MINUTES – NOVEMBER 18, 2019

The Caswell County Board of Commissioners met in regular session at the Caswell County Historic Courthouse in Yanceyville, North Carolina at 6:30 p.m. on Monday, November 18, 2019. Members present: Rick McVey, Chairman, Jeremiah Jefferies, Vice Chairman, Sterling Carter, William E. Carter, Nathaniel Hall, and Steve Oestreicher Absent: David Owen. Also present: Brian Ferrell, County Attorney and Davin Wilson representing The Caswell Messenger. Absent: Bryan Miller, County Manger. Paula P. Seamster, Clerk to the Board, recorded the minutes.

MOMENT OF SILENT PRAYER

Chairman McVey opened the meeting with a moment of Silent Prayer.

PLEDGE OF ALLEGIANCE

The Board of Commissioners and all the guests in the audience recited the Pledge of Allegiance.

APPROVAL OF AGENDA

Commissioner W. Carter requested to put a discussion on the Building Inspections report and overview on the agenda under County Manager’s Updates.

Chairman McVey asked to remove Item 7 due to Ms. Spillmann being under the weather and will not be able to make the meeting.

Commissioner W. Carter moved, seconded by Commissioner Oestreicher to approve the agenda as amended. The motion carried unanimously.

APPROVAL OF CONSENT AGENDA

Commissioner Jefferies moved, seconded by Commissioner S. Carter to approve the Consent Agenda. The motion carried unanimously.

The following item was included on the Consent Agenda:

A. Approval of Minutes of November 4, 2019 Regular Meeting

PUBLIC COMMENTS

Chairman McVey opened the floor to Public Comments.

Ms. Leslie Zimmerman, 732 Solomon Road, Leasburg, stated “Good evening, how are you all, I am just going to read something that was spoken on 9-11 at the fire department when Sunrock was there. So this was verbatim what was said at the meeting ‘Quick announcement, I want to take this opportunity to announce exciting project on way in Caswell County. This is separate from quarry distribution center. Future western headquarters Highway 62 project, this is a phase project. Expansion to western headquarters. Asphalt ready mix shop and maintenance and future sales and distribution of material just south of Anderson on Highway 62 that’s where the project will be but wanted to take the opportunity to make this announcement.’ This is what Sunrock said on 9-11 at the fire department. I don’t know if all of you know that there is a future asphalt plant on 62, I think it is 86 acres. Regarding asphalt, research at Duke University reported just last week reveals that north and central North Carolina, Caswell and Person Counties, have high amounts of Chromium-6 in the bedrock. Reason would suggest that a quarry in an area with a potentially high amount of Hexavalent Chromium (Chromium 6) would risk “liberating” lots of highly cancerous dust in to the air and water. In Davenport, California, a slag mill owned by Cemex Corporation was shut down permanently in March, 2010 after dust from the plant spread carcinogenic chromium-6 all over town. That’s the same chemical that caused cancer deaths in the movie Erin Brockovich.”

Mr. Dallas Posey, 1201 NC Highway 49N Prospect Hill, stated “My property is directly adjacent to the first property purchased by Sunrock with the intent of constructing an asphalt plant. When that happened or I found out that was the case I did some research on the county’s website and I found an ordinance passed by this body in 2002 and if you will give me a second I will read it to you. It’s only one page, its ordinance number 53. It is An Ordinance to Place a Moratorium on the Construction and Erection of Polluting Industries in Caswell County. The first section talks about the county’s authority given under state law to make laws essentially. Then Section 2. Purpose. The purpose of this moratorium shall be to protect the public health, safety, general welfare, and property values of the Citizens of Caswell County from potential adverse health effects caused by polluting industries, such as potential harmful emissions of air or water pollutants, and any aesthetic or property value damage to adjacent communities. This moratorium is to prohibit the construction and erection of polluting industries for a period of one year during which Caswell County shall develop a land use ordinance that shall regulate future construction of such facilities. So it goes on to define what polluting industries are and one of the things that it specifically mentions but does not limit the ordinance to is asphalt plants. It goes on to talk about the jurisdiction, all incorporated areas in the county. It gives a date on when the moratorium will begin for the duration which is for one year and it talks about variances. The point is that if asphalt plants were hazardous to the people of Caswell County in 2002, they still are in 2019 and beyond so I would appreciate it if this body would consider that ordinance, possibly updating it and passing it again. Thank you.”

Chairman McVey asked if anyone else would like to speak during public comments. With no further comments public comments was closed.

RECOGNITIONS

Commissioner W. Carter recognized and thanked the people from the Prospect Hill community for standing up for their community to fight against the rock quarry in Caswell County.

Commissioner S. Carter stated “I would like to recognize the life and service of Tony McSherry who passed away on November 8th. Tony gave us 20 years of service. He served this county at the Sheriff’s Department and I would invite the rest of the members of this Board on behalf of the citizens of Caswell County to join me in publicly offering our sincere condolences to the family of Tony McSherry.”

FINANCE SOFTWARE AGREEMENT

Ms. Gwen Vaughn stated that the Board has a software agreement that the Finance Department and Administration are presenting to approve Tyler Technology as the financial software vendor for the county. She added that currently the county uses Avenue Insight which was ACS and has since 2000. Ms. Vaughn stated that 6 vendors were solicited for this financial software and this was narrowed down to 3 in which have presentations. She added that outside department heads were included in this presentation and the Tyler financial software benefits outweighed the other vendors. Ms. Vaughn stated that Tyler will work with the county to set up goals if the contract is approved. She added that the implementation of this software will take 12 to 18 months. Ms. Vaughn stated that during the budget process the Board adopted $414,990 and Tyler’s quote for the 1st year is $274,779 and this is because Tyler will maintain the product and it will be cloud based rather than onsite based. She asked the Board for approval of the Tyler Technology financial software agreement.

Commissioner Oestreicher asked what would take place during the 12 to 18 month implementation, if there would be a partial implementation or if the change will take place at one time. Ms. Vaughn responded that Tyler would build the product based on what the county has currently and the conversation with 3 years of back information. Commissioner Oestreicher asked if this is a hard conversation. Ms. Vaughn responded yes. Commissioner Oestreicher asked if the $275,000 is the price. Ms. Vaughn responded that the $275,000 is the quote and there should not be any other changes but with any quote there could be some slight changes in the cost. Commissioner Oestreicher asked if a contingency number is built into the quote. Ms. Vaughn responded that the quote does not have any contingency but it can be looked at. She added that the conversation of the software is about $182,000 and this is the cost that could be changed. Commissioner Oestreicher asked the Board if it would like to have a limit on the contingency to limit the liability. Commissioner S. Carter responded “Nothing wrong with that.” Commissioner Oestreicher recommended getting a contingency figure.

Ms. Vaughn asked if the Board would like for Tyler to add in a contingency line.

Mr. Ferrell asked Commissioner Oestreicher if he is looking for a not to exceed amount in the quote. Commissioner Oestreicher responded yes. Mr. Ferrell stated that a reasonable contingency would be around 5 to 10%, putting a cap on the implementation fees over and approve the quote fees is reasonable. He added that if the Board wanted to approve this agreement subject to this he would work with the vendor on this. Mr. Ferrell stated that Tyler was willing to accept the proposed changes in the contract.

Commissioner Oestreicher asked Mr. Ferrell if he reviewed the agreement. Mr. Ferrell responded that he reviewed contract and offered a number of changes to the agreement.

Commissioner S. Carter asked “I was just going to ask Mr. Oestreicher do you have a suggested percentage that we could add to it or how would we determine that? What’s recommended?” Mr. Ferrell responded that the agreement has a schedule that has hourly rates and the conversion process is a little bit on the unknown on how long the implementation process will take. He added that if the Board gives staff some authority to get a not to exceed amount of up to 10%.

Commissioner Oestreicher asked if the 10% would be on the $180,000. Ms. Vaughn responded yes. Mr. Ferrell added that the other subscription fees are fixed. Commissioner Oestreicher responded that he thinks the not to exceed amount of up to 10% is reasonable. He added that he recommends that Commissioner Hall make a suggestion since he is more familiar with this than he is.

Commissioner Hall stated that he thinks this is a good idea but he thinks it should be in 2 parts for the county. He added that he would go with what general counsel works out on the not to exceed amount and then he suggested putting back a little for the county for unknowns and suggested another 4 or 5% because there are things that cannot be anticipated. Commissioner Oestreicher responded that this has been his experience as well and stated that he likes the 2 component piece. He congratulated Ms. Vaughn on getting a good deal on the software.

Ms. Vaughn stated that a contingency will be added and a…Commissioner Hall responded and a secret contingency. Mr. Ferrell stated that included in the budget ordinance there will be an additional amount encumbering a potential contingency. Ms. Vaughn stated that she will present a project ordinance to cover the fee and to include the contingency and the not to exceed clause and this will be brought back before the Board at a later date.

Commissioner Oestreicher asked if the implementation timing could be shortened from 12 to 18 months. Ms. Vaughn responded that this time frame was given from other vendors as well. Commissioner Oestreicher asked if an incentive could be given to do this faster. Ms. Vaughn responded that staff would work with Tyler to move the process along but 12 to 18 months is the length of time that has been given.

Commissioner Hall stated that some of the work the county will have to do. He added that the departments will have to do their regular work and they will have to confirm and authenticate everything for the past 3 years and that will be a lot of work for the conversion.

Commissioner Oestreicher moved, seconded by Commissioner S. Carter to approve the contract with the alterations. The motion carried unanimously.

Commissioner Hall stated that personally he is pleased that staff saw fit to look at a cloud based system. He added that this has been talked about at all the state conferences about counties hit in all kinds of ways and he thinks this is the best way to go. Ms. Vaughn responded thank you.

APPOINTMENTS TO BOARDS AND COMMITTEES

Juvenile Crime Prevention Council

Commissioner S. Carter moved, seconded by Commissioner Oestreicher to appoint Ms. Shannon Moretz and Mr. Dustin Gantos to the Juvenile Crime Prevention Council. The motion carried unanimously.

Piedmont Triad Regional Council Northwest Workforce Development Board

Commissioner Hall moved, seconded by Commissioner S. Carter to appoint Mr. Ernie Pinnix, Sr. to the Piedmont Triad Regional Council Northwest Workforce Development Board. The motion carried unanimously.

Commissioner S. Carter stated “Mr. Chairman I just want to make a general comment on that application, I would like to thank Mr. Pinnix for reapplying because he was an individual that came to us before in that position and we look forward to that moving forward.”

Planning Board

Commissioner W. Carter moved, seconded by Commissioner S. Carter to re-appoint Mr. Michael Poteat to the Planning Board. The motion carried unanimously.

ESTABLISH BOARD OF TRUSTEES FOR ABANDONED CEMETERIES

Commissioner S. Carter stated “Mr. Chairman and fellow Commissioners, I’m going to use an example of why something like this can be very important in a county like Caswell which is always, which has always taken pride in its history both the good and the bad, we embrace it all and see to it that all of it needs worthy of study. But in regards to abandoned cemeteries in Caswell County this is something that has always been a little personal for me; I have always taken an interest in it. It’s been my background in researching different families from Caswell County and coming across these cemeteries throughout that research. Out at the Prospect Hill proposed quarry site we have a situation where we have 2 cemeteries that to the best of my assumption are the cemeteries of former enslaved African Americans and they were destroyed through the process of clear cut timbering and that deeply disturbed me so I started researching you know what could be done about something like that and along the way I discovered General Statute 65:113, I’m sorry 111 through 113 which is in your agenda packet for your review. I was kind of shocked at what I found because meanwhile being interested in this personally I discovered that the Board of Commissioners is authorized to protect these abandoned cemeteries to see to it that they are preserved, to compile a list of both public and abandoned cemeteries and keep it in the office of the Register of Deeds. Now this may seem like a daunting task, in my own personal estimations I would say we have hundreds of these in this county, you know, many of which are not know as far as where the location may be but they are there nonetheless and they need to be located and accounted for. They are important and the way I see it, the way I would commend to the Board that it should be viewed is that these individuals are somebody’s family and it may be generations back but they are relatives of people alive today and just like your own family’s graves or cemeteries are very important to you personally, just like one day we will be in the ground as well, I would hope someone would care about mine and yours and that they will not get damaged or encroached upon by development or what have you. So in that general statute it gives the commissioners the authority to set up a board of trustees, a group of up to five individuals that can serve this Board as an advisory board just like we have others and they would carry forth those duties and responsibilities and meet as often as they see fit and develop their own bylaws. I would hope that if the Board if in favor of this moving forward I would offer my services to serve on that committee to help move it along and see to it that it’s done correctly on behalf of the citizens of the county. There’s plenty of individuals I think that are very interested in the subject throughout the county and in the context of the Prospect Hill situation I am very pleased to see a community that thinks that this is very important and that in other areas of the county this should be something that should be prioritized. Obviously these individuals are long dead but it still matters to a lot of people and it matters to us that do family research for individuals, it gives me great job to be able to help people locate where their ancestors are from, where they lived and where they are buried at. So with that in mind the general statutes like I said are in your agenda packet as well as a sample of Board of Trustees from Transylvania County, I thought they had a very good set up on their website as far as what the duties and responsibilities are and they meet and they actively accomplish these goals with the citizens, individuals and professionals, that care about this type of issue. So with that I will offer any questions, comments or concerns, I am happy to answer or address anything.”

Chairman McVey stated “Well a couple of questions popped up in my mind…” Commissioner S. Carter responded “Yes sir.” Chairman McVey continued “That I would like to know, how many rural counties in our state do this and I would like to know what the cost is that we might incur and I know you probably don’t have close to an accurate figure of these cemeteries…” Commissioners S. Carter responded “Hundreds but continue on.” Chairman McVey continued “But the main concern I have is how many other counties in the state are doing this, rural counties, and what kind of cost we could possibly incur on this type of thing?” Commissioner S. Carter responded “I’ve spent a couple of hours today searching the county websites of various counties; I’ve only found a few. In searching for articles where this may have been, you know, issued or where counties, you know, are pursuing this. I found New Hanover County in Wilmington to be a good example on doing this. As far as cost it’s laid out in the statute in two parts. Let’s say they have an abandoned cemetery or a public cemetery, it could be both, you have maybe a cemetery trust or board of trustees what have you, their trying to beautify or improve conditions at that cemetery. It says, you know, along with those groups the county may match a 1/3 or 2/3 match of their expenses and it literally caps at $50 per cemetery so there’s that part of it. And then, let me find and I will read this directly, this is the 113 statute ‘The county commissioners of the various counties are authorized to oversee all abandoned public cemeteries in their respective counties, to see that the boundaries and lines are clearly laid out, defined, and marked, and to take proper steps to preserve them from encroachment, and they are hereby authorized to appropriate from the general fund of the county whatever sums may be necessary from time to time for the above purposes.’ That is worded in the sense whatever we may deem we can contribute, not that there’s going to be a group of people requesting $10,000 and we have to follow through with that, it is not worded that way. It’s based upon the interest of this Board and in delegating these powers to a board of trustees I feel like that would make our jobs as commissioners a whole lot easier obviously but they would bring recommendations, you know, to us from time to time but we don’t have to accept them, you know, they are an advisory board, they don’t tell us what we can and can’t do but if there’s a particular situation where we think it may be in the best interest of that community or whatever to contribute towards it then that is for the future board to decide but as far as a specific amount or percentage other than that one clause of contribute $50 to a cemetery that’s trying to make improvements there’s no other mention of it.” Chairman McVey asked “How many or do you have an approximate idea on how many we have of these cemeteries?” Commissioner S. Carter responded “In my estimates of abandoned cemeteries my estimation is hundreds.” Chairman McVey continued “A hundred?” Commissioner S. Carter responded “Hundreds, hundreds.” Chairman McVey stated “Hundreds.” Commissioner S. Carter responded “Yeah, hundreds. You know, historically in this county people would bury their family in the backyard, you know, and there’s a lot of those. I have come across dozens in my lifetime personally but, you know, that and in additional to that in slaves cemeteries they’re everywhere, I know they are, I’ve seen ‘em but as far as an actual number that’s what this board of trustees would do but through those efforts it’s not that it requires a specific appropriation or it doesn’t lay out any requirements for that, you know, these would be volunteers, people that are interested in this like me and they would, you know, do this according to, you know their resources and their own time limitations but, you know, I think it’s a positive thing that we should consider because there are a lot of people I think that would be willing to help, you know, to do this.”

Chairman McVey asked “Do you have a question?”

Commissioner W. Carter stated “The only thing, I was reading it over that it is a Class 1 Felony if you plowed over a cemetery. I know in the county a small cemetery was not marked or anything and a farmer goes through plowing the land and he plows over it and there is no markings or anything…” Commissioner S. Carter responded “Right, it’s happened in the past for sure but they are still accountable for those circumstances.” Commissioner W. Carter continued “Well that’s what worries me with someone, a farmer, out here plowing land that is not marked or anything and he plows over it then it says he is convicted of a class 1 felony.” Commissioner S. Carter responded “I can help answer that, I was concerned with that as well, you know, and a lot of those innocent situations like what you just mentioned the Office of the State Archeology brought that as a concern to them and they said obviously if someone can prove they did not have knowledge of it they’re not going to be liable for something like that., it just doesn’t work that way, innocent until proven guilty, kind of that situation but I don’t expect a bunch of lawsuits and complaints to be had through this process. I think this is more so for accounting for where they are at and to make sure that they are listed and that is sent to the state and to the register of deeds office as the statute says.”

Commissioner Oestreicher asked “What would be the operating guidance for this committee? In other words, if you believe there’s hundreds out there would you be proposing that this committee be charged with finding all of them that are out there or dealing with the ones that are discovered?” Commissioner S. Carter responded “Well that would be up to their discretion whether it’s the board of trustees or us, it falls to this Board to account for all abandoned cemeteries in this county, that’s the law. However that’s taken and approached is up to the authorities at hand that choose…” Commissioner Oestreicher continued “You see my question?” Commissioner S. Carter responded “Absolutely.” Commissioner Oestreicher asked “So you see them out or do you deal with them as you find them?” Commissioner S. Carter responded “Well I would say that this statute and how it’s written is more so for the seeking out because we are supposed to account for them.” Commissioner Oestreicher continued “And I would just agree to the opposite.” Commissioner S. Carter responded “Well in other counties, I can tell you New Hanover being an example they’ve literally got to the point where they sent out cadaver dogs in the woods to find them and they were very successful.” Commissioner Oestreicher asked “How many other counties did you find?” Commissioner S. Carter responded “Transylvania, New Hanover, and I want to say Craven and there might have been another one.”

Chairman McVey stated “So it was a total of three counties…” Commissioner S. Carter responded “That I was able to find and, you know, this is the situation, if you don’t have a board of trustees it falls to us, that’s not a question, it says duty and responsibility to do the following and then it is optional for us to appoint a board of trustees. The situation that I am describing here is this Board’s duty and responsibility, I’m suggesting we appoint a board of trustees to handle it and then that group will decide their methods and their approach and they bring updates to us, it’s not a race, you know, it will take years, you know, but they will work at their own pace. We’re not under pressure in any of that.”

Commissioner W. Carter stated “You are saying it is only 3 counties out of 100 that has this.” Commissioner S. Carter responded “That I have been able to find but that is with a board of trustees, that’s what I just got through describing. Regardless of that the board of commissioners of each county it’s their responsibility. So in the counties where you don’t have a board of trustees listed on their website as an appointed a committee, that county is either handing it or not handling it. We haven’t been handling it and that’s nobody’s fault. I am trying to suggest this as a course of positive direction.”

Mr. Ferrell stated “What I want to say to you is to make sure what you current role is in the role of public abandoned cemeteries under general statute 65-111. It says that the board of county commissioners has the following duties: to prepare and keep on record in the office of the register of deeds a list of all public cemeteries in the county outside the limits of the incorporated municipalities, and not established and maintained for the use of an incorporated municipality; to prepared and keep on record in the office of the register of deeds a list of all abandoned public cemeteries; and to furnish the Department and the Publications Division in the Department of the Secretary of State copies of the lists of such public and abandoned cemeteries, so essentially there is a listing requirement that the commissioners have so what you are obligated to do now is to file a listing of these cemeteries located within the county, both with the register of deeds office and the Secretary of State. I believe we spoke and you said there is a list that has not been updated in some time.” Commissioner S. Carter responded “Undetermined.” Mr. Ferrell continued “Yeah.” Commissioner S. Carter responded “Undetermined.” Mr. Ferrell continued “Undetermined but there is a listing so that’s your obligation. The trustee appointment process and the work of the trustees can be broader than that listing but that listing is an obligation.” Commissioner S. Carter responded “113 also.” Mr. Ferrell stated “Well it says the county commissioners or 65-113 says the county commissioners of the various counties are authorized to oversee all abandoned public cemeteries in their respective counties, to see that the boundaries and lines are clearly laid out, defined, and marked, etc. so you are authorized to do that if you want to exercise your authority.”

Commissioner Oestreicher stated “It does not say obligated, it says authorized.” Mr. Ferrell responded “That’s how I read it; I read that you are obligated to do the listing in 65-111 and then you have additional authority should you choose to exercise it in 113.”

Commissioner Hall asked “Define public cemetery?” Mr. Ferrell responded “That’s a good question…” Commissioner S. Carter responded “It’s in the definitions.” Mr. Ferrell continued “It is defined in the statute and it has a particular important definition so a public cemetery is a cemetery for which there is no qualification to purchase, own or come into possession of a grave in that cemetery right so it’s contrasting a public cemetery with a private cemetery that people sell plots in right and then an abandoned public cemetery, the word abandoned is defined as ceased from maintenance or use by the person with the legal right to the property with the intent of not again maintaining the real property in the foreseeable future so that would qualify. An abandoned cemetery is not the family gravesite that’s being maintained and taken care of by the current owner…” Commissioner S. Carter stated “The key word there is maintained.” Mr. Ferrell continued “of the property, right, but it would be that cemetery rather that’s fallen to disrepair and neglect and maybe even is not noticed as a cemetery by the current owner right so those are the definitions.” Commissioner Hall stated “On private property.” Mr. Ferrell responded “Yes, that’s right. Let me see, obviously if it’s a public cemetery…if it is on public property I would assume it would be a different classification, we know that was there and we would have the obligation if a public entity so if the county board of commissioners for instance owned the property where a cemetery was located I guess the presumption is it’s being maintained or you know it would not be abandoned but I guess it could be.” Commissioner Hall continued “Not in the case of a slave cemetery. I don’t want to open a can of worms here but the county owns some property and there is a slaves cemetery on it and it was plowed over so that is why I was trying to get a good definition here.” Mr. Ferrell responded “Sure and I don’t know if the definitions address that particular question. I think I assumption was that it would be maintained if it was publicly owned, I guess that was a poor assumption that the public cemetery just simply says a cemetery for which there’s no qualification to purchase, own, or come into possession of a grave. Some local governments maintain public cemeteries right and to the extent that public cemetery was abandoned at some point it would qualify under the definition.”

Commissioner S. Carter stated “We have a situation of that in this county and I don’t know if you all are aware generally and this is historically there were county poor houses right for mentally ill individuals, for unclaimed individuals, for orphans, and for sick and old handicapped, etc. you name it they were there, they were the unclaimables basically, nobody wanted them. The counties were charged with taking care of them. This authority ceased years and years ago but there is that I know of 2 cemeteries, one at the old fairgrounds and one next to Oakwood Elementary School. The Board of Education owns this property and I am not pointing fingers and saying what could of, should of, happened back in the day but this county is supposed to be taking care of those people right now and they are in the middle of the woods and this would address that.”

Commissioner Oestreicher stated “Just to think out loud here…” Commissioner S. Carter responded “Yes sir.” Commissioner Oestreicher continued “Would it make sense to…because this sounds like an issue that needs a lot more understanding, more applications, and some more research, would it make sense to appoint a study committee to come up with a recommendation on how to put this together in a way that complies with these as well because I don’t think we are going to reach a conclusion tonight.”

Chairman McVey stated “I’m concerned, still concerned, I like Mr. O’s idea, I’m concerned where it comes to the point if there’s hundreds of these things out there how much money are we going to get into, taxpayer money…” Commissioner Hall responded “May I ask general counsel a question, what is the responsibility currently of the property owners, being a municipal government, county or whatever, what is their responsibility for these cemeteries?” Mr. Ferrell stated “Right so the criminal laws essentially says that you can’t desecrate or deface the gravesites so I would say if the floor is that you cannot intentionally desecrate or degrade a gravesite so that’s, you know, that’s what you can’t do, that’s what the criminal law prohibits and there are similarly restrictions against plowing over known gravesites as well and so there are some protections for the interment right that essentially says that if you’ve got a known gravesite it needs to remain protected and if it is going to be moved and they do allow for graves to be moved, the state law recognizes that there may be a time for utilities for instance and for other purposes where you need to relocate them there is a process of the relocation. There is an obligation that you don’t desecrate, there’s an obligation that you don’t plow under or remove known gravesites and that sort of thing. There is a strong public policy desire to have, you know, marked and laid out and cemeteries that have some beautification, there’s a policy for that, I think the Department of Archeology would certainly say that and support these efforts but there’s no requirement that, you know, a property owner do that.”

Commissioner Hall asked “Is there a flow for obligation?” Mr. Ferrell responded “You know that’s a good question and I think if there is there would be some type of tort that a potential family member may have against someone but there is not duty to maintain, there’s no duty of a landowner to maintain and I don’t know if that causes that person to be viable. What I will say is if a relative or next of kin knows of a gravesite there is a court procedure and action that can be brought that would allow them to enter private property for the purposes of visiting the gravesite and I think also to the extent of doing some landscaping and it’s subject to the court’s discretion that would allow them to themselves to take the obligation to protect the graveyard if you will or to fix it up but that is the right of the next of kin to go through that process. It wouldn’t be that a landowner would have to do it themselves.”

Commissioner S. Carter asked “May I, may I read an example to what Transylvania County does?” Chairman McVey responded “Please.” Commissioner S. Carter continued “This is for the board of trustees and they just have the following description on here for what they do. They review and maintain a list of the cemeteries. They determine the county’s role regarding protection and maintenance and they make recommendations for that but we don’t have to accept stuff like that, it’s a recommendation. They layout, define and mark boundary lines, chain, string, just to show that it’s in the woods, they can do that. And they encourage, this is the key for what you are talking about as far as finances go, they encourage protection and maintenance, they are not forcing it, they are not going to come to you and say you have to do this. They can encourage the public and the property owners to protect and maintain these places. They develop a public information program, letting people know that this is a relevant topic. They investigate and report encroachment of the cemeteries, Prospect Hill is a good example of it, the bulldozed it, that’s an encroachment. And then they prepare and keep a list of all public cemeteries, these are the church cemeteries, the family cemeteries, ones that have already been accounted for and surveyed and then they keep that list with the register of deeds and then they send a copy to Raleigh. That’s all they do. I really…and respectfully…I don’t see why we need a study committee to…to do something like that.” Commissioner Oestreicher responded “That’s a pretty extensive list and controversial.” Commissioner S. Carter stated “I don’t see it as controversial as you may see it. I think it’s more so what I am saying and I think there’s a procedure for these type of instances and counties are doing it without hindrances really, you know, and if a board of trustees is not doing it, you know, our minimal role in this statute is to now compile a list. That’s where we are at.”

Commissioner W. Carter moved, seconded by Commissioner Oestreicher to table this until a later date to get more research and further review.

Commissioner S. Carter stated “I would respectfully ask a list of points you would like for me to research to bring back. I really don’t know what else I need to provide.” Commissioner Oestreicher responded “That’s part of the motion.” Commissioner S. Carter continued “What is? What information do you need? I am happy to do this, I just need to know what because we are going to come back to our next meeting and nothing will have happened, with all due respect.” Commissioner Oestreicher responded “With all due respect, that’s why I wanted a study committee to get together to give you that.” Commissioner S. Carter stated “Okay. I am happy to do whatever in the form of a committee or as an individual.” Commissioner Oestreicher responded “We have a motion on the floor.” Commissioner S. Carter continued “And I’m discussing that motion at the moment and I would ask the member of this Board that want to table this, what else can I provide for you because I won’t have anything else to bring at the next meeting otherwise. What am I researching?” Commissioner W. Carter responded “Well we need to look at the cost and I will use the Town of Yanceyville as an example, when the Methodist church folded the Town of Yanceyville ended up having to take the cemetery over.” Commissioner S. Carter stated “We don’t do municipal cemeteries.” Commissioner W. Carter responded “Well you know it’s going to be different from what the Town of Yanceyville does and what the County does because the town has a set of ordinance and the county has another.” Commissioner S. Carter continued “This has nothing to do with the Town of Yanceyville or Milton.” Commissioner W. Carter responded “I believe you have a motion and a second.” Commissioner S. Carter stated “I am still discussing the motion, please.” Chairman McVey responded “We are still discussing it; we have the right to discuss it.” Commissioner S. Carter continued “My justification is the motion makes no sense unless I can bring some more information for you.” Mr. Ferrell responded “One thing I heard the Board say is or ask for is what other counties other than the three have…what’s their experience with a board of trustees perhaps that would be something that would help the Board reach a decision and I know the county manager’s NCACC group has a really good listserv. Perhaps…I hate to volunteer someone whose not here but perhaps the county manager and/or the clerk, since she’s here I will mention her, can put a question out on the listserv, you know, do any counties have this board, have they appointed this board, and what’s your experience with it. That may solicit some feedback for you, that’s just an idea to look into.”

Chairman McVey asked “Anymore discussion?” Commissioner S. Carter responded “I’ll prepare the same presentation at the next meeting.”

Upon a vote on the motion, the motion carried by a vote of four to two with Commissioners S. Carter and Hall voting no.

RECESS

The Board took a brief recess.

COUNTY MANAGER’S UPDATES

IOS Emails

The clerk stated that the county manager stated that the IOS emails will cost $6.00 per commissioner per month which would total $588 for the year and this amount could be covered in the current budget and that a budget amendment would be coming back before the Board for approval to move money from one line item to another.

Bartlett Yancey H.S. Project Manager

Mr. Ferrell stated that as a component of the Bartlett Yancey High School project this Board and the School Board agreed to engage an independent project manager separate and apart from the architect to oversee the owner’s interest which is both the county’s and the School Board’s interest in the implementation of the high school project. He added that this person will make sure that the project is on time, on schedule and the monetary matters. Mr. Ferrell stated that the School Board has identified the company of LT Consulting and Mr. William Powell who is the principle there for the project manager role and he added that the county manager shared with him Mr. Powell’s credentials and it is an impressive role of experience over a career of building school buildings in North Carolina. He added that he is happy for Dr. Carter to mention or discuss any other credentials or information she has about Mr. Powell and his firm. Mr. Ferrell stated that from the information that he has reviewed the firm is well qualified to serve the county.

Dr. Carter stated that Mr. Powell works extensively with Surry County Schools and in fact Mr. Powell was under contract with Surry County last year and just finished this project. She added that the superintendent of Surry County called and said that now is the time to get Mr. Powell because he will get another job very quickly. Dr. Carter stated that Mr. Powell works with Mt. Airy Schools, Surry County Government, and Winston-Salem Forsyth. She added that Mr. Powell is willing to come to Caswell County and work. Dr. Carter stated that she and Bryan Miller met with Mr. Powell in October and hopes to move forward with him. She stated that the Board of Education has approved working with Mr. Powell pending Board of Commissioners approval.

Mr. Ferrell stated that the next step is to present a contract and he added that he thinks it would be appropriate for the Board to authorize staff to enter into contract negotiations with Mr. Powell. He added that the contract would be brought back before the Board for final approval.

Dr. Carter stated that one of the discussions that she and Bryan Miller had because the county is not sure of the financial track and because Mr. Powell will not be unemployed long, if the Board would be agreeable to allow the Board of Education to contract with Mr. Powell pending that Mr. Powell give the Board of Commissioners quarterly updates or whatever the Board would like to see. She stated that this would speed up the process so Mr. Powell will not be picked up by another district.

Mr. Ferrell stated that staff would make sure that the county’s interest and project review are addressed in the contract.

Dr. Carter stated that one of the things that Mr. Miller stated was that Mr. Powell would give at least quarterly reports to the Board of Commissioners as far as a cost analysis on the budget for the project.

Commissioner S. Carter asked “Do you have a question Mr. Oestreicher?” Commissioner Oestreicher responded that he would go after Commissioner S. Carter. Commissioner S. Carter continued “I was going to make a motion unless you had some questions.”

Commissioner Oestreicher stated that he presumes from what he is hearing that Bryan Miller is in full agreement. Dr. Carter responded yes. Mr. Ferrell responded that Mr. Miller had indicated that to him as well. He added that he has been working mutually with Dr. Carter on this and that they sat down with the consultant. Commissioner Oestreicher stated that he hears that the School Board will begin contract negotiations to assure that the county can get this individual with the provision that the Board of Commissioners can have input in the roles, responsibility, duties, reports, etc. if the Board does not decide to do a joint contract. He added that he is just a little “fuzzy” on this. Mr. Ferrell responded that the signatures in this structure would be the school board and the consultant. He added that the county would be a third party beneficiary in this agreement. Commissioner Oestreicher asked if Mr. Miller is okay with not defining what the Board’s interest look like in this contract. Dr. Carter responded that this was Mr. Miller’s suggestion. Mr. Ferrell stated that the Board would need to define the roles and responsibilities as part of the contract.

Dr. Carter stated that she has met several times with Mr. Miller and they know that the Board of Commissioners and Board of Education are in this project together and are working together and both of them can report to the boards together. She stated that the point is the county needs to contract with Mr. Powell before he is picked up by another district.

Mr. Ferrell suggested the Board give an authorization to proceed with the selection subject to a final review of the agreement. He asked Dr. Carter if this would be doable. Dr. Carter responded that Mr. Powell has already given the School Board a draft that he uses with the other districts and it can be tweaked as needed. She added that she thinks if Mr. Powell can have something within the next week or so it will be okay. Mr. Ferrell stated that the Board can give authorization to proceed with this contractor subject to the final review of the agreement with the Board and the Board of Commissioners. He thinks the Board needs to be allowed to make revisions to the agreement. Mr. Ferrell stated that the Board would essentially assist the School Board in negotiating the contract.

Commissioner Oestreicher asked if the Board needed to make a motion or a consensus. Mr. Ferrell responded that the Board could move to select the vendor to give some assurances to Mr. Powell and his firm and this will buy the Board some more time to finalize the terms of the contract.

Dr. Carter stated that Mr. Miller said even this evening that it could be added in the contract that Mr. Powell will come to the Board’s meetings at least quarterly at the 9:00 meetings to give a face to face update on the budget and then as needed beyond that.

Mr. Ferrell stated that the proposal includes an hourly rate so the Board needs to consider this when requesting deliverables on reporting and attendance.

Commissioner Oestreicher asked what the motion would sound like. Mr. Ferrell responded that one approach could be to authorize the county manager and county attorney to proceed with LT Consulting and work with the School Board on the contract terms. Commissioner Oestreicher asked if the word ‘pending’ could be included in this instead of ‘work with’. Mr. Ferrell responded that this could be done because the Board will have to be mutually agreeable to the terms. He added that the contract that he has seen is fairly straightforward and he did not think the Board would get caught in any contract negotiations surprises. Mr. Ferrell stated that the motion could be to authorize the School Board and the County to proceed with LT Consulting pending successful negotiation of contract terms. Commissioner Oestreicher stated that ‘to include the county’s input’ should be added to the motion.

Dr. Carter stated that if she knows what the county’s input is she can make sure that it is included in the agreement. Mr. Ferrell responded that what he suggests is that the manager has some definite ideas about this and he does as well and he suggested that Bryan Miller gives Dr. Carter a bullet point list that he will help with this and it would be included in the agreement. He added that Mr. Miller had mentioned the quarterly meetings to him, an up to date budget, and there may be a number of things that Mr. Miller has specifically in mind and he thinks these items can be sent to Dr. Carter within the next day or two.

Dr. Carter asked the Board if it would be willing to allow the Board of Education to enter into this contract pending approval from the county manager and county attorney so that this agreement does not have to wait until the next commissioner meeting to move forward with the contract. Mr. Ferrell responded that there are a number of ways that this can be done. He added that if the county is recognized as a third party vendor to the agreement and the county’s interests are properly documented that from a legal perspective whether or not the School Board signs the agreement as long as the Board of Commissioners has a vested interest in the contract and a right to proceed under it legally speaking he thinks this is fine.

Commissioner Oestreicher moved, seconded by Commissioner S. Carter to offer the motion as worded by general counsel. The motion carried unanimously.

Dr. Carter stated that she wanted to understand the motion. She stated that the School Board will write up the contract and make sure that Bryan Miller and Brian Ferrell agree to the terms in the contract, the County and the Board of Education can go ahead and enter into the contract with Mr. Powell. Commissioner Oestreicher responded yes. Mr. Ferrell responded that this is right. Dr. Carter stated thank you.

Gatewood Industrial Park

Mr. Ferrell stated that a couple of meeting back the county manager got the Board’s consent to assist a potential purchaser of two lots in the Gatewood Industrial Park with a resolution that specifically said the intended uses of the new business into the park were consistent with the terms of restrictions so that the potential purchaser could be assured that this business is permitted under the set of covenants that encumbered the property now. He had that the purchaser has now performed a title search and looked at a number of other due diligence items related to the park and is still very interested in locating the business there but in the title search they ran into a couple of issues that they are asking for some help in resolving and the county manager previewed one of these issues to the Board. Mr. Ferrell stated that there is an easement that essential bisects the two parcels that this business proposes to buy and has under contract that was put on record presumably for future expansion of this park but right now it is an easement to nowhere. He added that the potential property owner is asking that the County formally terminate that easement so it can be removed as an exception to their title insurance policy. Mr. Ferrell stated that the covenants have a provision that an owner can’t lease the property and the general provision for most companies is they buy a piece of property as an LLC and then lease it to their operating company and they would like for this provision to be removed as well. He added that this company would like to tweak the covenants to remove some of the issues with their title insurance policy and these make sense to Mr. Ferrell as to why this company is asking for these to be removed. Mr. Ferrell stated that the process not only requires the county to approve an amendment to the covenants but also 50% of the owners in the development must also approve this. He stated that he has been talking to this company’s lawyer and they would like some feedback that the county would be willing to consider an easement termination document and willing to consider some amendments or changes to the covenants that would enable this business to operate in this park in a way that makes financial sense to them. Mr. Ferrell stated that there is a reasonable amount of drafting and leg work that has to be done but they are just asking for some general feedback that the Board would be willing to offer these things.

Commissioner S. Carter stated “Not to go over the specific incidence but I think with that last presentation, the last request we received there’s not a lot to this park and I think the covenants are very extraordinary and I don’t see why we need them so my question to the attorney is what would it take to do away them.” Mr. Ferrell responded that the lawyer made a point to him that he thinks there has been some release piece mill over time on these covenants and that some of the properties are not subject to the covenants anymore in this park and has provided a lot of research on this to Mr. Ferrell. He added that some of the covenants are very strict such as the covenant restricting all construction to all industrial use only and suggested that the Board address all the covenants on the park. Commissioner S. Carter continued “I would just much rather do that rather than us doing this a little bit at a time and basically tear it down at one time and that’s where I am coming from.” Mr. Ferrell responded that some of the owners out there may not agree that terminating the whole covenants is the best way but feedback can be gathered on this. He added that the buyer’s lawyer is doing the drafting at this point so it may be a time to look at some of these things when someone else is spending the time to do this.

Commissioner Hall stated that the Board can do two things tonight, first the Board can respond to general counsel on the Board’s feelings on the request by the perspective buyer and the second is rather than to burden general counsel with all the research have the county manager talk to the planning department to do this all this leg work that needs to be done. Mr. Ferrell responded that he has been forwarded maps, covenants, deeds, a nice package that the buyer’s lawyer has put together and he would be glad to pass this along to the manager and planning director to do through and maybe even the economic developer would have some suggestions about this. He added that if the Board is willing to consider this the buyer’s lawyer is willing to start the draft.

Commissioner Oestreicher stated that he is in line with Commissioner Hall. He added that it is kind of important to get the consensus from the existing property owners and if they agree to this that would be key. Mr. Ferrell responded okay. Commissioner Oestreicher stated that he liked the idea of involving the county planner and taking the lead on the investigation.

Chairman McVey asked if a motion was needed on this. Mr. Ferrell responded that a motion was not necessary but he wanted to make sure that everyone is comfortable with moving forward. There was a consensus from the Board.

Building Inspections Monthly Report

Commissioner W. Carter stated that the Building Inspection report is a good detailed report but he noticed as far as economic development in October of 2018 there were 91 permits issued and in October of 2019 there were 140 permits issued and that is quite a significant increase. He added that the fees collected were $903,741 in October of 2018 and $2,243,019 in October of 2019 so it almost doubled if this report is correct. Commissioner W. Carter stated again that it is a good detailed report.

Commissioner S. Carter stated “They are seeing improved growth.”

Commissioner Hall suggested that someone double check these dollar figures. Chairman McVey asked the clerk to have someone to take a look at the building inspections figures to make sure they are correct.

ANNOUNCEMENTS AND UPCOMING EVENTS

 A. Employees Appreciation Luncheon – Wednesday, December 4, 2019 - 12:00 p.m. –

 3:00 p.m. – Civic Center

 B. Yanceyville Tree Lighting & Winter Lights Trail – Friday, December 6, 2019 –

 6:30 – 9:00 p.m.

 C. 12 Days of Caswell Christmas Parade – Saturday, December 7, 2019 at 10:00 a.m.

Commissioner S. Carter stated “I just wanted to say, the same day as the Christmas Parade in Yanceyville, that afternoon starting at about 1:30 and lasting basically to about 5:30 or 6:30 there will be Christmas in Milton and there will be various things to do within the Town and I would encourage the public and anybody on the Board that would have time that day, it’s a nice environment to attend.”

Commissioner W. Carter stated that he has noticed that all the gambling places in the county are now closed. Commissioner Oestreicher responded that there were 67 in the county.

ADJOURNMENT

At 8:00 p.m. Commissioner W. Carter moved, seconded by Commissioner Oestreicher to adjourn. The motion carried unanimously.

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Paula P. Seamster Rick McVey

Clerk to the Board Chairman

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