MINUTES – APRIL 5, 2021

The Caswell County Board of Commissioners met in regular session at 9:00 a.m. on Monday, April 5, 2021. The meeting was held electronically using Zoom Webinar software. Members present: David J. Owen, Chairman, Jeremiah Jefferies, Vice Chairman, William E. Carter, John D. Dickerson, Nathaniel Hall, Rick McVey, Steve Oestreicher. Also, present: Bryan Miller, County Manager, Brian Ferrell, County Attorney, Matthew Hoagland, Planning Director, A.J. Fuqua, Solid Waste Director, Barry Lynch, Emergency Services Director and Debra Ferrell representing The Caswell Messenger. Paula P. Seamster, Clerk to the Board, recorded the minutes.

WELCOME

MOMENT OF SILENT PRAYER

Chairman Owen welcomed everyone to the April 5, 2021 Board of Commissioners meeting and added that the next Board of Commissioners meeting will be held at the Historic Courthouse at 6:30 p.m.

Commissioner Oestreicher ask what the regulations say about how many people would be able to attend the meeting. Chairman Owen responded that staff would be talking with the Health Director about this, there will be spacing requirements and the information will be sent out with the agenda packet.

Commissioner Carter asked if Zoom would still be available. Chairman Owen responded yes but there may be issues with it due to the connectability at the Historic Courthouse

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

PLEDGE OF ALLEGIANCE

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

PUBLIC HEARING – UNIFIED DEVELOPMENT ORDINANCE AMENDMENTS TO ARTICLES 1, 2, 3, AND 6

Commissioner McVey moved, seconded by Commissioner Oestreicher to enter into Public Hearing on the Unified Development Ordinance Amendments to Articles 1, 2, 3, and 6. After a roll call vote, the motion carried unanimously. (Commissioners Carter, Dickerson, Jefferies, Hall, McVey, Oestreicher, and Owen voted in favor.)

Mr. Matthew Hoagland, Planning Director, stated that he did not receive any public comments for this public hearing on the Unified Development Ordinance Amendments to Articles 1, 2, 3, and 6. He stated that the North Carolina General Assembly voted in 2019 to recodify all the planning and land use regulations from NCGS 153A to NCGS 160D and the effective date for this would be July 1, 2021. Mr. Hoagland stated that the Planning Board reviewed and approved Articles 1, 2, 3 and 6 of the Unified Development Ordinance. He stated that there are three types of changes in the Articles: 1) simple text revisions to change NCGS 153 to NCGS 160D; 2) substantial test references; and 3) local policy changes that the Planning Board recommended. Mr. Hoagland thanked the Planning Board and Commissioner Oestreicher for their work on these amendments. He stated that he would be happy to answer any questions from the Board.

Chairman Owen asked if Mr. Hoagland would go through the changes in the Articles.

Mr. Hoagland stated that in Article 1 there were a few simple text revisions from Chapter 153A to Chapter 160D in Section 1.2 Authority, 1.4.2.1 and 1.4.2.2 under Exemptions. He stated in Section 1.12.5.4 Conditional was changes to Special use Permit or Temporary Certificate. Mr. Hoagland stated under Section 1.13 Fees there was a new provision added: “1.13.2.The County shall provide notice to interested parties of the imposition of or increase in fees or charges applicable solely to the construction of development subject to subdivision regulations at least seven (7) days prior to the first meeting where the imposition of or increase in the fees or charges is on the agenda for consideration. The County shall employ at least two of the following means of communication in order to provide the notice required by NCGS 160D-805: 1) Notice of the meeting in a prominent location on a web site managed or maintained by the County. 2) Notice of the meeting in a prominent physical location, including, but not limited to, any government building, library, or courthouse within the planning and development jurisdiction of the County. 3) Notice of the meeting by electronic mail or other reasonable means to a list of interested parties that is created by the County for the purpose of notification of public meetings. During the consideration of the imposition of or increase in fees or charges as outlined above, the County shall permit a period of public comment. This section shall not apply if the imposition of or increase in fees or charges is contained in a budget filed in accordance with the requirements of NCGS 159-12.” and then 1.13.2 was therefore changed to 1.13.3. He stated that at the very end a sentence was added to Section 1.14 Effective Date. “Revisions to this ordinance made for the purpose of compliance with North Carolina General Statutes found in Chapter 160D shall not nullify the effective date of September 16, 2013.” Mr. Hoagland stated in Article 2 there were a simple text revision from NCGS Section 153A-452 to 160D-921 in Section 2.12.1. Prior to Development and at the end of the Article in Section 2.13 Exemption of Electric Facilities there is a reference to the HIDO. He stated that the last sentence was removed and the following sentence was added “Developers of both customary and renewable energy generating facilities shall consult Article III, Chapter 14, of the Caswell County Code of Ordinances prior to development.” Mr. Hoagland stated that there was simple text revision in 3.1.2.1 and 3.4.2.1. under 3.4.2 Powers of the Board of Adjustment to change conditional to special, in Section 3.3 Planning Board NCGS 153A-321 was changed to 160D-301, in Section 3.4.1. Establishment of Board of Adjustment. NCGS 153A-345 was changed to 160D-302 and a substantial change in Article 3 under Section 3.1 UDO Administrator. “3.1.2.5.Make no administrative decision required by this Ordinance if the outcome of that decision would have a direct, substantial, and readily identifiable financial impact on the UDO Administrator. The same standard shall apply if an applicant or the person subject to that decision is a person with whom the UDO Administrator has a close familial, business, or other associational relationship. If the UDO Administrator has a conflict of interest under this section, he/she may designate other Planning Department staff for the administrative decision, but all conflict of interest requirements shall apply to that designee as well. If a conflict cannot be resolved by the UDO Administrator or their designee, the decision shall be assigned to the County Manager. All other provisions of NCGS 160D-109 shall apply to this section.” and in Section 3.2 Board of Commissioners with the following statement added “A Board of Commissioners member shall not vote on any legislative decision regarding a development regulation adopted pursuant to this Ordinance where the outcome of the matter being considered is reasonably likely to have a direct, substantial, and readily identifiable financial impact on the member. A governing board member shall not vote on any zoning amendment if the landowner of the property subject to a rezoning petition or the applicant for a text amendment is a person with whom the member has a close familial, business, or other associational relationship.” He stated that at the end of Article 3 Section 3.5 Oaths of Office was added “Section 3.5 Oaths of Office. All members appointed to boards under this Article shall, before entering their duties, qualify by taking an oath of office as required by G.S. 160D-309.” Mr. Hoagland stated that in Article 6 in Section 6.1 Introduction and Section 6.17.2, conditional was changed to special and the last revision was in Article 6 under Section 6.13 Homes for the Aged, Clinics, Sanitariums a sentence was added at the end: “A “Temporary Health Care Structure” may be constructed in accordance with NCGS 160D-915.”

Chairman Owen asked the Board if there were any questions on the amendments.

Commissioner Hall asked if in Article 3 where it talks about conflicts of interest and the recusal from voting if this also applied recusal from discussions. Mr. Hoagland responded that this was a great question and added that he copied the text verbatim from state law. Mr. Ferrell stated that the prohibition of a voting member removing himself from voting would also recuse himself from any discussion on the issue and added that his recommendation would be that the recused member would not take part in the discussion either.

Chairman Owen asked the clerk if she received any public comments for the public hearing. The clerk responded that she did not receive any public comments for the public hearing.

Mr. Ferrell stated that the Board would need to leave the public hearing open for 24 hours to receive public comments before the public hearing could be adjourned due to the meeting being a remote meeting. He added that action could be taken at the next Board.

Chairman Owen closed the public hearing after the 24 hours period for receiving public comments.

PUBLIC COMMENTS

The clerk read the public comments received:

“Anita Foust. Dear Caswell County Commissioners: I hope that you are well. There recently has been EVIDENCE that a lion is loose in Caswell County. A lion is loose in Caswell County and there has been a wolf attack at the “Animal Park” at the Conservator’s Center located on Hughes Mill Road.  Ownership of exotic animals is handled locally and not regulated at the state level in NC. Bills are often introduced to change this, but none have seen very much success so far in the General Assembly. As a visually challenged person, I am unsafe to go outdoors to enjoy my own property because of this public nuisance. Our community members definitely are uncomfortable letting our children and grandchildren from playing outside. Formal Safety Requests Please convene a special public hearing, with time for public comments. Until the Conservator’s Center (Conservator) is moved or closed down, we need alarms that can be heard in the community to let us know when something has attacked a worker, escaped, and etc., DNA records of all of the animals at the Conservator, no additional exotic animals who attack humans are allowed at the Conservator, if an animal leaves or dies, no more animals can come into the Conservator,  and a shoot to kill policy needs to be enforced for all “exotic” animals to keep human life safe. Additional requests are forthcoming. The Conservator, according to the news, has been cited several times for safety violations and concerns. [Wolves bite keeper at Conservators Center two years after fatal lion attack](https://www.thetimesnews.com/story/news/2021/03/22/wolves-bite-keeper-conservators-center-site-fatal-2019-lion-attack/6956598002/). The Department of Labor is investigating this. We need action NOW to keep us safe!

Lion. March 15, 2021, an article in the Casswell Messenger, a local newspaper, reported that a Caswell County citizen reported a lion in her backyard. Here is the link to the Caswell Messenger article: [https://www.facebook.com/100027862053196/posts/821638438774884/?sfnsn=mo](https://urldefense.com/v3/__https:/www.facebook.com/100027862053196/posts/821638438774884/?sfnsn=mo__;!!HYmSToo!I29iX201jYVWEgkC-j-4vo1Pg7hZfxOX6GetxjUWTDtB6EX531XrwGS75kHgJHxGJQ$)Wolves Attack This weekend there was a human attacked by two wolves.Wolf attacks worker at Piedmont Triad wildlife preserve where lion killed intern in 2018**.** [Wolf bites worker’s arms, leg at Conservators Center](https://myfox8.com/news/wolf-bites-workers-arms-leg-at-conservators-center/). <https://myfox8.com/news/wolf-bites-workers-arms-leg-at-conservators-center/>. My concerns have been taken VERY lightly. Are you waiting for a tragic regrettable “accident” to happen to our children before you do your fiduciary duty to protect the public, specifically, the residents who have been forced by the Caswell County Government to live next to and around this public nuisance, on Hughes Mill Road and Ross Acres 1 and 2, without any notice? Don’t wait until another one of our children is [eaten alive](https://urldefense.com/v3/__https:/www.witn.com/content/news/Lion-escapes-kills-22-year-old-intern-at-North-Carolina-wildlife-conservatory-503692321.html__;!!HYmSToo!I29iX201jYVWEgkC-j-4vo1Pg7hZfxOX6GetxjUWTDtB6EX531XrwGS75kGANoEK-g$). Please respond to my requests via email. Thank you.”

“Tracy Shoffner. Dear Caswell County Commissioners and Planning Board. Thank you for being able to provide Zoom during this time of the pandemic. I am requesting for you to continue providing Zoom calls even after the pandemic restrictions are considered to no longer be needed. Those of us who do not have transportation from different areas of the county to get to Yanceyville are helped by being able to dial-in to the meetings. Also being able to send in public comment and to allow others to read it for us during the Zoom call is a great help. Please keep the Zoom calls even after the pandemic restrictions are over. Thank you.”

“Rufus Knight. Dear Caswell County Commissioners and Planning Board. The Center for Disease Control (CDC) lists many respiratory conditions implicated in PM such as asthma and chronic lung disease as risk factors for COVID-19. This means it is an especially dangerous time to introduce air pollution into Black communities because of the added risk of developing COVID-19. Keep this community from Other Peoples Pollution (OPP). Thank you.”

“Could not read signature. Dear Caswell County Commissioners and Planning Board. As early as April 2020, it was observed that Black people were dying from COVID-19 at higher rates than white people, and data through the end of May 2020 showed that Black and Latinx people were three times as likely to become infected with COVID-19 and twice as likely to die from it. Even COVID-19 deaths among people under the age of 21 have been disproportionately Black and Latinx. This staggering reality underscores how the racialized health disparities in the US are exacerbated during this pandemic. In fact, the healthcare data firm JVION aggregated socioeconomic and environmental information from US Census block data to identify “populations that once infected will likely experience severe outcomes ranging from hospitalization to mortality” to create a COVID-19 vulnerability map, and it rates Caswell County (where Burlington is located) as having extremely high vulnerability. To add a facility that produces more air pollution and particulate matter in a largely Black community would put them at even greater risk of death and other illnesses during this pandemic. Keep this community from Other Peoples Pollution (OPP). Thank you.”

“Anonymous. Dear Caswell County Commissioners and Planning Board. This comment is to acknowledge that the Zoom calls have really come in handy and to ask you to continue this process after the pandemic restrictions have been lifted. Those of us who are sick, and shut-in are now able to call-in through Zoom by our telephones. This has been a real help. Please keep the Zoom calls after the pandemic is over. Thank you.”

“Anonymous. Dear Caswell County Commissioners. Thank you for your help during the pandemic. One good thing that came out of the pandemic has been Zoom calls for Caswell Government meetings. Please continue having Zoom calls once the pandemic is over. It really is a blessing to be able to call in the meetings and to email in public comments that are read for the citizens. This is a great thing that we should keep. Please take this into consideration and keep the Zoom calls. Thank you.”

“Anonymous. Dear Caswell County Commissioners and Planning Board. Particulate matter in the air causes health risks, and these risks are disproportionately shouldered by Black people. Both facts are exacerbated by the COVID-19 pandemic, making it clear that an asphalt plant that emits particulate matter in Burlington, North Carolina would pose an unacceptable level of risk of disease and death to the community. Keep this community from Other Peoples Pollution (OPP). Thank you.”

“Dr. Elin Claggett, residing at 108 Jaye Lane, Providence. Dear Commissioners: The Board of Education fully understood the intent for the $50,000 scholarship was to be used for one student and this is made clear by their vote to approve this motion on Dec 12, 2020.  However, after a series of meetings, the final outcome was to use our money as seed funds for a scholarship and $1,800 interest be given as scholarship fund, starting next year. I emailed you all the documentation from their minutes. Your discussion and decision didn’t matter. The Superintendent and Board of Education did what they wanted. Similarly, the majority of Commissioners last meeting made it quite clear that the Clerk to the Board did not work for the County Manager. However, the posted job description completely disavows your intent. The job is advertised as Clerk to the Board of County Commissioners & Assistant to the County Manager. The first paragraph reads “The position requires that use of considerable judgment and independent action and may include the delegation of work to others as directed by the Board of County Commissioners AND the County Manager. Your discussion and decision didn’t matter. HR and County Manager did what they wanted. On the opposite end of the spectrum, large ticket items are not discussed publically at any length. The Detention Center was sold as a money maker but loses $400,000-$600,000 annually plus the $800,000 debt service for total of $1.2-1.3 million each year. There was virtually zero public discussion on this during last year’s budget process. How many more years will this loss continue? Last meeting, 17 additional Sheriff’s vehicles were requested. Previous Dodge Durangos cost $40,768 each. 20 new vehicles were purchased/leased in 2019-2020 increasing their fleet to 38 purchased within the past 5 years and a total of 57 vehicles. There are only 17 Patrol Deputies divided across 5 shifts. You’ve given more discussion to the decision about donating an outdated iPad to the Historical Association. These are only recent examples. Who’s running the show and where is the follow-up and accountability?”

“Reverend Bryon Shoffner. The purpose of the EA or EIS is to describe the project’s direct, secondary, and cumulative impacts on, but not limited to the following: Air Quality, Water Resources (ground water and surface water), Noise. I ask that all industries especially pollutant industries complete an EIA, EA and EIS.”

Chairman Owen closed Public Comments.

RECOGNITIONS

Chairman Owen stated that this will be the last meeting for the clerk, and he thanked her for her over 10 years of service and wished her the best with her new endeavors. He thanked her for all that she had done.

Commissioner Carter recognized Paula Seamster for the job that she had done for over 10 years and added that she had gone over and beyond and added that the Board would miss her but wished her well at her new job.

ACTION ITEMS

APPROVAL OF AGENDA

Commissioner Dickerson requested to add to the agenda a discussion on the job posting for the Clerk to the Board. He stated that there were some errors in the post that several of the Board members thought were going to be removed and it was not the intent of the Board at the last meeting. Chairman Owen responded that he did not have a copy of the job description. Mr. Miller stated that this could be added as Agenda Item 13.

Commissioner Dickerson moved, seconded by Commissioner McVey to approve the agenda as amended. After a roll call vote, the motion carried unanimously. (Commissioners Carter, Dickerson, Hall, Jefferies, McVey, Oestreicher and Owen voted in favor.)

BOARD MINUTES

Chairman Owen asked if there were any corrections to the March 15, 2021 Regular Meeting Minutes. Chairman Owen stated that with no corrections the Minutes stand approved as written.

RESOLUTION SURPLUSING AND DONATING AN UNUSED AND OBSOLETE IPAD TO THE CASWELL COUNTY HISTORICAL ASSOCIATION

Mr. Miller read the resolution:

RESOLUTION SURPLUSING AND DONATING AN UNUSED AND OBSOLETE IPAD TO THE CASWELL COUNTY HISTORICAL ASSOCIATION

WHEREAS, the Caswell County Historical Association has requested an iPad be donated to their organization from surplus to facilitate credit card transactions to decrease the use of paper money therefore reducing the probability of transmitting viruses through these transactions; and

WHEREAS, NCGS 160A-280. Donations of personal property to other governmental units allows Counties to donate to other government units within the United States, a sister city, or a nonprofit organization incorporated by (i) the United States, (ii) the District of Columbia, or (iii) one of the United States, any personal property, including supplies, materials, and equipment, that the governing board deems to be surplus, obsolete, or unused; and

WHEREAS, the Caswell County Board of County Commissioners purchased iPads for use as commissioners in 2016; and

WHEREAS, The Caswell County Board of County Commissioners purchased Surface pros in 2020 to replace the aging equipment and are discontinuing the use of iPads; and

WHEREAS, the equipment has reached the end of its useful purpose, most will remain unused, and are becoming obsolete; and

WHEREAS, any disposition must be proceeded by a resolution authorizing the transfer of personal property, including supplies, materials, and equipment, that the governing board deems to be surplus, obsolete, or unused;

NOW, THEREFORE, be it resolved, that the Caswell County Board of Commissioners does surplus and donate one (1) unused and obsolete iPad from the commissioners’ allotment to the Caswell County Historical Association:

This the 5th day of April, 2021.

S/David Owen\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

David Owen, Chairman

Caswell County Board of Commissioners

Attest:

S/Paula P. Seamster\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Paula P. Seamster

Clerk to the Board

Commissioner Carter moved, seconded by Commissioner McVey to approve the resolution as presented by the county manager. After a roll call vote, the motion carried unanimously. (Commissioners Carter, Dickerson, Hall, Jefferies, McVey, Oestreicher and Owen voted in favor.)

STORM DEBRIS – SOLID WASTE

Mr. Miller stated that at the last Board meeting the Board asked for this to be brought back at this meeting to discuss extending the free disposal of storm debris to Caswell County residents. He stated that 200 loads of brush had been delivered by residents to the landfill at an average of 2 tons per load for a total of 400 tons. Mr. Miller stated that his recommendation would be to extend the free disposal of storm debris for Caswell County residents until 12:00 p.m. on Saturday, April 10, 2021.

Commissioner Oestreicher asked when the last use of brush disposal was. Mr. A.J. Fuqua, Solid Waste Director responded the last use was on Saturday, April 3rd.

Chairman Owen called for a motion. No motion was given. Chairman Owen stated that if there was no motion the free disposal of storm debris for Caswell County residents would be stopped. There was no motion given. Chairman Owen considered the item closed.

SOLID WASTE APPROPRIATION

Mr. Miller stated that when the executive order was signed creating a Stay At Home Order for the residents of North Carolina it contributed to the increase of solid waste that was handled by the county which increased the number of hauls with First Piedmont and the county now finds itself with a $354,000 shortfall due to the Stay At Home order resulting from COVID. He asked the Board to appropriate $354,000 from CARES Act money or the current stimulus package to mitigate the results of COVID on the Solid Waste department. Mr. Miller stated that legislation provides provisions of government services to the extent of a reduction in revenue due to the COVID-19 public health emergency relative to revenues collected in the most recent fiscal year and another eligible use covers the cost to respond to the public health emergency or its negative economic impacts. He believed that both situations apply to the current solid waste situation which means that the county would be able to use COVID-19 pandemic relief money to cover the $354,000 shortfall.

Chairman Owen stated that he assumed that the county had all the documentation of the increase available to verify this information. Mr. Miller responded that the finance director and solid waste director had the records and they have seen an increase in the number of hauls.

Commissioner Hall stated that it was understandable that the county had a shortfall, but he asked if staff could investigate the actual cost to the county. Mr. Miller responded that staff did. He added that the finance director and solid waste director had done a great job putting together the number of hauls and tons and there had been a substantial increase per month for each location throughout the COVID-19 time frame.

Commissioner Hall stated that it was understandable that there was a shortfall, but he would like for staff to look at the actual cost to the county because it could be more than $354,000. Mr. Miller responded that staff could look at any related aspects of COVID-19 and how it affected the solid waste department as well.

Commissioner Dickerson asked where the Board could view this presentation. Mr. Miller responded that the information was provided to him, but he could email it out to the Board. Commissioner Dickerson stated that he would like to see that information. Mr. Miller stated that he would email that information out to the Board today.

Commissioner Oestreicher stated that considering Commissioner Hall’s comments he would like to suggest that the $354,000 be increased.

Chairman Owen asked if this could be put on the next agenda for approval to give staff time to investigate Commissioner Hall’s request. He asked if this would create any problems. Mr. Miller responded that this would create some issues with providing payment to First Piedmont and asked Mr. Fuqua how much was due. Mr. Fuqua stated that $57,000 was due now to First Piedmont and around $60,000 would come due before the next Board meeting. Mr. Miller stated that approximately $111,000 would be needed to make the payments to First Piedmont.

Commissioner Carter stated that there was no choice but to pay the amounts due.

Chairman Owen stated that these payments would come out of the CARES Act money.

Commissioner Hall proposed that half of the $354,000 be appropriated to cover the amounts that were due, and this would allow staff time to firm up the numbers before the next meeting.

Commissioner Hall moved, seconded by Commissioner McVey to appropriate $175,000 from CARES Act money for Solid Waste. After a roll call vote, the motion carried unanimously. (Commissioners Carter, Dickerson, Hall, Jefferies, McVey, Oestreicher and Owen voted in favor.)

BOARD OF ADJUSTMENT TERM LIMITS

Chairman Owen stated that the Board of Adjustment term limits had not been set by the Board. He stated that he asked the Planner when he met with the Board of Adjustment to come up with term limits and asked that they be 1 year, 2 year and 3 year terms and added that since there was training involved to disregard the 1 year term this time. Chairman Owen stated that the recommendation from the Board of Adjustment was that Nikki Turner and Stephen Barmann would serve a 2-year term and Ray Shaffner, John Claggett and Tim Yarbrough would serve a 3-year term. He stated that the Board did not have to take a vote on this today.

Commissioner Carter moved, seconded by Commissioner Jefferies to approve the term limits for the Board of Adjustment. After a roll call vote, the motion carried with a vote of six to one. (Commissioners Carter, Dickerson, Hall, Jefferies, McVey, and Owen voted in favor. Commissioner Oestreicher voted against.)

HEALTH DEPARTMENT OPERATIONS

Mr. Miller stated that the Health Department had operated a home health agency for many years and the County has funded approximately $200,000 each year. He stated that the reason the Health Department had home health was because there were no companies within the county and now there are companies within the county that provide home health. Mr. Miller stated that over the last several weeks home health has lost several staff members and the Board of Health approved to place a bid for the County’s certificate of need to assure that the client base would be served. He stated that he knew that some home health agencies had been sold for between $250,000 and $1 million but he was unsure what the county would receive in the bids. Mr. Miller recommended that whatever the agency would sell for that the funds would be placed in the Health Department’s fund balance to be appropriated by the Board of Commissioners as needed. He stated that with the employees that remain that the county pay 2 months of salary beyond the sale of the agency which would be approximately $45,000 and this could come out of the money of the proceeds of the sale. Mr. Miller stated that the Health Director Jennifer Eastwood or himself would be happy to answer any questions. He stated that there is a statutorily defined process that would need to be followed if it is the intent of the Board to follow this path and there are consultants that are well versed on how to proceed with this process and recommended that the Board at least explore the process to engage a consultant to help with this process.

Commissioner Oestreicher asked what the prevalence for outsourcing or the sale of the home health agency throughout the state with other counties, is Caswell the only county doing this or the last one to do it or something in between, what was the estimated time frame necessary to do this, and were there any people interested in purchasing the home health agency. Mr. Miller responded that he was not aware of any agencies that was currently interested but all the agencies that do this type of work would be contacted when it is put out to bid. He stated that several home health agencies within the state that their certificate of need has been bid out and he gave the example of Person County. Ms. Eastwood stated that there were only a few health departments that still have home health agencies in North Carolina. She stated that most of the health departments had offloaded the home health agencies.

Commissioner McVey asked if the sale of the home health agency would be for a few years or for eternity. Mr. Miller responded that the county would be selling the certificate of need and that it would be indefinitely. He added that the Health Department as part of its regular duties and service to the county would continue to monitor that the patients are getting the services that are needed. Ms. Eastwood stated that a certain case mix would be served and that this information would be provided at least annually to the Board of Commissioners and if the agency that purchases the home health certificate of need is not meeting the requirements that were outlined in the contract the sale would revert back. She stated that there is a moratorium on certificates of need in place now. Commissioner McVey stated that if the county is not satisfied the sale would revert back. Mr. Miller responded yes it would revert back to the county. Commissioner Oestreicher asked if the money had to be given back. Mr. Miller responded that there would be covered in the contractual language based on the sale.

Commissioner Oestreicher moved, seconded by Commissioner McVey to authorize the county manager and health director to continue the exploration of the potential sale of the Caswell County’s home health agency’s certificate of need and to bring back to this Board at the April 19th meeting a resolution of intent pursuant to NCGS 131E-13(d) and to engage consultants .

Commissioner Hall stated that as a member of the Board this could be a very complex situation. He stated that he would like to have an idea of what the consultant is going to cost. Commissioner Hall stated that the Board already had an idea of what the staff would cost, and he hated to see the county go in a hole to start with. He suggested that the health director and the Board chairman come up with additional information by the next meeting on this. Chairman Owen responded that they should be able to do that. Commissioner Hall stated that he meant to say health director and health board chair because they will be the experts that the Board will lean on to know what questions to ask.

Chairman Owen asked Ms. Eastwood if she understood what Commissioner Hall was asking for. Ms. Eastwood responded yes. Chairman Owen asked if Ms. Eastwood would be able to provide this information. Ms. Eastwood responded yes.

Commissioner Oestreicher amended this motion to explore the cost of a consultant to assist with the process. He asked Commissioner Hall if this would help. Commissioner Hall responded that it would. Commissioner Oestreicher stated that this was really what he meant to say and thanked Commissioner Hall for his thoughts.

Commissioner Carter asked how many patients did home health visit now. Ms. Eastwood responded around 80 patients are being seen for their medications or blood draws and others have skilled needs. She stated that COVID had hurt home health because a lot of the patients did not want home health in their homes. Commissioner Carter asked what would happen to these patients. Ms. Eastwood responded that the patients would be served by another company.

Mr. Miller stated that he had received an engagement letter associated with the sale and there would be a flat fee of $35,000 to cover both legal fees and consultant services if home health is sold and if the Board decided not to sell home health the cost would be $350 per hour for the consultants.

Commissioner Oestreicher asked if there was a cap on this. Mr. Miller responded that he could investigate a not to exceed amount. Commissioner Oestreicher stated that he would highly recommend this.

Commissioner Hall seconded the amended motion.

Commissioner Oestreicher moved, seconded by Commissioner Hall to authorize the county manager and health director to continue the exploration of the potential sale of the Caswell County’s home health agency’s certificate of need and to bring back to this Board at the April 19th meeting a resolution of intent pursuant to NCGS 131E-13(d) and to explore the cost of a consultant to assist with the process. After a roll call vote, the motion carried unanimously. (Commissioners Carter, Dickerson, Hall, Jefferies, McVey, Oestreicher and Owen voted in favor.)

CLERK TO THE BOARD JOB DESCRIPTION

Commissioner Dickerson stated that he thought the intent of the job description was that this job classification answered to the Board and not to the county manager and the job posting on the county website has in the job title Assistant to the County Manager and that needed to be struck from the job posting.

Commissioner Carter stated that at the last meeting this was brought up and he thought that paragraph was supposed to be taken out or changed and it is still in there in the first paragraph.

Commissioner Dickerson stated that in the first paragraph about 2/3 of the way down it’s also listed there ‘delegation of work as the Board of Commissioners and the county manager’ and that is another area that needed to be struck from the job posting.

Chairman Owen stated that Commissioner Hall was not at the meeting and asked if he had any comments.

Commissioner Hall stated that in the general statutes the clerk, county manager, tax director, and county attorney reported directly to the Board and to try to split this would be a major problem. He stated that the Board may have the authority to do this, but he thought the Board would be making a mistake.

Commissioner Jefferies stated that it also stated in the job posting that the agenda was approved by the Board chair and the county manager and he did not think the county manager should approve the agenda, he should look at the agenda but not approve it because the Chair approves the agenda.

Chairman Owen asked Commissioner Dickerson if this particular item could be addressed at the next Board meeting since no one had a copy of the job description. Commissioner Dickerson responded that this would be okay. He added that this position by statute reported directly to the Board and he did not want the clerk to not be able to come directly to the Board to discuss any issues going on in the county. Commissioner Dickerson stated that he did not want to see an open-door policy changed to where the clerk had to go to the county manager to get to the commissioners.

Commissioner Oestreicher stated that the Board had discussed this at the last meeting and Commissioner Jefferies alerted the Board that the title for the position has been unchanged. He stated that assisting the county manager had nothing to do with reporting to the county manager. Commissioner Oestreicher stated that the Board wanted the two positions to work very closely together as a team because reporting to 7 people was awkward and that the county manager needed someone to assist him with his duties but it could be made clearer in the posting. He stated that the clerk reports to the Board and that it did not need to be misinterpreted in the intent.

Chairman Owen stated that this would be put on the next agenda. He asked Commissioner Dickerson to send the items he had issues with in an email to the county manager so he could send out to the Board.

Mr. Miller asked if the Board wanted the job posting taken down. Chairman Owen responded to leave the job posting up. Mr. Miller stated that the job description could be changed at any time. Chairman Owen responded to leave the job posting up. Commissioner Oestreicher responded absolutely, and Chairman McVey agreed.

Commissioner Jefferies stated that the job posting was also to include any other job-related duties as given by the Board of Commissioners and it was not included in the posting. Chairman Owen responded that he thought that was included but he would check that and that this would be on the next agenda.

YANCEYVILLE AIRPORT

Mayor Alvin Foster stated that the Town of Yanceyville had the opportunity to acquire the West Yanceyville Airport. He stated that there was an opportunity that the airport could be sold to someone that would not keep the airport was possible. Mayor Foster stated that the Town of Yanceyville had also acquired the land on both ends of the airport to possibility expand to a 4000 feet runway. He stated that Yanceyville had a request in with the National Guard Construction battalion at the Governor’s Office to do the grading on this. He stated that one of the first things that will be done there would be to put in a paved area for a helipad so that life flight could land there.

Commissioner Oestreicher asked if this would allow for ambulances to have access to the helipad. Mayor Foster responded that Airport Road is paved to the substation and that if it were not paved it would at least have gravel on it. Commissioner Oestreicher stated that this was encouraging.

Mayor Foster stated that the Yanceyville Airport is important for everyone, especially the helipad.

Chairman Owen thanked Mayor Foster for the update.

Mayor Foster stated that his email and telephone number was listed on the Town of Yanceyville’s website if any of the Board members had any questions. Chairman Owen responded that it is the same for the Board.

COVID-19 UPDATE

Ms. Jennifer Eastwood, Health Director, gave the Board an update on the COVID-19 cases in the county. She stated that the county had 24 new cases and was still a yellow county. Ms. Eastwood stated that there had been a couple of additional deaths in the county. She stated that spring breaks are ending as well as a holiday and hoped that the numbers would stay stable. Ms. Eastwood stated that 6,079 residents had received one dose of the vaccine which was about 27% of the population and that 4,000 residents were fully vaccinated which was about 17% of the population. She stated that the county would like to see 70% of the residents vaccinated but the county was running out of arms due to hesitancy. Ms. Eastwood stated that the county had started to decline some of its allocations for the vaccine. She stated that 59% of the white population had been vaccinated which is about 65% of the county’s population, 38.5% of the historically marginalized population had been vaccinated which is about 34% of the county’s population, and under 2% of the Hispanic population had been vaccinated. Ms. Eastwood stated that the county had gone to a drive thru format in partnership with Piedmont Community College and there will be a drive thru clinic this Wednesday.

Chairman Owen asked about the number the number that had been vaccinated in Caswell County. Ms. Eastwood responded that this was just for Caswell County residents and this did not include if residents were vaccinated in Virginia. She added that if residents were vaccinated in other counties in North Carolina they would be included in the numbers.

Commissioner Oestreicher asked Ms. Eastwood if she stated 17% had received both doses of the vaccine. Ms. Eastwood responded that it was almost 18%, 17.7%. Commissioner Oestreicher asked Ms. Eastwood if all the groups were being seen now. Ms. Eastwood responded yes that everyone 18 years and older could get the vaccine now. She stated that the Pfizer vaccine is for 16 years and older. Ms. Eastwood stated that the county has given the vaccine to a lot of Orange and Wake County residents. She stated that most of the residents of Caswell work outside the county and could be getting their vaccine where they work.

Commissioner Carter stated that he noticed on tv that they are talking about a 4th wave of the virus and asked Ms. Eastwood to explain. Ms. Eastwood responded that she had heard that the numbers are rising again in other areas of the state, but Caswell County was about 3 weeks behind. She stated that there are also several variant strains that have been seen nationwide but have been seen in North Carolina as well and that the county would see how it would affect the numbers going forward. Commissioner Carter thanked Ms. Eastwood for everything she and her staff have been doing as well as North Village Pharmacy.

ZONING

Chairman Owen stated that he had a couple of things about the possibility of zoning in southeast Caswell, but he turned it over to Commissioner McVey who had a statement.

Commissioner McVey stated that he had spent a lot of time thinking about zoning in the county, he had sit through several meeting concerning zoning, and that he had talk to many people some that were for zoning and some that were against zoning but he had spoken to many people who do not know exactly how zoning works and why it is important. He stated that zoning is a complicated issue and the decision rests on the shoulders of the Board. Commissioner McVey stated that this issue should not have been placed on the ballot for the residents to decide because it was the Board’s responsibility to make this decision on behalf of the residents. He stated that the Board put it responsibility on the shoulders of the residents. Commissioner McVey stated that from the moratorium the Board approve a High Intensity Development Ordinance which is a good ordinance that gives all residents of Caswell County protection against polluting industries and the ordinance needed to be given a chance to work before restricting further economic development in the county. He stated that he had seen the county manager and county planner’s plans about zoning and they would be good for this county but he also knew the Board had passed an ordinance that would provide a level of protection and he thought the Board needed to give the ordinance a chance before jumping into something else that would further restrict economic development.

Chairman Owen stated that based on Commissioner McVey’s comments before the Board instructs staff and the planning director to move forward with the possibility of zoning in the southeast portion of the county the Board needed to make a decision because if the Board was not going to vote for it in the end there would be no need to continue with it now. He asked what the pleasure of the Board was.

Commissioner Dickerson moved, seconded by Commissioner Jefferies to stop discussions on zoning and to see how the HIDO would work out.

Commissioner Oestreicher stated that he had some issues with stopping things that the Board had already voted for on at least three occasions. He stated one occasion was during the extension of the moratorium which included the development of a plan as well as educational sessions and public hearing on zoning. Commissioner Oestreicher stated that the Board took a vote at the last meeting on this matter. He stated that the HIDO was not the third leg of the stool to protect the county residents, it merely identifies certain setbacks for when a polluting company comes into the county a presumes operation but it does not protect the neighbors of these polluting industries other than by setbacks. Commissioner Oestreicher stated that the HIDO does not give the protection of the resident’s property values and the quality of their rural life, it was merely just one step of protection. He stated that zoning did not prohibit economic development but would keep out certain polluting industries. Commissioner Oestreicher stated that to stop the plan which is under development after all the work that had been put into it and all the thought that had been put into it would be precipitous and he did not think it was appropriate. He stated that the Board had heard from many, many, many citizens that they wanted the protection that zoning provides. Commissioner Oestreicher stated that he strongly disagreed with the plan to stop the planning and consideration of this.

Chairman Owen stated that he understood Commissioner Oestreicher’s position and agreed with a lot of what Commissioner Oestreicher said but zoning is a decision by the Board as a whole so he did not want to direct staff to continue to work and push forward with a plan and then have a public hearing and it is voted down. He stated that if it was going to be voted down it needed to be voted down now and deal with the consequences of those votes. Chairman Owen stated that he still favored zoning because it had been a positive thing in most of the counties in the state of North Carolina that have it. He stated that this was the reason for putting it on the agenda so the Board could decide on how to proceed. Commissioner Owen stated that the Board would take a vote by roll call voting, a yes would mean to stop proceeding with any zoning activity by staff and a no would mean to continue with the process.

After a roll call vote the motion carried by a vote of four to three. (Commissioners Carter, Dickerson, Jefferies, and McVey voted in favor. Commissioners Hall, Oestreicher, and Owen voted against).

Chairman Owen stated that the county would not proceed any further with any zoning issues in southeast Caswell at this time.

EXPLOSIONS ON PAGETOWN ROAD

Mr. Miller stated the Matthew Hoagland, County Planner and Barry Lynch, Emergency Management Director are in the meeting today. He stated that Commissioner Oestreicher had received several telephone calls on this matter and would like to present those.

Commissioner Oestreicher stated that the facility that is on Pagetown Road is used by people who do not live in Caswell County and it was used for testing cylinders, tanks, etc. that often result in explosions that are quite loud and disturbing. He stated that there are other devices that are exploded at that facility and he had received numerous calls about the explosions and that it needed to be stopped. Commissioner Oestreicher stated that the individuals are stating that there is no notice when this will happen, it is scaring their grandchildren, there is flying debris, etc. He stated that a complaint has been sent to the FAA. Commissioner Oestreicher stated that there is no fence around the facility. He stated that individuals are complaining about items falling off garage walls and that it is a public safety issue as far as he was concerned as well as the residents in that area. Commissioner Oestreicher stated that unfortunately the ordinances the county has in place do not provide protection for the citizens that live in that area. He stated that the zoning that the Board just made an improper decision on would not help with this issue, but the county did need some way to stop this public safety issue from continuing. Commissioner Oestreicher stated that he would be happy to hear the comments for the county planner and EMS director but this is an issue that needs to be stopped and the county needs to provide protection to the citizens. He stated that there were many people at a meeting that the Board will hear more about.

Mr. Hoagland stated that staff met last Thursday morning with approximately 50 residents in the Cherry Grove area and this was in response to a very large blast from what the residents heard. He stated that Commissioner Oestreicher’s description was very accurate about the company, basically they stress test these tanks to the point of failure. Mr. Hoagland stated that these tanks are designed as alternative fuel sources that are stressed to the breaking point. He stated that the tanks have a release valve where the gas can escape but when the release valve was not operating, and the gas did not escape that was when the large explosion happens. Mr. Hoagland stated that citizens have called over the last couple of months about this issue, but the county does not have an ordinance that would address this issue.

Mr. Lynch stated that there are concerns with the site and how close it is to a house and his concern was when the tanks do rupture what happens to the natural gas that is in the tanks, that was his key safety concern. He stated that he had not talked to the company about the debris or the fence and he wanted to talk to the company about their procedure.

Commissioner McVey asked if there was natural gas or air in the tanks. Mr. Lynch responded that he did not know but he assumed that it was natural gas. He stated that he flew a drone over the site and took pictures last Thursday, but he had not talked to the company to see what is in the tanks. Commissioner McVey stated that it was discussed at one time some individuals going out to be a witness during the tests and he wanted to know if this had happened. Mr. Hoagland responded that this had not happened. He stated that the company cancelled before that meeting was set to take place which was on December 15, 2020 due to heavy rains.

Commissioner Hall stated that he had received similar complaints over the last couple of months and he wanted to disagree with Commissioner Oestreicher on one of his comments, zoning would make a difference. He stated that when the Board gets pressure from certain areas it backs down on certain things but with technology changing like it is there are millions of things going on in this world that we do not know about and will not know about it until it gets here. Commissioner Hall stated that this is the kind of thing that the citizens in southern Caswell is concerned about and he was truly disappointed that the Board would stop staff from doing what they were doing and this item was a good example. He stated that it will not make a difference to send staff out there, the Board needed to get ahead of the curve and for this to be done zoning needed to be put into place so these types of businesses would have to come before the Board first. Commissioner Hall stated that the Board needed to start thinking ahead and he hoped that the Board would consider looking back at zoning. He stated that as a personal comment, the agenda is broken up into action items and discussion items and he wanted to know why an item would be put under discussion and then vote on it and it concerned him the way the Board was moving forward.

Commissioner McVey stated that he had received many, many telephone calls on the explosions in that part of the county and he had talked with the county planner on numerous occasions but the residents in that area do not want zoning and he understood that this would be a way to stop this but the residents have told him time and time again that they do not want zoning.

Commissioner Jefferies stated that this was put on the referendum and the citizens made it loud and clear that they do not want zoning and that is what he was going to go by.

Chairman Owen stated that he understood the feelings on all of this, but the Board had finished the discussion on zoning and now the Board is dealing with the noise issue with tanks exploding.

Commissioner Oestreicher stated that he appreciated Commissioner Hall’s comments. He stated that he wanted to clarify his comment about zoning would not fix this, zoning would not fix this particular issue because zoning deals with land use and that was all he was referring to and the use was already grandfathered in under land use so it would not cure this issue if zoning were passed. Commissioner Oestreicher stated that the county needed something other than a zoning ordinance or zoning regulation to address this immediate need. He stated that the county needed an ordinance that addresses the action of this which would not be subject to grandfathering and that is how he would propose that the Board would proceed with this and he was willing to make a motion to address this from an action prospective that addresses the public safety issue here. Commissioner Oestreicher agreed that people did not need to be sent out there because the residents have already made it very clear what the issue was and that it was unacceptable and that it needed to stop and the Board has the responsibility to protect the citizens.

Commissioner McVey asked that if an ordinance was put in place to stop this who would enforce it because the county did not have an enforcement agent and Mr. Hoagland does not have the time to do all of this. He asked if the taxpayers’ money was going to be wasted again to hire an enforcement officer to take care of all the ordinances, he did not think so. Commissioner Oestreicher responded that the enforcement would come from the citizens who would file a complaint and then that complaint would be acted upon by the planning director and/or sheriff if it was a violation of an ordinance. He stated that there was no need for an enforcement officer, the citizens would file the complaint. Commissioner Oestreicher stated that the chairman had done some research and there are ordinances that are in place to handle this type of issue. Commissioner McVey asked Mr. Hoagland if he would have time to do all of this. Mr. Hoagland responded that if the Board were to pass an ordinance and task him with enforcing it then that is what he would do. Commissioner McVey asked about the other ordinances that are not being addressed. Mr. Miller responded that the county works off a complaint-based system and the complaint would be investigated promptly. He stated that the county did not have a code enforcement officer that rides around the county and looks for ordinance violations.

Commissioner Dickerson stated that he had had a couple of photographs sent to him where the tanks exploded and in one of the pictures there was a pretty lengthy cylinder that was very close to a paved road and he did not know if the cylinder was still on the property of the facility or not but if the Board was looking for an angle to pursue this through a safety ordinance, flying debris of that size would definitely be a public hazard. Mr. Lynch responded that the cylinder was still on the facility’s property. Commissioner Dickerson asked how close the cylinder was to the road. Mr. Lynch responded 25 feet away. Commissioner Dickerson stated that this was still too close for comfort because if the cylinder went through someone’s windshield that would be an entirely different discussion. He stated that this is a safety hazard.

Commissioner Oestreicher moved, seconded by Commissioner Dickerson to direct the county planner, county manager, and county attorney to develop an ordinance or amend a current ordinance to address the concerns the Board discussed this morning concerning the explosions that occurred within the county and to prevent further occurrences of this nature.

Commissioner McVey asked Commissioner Oestreicher is the county already had an ordinance similar to this that the county already issues fines through. Mr. Hoagland deferred to the county manager and stated that there is an explosives ordinance, but it is more in line with storing explosives and there is a noise ordinance, but this would not affect it. He stated that there may be ordinance that get close to it, but he did not believe there was an ordinance that directly addressed this issue. Commissioner McVey asked if the company had ever been fined for this. Mr. Miller responded no; the county could not impose a fine on the company because the company was not in violation of any county ordinances. He added that there were discussions about imposing fines utilizing the noise ordinance however after further investigation the noise ordinance did not apply to this facility due to the time of the explosions which was during business hours.

After a roll call vote, the motion carried by a vote of five to two. (Commissioners Carter, Dickerson, Jefferies, Oestreicher and Owen voted in favor. Commissioners Hall and McVey voted against.)

Chairman Owen stated that the Board had direct the planner, county manager and county attorney to get together to try to restrict this type of noise.

RECESS

The Board took a brief recess.

COUNTY MANAGER’S UPDATES

Commissioner Board Meeting

Mr. Miller stated that he had two updates for the Board. He stated that the next Board of Commissioners meeting will be held at the Historic Courthouse and he believed the county would still have the capability of providing Zoom and Commissioners should still be able to participate via Zoom but members of the Board will be able to present at the Historic Courthouse for this meeting.

Reopening of County Buildings

Mr. Miller informed the Board that normal Historic Courthouse departments (Administration and Finance) will begin opening with limited hours starting tomorrow, April 6, 2021. He stated that the hours will be from 10:00 a.m. to 3:00 p.m. and the building will be accessible to the public and the county departments will begin to start reopen throughout this month with a potential complete reopening at the beginning of May.

COMMISSIONER COMMENTS

There were no Commissioner Comments.

ANNOUNCEMENTS AND UPCOMING EVENTS

Chairman Owen stated that Sovah Health will be making a big announcement tomorrow. He was not able to share the announcement but stated that he would send the Board some information after the announcement was made.

CLOSED SESSION

Chairman moved, seconded by Commissioner Carter to enter Closed Session to prevent the disclosure of information that is privileged and confidential (NCGS 143-318.11(a)(1)). After a roll call vote, the motion carried unanimously. (Commissioners Carter, Dickerson, Hall, Jefferies, McVey, Oestreicher, and Owen voted in favor.)

REGULAR SESSION

Commissioner Carter moved, seconded by Commissioner McVey to resume the regular meeting. After a roll call vote, the motion carried unanimously. (Commissioners Carter, Dickerson, Hall, Jefferies, McVey, Oestreicher, and Owen voted in favor.)

ADJOURNMENT

At 11:20 a.m. Commissioner McVey moved, seconded by Commissioner Dickerson to adjourn. After a roll call vote, the motion carried unanimously. (Commissioners Carter, Dickerson, Hall, Jefferies, McVey, Oestreicher, and Owen voted in favor.)

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Paula P. Seamster David J. Owen

Clerk to the Board Chairman

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