

## MINUTES – AUGUST 4, 2008

The Caswell County Board of Commissioners met in regular session at the Historic Courthouse in Yanceyville, North Carolina at 6:30 p.m. on Monday, August 4, 2008. Members present: George W. Ward, Jr., Chairman, Jeremiah Jefferies, Vice-Chairman, William E. Carter, Nathaniel Hall, Larry G. Hamlett, Kenneth D. Travis, and C. Hester Vernon, III. Also present: Kevin B. Howard, County Manager, Michael R. Ferrell, County Attorney, and Angela Evans representing The Caswell Messenger. Wanda P. Smith, Clerk to the Board, recorded the minutes.

### MOMENT OF SILENT PRAYER

Chairman Ward opened the meeting with a Moment of Silent Prayer.

### APPROVAL OF AGENDA

Chairman Ward stated that he would like to add to the agenda a request for a letter of support for the Dan River Trails Grant Application.

Commissioner Jefferies moved, seconded by Commissioner Travis to approve the agenda as presented, with the addition of a request for a letter of support for the Dan River Trails Grant Application as noted by Chairman Ward. The motion carried unanimously.

### APPROVAL OF CONSENT AGENDA

Commissioner Travis moved, seconded by Commissioner Jefferies to approve the Consent Agenda as presented. The motion carried unanimously.

The following items were included on the Consent Agenda:

- 1) Approval of Minutes of May 19, 2008 Meeting

### PUBLIC COMMENTS

Chairman Ward opened the floor for public comments.

There were no public comments made.

### WATERSHED PROTECTION ORDINANCE VIOLATION

Mr. Brian Collie, County Planner, reported that after receiving several complaints, Mr. Charlie King, Farmer Lake Warden contacted him about a watershed violation on Farmer Lake. Mr. Collie stated that the property involved is owned by Lawrence and Diane Fusco off of Waterside Drive, Tax Map and Parcel Number 0068.00.00.0065.0000, and had been graded in front of their house all the way down to the water's edge. Mr. Collie informed the Board that the Caswell

County Watershed Protection Ordinance, Article IV, Section 5, states that a “minimum thirty foot undisturbed buffer, and an additional fifty foot vegetative buffer for development activities is required along all perennial waters” located within a watershed.

Mr. Collie informed the Board that he contacted Mr. Fusco by letter and telephone and talked with him about the violation and what needed to be done in order to correct the issue. Mr. Collies added that Mr. Fusco was not aware at the time that he had done anything wrong and was very concerned about taking the necessary steps to correct the problem.

Mr. Collie stated that upon his second inspection on July 11, 2008, he found that Mr. Fusco had replanted a good coverage of grass and had installed numerous rows of silt fences along the front perimeter of his property leading into the lake. Mr. Collie added that after the inspection he informed Mr. Fusco that he had taken the necessary steps to re-establish the buffer, but that he violated the Watershed Protection Ordinance and that the violation would have to go before the Board of Commissioners for review.

Mr. Collie reported that he informed Mr. Fusco that in accordance with Article III, Section 4 of the Watershed Protection Ordinance, that a civil penalty in the amount of \$100 shall be issued by the Board of Commissioners to abate the violation for every day that the violation exists, and Mr. Fusco was very understanding and said that he would be willing to pay.

Mr. Collie recommended that the Board issue a violation in accordance with Article III, Section 4 of the Watershed Protection Ordinance in the amount of \$100 to Lawrence and Diane Fusco.

Commissioner Travis questioned whether Mr. Fusco was told about the rules and regulations of the Watershed Protection Ordinance when he bought his property and added that the property owner should be made aware of restrictions before purchasing the land.

Commissioner Carter stated that he knew Dr. Fusco and felt that he would not have violated the Watershed Protection Ordinance if he had known the restrictions.

Commissioner Hall stated that anytime an individual buys property that has restrictive covenants on it, those restrictive covenants are recorded and it is the responsibility of the buyer’s attorney to inform him of these. Commissioner Hall questioned why the Farmer Lake Warden would not have observed this violation in patrolling the lake instead of having to learn of it through complaints. Commissioner Hall questioned if the County Planner is the proper official to receive the complaint, and after learning that he is, asked why the Board was not notified earlier of this violation. The County Manager answered that the delay was because staff was working to gather all the information to bring to the Board. Commissioner Hall noted that the Watershed Protection Ordinance specifies that the penalty is \$100 for every day that the violation exists and asked how many days Dr. Fusco was in violation. Mr. Collie answered that considering when he learned of the violation and talked to Dr. Fusco about it, and when he did his first inspection, he considered that the first day and he had already begun measures to correct the violation.

Upon questioning from Commissioner Hall, the County Attorney answered that the Ordinance does not specify when would be the first day of violation, when the violation was committed or when the Planner went out to the site.

After further discussion, Commissioner Carter moved, seconded by Commissioner Travis to waive the \$100 penalty assessed to Lawrence and Diane Fusco for violation of the Watershed Protection Ordinance. The motion failed by a vote of five to two with Commissioners Ward, Jefferies, Hall, Hamlett, and Vernon voting no.

Commissioner Hamlett moved, seconded by Commissioner Jefferies to assess a \$100 penalty to Lawrence and Diane Fusco for violation of the Watershed Protection Ordinance. The motion carried by a vote of six to one with Commissioner Carter voting no.

Commissioner Hall requested that the County Manager follow up on why the Farmer Lake Warden did not identify this violation while patrolling the Lake and to inquire as to why the Farmer Lake Board has not been meeting.

#### BOARD OF EQUALIZATION AND REVIEW

Commissioner Jefferies moved, seconded by Commissioner Travis to recess the Board of Commissioners and reconvene as the Board of Equalization and Review. The motion carried unanimously.

Mr. Thomas Bernard, Tax Director, came before the Board and stated that he has no further business for the Board of Equalization and Review and recommended official adjournment of this Board.

Commissioner Hamlett moved, seconded by Commissioner Travis to adjourn the Board of Equalization and Review. The motion carried unanimously.

The Board reconvened as the Board of Commissioners.

#### TAX DIRECTOR'S MONTHLY REPORT

Mr. Thomas Bernard, Tax Director, came before the Board and submitted the following Monthly Report for July, 2008.

##### Foreclosure Process – All Files

Sold 26 parcels

1,622 accounts turned over to Attorney

923 accounts – paid in full

276 accounts – entered into payment plan

10 bank-attached by county

7 accounts – difficult title work

44 entered into bankruptcy

17 will be in-rem foreclosure procedure

143 files on hold for hardship cases  
18 amount due under \$100.00 (waiting on payments)  
158 files that are moving forward

Foreclosure Process – 2007-2008

362 accounts turned over to Attorney  
200 accounts paid in full  
77 hardship cases to be paid in full by the end of August  
1 bank-attached by county  
34 files moving forward  
47 – entered into payment plan  
3 – entered into bankruptcy

The collection rate for the 2007 tax year is 95.43% as of 6/30/2008.

Commissioner Hall questioned the Tax Director as to how he distinguishes between those files that go to foreclosure and those that he designates as hardship cases. Mr. Bernard answered that when a delinquent taxpayer comes in to set up a payment plan or their file goes to the Attorney for foreclosure, it is brought to their attention of job loss, terminal illnesses, etc. and then they are deemed hardship cases. Commissioner Hall stated that he has a problem with this in that the determination of hardship cases has to be subjective. Commissioner Hall questioned whether it is written in the policy approved for foreclosures to designate hardship cases, especially for prior years. Commissioner Hall noted that the policy approved by the Board of Commissioners gave the Tax Director the authority to arrange payment plans for the current year as long as it did not go past June 30<sup>th</sup>. Chairman Ward instructed that either the County Manager or Tax Director check on this provision and report back to the Board. Mr. Bernard informed the Board that there is nothing written in the current policy on foreclosures concerning hardship cases.

Commissioner Hall stated that he wants to make sure that all citizens of the County are treated fairly and equally and does not want subjectivity made by the Attorney and Tax Director when this Board is not aware of this policy and this was not a policy approved by the Board. Commissioner Hall requested that the Tax Director bring back to the Board a list of the names of the hardship cases.

APPOINTMENT TO PIEDMONT TRIAD PARTNERSHIP EXECUTIVE BOARD

Chairman Ward informed the Board that he is currently a member of the Piedmont Triad Partnership Executive Board and he cannot attend when this Board meets. Chairman Ward requested that another Commissioner be appointed to this Board.

Commissioner Hamlett moved, seconded by Commissioner Jefferies to appoint Commissioner Vernon to the Piedmont Triad Partnership Executive Board. The motion carried unanimously.

## DISCUSSION OF PROFESSIONAL SERVICES CONTRACTS PROCEDURE

Chairman Ward stated that there was some discussion about the Professional Services Contracts and asked if the Board wished to establish any guidelines on which ones should come before the Board or leave it as it is that all come before the Board. After discussion, Commissioner Vernon moved, seconded by Commissioner Travis to leave the policy as it is now that all Professional Services Contracts come before the Board for approval. The motion carried unanimously.

### BUDGET AMENDMENT NO. 12 – FY 2007-2008

After review and discussion, Commissioner Carter moved, seconded by Commissioner Jefferies to approve Budget Amendment No. 12 for Fiscal Year 2007-2008 as presented. The motion carried unanimously.

### BUDGET AMENDMENT NO. 2 – FY 2008-2009

After review and discussion, Commissioner Hamlett moved, seconded by Commissioner Travis to table Budget Amendment No. 2 until the Board's next meeting in order for the Personnel Committee to meet. The motion carried unanimously.

### BUDGET TRANSFER NO. 1 – FY 2008-2009 – COURT FACILITIES

After review and discussion, Commissioner Hamlett moved, seconded by Commissioner Hall to approve Budget Transfer No. 1, Court Facilities, as presented. The motion carried unanimously.

### BUDGET TRANSFER NO. 2 – FY 2008-2009 – SECTION 8 HOUSING AUTHORITY

After review and discussion, Commissioner Travis moved, seconded by Commissioner Jefferies to table Budget Transfer No. 2, Section 8 Housing Authority, until the Board's next meeting. The motion carried unanimously.

### BUDGET TRANSFER NO. 3 – FY 2008-2009 – CDOT

After review and discussion, Commissioner Hamlett moved, seconded by Commissioner Jefferies to approve Budget Transfer No. 3, CDOT, as presented. The motion carried unanimously.

### BUDGET TRANSFER NO. 4 – FY 2008-2009 – PARKS AND RECREATION

After review and discussion, Commissioner Hamlett moved, seconded by Commissioner Jefferies to approve Budget Transfer No. 4, Parks and Recreation, as presented. The motion carried by a vote of six to one with Chairman Ward voting no.

## COUNTY MANAGER'S REPORT

Mr. Kevin B. Howard, County Manager, reported that he has not heard back from Progress Energy in order to report on the Senior Center parking lot lighting.

Mr. Howard reported that the Clerk to the Board has recently talked with Mr. Lee Fowlkes, Civic Center Executive Director, and the Civic Center Committee will be meeting again, beginning Wednesday of this week.

Mr. Howard reported that he talked with the North Carolina Division of Motor Vehicles about the Vehicle Tag Office and they are waiting to see if Ms. Sis Hillman, the contractor, will be coming back. The County Manager was directed to contact Ms. Hillman directly to determine when she would be re-opening the office.

Mr. Howard reported that the County Attorney has more information on NORAG Technology's request for additional land in the Pelham Industrial Park. Mr. Mike Ferrell, County Attorney informed the Board that he has reviewed the documents between the County and NORAG and concluded that the County could not just give them the additional land. Mr. Ferrell stated that NORAG could purchase the additional land from the County at a fair market price.

Mr. Howard provided the Board with a copy of the newly adopted Caswell County Board of Health's Rule, *Regulation of Smoking Products in Local Government Buildings and Vehicles*. Mr. Howard clarified that all smoking would have to take place outside of County buildings and would not be allowed in County vehicles. Chairman Ward stated that he has a problem with smoking not being allowed in County vehicles and questioned how this would be policed. Commissioner Travis noted that smoking and use of tobacco is no longer allowed on School property or the Civic Center. Commissioner Hall clarified that the Board of Health does have the authority to institute this rule and noted that the State backed off of dealing with the requirement that use of tobacco products outside the building would have to occur at least 50 feet away from the building. Commissioner Hall added that the General Statutes stated that all municipal buildings owned, leased, or otherwise operated by municipalities within the County under the jurisdiction of the Health Department would adhere to this rule and that would include all Caswell County, Town of Yanceyville, and Town of Milton buildings and vehicles. Chairman Ward questioned why the Board of Health did not discuss this issue with the Board of Commissioners and ask their opinion and directed the County Manager to relay this question to the Board of Health. Commissioner Hall informed the Board that the General Statutes of the State of North Carolina, effective January, 2008, gave the Board of Health the authority to deal with the issue of the use of tobacco products and they held a public hearing on this issue so that questions could be answered. Commissioner Hall added that this issue came about because of the cost of billions of dollars in medical care for diseases that current research has proven has been caused by smoking. Commissioner Vernon stated that he would like for the County Attorney to research further to see if the Board of Health has the authority to enact this rule for other than the Health Department and Department of Social Services. Commissioner Hall stated that because of the way that the Board of Health's authority was granted the issue of sanctions will have to be dealt with and noted that violation of the rule is a misdemeanor for non-employees and it will need to be decided how to deal with employees, which should probably be

referred to the Personnel Committee and Human Resources Department. Chairman Ward referred the issue of violation of the rule by County employees to the Personnel Committee.

Mr. Howard presented for the Board's discussion and approval, a Professional Services Contract between the Department of Social Services and Mr. Stuart Watlington, Attorney at Law. Commissioner Jefferies moved, seconded by Commissioner Hamlett to approve the Professional Services Contract between the Department of Social Services and Mr. Stuart Watlington, Attorney at Law, as presented. The motion carried unanimously. Commissioner Hall noted that there is a certification in the contract that the place of business of the Contracted Attorney would be non-smoking.

Mr. Howard presented for the Board's discussion and approval, a Professional Services Contract between the Department of Social Services and the Health Department for drug testing. Commissioner Travis moved, seconded by Commissioner Hamlett to approve the Professional Services Contract between the Health Department and Department of Social Services for drug testing as presented. The motion carried unanimously.

Mr. Howard presented a change order request from Dewberry & Davis for the Senior Center Project in the amount of \$3,384 to provide an automatic operator for door No. 101. Mr. Howard stated that the automatic operator for the door is not required, but it adds value to the building. The Board took no action on this change order request.

Mr. Howard informed the Board of a change order request from Dewberry & Davis for the Senior Center Project that he approved in the amount of \$4,995 for extra erosion control measures.

Mr. Howard informed the Board that of the \$100,000 Contingency for the Senior Center Project, as of the end of July, the amount that has been spent is \$56,747, which does not include the \$4,995 for additional erosion control measures.

Mr. Howard requested that the Board release from the hiring freeze a Processing Assistant III position for the Department of Social Services. After discussion, Commissioner Travis moved, seconded by Commissioner Jefferies to release from the hiring freeze a Processing Assistant III position for the Department of Social Services. The motion carried unanimously.

Mr. Howard requested that the Board release from the hiring freeze two part-time driver positions for the Caswell Division of Transportation. After discussion, Commissioner Travis moved, seconded by Commissioner Carter to release from the hiring freeze two part-time driver positions for the Caswell Division of Transportation. The motion carried unanimously.

Mr. Howard updated the Board on major projects which included the Senior Center Project and informed them that the project is progressing as well as can be expected due to delays for the roof. Mr. Howard noted that the roof should be in within the next week or two.

Mr. Howard reported that Mr. Scott Erhart is the Project Manager for Dewberry for the Industrial Park Water Project. Mr. Howard stated that he and Mr. Erhart met with Mr. Barry Dunkley,

Utilities Director for the City of Danville and he is very open to working with the County in operating this system.

Mr. Howard reported that he, along with Chairman Ward and Commissioner Vernon met with representatives from Golden Leaf, Inc. and e-NC on July 25<sup>th</sup>, and they recommended that the County apply for a planning grant of up to \$100,000 so that it could hire consultants to look at what the County's needs are relating to additional broadband in the County. Mr. Howard noted that this would allow the County to have a stronger application for the regular grant cycle next fall or the next round of community assistance funding. Mr. Howard added that they stated that they will return next fall with an additional two million dollars to be used exclusively in Caswell County.

Mr. Howard reported that Mr. Ed Carter's waterline request is tied into discussions with the City of Danville to assist them in operating the system until it is large enough to stand on its own.

Mr. Howard presented a letter of support from the Board of Commissioners for a grant application on the Dan River Trails. It was the consensus of the Board for the Chairman to sign this letter of support for the Dan River Trails grant application.

#### ANNOUNCEMENTS

Commissioner Vernon reported that he received his notice of a meeting of the Civic Center Committee.

Commissioner Hamlett reported that he has requested that the County Manager check on overtime for 911 Communications.

Commissioner Jefferies questioned the County Manager as to whether the tax records and voting machines have been removed from District Attorney Joe Brewer's office in the Courthouse at 139 East Church. Mr. Howard answered that everything has been moved out except for the voting machines and he is trying to locate a place to put them.

Commissioner Hall stated that the gasoline report does not seem to be consistent as far as time and suggested that the periods of time be the same, such as a full month, in order for better comparison.

Commissioner Hamlett stated that a lot of stores in the County are not equipped to handle the County's gas card.

Commissioner Carter reported that it is his understanding that a new law has been passed relating to prohibiting talking on a cell phone while driving and requested that the County Attorney review the law on this.

Commissioner Carter announced that the Town of Yanceyville would be hosting the grand opening of the Maud Gatewood Municipal Park on August 15, 2008, and added that the Board of Commissioners is invited to this.

Commissioner Carter welcomed Mr. Rick McVey, newly appointed Board of Health member, and his wife Kim who were in attendance at the meeting tonight.

Mr. Mike Ferrell, County Attorney, reported that the County does have to obtain pre-clearance of the scheduling date for the upcoming referendum and he has already filed that application.

CLOSED SESSION

Commissioner Hamlett moved, seconded by Commissioner Carter that the Board enter into closed session to discuss matters relating to the location or expansion of industries or other businesses in the area served by the public body (NCGS 143-318.11(a)(4)). The motion carried unanimously.

REGULAR SESSION

Commissioner Hamlett moved, seconded by Commissioner Travis to resume regular session. The motion carried unanimously.

THE ADJOURNMENT

At 8:00 p.m. Commissioner Jefferies moved, seconded by Commissioner Travis to adjourn the meeting. The motion carried unanimously.

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Wanda P. Smith  
Clerk to the Board

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George W. Ward, Jr.  
Chairman

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