

**BRUNSWICK COUNTY BOARD OF COMMISSIONERS
OFFICIAL MINUTES
REGULAR MEETING
AUGUST 17, 2009
6:30 P.M.**

The Brunswick County Board of Commissioners met in Regular Session on the above date at 6:30 p.m., Commissioners' Chambers, David R. Sandifer Administration Building, County Government Center, Bolivia, North Carolina.

PRESENT: Commissioner Phil Norris, Vice-Chairman
 Commissioner J. Marty Cooke
 Commissioner Charles Warren
 Commissioner Scott Phillips
 Commissioner William Sue, Chairman

STAFF: Marty K. Lawing, County Manager
 Steve Stone, Assistant County Manager
 Huey Marshall, County Attorney
 Margie Stephenson, Deputy Clerk
 Ann Hardy, Fiscal Operations Director

 1st Sergeant George Stanley

I. CALL TO ORDER

Chairman Sue called the meeting to order at 6:30 p.m.
(Attached to these Minutes is an item called Board Action containing all items on this agenda and those items are incorporated herein.)

II. INVOCATION/PLEDGE OF ALLEGIANCE

Vice Chairman Phil Norris gave the Invocation and led the Pledge of Allegiance.

III. ADJUSTMENTS/APPROVAL OF AGENDA

Chairman Sue asked if there were any adjustments to the agenda. The following adjustments were made:

Commissioner Cooke moved to take off item VIII-1 Proposed Piney Grove Park Request.
Commissioner Norris moved to approve adjustments of the agenda as amended. The vote of approval was unanimous.

IV. PUBLIC COMMENTS

Chairman Sue asked if there was anyone in the audience who wished to speak regarding any item on the agenda or any matter that was not included in the agenda. There were no comments from the audience.

V. APPROVAL OF CONSENT AGENDA

Commissioner Cooke moved to approve the Consent Agenda. The vote of approval was unanimous. The following items were approved:

- A. **Minutes**
 - 1. **July 29, 2009 Agenda Meeting Minutes**
 - 2. **August 3, 2009 Regular Meeting Minutes**

- B. **Tax**
 - 1. **April 2009 Motor Vehicle Valuation & Levy**
 - 2. **Tax Releases for August 2009**

C. **Finance**

County Capital Reserve Fund	DSS/Cafeteria Building and Health HVAC	269800-464270	Decrease \$155,000
County Capital Reserve Fund	Transfer to County Capital Project	269800-498043	Increase \$155,000
County Capital Project Fund	Transfer From County Capital Reserve	438185-398226	Increase \$155,000
County Capital Project Fund	DSS/Cafeteria Building and Health HVAC - Construction	438185-464002	Increase \$155,000

The above amendment and capital project ordinance below is to transfer funds set aside for the DSS/Cafeteria and Health project in the County Capital Reserve to the capital project for the furniture and equipment needed to furnish the building.

**County of Brunswick, North Carolina
DSS/Cafeteria Building and Health HVAC Project (Amended) 438185**

Be it ordained by the Board of County Commissioners of Brunswick County that pursuant to Section 13.2 of the General Statutes of North Carolina, the following ordinance is hereby adopted:

Section 1. The following amounts are hereby appropriated in the Brunswick County Capital Projects Fund for the DSS/Cafeteria Building and Health HVAC Project:

Transfer from General Fund	\$5,925,000
Transfer from Health Fund	680,001
Transfer from County Capital Reserve Fund	<u>850,600</u>
Total \$7,455,601	

Section 2. It is estimated that the following revenues will be available in the Brunswick County Capital Projects Fund:

Contributions from General Fund	\$5,925,000
Contribution from Health Fund	\$680,001

Contribution from County Capital Reserve \$850,600

Total \$7,455,601

Section 3. The following amounts are hereby appropriated in the Brunswick County Capital Reserve Fund:

Contribution from County Capital Reserve \$850,600

Section 4. It is estimated that the following revenues will be available in the Brunswick County Capital Project Fund:

Contribution from County Capital Reserve \$850,600

Section 5. This Capital Project Ordinance shall be entered into the minutes of the August 17, 2009 meeting of the Brunswick County Board of Commissioners.

General Fund	Advance Payment to Escrow Agent	109100-471599	Increase \$25,780,176
General Fund	Proceeds from General Long Term Debt Issue	100000-391000	Increase \$23,990,000
General Fund	Go Bond Premium	100000-391001	Increase \$1,790,176

The above budget amendment request to appropriate funds received in the recent refinancing of the Series 2001 School General Obligation debt issue to the refunding bond proceeds that were provided to the escrow agent to make future payments on the behalf of the county. The projected savings over the remaining term of the debt issue to the County is in excess of \$1 million from the bond refinancing.

General Fund	Capital Outlay Rescue Contribution	104371-465100	Decrease \$7,936
General Fund	Leland Fire & Rescue Contribution	104371-465071	Increase \$7,936

The above budget transfer is requested to appropriate funds for the Leland Fire & Rescue as a contribution to aid in the purchase of Marvli Software and In Motion Device. The contribution was approved by the Volunteer Rescue Squad Capital Outlay Committee on Thursday July 23rd 2009.

County Capital Reserve Fund	Fund Balance Appropriated	269800-399100	Decrease \$38,858
County Capital Reserve Fund	Stormwater Ordinance Enforcement	269800-464297	Decrease \$38,858

The above budget amendment is requested to reduce the funds in the county capital reserve stormwater ordinance enforcement to reflect actuals as of June 30, 2009.

Wastewater Capital Reserve Fund	Fund Balance Appropriated	649800-399100	Increase \$143,125
Wastewater Capital Reserve Fund	NE Regional Capital & Replacement	649800-464314	Increase \$143,125

The above budget amendment is requested to increase the funds in the wastewater capital reserve NE Regional Capital and Replacement to reflect actual amounts as of June 30, 2009.

General Fund	Fund Balance Appropriated	100000-399100	Increase \$7,890
General Fund	Sr Citizen District 3 Allocation	105801-465003	Increase \$500
General Fund	Sr Citizen District 5 Allocation	105801-465005	Increase \$2,767
General Fund	General District 3 Allocation	106123-465003	Increase \$1,000
General Fund	General District 4 Allocation	106123-465004	Increase \$3,378
General Fund	General District 5 Allocation	106123-465005	Increase \$245

The above budget amendment is requested to appropriate unexpended funds in the Commissioner's District Allocation budgets as of June 30, 2009 to the current fiscal year .

Wastewater Fund	Expendable Net Assets Appropriated	629800-399200	Increase \$8,887
Wastewater Fund	Instrumentation	627220-435203	Increase \$8,887
Water Fund	Expendable Net Assets Appropriated	619800-399200	Increase \$154,332
Water Fund	COL Equip - Generator BPS10	617170-455000	Increase \$61,915
Water Fund	Contracted Services - Labor Generator BPS10	617170-439900	Increase \$5,417
Water Fund	COL Equip – 211 Well	617130-455000	Increase \$35,111
Water Fund	Instrumentation – 211 Well	617130-435203	Increase \$8,653
Water Fund	Instrumentation – Pump NWWTP	617120-435203	Increase \$28,505
Water Fund	Instrumentation - Scada	617170-435203	Increase \$14,731

The above budget amendment is requested to appropriate encumbered funds for ongoing capital projects in the water and wastewater budgets as of June 30, 2009 to the current fiscal year for the project expenditures.

General Fund	Fund Balance Appropriated	100000-399100	Increase \$333,000
General Fund	Alcoholic Beverage Tax	100000-332200	Decrease \$165,000
General Fund	Jail Fees	104320-383962	Decrease \$168,000

The above budget amendment is requested to appropriate fund balance to balance the fiscal year 2009-10 shortfall created by the passage of the State of North Carolina budget. The approved State budget reduces counties' beer and wine revenues by 2/3rds resulting in an estimated reduction for Brunswick County of \$165,000. The approved State budget permanently eliminates the \$18 per day reimbursement the State provides to counties for housing misdemeanants resulting in an estimated revenue reduction for Brunswick County of \$168,000.

General Fund	State Revenues Restricted	106133-332000	Increase \$300,919
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General Fund	Brunswick Nature Park	106133-457110	Increase \$300,919
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The above budget amendment is requested to appropriate unexpended and unreimbursed budgeted State funds in the Brunswick Nature Park project as of June 30, 2009 to the current fiscal year for the project expenditures.

General Fund	State Revenues Restricted	100000-399100	Increase \$89,668
General Fund	Planning Professional Services	104910-419900	Increase \$89,668

The above budget amendment is requested to appropriate unexpended funds in the Planning Budget as of June 30, 2009 to the current fiscal year for the project expenditures associated with the hazard mitigation and cultural survey projects on-going at the end of the fiscal year.

General Fund	Fund Balance Appropriated	100000-399100	Increase \$9,565
General Fund	SHIP Grant Expenditures	104950-449953	Increase \$5,115
General Fund	Pesticide Recycling	104950-449946	Increase \$1,697
General Fund	Horticultural Program	104950-449954	Increase \$2,753

The above budget amendment is requested to appropriate Cooperative Extensions grant funds that were awarded and paid, but not appropriated as of June 30, 2009. The collected funds are restricted for use in designated programs.

General Fund	Fund Balance Appropriated	100000-399100	Increase \$119,590
General Fund	Shallotte Park	106132-457103	Increase \$1,400
General Fund	Waccamaw Park	106132-457106	Increase \$39,193
General Fund	Brunswick River Park	106132-457109	Increase \$36,638
General Fund	Brunswick Nature Park	106132-457110	Increase \$42,359

The above budget amendment is requested to appropriate Parks and Recreation Department capital projects funds that were budgeted and unexpended but encumbered under an approved contract or purchase order as of June 30, 2009.

General Fund	Fund Balance Appropriated	100000-399100	Increase \$94,235
General Fund	Economic Development Agencies – Contribution to Committee of 100	104999-465143	Increase \$19,235
General Fund	Cultural & Rec Agencies – 2008 Recreational Trails	106199-465188	Increase \$75,000

The above budget amendment is requested to rollover Agency funds that are restricted for use in designated programs.

General Fund	Fund Balance Appropriated	100000-399100	Increase \$62,086
General Fund	Computer Software	104375-426010	Increase \$26,038
General Fund	Service & Maintenance Contracts	104375-444000	Increase \$22,418

General Fund	COL-Equipment	104375-455000	Increase \$13,630
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The above budget amendment is requested to rollover Smartlink funds that are restricted for use in designated programs.

General Fund	Fund Balance Appropriated	100000-399100	Increase \$52,452
General Fund	Salaries-Temp	104331-412600	Increase \$5,047
General Fund	FICA	104331-418100	Increase \$453
General Fund	Supplies & Materials	104331-426000	Increase \$932
General Fund	Computer Software	104331-426010	Increase \$2,587
General Fund	Equip less than \$500	104331-426100	Increase \$1,346
General Fund	Major Operating	104331-426200	Increase \$1,343
General Fund	Travel-Mileage	104331-431100	Increase \$1,000
General Fund	Travel-Subsistence	104331-431200	Increase \$1,703
General Fund	Travel- Registration	104331-431500	Increase \$2,146
General Fund	Telephone	104331-432100	Increase \$13,852
General Fund	Repair & Maint - Building	104331-435100	Increase \$3,691
General Fund	Repair & Maint – Equip	104331-435200	Increase \$4,900
General Fund	Repair & Maint – Vehicle	104331-435300	Increase \$1,734
General Fund	Training Expenses	104331-439500	Increase \$1,757
General Fund	Service & Maintenance Contracts	104331-444000	Increase \$3,296
General Fund	Misc Expenses	104331-449900	Increase \$6,665

The above budget amendment is requested to rollover Emergency Management Progress Energy funds that are restricted for use in designated programs.

General Fund	Fund Balance Appropriated	100000-399100	Increase \$240,105
General Fund	Project Lifesaver	104310-449926	Increase \$17,323
General Fund	Firearms Storage Fees	104310-449927	Increase \$4,285
General Fund	Federal Drug Seizure	104310-459700	Increase \$198,149
General Fund	State Drug Seizure	104310-459800	Increase \$20,348

The above budget amendment is requested to appropriate Sheriff's Department funds that were budgeted and unexpended as of June 30, 2009 and accumulated in the general fund balance to the current fiscal year for expenditure. The collected funds are restricted for use in designated programs.

General Fund	DA's Office-GCC Grant Match	104301-465100	Decrease \$17,705
General Fund	GCC Gang Awareness Grant - State	104308-332000	Increase \$102,454

	Revenues Restricted		
General Fund	GCC Gang – Salaries Part Time	104308-412600	Increase \$35,000
General Fund	GCC Gang – FICA	104308-418100	Increase \$2,678
General Fund	GCC Gang – Retirement	104308-418200	Increase \$3,465
General Fund	GCC Gang – Group Insurance	104308-418300	Increase \$8,000
General Fund	GCC Gang – Disability	104308-418400	Increase \$116
General Fund	GCC Gang - Contracted Services	104308-439900	Increase \$3,000
General Fund	GCC Gang – Training Expenses	104308-439500	Increase \$2,552
General Fund	GCC Gang - Special Projects	104308-423104	Increase \$2,350
General Fund	Salaries to Projects	104308-412990	Increase \$46,439
General Fund	Fringe to Projects	104308-418900	Increase \$16,559
General Fund	Salaries to Projects	104310-412990	Decrease \$46,439
General Fund	Fringe to Projects	104310-418900	Decrease \$16,559
General Fund	Sheriff - Salaries Regular(scheduled overtime included \$2475)	104310-412100	Increase \$35,474
General Fund	Sheriff - Salaries Overtime	104310-412200	Increase \$10,965
General Fund	Sheriff – FICA	104310-418100	Increase \$3,553
General Fund	Sheriff – Retirement	104310-418200	Increase \$4,597
General Fund	Sheriff – Group Insurance	104310-418300	Increase \$8,300
General Fund	Sheriff – Disability	104310-418400	Increase \$109

The above budget amendment to appropriate the award of GCC Gang Awareness Grant funds and local match. The grant award was approved at the 08/03/2009 Board of Commissioners' meeting. The Sheriff's department will employ a Grant Officer and the District Attorney's Office will pay the sheriff's office \$62,998 for the position from the proceeds of the grant funds.

General Fund	Fund Balance Appropriated	100000-399100	Increase \$19,404
General Fund	Transfer to Health Fund	109800-498013	Increase \$19,404
Health Fund	Transfer from General Fund	139800-398110	Increase \$19,404
Health Fund	Bioterrorism Grant –Special Projects	135186-423104	Increase \$7,434
Health Fund	Animal Services Program-Spay & Neuter	134380-423100	Increase \$6,400
Health Fund	Health-COL Equipment	135100-455000	Increase \$5,570

The above budget amendment was requested by Brunswick Health Department to appropriate budgeted but unexpended funds as of June 30, 2009 which accumulated in fund balance for

program expenditures in the current fiscal year. The programs are for a Bioterrorism Grant in the amount of \$7,434, Spay and Neuter Contracts in the amount of \$6,400 and a vehicle fund rollover in the amount of \$5,570.

D. EMS-MOA with NC Department of Crime Control and Public for Mass Care Enhancement Trailer

Staff requests to approve the Memorandum of Agreement with the North Carolina Department of Crime Control and Public Safety and Brunswick County.

E. Operation Services Water Management Project/Mosquito Control Division

Staff requests to approve Water Management Project for 308 High Hill Drive SW Project.

F. Proclamation-Proclaim September 2009 as Brunswick County Literacy Month

Staff requests to Proclaim September 2009 as Brunswick County Literacy Month.

**PROCLAMATION
BRUNSWICK COUNTY LITERACY MONTH 2009**

WHEREAS, the Brunswick County Board of Commissioners realize the importance of adequate literacy skills for all citizens in Brunswick County; and

WHEREAS, more than 20 percent of North Carolina's adults experience literacy issues that impact severely on their lives and families, their ability to work productively, and their full participation as citizens and residents of our state; and

WHEREAS, the Brunswick County Literacy Council, Brunswick Community College, Brunswick County Schools and the Brunswick County Library work diligently to improve the literacy skills of the citizens of Brunswick County;

NOW, THEREFORE, THE BRUNSWICK COUNTY BOARD OF COMMISSIONERS does hereby proclaim September 2009 as "Brunswick County Literacy Month," and urges citizens to assume an active role in literacy education for the benefit of Brunswick County as North Carolina moves toward an increasingly-technological future.

This the 17th day of August, 2009.

William M. Sue, Chairman

Attest:

Deborah (Debby) Gore, CMC
Clerk to the Board

G. Admin-Sewer Capital Recovery Fees Installment Payment Plan Request for the Regency at Sunset Beach

Staff requests approving the request for an Installment Payment Plan for the Regency at Sunset Beach.

VI. ADMINISTRATIVE REPORT

1. **Operation Services-Sandlands C&D Landfill, LLC Contract Award (Stephanie Lewis)**

Staff recommends approving the Agreement with Sandlands C&D Landfill, LLC for Construction and Demolition Waste Transportation and Disposal.

Steve Stone, Assistant County Manager made the recommendation to award a contract for transportation of C&D Waste to Sandlands C&D Landfill, LLC. Mr. Stone indicated that this contract is almost identical to the contract we entered into last year with Sandlands for the transport and disposal of C&D waste from the site. Mr. Stone stated that the reason the county wishes to enter into this contract is to extend the life of the county's landfill stating that there would be a fixed fee for each pull and then a charge per ton with a cap of \$325 per load. Mr. Stone stated that the FY 2009-10 Budget Appropriation for contracted hauling is \$450,000. There is a fuel escalator clause that would not kick in unless the price of fuel rises above \$3.03 therefore he recommended approving the Agreement with Sandlands C&D Landfill, LLC.

Commissioner Scott Phillips moved to approve the Agreement with Sandlands C&D Landfill, LLC for Construction and Demolition Waste Transportation and Disposal.

2. **Utility Operations-Seaside Utilities Change Order No. 4 (Jerry Pierce)**

Staff recommends approving Change Order No. 4 to the Contract of Seaside Utilities, Inc. in the amount of \$104,743.42.

Jerry Pierce, Utilities Director explained the four change order recommendations; specifying that the most significant change being with drainage problems occurring at the site. Mr. Pierce stated that he has personally visited the site and witnessed during recent heavy rainfall events the stormwater and ponding around critical facilities at the plant including transformers and buildings. The existing storm drainage system is not adequate to prevent the flooding and ponding and changes need to be made. Mr. Pierce stated that McKim and Creed and the County staff have developed a plan that will divert the water around critical facilities and transport the water to the stormwater pond for treatment and discharge.

Secondly, Mr. Pierce explained the sodium hypochlorite feed system in the original 3 mgd plant has not performed up to expectations and the design in the expansion was the same system. The County staff requested a change in the sodium hypochlorite feed system to eliminate the rota pump and add a new type of injectors into 12" RAS line and 4" WAS line.

Thirdly, Mr. Pierce explained that under OSHA requirements, an eyewash must be within a reasonable distance of any chemical storage or injection site. The eyewash stationed at the headworks was determined to be too far from the alkalinity feed system to meet the requirements. An eyewash must be installed near the alkalinity adjustment feed system to meet OSHA requirements.

Mr. Pierce explained the fourth change within Change Order No. 4 dealing with the installation of the new gravity belt thickener, stating that it has been determined that the existing walkway cannot be used to allow access to the newly installed thickener. The plant

staff must have safe access to the top of the thickener to ensure proper operation of the equipment. The existing walkway is too far away from the new thickener to provide that access.

In conclusion Mr. Pierce recommended approving Change Order No. 4 to the Contract of Seaside Utilities for changes in the chemical feed system, install additional drainage swales and pipes, install emergency eyewash near chemical feed area, and install walkway in gravity belt thickener area for a net addition of \$104,743.42.

There was discussion among the Board expressing concerns for the cost within each change order request. Commissioner Phillips asked for an explanation as to why the eyewash station work could not be done in house. Mr. Pierce explained that although the eyewash work could be done in house due to the current price of material he could guarantee a cheaper price.

Commissioner Phillips questioned the drainage issue and asked if the drainage problem existed prior to the plant being built. Mr. Pierce replied that no the problems did not occur on the existing plant site the problem came about during Phase 2 of the project. There was discussion over the engineering design. Commissioner Warren also questioned the drainage issue and asked if the drainage problems existed due to excessive rain or poor design. Mr. Pierce reiterated the fact being that the existing storm drainage system currently in place is not adequate to prevent the flooding and ponding and changes need to be made.

Vice-Chairman Norris moved to approve Change Order No. 4 with Seaside Utilities in the amount of a net increase of \$104,743.42. The vote of approval was unanimous.

3. **Utility Operations-Proposed Carol Lynn Development Agreement (Jerry Pierce)**

Staff recommends approving Project Development Agreement with Brunswick Regional Water and Sewer H2GO.

Mr. Pierce explained that the property owners in the Carol Lynn subdivision and neighboring areas have requested that a wastewater collection system be constructed in their areas due to failing or malfunctioning on-site septic systems. Mr. Pierce stated the fact that Brunswick County Public Utilities does not have any sewer mains near the Carol Lynn subdivision; the property owners requested that Brunswick Regional Water and Sewer H2GO construct a wastewater collection system. After significant negotiation, they have agreed to construct a wastewater collection system in the Carol Lynn subdivision area provided the County would transfer the County water customers in those areas to BRWAS H2GO.

Under the proposed agreement, BRWAS H2GO will construct a wastewater collection system in the Carol Lynn subdivision area that will serve the properties. BRWAS H2GO will seek to annex all areas served by the wastewater collection system into the district. BRWAS H2GO will also be responsible for constructing the water main and connections required to disconnect the water system in the Carol Lynn area from the County system and connect it to the BRWAS H2GO system. Once the wastewater collection system is completed and the water system main connections are made the County would transfer the existing water customers in the Carol Lynn area to BRWAS H2GO. At this time, there are 64 water customers that would be transferred.

Commissioner Phillips moved to approve the Project Development Agreement with Brunswick Regional Water and Sewer H2GO for the construction of a wastewater

collection system in the Carol Lynn subdivision and neighboring areas and upon completion of the wastewater collection system in those areas, transfer the water customers in those areas to Brunswick Regional Water and Sewer H2GO. The vote of approval was unanimous.

4. **Finance-Financing Proposal for Calabash and Sunset Beach Mainland Wastewater Collection System Construction 2009 Revenue Bond (Ann Hardy)**

Staff recommends approving the Build America Bond Financing Proposal of RBC Bank for the Calabash and Sunset Beach Sewer Collection System Projects and engage Donald P. Ubell of Parker Poe Adams and Bernstein, LLP as Bond Counsel for a fee of \$40,000 plus disbursements and engage Ryan Maher of Robert W. Baird & Company as financial advisor at a fee of \$30,000 plus \$1,000 reimbursable.

Mrs. Hardy, Fiscal Operations Director explained the background and timeline for this project. The county has been working for quite some time for the Calabash and Sunset Beach Sewer Collection Systems. We are now at the point to start obtaining the financing for both collection systems. On July 27, 2009, the County distributed a bank placement request for proposal to several banks. The County received bids from four banks on August 5, 2009. Mrs. Hardy reviewed the summary of the bank bids. Bids were received from Bank of America, BB&T for both a traditional bank financing and a Build America Bond, RBC for both a traditional bank financing and a Build America Bond and SunTrust Bank. None of the banks required a debt service reserve fund to be established. Bank of America bid as a 2% de minimus which means the bank would internally treat the financing as a bank qualified issue with no representations from the county to that effect. The County does not expect to be bank qualified due to plans to issue greater than \$30 million of debt in calendar year 2009. The recent debt refunding of the 2001 School General Obligation bonds is counted in the \$30 million threshold.

Discussion of the 2 Lowest Cost Alternatives

The two lowest cost options are the Tax Exempt Public Sale and the RBC Bank Placement Taxable Build America Bonds Program (BABs).

Tax Exempt Public Sale-The negative aspect of the public sale is the time that it would take to market and close the transaction would not allow for a sale prior to the expiration of the Calabash bid and meet the stimulus start date requirements for the Sunset Beach project. The result is the county would have interest rate risk and would have to advance construction funds to award contracts without the financing in place. If interest rates were to move higher, the county loses the benefit of the rate the bank is offering today. If interest rates moved lower, the county would benefit from lower costs. The recent decline in the national unemployment statistics may lead to the conclusion that the public bond interest rate may move higher over the next several months.

RBC-Build America Bonds-The Build America Bonds program is relatively new with 3 N.C. issues (Gaston County, NC Turnpike Authority, and Catawba Hospital) and is a recent component of economic measures taken to improve the financial systems of the U.S. The bonds have a subsidy that is paid by the U.S. Treasury upon a filing made by the issuer every 6 months for the term of the debt. The risks of the BABs are associated with the Internal Revenue Service. If the IRS were to question the tax exempt status of the bonds, payment of the subsidy could be withheld. The types of questions the IRS may raise appear to be remote under the circumstances, but could be related to rebate issues or public use issues. There is no private use of the facilities currently or contemplated. There is no

reserve fund so there is little opportunity for arbitrage. The earnings on the debt proceed account during the construction period are .25% which is significantly lower than the rate to be paid on the debt resulting in almost no chance of an arbitrage rebate liability. An additional risk would be if Congress stopped the subsidy prior to the maturity of the bonds. It is projected that \$100 billion of the BABs will be outstanding so there would be substantial public opposition to the U.S. Treasury withholding future subsidy payments. Bond counsel confirmed that there are no Davis Bacon or Buy America provisions required for BABs. It appears that the biggest threat of the BABs would be if county staff failed to file the form to receive the subsidy. It will be essential that proper controls are in place to insure timely filing of all required forms to receive the subsidy. The total amount of the subsidy over the life of the BABs is over \$2.3 million. The BABs may be prepaid but the bank would have the opportunity to calculate the amount based on the current market that would make the bank whole for the lost revenue and charge that to the County. Since it is a relatively short issue that does not appear to be a concern.

Commissioner Warren asked Mrs. Hardy if the county had a system in place to ensure that the county would not miss any of the important deadlines for the project. Mrs. Hardy responded that we have several timely deadlines to meet with other projects and we are accustomed in developing controls for such deadlines and to maintain and monitor them.

Commissioner Phillips requested information on the purpose for Bond Council and for Finance Advisor for the bonds in question. Mrs. Hardy explained the the Bond Council is the attorney that is required to complete all the documents necessary to close the financing. The Financial Advisor is the person that is assisting Brunswick County with trying to determine the best course of action to take to finance these projects for the last two to three years as we have been working through all the hypothetical situations.

Vice Chairman Norris thanked staff for working so diligently with patience on both of the projects, and expressed his appreciation for the citizens in the area that have waited so long for sewer.

Commissioner Cooke thanked the staff and Mr. Pierce, Utilities Director for all the work that has gone in this time consuming project.

Commissioner Warren thanked Mrs. Hardy, Fiscal Operations Director and staff.

Chairman Sue congratulated staff and said he was proud and thankful for the Town of Calabash Council and was excited for the Town of Calabash's future.

Commissioner Phillips moved to approve staff's recommendations and associated resolutions in the financing for the Calabash and Sunset Beach Mainland Sewer Collection Systems to RBC Bank and accept their proposal dated August 5, 2009 for a Build America Bond at a taxable rate of 5.38% with an effective rate of 3.497% (subsidy equal to 35% of the interest paid on the bond) with bank fees of \$17,000. The "all in-true interest rate" which includes all fees and costs is 3.60% and to approve that Donald P. Ubell of Parker Poe Adams and Bernstein, LLP to serve as bond counsel for the financing at a fee of \$40,000 and to name Ryan Maher of Robert W. Baird & Company as financial advisor at a fee of \$30,000 plus \$1,000 reimbursable. The vote of approval was unanimous.

5. Finance-Unaudited Financial Reports Period ending July 31, 2009 (Ann Hardy)

Ann Hardy, Fiscal Operations Director reviewed the Period ending July 31, 2009 Financial Reports. Mrs. Hardy explained that the July reports are a snapshot because it is only one month lot of timing differences can occur from year to year but it does give you some indication of where we are for the first month in the year. Total revenues for the General

Fund at 7/31/09 are \$2.3 million compared to \$2.4 million at 7/31/08 for a decrease of \$0.1million. Total revenues collected are currently 1.56% of the amended budget for the fiscal year.

Total expenditures for the General Fund at 7/31/09 are \$12.3 million compared to \$12.7 million at 7/31/08 for a decrease of \$0.4 million or 3%. Total expenditures are currently 8.21% of the amended budget for the fiscal year.

Net transfers from reserve funds of \$46,935 is reported which is similar to same time in the prior fiscal year. Revenues and other financing sources are less than expenditures and other financing uses by \$10 million at 7/31/09 as compared to \$10.3 million at 7/31/08.

Water Fund

Total revenues for the Water Fund at 7/31/09 are \$1.9 million compared to \$2.2 million at 7/31/08 for a decrease of \$0.3 million or 13.6%. Total revenues collected are currently 10.4% of the amended budget for the fiscal year.

Total expenditures for the Water Fund at 7/31/09 are \$1.1 million compared to \$0.9 million at 7/31/08 for an increase of \$0.2 million or 22%. Total expenditures are currently 7.4% of the amended budget for the fiscal year.

Net transfers to the Water Capital Reserve for Water Capital Projects of \$0.5 million are reported. Revenues and other financing sources are over expenditures and other financing uses by \$0.3 million as of 7/31/09 as compared to \$1.3 million at 7/31/08.

Wastewater Fund

Total revenues for the Wastewater Fund at 7/31/09 are \$0.9 million compared to \$0.8 million at 7/31/08 for an increase of \$0.1 million. Total revenues are currently 7% of the amended budget for the fiscal year.

Total expenditures for the Wastewater Fund at 7/31/09 were \$0.5 million compared to \$0.4 million at 7/31/08 for an increase of \$0.1. Total expenditures are currently 3.5% of the amended budget for the fiscal year.

Revenues and other financing sources are greater than expenditures and other financing uses by \$0.4 million, the same as the prior year for the same time period.

Cash and Investments

A Summary of Cash and Investments as of 7/31/09 reports that the County had \$107 million of cash and investments in all funds including those accruing for outside agencies that the county performs collections plus \$18.7 million of capital project restricted debt proceeds. All cash and investments are earning an average yield of 0.99%. The total of cash balances per fund as of 7/31/09 was \$45 million General Fund, \$11.8 million County Capital Reserve Fund, \$17.6 million in the Water Fund, \$1.2 million in the Water Capital Reserve Fund, \$1.0 million in the Wastewater Fund and \$2.0 million in the Wastewater Capital Reserve Fund.

This information is presented for information and no action is requested.

VIII. COUNTY ATTORNEY'S REPORT

Chairman Sue recognized Huey Marshall, County Attorney for being announced recently by the North Carolina Association of County Commissioners as being selected Outstanding County Attorney of 2009. Mr. Marshall will be recognized Friday, August 28, 2009 at the 102nd North Carolina Association of County Commissioners Annual Conference in Hickory, North Carolina. Members of the Board and staff congratulated Mr. Marshall as he received a standing ovation from the audience.

1. **Deed of Dedication for Brunswick Regional Water & Sewer, Compass Pointe offsite (Huey Marshall)**

Huey Marshall, County Attorney, explained that these lines are ready for acceptance to the county system with a worth of \$333,957.95 for a water line and meter vault.

Vice Chairman Norris moved to approve the Deed of Dedication for Brunswick Regional Water & Sewer, Compass Pointe offsite. The vote of approval was unanimous.

2. **Deed of Dedication for TJM Ocean Isle Partners, LLC (Huey Marshall)**

Huey Marshall, County Attorney, explained that these lines are ready for acceptance to the county system with a worth of \$73,000.00 for sewer lines.

Vice Chairman Norris moved to approve the Deed of Dedication for TJM Ocean Isle Partners, LLC. The vote of approval was unanimous.

3. **Deed of Dedication for St. James Plantation, The Reserve, Woodlands Park, Evergreen Landing, Lots 1-161 and Chinquapin Chase Lots 1-31 and Pump Station #1. (Huey Marshall)**

Huey Marshall, County Attorney, explained that these lines are ready for acceptance to the county system with a worth of \$387,991.75 for water lines and \$587,200.03 for sewer lines.

Vice Chairman Norris moved to approve the Deed of Dedication for St. James Plantation, The Reserve, Woodlands Park, and Evergreen Landing, Lots 1-161 and Chinquapin Chase Lots 1-31 and Pump Station #1. The vote of approval was unanimous.

4. **Closed Session**

At 7:04 p.m. Vice Chairman Norris moved to enter Closed Session pursuant to NCGS 143-318.11 (a) (3) to consider and give instructions concerning a potential claim. The vote of approval was unanimous.

The Chairman called a 5-minute recess.

Reconvened

At 7:56 p.m. Chairman Sue called the Open Session back to order and announced that once communicated to the opposing party it would be made a public record and that no action was taken in Closed Session.

X. OTHER BUSINESS/INFORMAL DISCUSSION

1. **Proposed Piney Grove Park Request (Taken off under Adjustments to the Agenda)**

2. **Delinquent Tax Collection-Business/Personal Property Tax Listing**

Mr. Ken Perry, Revenue Collector opened the discussion by explaining the delinquent tax collection process and provided a handout outlining his discussion. He went over the Tax Calendar used for tax collection throughout the year in which collection revenues are available to the public at different times of the year.

Mr. Perry explained to the Board the timeline used for the tax collection process beginning on or before September 1st stating that the tax department mails the current Fiscal Year Tax bills, January 5th is the last day to pay taxes without penalty. On January 6th taxes are delinquent and 2% interest accrues. Mr. Perry explained which Delinquent Tax remedies are allowed. Wage Garnishment, Bank Attachments, Levy Personal Property then the 1st week in February Delinquent notices are mailed to the current owners February 28th is the last day to pay to avoid advertisement in local newspapers. Mid March to early April is when the advertisement for the unpaid tax liens for the current fiscal year goes in the paper. The final remedy is to foreclose the tax lien and sell the real property.

Mr. Perry discussed various Brunswick County Tax Collection Facts/Statistics. He stated the two primary goals established for collecting property taxes were to achieve the current fiscal year collection goal established in the budget process then to reduce the outstanding balance of delinquent taxes for years 2-10.

Mr. Perry discussed North Carolina Statutes describing the procedure for attachment and garnishment.

There was lengthy discussion among the board and staff concerning the tax collection process and the possibilities for changes to the collection system.

Commissioner Cooke acknowledged that he requested this item to be brought before the board for discussion. Mr. Cooke expressed his personal frustration within the current methods being used for tax collection and asked if it was possible for changes to occur. He questioned Mr. Perry specifically with the idea before names of individuals are advertised in the newspapers was it possible for the Tax Department to put an asterisk beside the names of those individuals who had signed up for a payment plan so there would be a clear delineation for the tax payer who is paying their taxes on a payment plan vs. the individuals who have paid nothing. Mr. Cooke also requested for the Tax Department to take Bank Attachments off the table and just use payment plans and foreclosure.

Mr. Perry explained to the Board that the advertisement for unpaid tax liens was not his personal choice but was a requirement by the North Carolina General Statues and that he followed the statues to the letter, and he would not feel comfortable making a judgment call on which individuals would or would not have an asterisk by their names.

Vice Chairman Norris expressed concern over the proposed changes requested by Commissioner Cooke and stated that the whole Board would have to make the decision for changes to be made, then stated that he did not wish to make any changes. Mr. Norris explained that when he took his oath of office that he would uphold the Constitution of North Carolina and abide by the North Carolina General Statues just like Mr. Perry, Tax Administrator. Mr. Norris stated that he thought the request was totally out of order.

Huey Marshall, County Attorney explained that North Carolina Statues are being followed.

Commissioner Warren stated that Mr. Perry has done a great job in collecting taxes but felt that if there is any way that we can make it easier on the public and the citizens of the county by putting an asterisk beside the person's name showing that they are on the payment plan without putting more work on the tax department he would be for the idea for the change.

Commissioner Phillips stated that the procedure currently in place is sufficient and did not wish to make changes.

Chairman Sue stated that he did not want to hold the Tax Administrator liable for who may or may not get an asterisk by their name in the newspaper and did not wish to make any changes and wanted to leave as is.

Personal Property Tax Listing (Tom Davis)

Tom Davis, Tax Administrator opened the discussion defining North Carolina General Statue 105-274 which defines what property is subject to taxation i.e. "all property, real and personal, within the jurisdiction of the State shall be subject to taxation unless it is excluded or exempted".

Mr. Davis provided a handout relating to the assessment and income generated from the operation of the Business Personal Property section of the Brunswick Count Tax Administrator's Office.

Mr. Davis stated his intentions are to inform and ask for comment/direction from the board on how to solve what he believes to be the biggest problem concerning Business Personal Property within the Business Community. He expressed his concerns over the lack of communication between his office and the business community. He indicated that he personally felt that if he got out of the office and made himself available at professional business functions he believed he could answer the questions and uncertainties that are out there and this would give him the opportunity to educate business members throughout the county.

Chairman Sue asked for clarification of the law for expense items/deductible items. Mr. Sue expressed concerns he has received from business people in the community. The first concern dealing with the fact that is it true that the tax office upon entering businesses actually counts paper clips, the other concern expressed is the business owner may have equipment that has depreciated and off the books and they are still being taxed for the items and it requires time on their part just to keep their stuff current.

Mr. Davis stated that the property tax is a tax on a physical asset and as long as that physical asset involved in the business it has to be assessed. Mr. Davis stated that the law is explicit. Each of the items in question has different useful life. We are required to use a schedule which is defined by the Department of Revenue. Those schedules are applied uniformly over the 100 counties in North Carolina. They are Trending and Depreciation Schedules and the state sets minimum levels of values essentially establishing the salvage value that is why something as fully depreciated on your books it still has a salvage value for property tax purposes. As far as supplies, paper clips pencils yes, that is the absolute smallest part of any assessment of any business.

Mr. Sue asked is there anywhere in the law that can allow you to request when the property owner's list their personal property tax that they don't have to list anything less than a set amount.

Mr. Davis responded no.

Mr. Davis explained that the law does require all individuals to file their personal property return it is an individual responsibility of every person in this state. The difficulty is getting the first listing from business owners. That has been the problem and what was practically the decline in the assessments over time to 2006. The office was staffed with one person during that time and it is almost impossible for one person to answer all questions. Mr. Davis explained that his job is to administer the program and make it as easy as possible for someone to file. There is a definite need for him to get out to the business community and educate. Mr. Davis explained that the Business Personal Property Listing form itself is fairly straight forward once the business owner has filled out the form his department will in return resend that form with all the information submitted back to the business owner the next year at that point all the citizens has to do is add whatever new equipment you have purchased and delete anything you have thrown away and return the form and that begins the cycle all over again.

Chairman Sue agreed that communication is lacking and education is needed throughout the business community.

Commissioner Warren commented that for Mr. Davis to personally be the individual to go out into the business community he thought the expense for the county would be too large and suggested that maybe a less paid employee would be more appropriate.

Mr. Davis responded that he understood Mr. Warren's concern but no matter who goes out into the county he is still responsible for it. Mr. Davis reiterated the fact that he still felt that he needed to start hearing from the community on what kind of problems they are having directly and that is not happening at present.

Chairman Sue stated that although the representatives from the Newspaper in the audience had already left the meeting he thought it a good idea for this to be an excellent upcoming article and if the business community has any questions on business personal property to call Mr. Tom Davis directly. Mr. Sue said in the meantime it would be cost effective for Mr. Davis personally to go out to the different clubs scattered around the county and inform them the specifics on business personal property tax.

Mr. Davis replied that he agreed and wanted to get the correct information out to all businesses throughout the county they needed and in return he could hear first hand from the business owner what their problems are and what specific difficulties they are having filling out forms so he could provide the necessary assistance.

Commissioner Cooke thanked Mr. Davis for his willingness to help all business owners throughout the county.

3. **Proposed Affordable Housing Task Force**

Commissioner Warren explained that throughout North Carolina there are certain counties that have established a Task Force Committee which was formed for the purpose not to duplicate affordable housing services. Mr. Warren recommended for this to be on the

agenda in hopes that Brunswick County would create its own Affordable Housing Task Force Committee. Mr. Warren suggested for committee member's backgrounds to include members from the real estate profession, developers, a host of people from the entire county who can assist with providing information and making sure that the county does not duplicate services within the county.

Commissioner Norris commented that one of the county's goals was looking into affordable housing but he suggested before we go too far with this why don't we ask staff to see how this has been done in other counties and give us some guidelines to go by.

Commissioner Sue agreed and directed the County Manager and the Assistant County Manager to look into this matter with other counties. The County Manager stated that Chatham County has had success since forming their task force committee. Commissioner Sue then directed him to contact Chatham County and find out all pertinent information and come back in the future with recommendations on the Proposed Affordable Housing Task Force Committee.

XI. ADJOURNMENT

Commissioner Warren moved to adjourn the Regular Meeting at 8:53 p.m. The vote of approval was unanimous.

William M. Sue, Chairman

Margie Stephenson, Deputy Clerk