. Cox said the text amendment that is being proposed is actually from Mr. Layden. She said she would certainly recommend to the Board if it chooses to approve some sort of retail sales allowance in the I-1 district that it be considered as a conditional use or special use so either the Board of Adjustment or the Board of Commissioners would have tighter control over where retail furniture sales could go in the county.

Commissioner Matt Wood asked who would approve a conditional use permit or a special use permit. Mrs. Cox responded that a conditional use permit would have to be approved by the Board of Commissioners and a special use permit would be approved by the Board of Adjustment. She added if the Board chooses to go in that direction, Mr. Hurdle's business would have to submit the conditional use permit application and go through the approval process.

Assistant County Manager Rodney Bunch commented that the entire county was not zoned at one time and only the major corridors were zoned initially. The reason for this was to control development and growth with the main corridors being zoned for commercial areas. Mr. Bunch said the Pitts Chapel Road area was zoned in 2000 when countywide zoning was implemented. Businesses that were located there prior to zoning were grandfathered and were able to continue operating at their existing uses. He said this is why some businesses other than industrial are operating in this area. He stated that if some of these businesses were not already there before countywide zoning was implemented and had to apply for permits today, they would not be allowed.

Vice-Chairman Stevenson said from the way Mr. Hurdle has described his business, it is a wholesale business because he does sell at wholesale prices. Commissioner Wood stated that normally a wholesaler sells business to business while Mr. Hurdle has indicated that he sells to businesses and individuals.

Chairman Perry asked what could have prevented this situation from getting to this point. Mr. Bunch responded that implementation of a business license requirement could have possibly prevented this. He said he understood the initial inquiry the Planning Department received about locating the business on Pitts Chapel Road indicated it was a wholesale business and warehouse, and nothing was mentioned about retail sales.

At the absence of further comments, the public hearing was closed.

Motion was made by Marshall Stevenson, seconded by Matt Wood to approve a zoning text amendment to allow retail furniture sales in the I-1 zoning district with a conditional use permit. The motion carried.

5. ACCEPTANCE OF BID FOR NAGS HEAD PROPERTY:

The Board considered a recommendation from the Finance Committee to accept a bid from R.V. Owens III in the amount of \$7,250,000 for the Nags Head property. The Board had previously proposed to accept the bid and advertise for upset bids. No upset bids were received during the 10-day upset bid period and the Board needs to now decide whether to accept the bid from Mr. Owens.

Motion was made by Matt Wood, seconded by Jeff Dixon to accept the bid from R.V. Owens III in the amount of \$7,250,000 for the purchase of the Nags Head property, subject to a 180-day due diligence period.

Discussion followed and Vice-Chairman Stevenson stated that he objects to the sale of this property now for the following reasons:

- He said the real estate market is currently at the bottom and it is not a seller's market.
- He said he does not feel that the property was advertised as widely as it should have been because it was only advertised in *The Daily Advance*, *The Coastland Times*, and *The Virginian Pilot* and there are certainly other people in the state and in the northeast part of the country who might have been interested in this property and he does not think we got the word out properly.
- Currently the interest rates are very, very low, so if we sell the property and plan to draw interest from the money, we will not really do well for the taxpayers.
- The taxpayers will be better served if this property is allowed to sit there and appreciate until the market comes back.

Commissioner Dixon said at one time he concurred with Vice-Chairman Stevenson, however he feels there is no way to know whether or not the real estate market has hit bottom. He stated that a year ago there was an offer of \$9 million for the property and now a year later the offer is at \$7.25 million. He said it may even be at \$6 million next year. He stated that it would be less risk to the taxpayers to put the funds in a secure CD market even though it might not generate a lot of interest right now. He added that no one knows what the real estate market is going to do. Commissioner Dixon noted that this property was purchased with hospital funds at under \$1 million and it did not cost the taxpayers, so anything would be a gain.

Chairman Perry stated that over a period of time the county will be gaining interest on the proceeds from the sale of this property and he supports selling it.

The motion to accept the \$7,250,000 bid carried by a four to two margin with Commissioners Stevenson and Griffin voting against the motion.

6. APPROVAL OF CONSENT AGENDA:

The Board considered the following consent agenda.

a. Approval of Minutes of February 8, 9 and 18, 2008 Commissioner Meetings

b. Approval of Tax Releases and Refunds

The Finance Committee has recommended approval of the following tax releases and refunds:

Releases:

		County	City
1.	Robert Lee Byrum, Jr.	101.71	
2.	Nathan Chad Skains	106.03	93.36
3.	Emily Moore Williams Heirs	337.00	
4.	Emily Moore Williams Heirs	144.08	
5.	Lemuel Lee Riggs	117.50	
6.	Tejwant S. Chandi	487.06	402.57

Refunds:

1.	Ellen E. Lacy	120.28	
2.	Ellen E. Lacy	115.47	
3.	Emily Moore Williams Heirs	164.32	

c. Approval of Americans with Disabilities Grievance Procedure

The Board needs to adopt a proposed Americans with Disabilities Grievance Procedure for the CDBG project.

d. Approval of Resolution for Hurricane Isabel Stream Cleanup, Phase III Funds

The Board needs to adopt the following resolution in order to receive supplemental funding in the amount of \$20,000 for additional Hurricane Isabel Emergency Stream Clean-up projects:

WHEREAS, the Pasquotank County Board of Commissioners desires to sponsor the Hurricane Isabel Emergency Stream Cleanup Phase III project to restore drainage, reduce flooding and improve navigation;

NOW, THEREFORE, BE IT RESOLVED THAT:

- 1) The Board requests the State of North Carolina to provide supplemental funding to Pasquotank County in the amount of \$20,000 (100 percent funding) for project costs;
- 2) The Board will obtain all necessary state and federal permits;
- 3) The Board will comply with all applicable laws governing the award of contracts and the expenditure of public funds by local governments;

- 4) The Board and the local Soil and Water District will supervise the project to assure compliance with permit conditions and to assure safe and proper work according to approved plans and specifications;
- 5) The Board will obtain suitable disposal areas as needed and all other easements or rights-of-way that may be necessary for implementation of the project without cost or obligation to the State;
- 6) The Board will assure that the project is open for use by the public on an equal basis;
- 7) The Board will hold the State harmless from any damages that may result from the operation and maintenance of the project;
- 8) The Board accepts responsibility for the operation and maintenance of the completed project.

ADOPTED by the Pasquotank County Board of Commissioners this 10th day of March, 2008.

e. Approval of Grant Project Ordinance for Pasquotank County Commerce Park Sewer Project

The Board needs to adopt the following Grant Project Ordinance for the Pasquotank County Commerce Park Sewer Project:

Be it ordained by the Pasquotank County Board of Commissioners that, pursuant to Section 13.2 of Chapter 159 of the General Statutes of North Carolina, the following Grant Project Ordinance is hereby adopted:

Section 1: The project authorized is the Commerce Park Sewer Project. This project will construct improvements to the County's wastewater facilities to accommodate the development of the Pasquotank County Commerce Park.

Section 2: The officers of this unit of government are hereby directed to proceed with the project in accordance with the rules and regulations of the funding agencies that will provide funding for the infrastructure improvements.

Section 3: The following revenues are anticipated to be available to complete this project:

CDBG-Economic Development Grant Funds	\$ 432,000
NC Rural Economic Development Center Economic Infrastructure Grant Funds	\$ 350,000
Economic Infrastructure Grant Funds	\$ 360,000
NC Industrial Development Fund	\$ 500,000
Pasquotank County	\$1,361,128
Total Revenues	\$2,653,128

Section 4: The following amounts are appropriated for this project:

Wastewater Construction and Engineering	\$2,616,128
Planning & Administrative	\$ 37,000

Total

\$2,653,128

Section 5: The Finance Officer is hereby directed to maintain within the Grant Project Fund sufficient detailed accounting records to provide sufficient documentation to comply with federal and state regulations.

Section 6: The Finance Officer is required to report quarterly on the financial status of the project to the Pasquotank County Board of Commissioners.

Section 7: Copies of this Grant Project Ordinance shall be entered into the minutes of the governing board within five days after adoption and be filed with the Finance Officer, the Budget Officer, and the Clerk to the Board.

ADOPTED this the 10th day of March, 2008.

f. Approval of Bid for Renovation of Old Library

The Finance Committee has recommended that the Board accept a bid from John E. Bassett, Inc. in the amount of \$1,125,333 for the renovations to the former library building.

g. Approval of Reduction in Landfill Tipping Fees

The Finance Committee has recommended a \$3.50 reduction in the landfill tipping fees. The new tipping fees for commercial waste would be \$67.00 per ton and the new rate for county and city waste would be \$64.00 per ton. This reduction is possible because of the county's contract with the Waste Management landfill and the county's hauling of garbage.

h. Approval of Equal Employment & Procurement Plan

The Board was asked to adopt an Equal Employment and Procurement Plan in conjunction with the U.S. 17 North sewer line project.

Motion was made by Matt Wood, seconded by Lloyd Griffin to approve the consent agenda as amended. The motion carried.

The following tax releases and refunds have been approved by the Finance Officer:

Releases:

		County	City
1.	Christopher Chad Smith	75.65	67.03
2.	Derrick Bertrand Moore	1.70	1.39
3.	Simona Leona White	79.05	64.83
4.	Nicholas Tycer Watson	19.90	21.32
5.	Warren Leonard Alexander	79.33	
6.	Robert Allen Carter	5.93	
7.	Bobby Gilbert Gregory, Jr.	58.25	
8.	Amy Lenora Djigounian	12.45	
9.	Jimmy Dee Barr	22.80	23.70
10.	Alex Garner	44.20	41.24
11.	Charles Mark Taylor	89.20	78.14

12.	Pamela Regina Askew	4.10	
13.	Scott Darien Gibson	91.00	
14.	George Washington Harris	24.77	20.64
15.	Melissa Jean Burnley	9.85	
16.	Ivelisse Guerrero Nieves	96.15	
17.	Erica Lindsay Bullock	45.55	37.36
18.	Amilcar Emmanuel Heredia	5.25	9.31
19.	Mary Elizabeth Davis	1.93	1.58
20.	Michael Blaine O'Brien	42.45	39.81
21.	Scott Bruce Burgess	3.27	
22.	Robert Lee Clinton, Jr.	2.95	
23.	Lori Ann Forbes	57.80	
24.	Wesley Robin Fleming	75.30	
25.	Kenneth Kendell Stokley	7.68	
26.	Michael Joe Thomas	9.25	
27.	Bruce Douglas Freeman	60.45	
28.	David Dwaine Browning	68.55	
29.	Debra Kaye Browning	85.75	
30.	William Villar Mitchell	34.90	
31.	William Henry Dube	43.85	
32.	Tommy Lacey Roland	9.25	
33.	Dorethea Williams Grayson	19.30	
34.	Frederick Earl Melton	22.30	18.29
35.	Wendy Lembaugh Dorsey	12.95	
36.	Michell Ferebee Turner	44.75	36.70
37.	Michael Anthony Doncevic	41.25	
38.	Marvin Glenn Sawyer	13.35	
39.	Suzanne Eason Stallings		52.60
40.	Mary Kathleen Shepard	6.77	
41.	Lorenzo Lee Dinkins, Sr.	3.19	2.66
42.	Timothy Scott Gravgaard	68.80	
43.	Paul Andrew Riggs	16.51	18.76

7. APPROVAL OF FAMILY SUBDIVISION REQUEST FS 08-03:

The Board considered Family Subdivision Request FS 08-03 by David Bruce Meads for approval of a one lot family subdivision off of Ham Overman Road. Planning Director Shelley Cox explained that the applicant is requesting to create a gift lot for a child in accordance with Article 3, Section 303 of the Pasquotank County Subdivision Ordinance. She stated that 225 feet of road frontage for the proposed parcel is provided onto Ham Overman Road. The total lot area proposed for the gift lot is two acres and 47 acres for the residual tract. Mrs. Cox said the grantor, David B. Meads is requesting to give a lot to his son, Jason B. Meads. Mr. Meads has provided documentation to show the property has been in continuous ownership for a period of over 10 years. Documentation has been provided that the plat qualifies as a family subdivision in the form of a birth certificate. Albemarle Regional Health Services has evaluated the site and determined that it is suitable for septic systems with modifications. Mrs. Cox stated that the application meets the minimum requirements for a family subdivision and staff recommends approval of the request.

Motion was made by Marshall Stevenson, seconded by Bill Trueblood to

approve Family Subdivision Request FS 08-03 as presented. The motion carried.

8. APPROVAL OF FAMILY SUBDIVISION REQUEST FS 08-04:

The Board considered Family Subdivision Request 08-04 by Rebecca Higgins for approval of a one lot subdivision off of Ham Overman Road. Mrs. Cox explained that the applicant is requesting to create a gift lot for a child in accordance with Article 3, Section 303 of the Pasquotank County Subdivision Ordinance. She stated that 226 feet of road frontage for the proposed parcel is provided onto Ham Overman Road. The total lot area proposed is two acres for the gift lot and 47 acres for the residual tract. Ms. Higgins is requesting to give a lot to her daughter, Nicole H. Delosreyes. She has provided documentation that the property has been in continuous ownership for a period of over ten years. Documentation has also been provided that the plat qualifies as a family subdivision in the form of a birth certificate. Albemarle Regional Health Services has evaluated the site and determined that it is suitable for septic systems (with modifications). Mrs. Cox stated that the application meets the minimum requirements for a family subdivision and staff recommends approval of the request.

Motion was made by Bill Trueblood, seconded by Marshall Stevenson to approve Family Subdivision Request FS 08-04 as presented. The motion carried.

9. CONSIDERATION OF PRELIMINARY PLAT FOR STRAWBERRY ACRES SUBDIVISION CONSISTING OF 57 RESIDENTIAL LOTS OFF OF MAIN STREET EXTENDED:

The Board considered the preliminary plat for Strawberry Acres Subdivision consisting of 57 residential lots off of Main Street Extended. Mr. David Temple, an adjoining property owner, explained to the Board there was an old right of way between his property and the Strawberry Acres property. He pointed out this right of way on the plat and said he had always been told by his father that the center of the ditch is the agreed upon property line. He said the previous owner of the property which is now the site of the proposed Strawberry Acres Subdivision dug up the right of way and closed his access. He suggested if the owner wants to close the right of way that he put the property line in the middle of the ditch. He stated that he had tried to contact the engineer for this project to inform him of the right of way, but his phone calls were never returned. Mr. Temple requested before the Board approves this project that the new owners meet with him and his sister to discuss the right of way issue.

Vice-Chairman Stevenson asked if this matter could be tabled until the County Attorney researches the right of way question. County Attorney Mike Cox responded that this is an issue of private property rights and if the Board gets into private disputes, it might set a precedent in which the Board does not need to become involved. Commissioner Wood stated that the Board does not usually get into who owns what and does not ask the County Attorney to make that determination. He said this is something that needs to be outside of the county's process. Mr. Cox stated that he would encourage the parties to talk and try and get together on this. Commissioner Griffin said there should be a survey and a deed of record and if there is a deeded right of way it should have shown up during the title search and on the plat when the property was sold.

Mr. Horace Pritchard, the previous owner of the property, stated that when he agreed to purchase the property from the Trueblood Heirs, he and the surveyor spoke with Mr. Temple's father

regarding the property line and the survey was performed based on their discussion. He said he was not aware there was a question regarding the right of way until last year. He suggested that this right of way question is a civil matter that the courts should decide.

Mrs. Shelley Cox outlined the preliminary plat request. She said the property is located on the west side of Main Street Extended at its intersection with Pritchard Road in Providence Township. Marart, LLC is the owner/developer of the project and Albemarle & Associates is the representative. She stated that Albemarle & Associates is requesting preliminary approval for this project which consists of 57 residential lots. The property is zoned R-35A residential and lot sizes are proposed to range from 43,000 square feet to 47,867 square feet. Under the current school districting, students generated from this development would attend Northside Elementary School, Elizabeth City Middle School, and Pasquotank County High School. Providence Volunteer Fire Department provides fire protection for this area and it is served by the Pasquotank County Water System. On-site septic systems are proposed to be utilized at this location. The area is not within the flood plain according to the Pasquotank County flood maps. Mrs. Cox explained that the Technical Review Committee met on January 9, 2008 and reviewed this proposal. She noted that the Department of Transportation is requiring that the north entrance into this subdivision off Main Street Extended be right in and right out only and that the southern entrance have turn lanes from Main Street Extended into the subdivision. She stated that on February 19 staff met with DOT representatives and engineer Greg Johnson regarding the turn lane installation and the drainage plan for this development. At that time, Gretchen Byrum, NCDOT District Engineer, stated that the drainage design met their requirements, but she did note her concerns regarding the re-routing of the roadside ditch around the Shanton property. The previous preliminary plat called for the roadside ditch to be re-routed in order to accommodate the turn lane within the existing right of way. Staff met with Mrs. Shanton and discussed with her the possibility of dedicating additional right of way so that the drainage could remain within the roadside right of way. Mrs. Cox said that Mrs. Shanton did agree to dedicate additional right of way to accommodate the drainage and the turn lane. She stated that the Planning Board reviewed this request on February 28, 2008 and recommended approval (5-0) with the condition that several items be addressed. She said all have been addressed, however the most recent drainage plan that was submitted to Greg Johnson showed just the piping of a driveway culvert in front of Mrs. Shanton's property and he recommended that the entire ditch along the Shanton property be piped so as to have the least impact on Mrs. Shanton. Mrs. Cox advised that staff recommends approval of the preliminary plat with the condition that revised drainage plans are submitted that reflect a 20 foot right of way expansion on the Shanton property and that the hydraulic calculations are approved by Greg Johnson, and in addition that the piping of the roadside ditch within the expanded right-of-way is completed along the entire frontage of the Shanton property.

Vice-Chairman Stevenson asked if this subdivision meets the pre/post requirements. Mrs. Cox stated that it does meet the requirements. Mr. Stevenson asked where the water is being retained. Jason Mizelle with Albemarle & Associates stated that there are swales on all of the property lines, on the rear lots, and on the roadside. He said the swales all have a two foot bottom width and a minimum depth of eighteen inches to accommodate the volume. Mr. Mizelle said it was not made clear to him that the ditch on the Shanton property should be piped the entire way. He has since contacted DOT to find out their position because he wanted to know whether they would accept such a large long pipe in DOT's right of way. He said the plan as proposed that shows replacing the culvert at the Shanton driveway with an enlarged ditch to match DOT's

typical section does adequately meet the drainage requirements. Vice-Chairman Stevenson asked why such a large pipe is needed if the water is being retained onsite by way of hydraulic grade line. Mr. Mizelle said there are a series of culverts planned downstream that are outlets and there are culverts planned at the main entrances and at every lot, so there will be a certain amount of drainage retained.

Commissioner Trueblood noted that people do not like water in their ditches. He said a ditch with a two foot bottom width will retain a lot of water during a two or three inch rain event and as a result the county will receive nuisance complaints from the property owners because the water is not running off.

Mr. Rodney Bunch noted that the drainage plan has been reviewed by Greg Johnson who has advised that it meets the county's current requirements except that he needs to review the parcel in front of the Shanton's house. He added that with the elevations throughout the county there will be water standing in ditches almost anywhere in the county.

After further discussion;

Motion was made by Jeff Dixon, seconded by Matt Wood to approve the preliminary plat for Strawberry Acres according to staff recommendations which request that revised drainage plans are submitted that reflect a 20 foot right of way expansion on the Shanton property and that the hydraulic calculations are approved by Greg Johnson, and in addition that the piping of the roadside ditch within the expanded right-of-way is completed along the entire frontage of the Shanton property. The motion carried.

10. APPROVAL OF CONTRACT WITH PASQUOTANK COUNTY RESCUE SQUAD FOR THE REMAINDER OF THE 2007-08 FISCAL YEAR:

The Board considered a proposed contract with the Pasquotank County Rescue Squad for the remainder of the 2007-08 fiscal year. The contract has been revised to reflect the rescue squad's provision of supplemental volunteer coverage and the reduced payment of \$5,000 per year for the reduced coverage. The EMS Board has reviewed the contract and recommended approval.

Motion was made by Matt Wood, seconded by Lloyd Griffin to approve the contract with the Pasquotank County Rescue Squad as proposed for the remainder of the 2007-08 fiscal year. The motion carried.

11. POWER OF ATTORNEY AND CONTINGENT FEE AGREEMENT FOR CLASS ACTION LAWSUIT AGAINST FORD FOR DEFECTIVE AMBULANCE MOTORS:

The Board briefly discussed a power of attorney and contingent fee agreement to include Pasquotank County in a class action lawsuit against Ford Motor Company for the poor performance of its 6.0 liter diesel engines. Commissioner Dixon suggested that the EMS Board discuss this and make a recommendation to the Board of Commissioners.

Motion was made by Matt Wood, seconded by Lloyd Griffin to delay consideration of the power of attorney and contingent fee agreement for a class action lawsuit against Ford Motor Company until a recommendation is received

from the EMS Board. The motion carried.

12. APPROVAL OF CONTRACT WITH ALBEMARLE REGIONAL HEALTH SERVICES FOR MOSQUITO MONITORING ACTIVITIES:

The Board reviewed a proposed contract with Albemarle Regional Health Services for mosquito monitoring activities. The county has submitted a grant application to the state for reimbursement of a portion of the \$12,000 annual cost for the contract.

Motion was made by Lloyd Griffin, seconded by Matt Wood to approve the contract with Albemarle Regional Health Services for mosquito monitoring activities for a cost of \$12,000. The motion carried.

13. ADOPTION OF RESOLUTION AUTHORIZING EXECUTION AND DELIVERY OF A MASTER LEASE AGREEMENT, EQUIPMENT SCHEDULE NO. 01, AN ESCROW AGREEMENT, AND RELATED DOCUMENTS FOR FINANCING OF SOLID WASTE EQUIPMENT:

County Manager Randy Keaton outlined a resolution that approves all of the documents with SunTrust related to the financing of solid waste equipment. He said the Board approved the low bid submitted by SunTrust for financing the equipment, and adoption of the resolution will authorize closing on the loan.

Motion was made by Matt Wood, seconded by Lloyd Griffin to adopt the following resolution authorizing the execution and delivery of a master lease agreement, equipment schedule No. 01, and escrow agreement, and related documents for the financing of solid waste equipment. The motion carried.

RESOLUTION AUTHORIZING THE EXECUTION AND DELIVERY OF A MASTER LEASE AGREEMENT, EQUIPMENT SCHEDULE NO. 01, AN ESCROW AGREEMENT, AND RELATED INSTRUMENTS, AND DETERMINING OTHER MATTERS IN CONNECTION THEREWITH

WHEREAS, the governing body of PASQUOTANK COUNTY, NC (“Lessee”) desires to obtain certain equipment (the “Equipment”) described in Equipment Schedule No. 01 to the Master Lease Agreement (collectively, the “Lease”) with SUNTRUST EQUIPMENT FINANCE & LEASING CORP., the form of which has been available for review by the governing body of Lessee prior to this meeting; and

WHEREAS, the Equipment is essential for the Lessee to perform its governmental functions; and

WHEREAS, the funds made available under the Lease will be deposited with SUNTRUST BANK (the “Escrow Agent”) pursuant to an Escrow Agreement between Lessee and the Escrow Agent (the “Escrow Agreement”) and will be applied to the acquisition of the Equipment in accordance with said Escrow Agreement; and

WHEREAS, Lessee has taken the necessary steps, including those relating to any applicable legal bidding requirements, to arrange for the acquisition of the Equipment; and

WHEREAS, Lessee proposes to enter into the Lease with SUNTRUST EQUIPMENT FINANCE & LEASING CORP. and the Escrow Agreement with the Escrow Agent substantially in the forms presented to this meeting.

NOW, THEREFORE, BE IT RESOLVED BY THE GOVERNING BODY OF LESSEE AS FOLLOWS:

Section 1. It is hereby found and determined that the terms of the Lease and the Escrow agreement (collectively, the “Financing Documents”) in the forms presented to this meeting and incorporated in this resolution are in the best interests of Lessee for the acquisition of the Equipment.

Section 2. The Financing Documents and the acquisition and financing of the Equipment under the terms and conditions as described in the Financing Documents are hereby approved. The County Manager of Lessee and any other officer of Lessee who shall have power to execute contracts on behalf of Lessee be, and each of them hereby is, authorized to execute, acknowledge and deliver the Financing Documents with any changes, insertions and omissions therein as may be approved by the officers who execute the Financing Documents, such approval to be conclusively evidenced by such execution and delivery of the Financing Documents. The Clerk to the Board of the Lessee and any other officer of Lessee who shall have power to do so be, and each of them hereby is, authorized to affix the official seal of Lessee to the Financing Documents and attest the same.

Section 3. The proper officers of Lessee be, and each of them hereby is, authorized and directed to execute and deliver any and all papers, instruments, opinions, certificates, affidavits and other documents and to do or cause to be done any and all other acts and things necessary or proper for carrying out this resolution and the Financing Documents.

14. REPORT FROM COUNTY MANAGER:

County Manager Randy Keaton reported that the batting cage and driving range at South Park Sports Complex officially opened on Saturday. He said this complex is jointly operated by the county and the city, and it is anticipated that the batting cage and driving range will be a self-sustaining operation.

15. RECOMMENDATION FROM APPOINTMENTS COMMITTEE:

Vice-Chairman Stevenson reported that the Appointments Committee met this afternoon and voted to recommend the reappointment of Commissioner Matt Wood to the COA Board of Trustees.

Motion was made by Marshall Stevenson, seconded by Lloyd Griffin to reappoint Commissioner Matt Wood to the College of The Albemarle Board of Trustees. The motion carried.

16. REPORTS FROM COUNTY COMMISSIONERS:

Commissioner Dixon noted that three EMS personnel have sat through tonight’s meeting for two and one-half hours waiting for their items to come up on the agenda. He suggested in the future that agenda items involving county staff be moved up on the agenda so the employees do not have to wait so long.

Commissioner Griffin thanked the Board for its patience during the past eight weeks while he was away at school. He said he is glad to be back in North Carolina.

Vice-Chairman Stevenson reported that the Albemarle Regional Health Services executive board voted to implement a new well permit cost of \$400 effective July 1st for anyone putting in a well in any of the counties in the Albemarle Regional Health Services district. He said this is being mandated by the state and comprehensive inspections will be required at various points during the well-drilling process.

Vice-Chairman Stevenson stated that the Health Department may need to increase the county cost per capita due to some declining revenues. He said Jerry Parks, Health Director, is working on the budget request at the current time and he hopes the increase will not be excessive.

Vice-Chairman Stevenson stated that he and Chairman Perry attended the NACo Legislative Conference in Washington, DC last week and went to the Congressional Breakfast. He said he noticed that some of the counties had a package they had developed to present to their congressional delegation and he suggested that Pasquotank County develop such a packet for those attending the next NACo conference to give to senators, representatives, and their aides if there are any Pasquotank County issues to bring to their attention.

Vice-Chairman Stevenson reported that NACo is sponsoring a prescription discount drug card. He said they are trying to find out if all of the drug stores will honor this card. He stated there would be no cost to the county and the cards would be available for use by anyone who is uninsured or under-insured who would immediately receive a 23% discount on their prescriptions. He stated that interested counties would register with NACo. He added that the County Manager will be following up on this.

Vice-Chairman Stevenson stated that he understands the Department of Transportation has already flown the proposed route for the second connector road on Main Street Extended that the Board had selected. He said if this is in fact the route DOT is considering, the Board is certainly in tune with that.

Chairman Perry stated that the NACo Legislative Conference was very enjoyable and he received a lot of useful information.

17. CLOSED SESSION TO PRESERVE THE ATTORNEY CLIENT PRIVILEGE:

Chairman Perry asked if there was any further business to come before the Board in Regular Session. There being no further business, he asked for a motion that the Board enter Closed Session to preserve the attorney client privilege.

Motion was made by Lloyd Griffin, seconded by Marshall Stevenson that the Board enter Closed Session to preserve the attorney client privilege. The motion carried.

Upon the end of Closed Session;

Motion was made by Matt Wood, seconded by Cecil Perry that the Board return to Regular Session. The motion carried.

Motion was made by Matt Wood, seconded by Bill Trueblood to adjourn the meeting. The motion carried and the meeting was adjourned at 9:31 PM.

CHAIRMAN

CLERK