MINUTES—NOVEMBER 19, 2018

The Caswell County Board of Commissioners met in regular session at the Caswell County Historic Courthouse in Yanceyville, North Carolina at 6:00p.m Monday, November 19, 2018.

Members present: Nathaniel Hall, Chairman, Rick McVey, Vice-Chairman, Jeremiah Jefferies, William E. Carter, David Owen, Sterling Carter, Kenneth Travis, Bryan Miller, County Manager, Brian Ferrell, County Attorney, and Ashley Kirby, Administrative Assistant recorded minutes above.

MOMENT OF SILENCE

Chairman Hall opened the meeting with a moment of silence.

PLEDGE OF ALLEGIANCE

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

APPROVAL OF THE AGENDA

Commissioner Jefferies stated that he would like to add DHHS update on Legislature to the agenda.

Commissioner Travis made a motion to approve agenda as amended, seconded by Commissioner McVey. The motion carried unanimously.

APPROVAL OF THE CONSENT AGENDA

Commissioner Jefferies motioned to approve the consent agenda, seconded by Commissioner S. Carter. The motion carried unanimously.

The following items where included on the consent agenda.

A. Approval of Minutes of November 5, 2018 Regular Meeting

B. Approval of Minutes of November 8, 2018 Special Meeting

C. Approval of Minutes of November 8, 2018 Emergency Meeting

PUBLIC COMMENTS

There were no public comments.

RECOGNITIONS

Chairman Hall thanked the board and staff for their acts of kindness during the passing of his father and also recognized Thomas Bernard for being recognized for Tax Assessor of the year.

Commissioner Owen recognized the Back to School Backpack Blast and the Community Outreach Program; they had some extra backpacks left after the back to school give away. After the major damages from the two hurricanes that affected the eastern part of our state, they donated the extra backpacks to some of the school systems that had major damages.

Commissioner W. Carter thanked the board and staff for the cards, flowers, and support during his time of illness.

Commissioner S. Carter stated “Yes I would like to please invite Sylvia Johnson to the podium. I have the personal pleasure of calling Mrs. Johnson my cousin but, I would like to recognize her for her past 16 years of service on the Board of Education. This will be the conclusion of her service and we would like to thank her for her work in advocating for the children and citizens of Caswell County.

Mrs. Johnson thanked the board.

APPOINTMENT TO BOARDS AND COMMITEES

Commissioner Owen made a motion to reappoint Jason Daniel to the Planning Board, seconded by Commissioner Jefferies. The motion carried unanimously.

REVIEW OF SCHOOL BOND ISSUE

Mr. Miller stated the bond referendum was recently passed and would like to bring the board back up to date on where we stand in the process and along with the steps in the USDA process.

**Friday, November 23, 2018 – Board of Elections must certify results of the referendum with Paul Jacobson (Bond Council).**

**Monday, December 3,2018 the Board will be presented a resolution for approval of the results. After that there is a 30 day period in which the results may be contested.**

**USDA PROCESS**

* Pre-Application
  1. Architectural Feasibility Report
  2. Phase I Environmental Review (Site Assessment)
  3. Financial Feasibility Report – CPA Firm
     + Project Costs
     + Financial Stability of the County
     + Funding Sources
       - 15 million grant from DPI
       - 3 million from the Board of Education
         * USDA recommends using a portion of the 3 million dollars to complete the safety and security upgrades for the other facilities. This would eliminate the need for transfer of ownership and allow the USDA obligated funds to be used exclusively on Bartlett Yancey.
       - 18.5 million from Bond Referendum
* Application
* Underwriting approval by the State
* Underwriting approval by Washington, DC
* Funds Obligated
* Interest rates are set at the time funding is obligated by USDA. If at closing of the loan there is a different interest rate, the lower of the two rates will be used. Interest rates are currently at 4%. The last increase was 1/8 of a percent. The next reset of interest rates will occur in January.

**This process takes approximately 4-6 months to complete. USDA stressed the need to move forward with the process as quickly as possible.**

**All costs are reimbursable by the funds obligated by USDA in this process.**

1. The County must own the property throughout the term of the loan and presumably lease the premises back to the Board of Education for $1.00 a year until completion of the term and then title would revert to the school when the loan is paid.
2. The County is responsible for the repayment of the loan.
3. The application has to be completed by the County and presented / processed by the County.
4. Interim financing will be necessary to complete the project and we will be required to comply with LGC regulations throughout that process as we have with several other projects completed by Caswell County Local Government in the past.

USDA recommends proceeding ASAP with the selection of architects/engineers for the project components required for the USDA pre-application loan process.

The County needs to conduct a new selection process before hiring an architect to draft plans for the renovation.  The selection process will depend on the project delivery method the County chooses.  Single Prime or Construction Manager at Risk.

The County needs to make sure it is in full compliance with all procurement/contracting requirements from the outset.

Moving forward with selecting one or more architects for these pre-application components as follows:

1. I would recommend that the Board consider a resolution exempting itself from the **qualifications based selection process** found in G.S. 143-64.1 for each of the items above (assuming the associated costs will be $50,000 or less). And then contract with Dewberry and Davis to complete the Preliminary Architectural/Engineering Report, Estimated Project Budget, and Phase 1. This supplemental work completed by Dewberry and Davis should be significantly less than starting over with a new firm.
2. Hire a separate engineering firm to complete the Phase 1 if Dewberry doesn’t do that work.

Here are a few other action items to keep the project moving:

1. Begin internal discussion about the type of construction delivery method the County wants to pursue for the project.  The County can then decide on the process and timing of hiring an architect to design the construction drawings for the project.

Mr. Miller state that the county’s our bond council has indicted that they can provide statuary guidance as to the county being authorized to take title to the school bond property for financing purposes. This is a project the will be complex in many ways, the Board of Education has been involved in the process since the beginning.

Chairman Hall questioned, is there an identifiable team that will implement this project. Mr. Miller replied that he has recently had a phone conference with the USDA that included Brian Ferrell, Gwen Vaughn, the county’s financial advisors, and Davenport to discuss the process that the county will be going through, and stated that the county must own the property. Then suggested that everyone who attended this conference would make a high level team and of course they would be working with Dr. Carter and the Board of Education. Also the county would consider hiring a consultant to help with some of the process with the construction; this would be someone who would visit the construction site to keep an eye on things.

Chairman Hall stated perhaps there could be a member of the Board of Education to be part of this team. Mr. Miller replied that he and Dr. Carter have scheduled weekly meetings and far as he is concerned they are a part of the team. Chairman Hall replied why not the school finance officers, school general council have and would like to see them actively involved. Mr. Miller replied we can do that. Chairman Hall replied of course this would be up to the Board of Education to accept this recommendation. Mr. Miller replied we can certainly make that invitation. Chairman Hall questioned if the Board of Education had any comments.

Dr. Sandra Carter thanked the board for collaboratively working with them on this project. One of the thing that the School Board has looked at on legislation, 115C-521 and there is some clarity needed on it. Quoting 115C-521 Section C “the building of all new school buildings and the repairing of all school building should be in control in direct of and by contract with Board of Education for which the building and repairing is done.” The Board of Education wants to make sure we have the correct information that we are reading states that the Board of Education contracts. Today the Board of Education voted to continue under the RFP that we currently have with Dewberry and Davis for the feasibility study and architectural contract. Chairman Hall replied we have some issues with legislation rules, and recommended the County and the School Board general council get together and make recommendations. There are so USDA regulations that we have to follow. Mr. Ferrell stated that he and Ron Bradsher have spoken and will be working together. The requirements from the USDA are that the county takes title to the property. It is a practical matter of who is the contracting party for the construction and architectural services and we can work through those issues. Mr. Bradsher stated that the county was not contracted in any of the past school project (North Elementary, South Elementary, and Dillard).

Chairman Hall stated with the implementation team would help resolve a lot of issues before they get back to the board.

Mr. Ferrell stated this is the beginning of the process and we can work together to work out these issues. Mr. Bradsher replied the board accepts working with the county.

Dr. Carter stared that it was reviewed that the board should remove the 1.4 million for safe school construction at the earliest possible time that the Board of Commissioners agree the Board of Education can pull that money and start with the safety upgrades. Chairman Hall replied once the implementation team is in place, and then we will be almost ready to move forward. Dr. Carter replied one thing that they need to be informed at is who contracts and they want to follow state statues.

RESOLUTION OF CENSURE

Commissioner Owen stated just a reminder to the board all though state law does not provide specific authority for boards to sanction there members for ethical violations, elected boards do have general authority to pass resolutions or motions and some boards use a motion of resolutions of censure to address ethical or illegal transgressions by board members including violations of board conduct. This type of censure has no legal effect other than to express dissatisfaction or disapproval by the board or majority of the board of actions or behaviors of one of its members. There are no specific requirements for such action. The reason this was brought to the board for consideration is the very fact that there was a state statue violated by Commissioner S. Carter.

Mr. Miller stated before reading the resolution it had been amended from its original version.

RESOLUTION BY THE CASWELL COUNTY BOARD OF COUNTY COMMISSIONERS

CENSURE OF COMMISSIONER STERLING CARTER

**Whereas**, on December 5th, 2016 Sterling Carter took office as an elected official representing the Citizens of Caswell County; and

**Whereas**, the Code of Ethics for the Board of Commissioners of Caswell County, North Carolina states the “Public Trust in its elected officials is essential to the orderly and successful conduct of the public’s business and government”; and

**Whereas**, NCGS 163A-1133 Limited access to the voting enclosure.

reads (c) Photographing Voted Ballot Prohibited.–No person shall photograph, videotape, or otherwise record the image of a voted official ballot for any purpose not otherwise permitted under law.(2001-460, s. 3; 2005-428, s. 1(b); 2007-391, s. 23; 2008-187, s. 33(a); 2017-6, s. 3.); and

**Whereas**, Commissioner Sterling Carter did post a photograph of a voted ballot cast in the 2018 election on a social media site; and

**Whereas**, Censure of Commissioner Sterling Carter is the most appropriate action the Caswell County Board of Commissioners can take regarding the violation of Commissioner Sterling Carter; now

**Therefore be it resolved by the Caswell County Board of County Commissioners**;

That because of the violation committed by Commissioner Sterling Carter and because the public’s trust of the Board as a governing body has come into question that Commissioner Sterling Carter is hereby censured.

APPROVED AND ADOPTED this 19th day of November 2018.

CASWELL COUNTY BOARD OF COUNTY COMMISSIONERS

S/Nathaniel Hall\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Nathaniel Hall, Chairman

Caswell County Board of Commissioners

Attest:

S/Paula Seamster\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Paula P. Seamster

Clerk to the Board

Commissioner Owen stated the board owes it to the citizens of this county to be ethically above board on this matter.

Commissioner Owen made a motion to approve the censure of resolution, seconded by Commissioner Travis.

Commissioner S. Carter stated “Mr. Chairman Fellow Commissioners, citizens of Caswell County the resolution now is pretty straight forward this is the third version of it. I am accountable to any miss-action that I did commit but I feel like to be open and transparent with the public. I must explain intentions behind it, as a brief history on censures after looking into the, most of them you can research yourself involved malice or extreme violations of law. It is a violation of state statue much like a speeding ticket would be or some other minor statues that we all know exist and its just a fact of daily life sometimes you do violate them but the incidence that occurred in the voting booth was a simple moment of personal pride in casting a particular vote this being for the school bond and representing a younger generation. I can say that where people are openly expressing in more than one way or variety of ways in the pride of being part of the election and political process permits various views and things that you can be involved in now day’s social media is an major fact of life and information and how people communicate. So I can put you in my mind in the moment that the violation did occurred that I was very proud of voting for the school bond. I have been advocating for as a issue on this board and I feel like the public should understand this is a resolution against the state statue for violations of state statue that there was no bad intent or malice casting my influence whether you say positive or negative against any individuals county employees or anyone that was subject to seeing the photograph that was taken. I feel like the public and this board should understand that to relations to other censuring resolutions that this is not a very malice situation and but I do understand that it is a state statue and I am accountable for actions and I would recommend a little bit of exaggeration of what the situation is and should be handled as the State Board of Elections is still currently being handling this and they have not issued their response yet so I would remit that we do not proceed with this resolution. I appreciate you letting me speak.”

Chairman Hall stated that he was in an opposition to approve the resolution because we are a county of laws, we have agencies to enforce these laws. There is no one person or group that should be judged and the Caswell County Board of Commissioners should not enforce laws. A censure is nothing but more than a public humiliation and he chooses not to be a part of that. Commissioner S. Carter has admitted to what he did wrong. No one needs input from our board to tell them what to do or how to do it. With that being said he will not support the resolution.

Commissioner Owen stated this resolution in no way is telling the state how to do its job, this resolution is a formal disapproval by this board or majority. “It’s wrong for a commissioner to violate state laws.” Chairman Hall replied we should not use our pettiness to public humiliate our fellow commissioner. Commissioner Owen replied this is not an opinion, we have a sitting commissioner who violated state laws for me to say it does not matter, is a disservice to the county citizens and to the ones who serve on this board. Chairman Hall replied he is in opposition of too this is also under his Christian values “judge not you may also be judged.”

Upon a vote of the motion, the motion carried by vote 5 to 1 with Chairman Hall voting no and Commissioner S. Carter abstained.

Commissioner S. Carter “abstained.”

DHHS UPDATE ON LEGISLATION

Commissioner Jefferies stated there was a meeting held with DSS Board and the county attorney was going to look into it on legislation goals, and it was never brought back to board.

Chairman Hall questioned if this was about combining goals, there is legislature passed years ago that allows county commissioners to combine units this board has had no interest.

Mr. Ferrell stated that Mrs. Barringer put forward a comprehensive reform bill that would have done a number of things including regionalizing the prevision of DSS services across the state. There may not be legislation pending on DSS matters right now but the process is ongoing and did not recall of this board wanting to combine. Commissioner Jefferies stated if we knew three years ago we did not want to do this why spend the money on this. The chairman asked Mr. Ferrell to look into this and did not get a consensus from the board and questioned Chairman Hall if he recalled this. Chairman Hall replied he did not recall.

COUNTY MANANGERS UPDATES

Mr. Miller stated that he had four updates to go over with the board.

* PCC had to replace their elevator, the repair cost $50,000.00. Many is the issues that occurred at budget time may not take place at next budget sessions.
* There was coverage to cover the county event of a dastardly charge for intimate medical services for several different reasons the coverage was declined. We are in the process of working through this and wanted to make the board aware of it and it is not a small amount it is a six figure amount. This matter will be discussed a later meetings.
* Asked for authorization to move forward with the skating rink which was provided by DRF. With a quote of $23,200.00 for skates, equipment and etc.

Commissioner Owen made a motion to move forward with the skating rink project, seconded by Commissioner McVey. Motion carried unanimously.

* NC met with the threshold for public disaster assistance. November 27, 2018 a team from FEMA will be here to see if we qualify for any assistance. If we do receive a declaration and any government agencies or 5013C that had expenditures during the storm would receive 75% reimbursement of expenditures. Nonprofit 5013C or Fire Departments are eligible a minimum of $3,314.00 as an individual application, if not they can be added to the county application.

ANNOUNCEMENTS AND UPCOMING EVENTS

1. Employee Appreciation Luncheon- Wednesday, December 5, 2018 @ 12:00pm-3:00pm- Civic Center
2. Christmas Tree Lighting-Friday, November 30,2018 @ 6:00pm
3. Yanceyville Christmas Parade-Saturday, December 1, 2018 @ 10:00am

ADJOURNMENT

At 7:35pm Commissioner Jefferies made a motion to adjourn, seconded by Commissioner McVey. Motion carried unanimously.

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Ashley Kirby Nathaniel Hall

Administrative Assistant Chairman