

MINUTES – OCTOBER 5, 2020

The Caswell County Board of Commissioners met in regular session at 9:00 a.m. on Monday, October 5, 2020. The meeting was held electronically using Zoom Webinar software. Members present: Rick McVey, Chairman, David J. Owen, Vice Chairman, William E. Carter, Nathaniel Hall, Jeremiah Jefferies, Steve Oestreicher, and N. Kent Williamson. Also present: Bryan Miller, County Manager, and Brian Ferrell, County Attorney. Ashley Kirby Powell, Administrative Assistant, 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 attendance recited the Pledge of Allegiance.

PUBLIC HEARING SETBACK VARIANCE REQUEST FOR 189 TAYLORS COVE ROAD SEMORA, N.C.

Commissioner Williamson made a motion to reconvene as the Board of Adjustments for setback variance request for 189 Taylors Cove Road, Semora, N.C., seconded by Vice Chairman Owen. The motion carried unanimously.

Mr. Hoagland stated that he had received correspondence from George Daniels. Then Mr. Hoagland proceeded to read the letter from Mr. Daniels. "Dear. Mr. Hoagland thank you for the most recent contact concerning the above, my mother Ann T. Daniel, Cynthia and I received the official notice Wednesday September 30, 2020 after receiving a USPS notice to pick up the letter. After reviewing the contents we learned about the application that was submitted to your office along with the rejection and then we learned of the appeal hearing. Which we now understand has been postponed, until Monday October 5, 2020 at 9:00 a.m. The notices that were sent out to addresses of the properties that are owned by my mother, Cynthia, me at Hyco Lake, on Taylors Road in Semora. My mother's mail comes to me and my sibling; she is currently 90 years old and is residing in the Common Wealth Health Senior Living Facility in Danville, Virginia; with her current affairs being handled by her youngest son Martin C. Daniels which is reflected in the attached copy of her power of attorney paper work. This notice was received a couple of days ago and this proceeding has been going on for three months, with my mother restricted living conditions, we need time to thoroughly review and discuss with my mother and her attorney. The invitation to the remote meeting is respectfully declined and objected to. Please find attached General Statue 166-A-19.24 Section F a sign and date section by me, my wife, and Ann T. Daniels through her successor. Should you have any questions or need further clarification please contact me at Daniel, Thomas Law 139 East Main Street Yanceyville or by phone 336-694-4363."

Mr. Ferrell stated as the Board knows, when we began discussing the potential of a remote Quasi-Judicial Hearing on the pending variance, we discussed some of the challenges that go along with these circumstances. The Board, in an interest of time and the applicant decided they

would like to move forward with the remote hearing if at all possible; which leads us to here today with the continued public hearing. When you have a remote hearing, it allows you to continue with the Quasi-Judicial hearings, as long as certain circumstances are met. If you decide to conduct these hearings remotely all persons subject to have standings to participate should be given a notice of the hearing and consent to the remote hearing meeting. All due process rights to the parties affected are protected. Under no circumstances are you permitted to proceed with the remote hearing. In this case you just heard that Mr. Daniel and others that he represents have objected to the remote meeting. They have a right to object and you cannot proceed with this hearing any further until the meetings are back in person. If we are not able to hear from Mr. Daniels due to connectivity issues, he suggested continuing this until the Board can meet in person.

Vice Chairman Owen made a motion to continue the Public Hearing until the Board can meet in person, seconded by Commissioner Williamson. The motion carried unanimously.

Commissioner Williamson made a motion to go out of the Board of Adjustments and back into normal session, seconded by Vice Chairman Owen. The motion carried unanimously.

PUBLIC COMMENTS

Anita Foust, 2501 Hughes Mill Road

Agenda Item 9. Heavy Industrial Development Ordinance (HIDO) - Bryan Miller

Committee Draft

“Trust, But Verify”

Commissioners verify what your staff members and outside legal counsel are telling you.

The Anderson Community in the Hughes Mill Road, Ross Acres 1 and 2 subdivisions are Title VI and Environmental Justice areas. Make sure that your ordinances align with state and federal laws. All ordinances should indicate that assessments for cumulative impacts must be part of the process.

Ensure that safety measures for air, water, and sound (noise) pollution are included in these ordinances.

The HIDO seems to be replacing the Environment Impact Ordinance (EIO), and if so, it should include the environmental assessments and environmental impact statements as well.

Come into the 21st century as leaders rather than returning to the past endangering citizens lives.

Please improve, not repeal, the Environment Impact ordinance.

Thank you.

Anita Foust

Charles H. Blackwell
490 Wall Street, Yanceyville, NC 273769
704-968-1859

Good morning members of the Board of Commissioners of Caswell County. My name is Charles Harrison Blackwell and I come to you again this morning as one of many citizens who have been lobbying over the past three months for the removal of the Confederate Statue. The fact that this matter has not yet made its way back to the Board's agenda suggests that the Board may not perceive the issue with the sense of urgency that is felt by the community.

If this matter is not taken up in today's meeting, we will be eagerly looking forward to it being discussed and voted on at the October 19, 2020 Board meeting. It had been our sincere hope that this matter be resolved prior to the Elections as we feel that the current Board should be held accountable for its outcome. Unfortunately either by intent, or, by what the Board has considered to be more important matters, the timing to deal with this issue has been allowed to nearly approach November 3rd.

We thank you again for your willingness to timely address this issue and will be looking forward to it being dealt with today or at your next meeting.

10/5/2020
Pat Warren
36 Main St
Prospect Hill, NC 27314

During this election year, Caswell County voters will be asked to cast their ballots for or against zoning. Zoning is land use planning and best describes the way Caswell County wants our county to look, smell, hear, and taste now and for our future generations.

Thousands of acres of Caswell County land are being bought by outsiders who do not care (stronger language would be more descriptive) about our health, pristine environment, and way of life. Their only concern is the almighty dollar; they will do anything to get it.

I have had friends tell me that they just do not want the government to be able to tell them what they can or cannot do with their land. Okay, I get it, and feel somewhat the same way. My family owns land in Caswell County and has since the early 1800's, and until now, we have managed without zoning. But it is no longer the 1800's or the 1900's; times have changed.

I will admit that I wrestled with the idea of zoning because I also do not want someone else or a government entity telling me what I can or cannot do with my land. However, it is a fact that some group, Caswell County government, or an outside money grabber is going to determine what happens to the land that we love so dearly. So, do we choose our government over which we have influence, or do we choose polluting industries over which we have no power? That is really the question we are answering this election year. I choose to be in charge of my land rather than have no control whatsoever. That is the reason I am voting for zoning.

Pat Warren
Prospect Hill

Speaking as a citizen concerned about Caswell County's quality of life, thank you for moving the HIDO ahead today. The HIDO will allow us to regulate polluting industries if they start to operate in Caswell County. More importantly, when you pass county wide zoning as our next

level of protection, the HIDO will be less important. That's because zoning will actually prevent polluting industries from coming into Caswell County in the first place.

Leslie Zimmerman
Leasburg

RECOGNITIONS

There were no recognitions.

APPROVAL OF THE AGENDA

Vice Chairman Owen made a motion to approve the Agenda, seconded by Commissioner Williamson. The motion carried unanimously.

APPROVAL OF THE CONSENT AGENDA

Commissioner Jefferies made a motion to approve the Consent Agenda, seconded by Commissioner Williamson. The motion carried unanimously.

RESOLUTION TO ADOPT THE NORTHERN PIEDMONT REGIONAL HAZARD MITIGATION PLAN

Mr. Miller stated that the Northern Piedmont Region is located in the north central part of North Carolina and includes Caswell, Davie, Forsyth, Rockingham, Stokes, Surry, and Yadkin counties and the municipal governments within those counties. This area is vulnerable to a wide range of natural hazards such as winter storms, severe thunderstorms, and floods. It is also vulnerable to human-caused hazards, including chemical releases and hazardous material spills. These hazards threaten the life and safety of residents in the Northern Piedmont Region and have the potential to damage or destroy both public and private property, disrupt the local economy, and impact the overall quality of life of individuals who live, work, and vacation in the region. This regional plan draws from each of the County plans to document the region's sustained efforts to incorporate hazard mitigation principles and practices into routine government activities and functions. At its core, the Plan recommends specific actions to minimize hazard vulnerability and protect residents from losses to those hazards that pose the greatest risk. These mitigation actions go beyond simply recommending structural solutions to reduce existing vulnerability, such as elevation, retrofitting, and acquisition projects. Local policies on community growth and development, incentives for natural resource protection, and public awareness and outreach activities are examples of other actions considered to reduce the region's vulnerability to identified hazards. The Plan remains a living document, with implementation and evaluation procedures established to help achieve meaningful objectives and successful outcomes over time. Today we will need a motion from the Board to approve the Mitigation Plan.

Vice Chairman Owen made a motion to approve the Northern Piedmont Regional Hazard Mitigation plan, seconded by Commissioner Williamson. The motion carried unanimously.

HEAVY INDUSTRIAL DEVELOPMENT ORDINANCE COMMITTEE DRAFT

Mr. Miller stated as directed, a committee was formed and we have had several meetings (5) to date. The Committee is comprised of six members as suggested by the Board. Members include: Commissioner David Owen, Community Member Scott Oakley, Community Member Bryon Shoffner, Community Member Kim Steffan, Staff Matthew Hoagland, Staff Bryan Miller. The committee is making great progress and would like feedback and insight from the Board of Commissioners on how the initial draft meets the expectations of the Board and in what sections of the HIDO the Board would like to see changes. He would like to thank all members of the Committee for their time and service to the county thus far, but would like to express special gratitude to Scott Oakley and Kim Steffan for their efforts. Each committee member has greatly contributed to the process. Mr. Oakley and Ms. Steffan have been both insightful with their opinions and selfless with their time to contribute to the administrative needs of the committee. Mr. Miller then asked if the Board had any questions or suggestions.

Commissioner Oestreicher suggested it to identify the process of the DEQ permitting. Then questioned what the proper way to stage section 153 is and 160D, since section 153 will be converting to 160D. Mr. Hoagland stated the section 153 will stay mainly intact only chapter 18-19 will be transferred into 160D. Commissioner Oestreicher suggested rewording paragraph three to can or may be. Then questioned in section 14-68, why where Asphalt Plants only Class 3 and not a Class 4; he suggested moving to Class 4. Mr. Miller stated throughout the discussions with the Committee that is what the Committee felt that the class the Asphalt Plant should be listed as. But he will take this back to the Committee for clarification and with the suggestion to be moved to Class 4. Vice Chairman Owen stated one of the reasons it was placed into Class 3, was because of looking at neighboring counties. Commissioner Oestreicher questioned in the definition of quarry shouldn't it include sand. Looking at section 14-71 the Land Use Table, Class 2 states 10 acers but, it references 20 acers. Also suggested sub paragraph E the last sentence change allows to required when it comes to fencing and vegetative screens. In section 14-73, should we include Vested Rights. Mr. Ferrell stated that he would make a note of that to include in this section. Commissioner Oestreicher questioned the process in section 14-74 should the Board of Commissioners be notified of permits of Class 3-4. In paragraph E subparagraph 3 this process clearly states that the Planning Board is responsible for granting approval for these permits. In the Alamance County HIDO, the Board of Commissioners make that approval. The Planning Board is to the make sure that all requirements are met of the HIDO and that they are fulfilled. Commissioner Oestreicher questioned is this intent of the Committee is. Variances would have to be granted by the Board of Commissioners. Mr. Miller stated that the Committee had a lot of discussion on this issue. We determined this was the most appropriate way, because of the steps included in the variances that could come forth after the fact. Mr. Ferrell stated that he and the County Manager have spoken of this matter. The new 160D provides a clear delegation of authority of appeals from being an administrator. The statute contemplates that those appeals go straight to the Board of Adjustments and it is stated clearly in the 160D how hearings are held the right to participate, what's the procedure, where do appeals go. His suggestion to the County Manage was whether or not it makes sense with most appeals to go to the Board of Adjustments rather than the Board of Commissioners as do most appeals for local land use decisions. In this case right now that would mean the Board of Commissioners capacity as the Board of Adjustments would hear those appeals, but we have talked about shifting that responsibility off to a constituted Board of Adjustments that does not include the Board of Commissioners. He would ask the Commissioners to think about it. That would allow Land Use Appeals to stop at the Board of Adjustments before going on to Superior Court, rather than have the appeal go straight to the Board of Commissioners. This is something that the County Manager is going to discuss with the Committee as well. Mr. Miller replied that is correct, this is a draft and there will be serval Committee meetings before the final is presented to the Board of

Commissioners. Commissioner Oestreicher suggested that the Board of Commissioners still be involved. Also he suggested that in section 14-76 including a definition of tier 1. Then he suggested in section 14-77, paragraph subparagraph 2 changing 6 months to 4 months. Vice Chairman Owen questioned Mr. Hoagland what is his process on granting additional time. Mr. Hoagland replied it is typically 30 days, but that's for minor situations. This may carry over from another county's ordinance; we will address this at the next meeting. Commissioner Oestreicher suggested, in section 14-80 involving the Planning Board on variances, and for them to make a recommendation to the Board of Commissioners.

Commissioner Williamson suggested including a general description in classes, that way if we have future business to come that is not listed.

Chairman McVey questioned the 2,000ft setbacks. Mr. Miller stated that 2,000ft is for land use spacing. After looking at other counties we saw that amount for land use spacing, operations setbacks, and minimum lot size. This is what the Committee decided to move forward with, but we can look at it again. Vice Chairman Owen agreed that the Committee needed to review setbacks again. Also that way we understand the difference between land use spacing and the area of operations. Land use space is from the property line to the nearest protect facility; the area of operations has to be set 500ft inside that line with Class 3-4. Mr. Miller stated that the property line would have to be 2,000ft away from the house. Chairman McVey questioned that would make it 2,500ft. Mr. Miller replied correct, there is an additional 500ft operational setback from the property line. We can look at different parcels if the Board would like that way we could see how it affects each parcel. One of the main questions that the Committee is asking is what the intent of the Board of Commissioners is as it relates to the HIDO. Is the intent to protect the citizens, to still allow businesses, or to do both. Chairman McVey suggested looking at both, this could restrict some businesses. Mr. Miller questioned what the consensus of the Board was. Commissioner Oestreicher stated that we have heard from the residents that they want protection from these kinds of industries. This proposed setback clearly does this. Then he suggested looking at what neighboring counties setback regulations are. Vice Chairman Owen agreed on looking at neighboring counties setbacks. We need to look at this very closely and see if we want to be on the extreme end of setbacks. He stated that he wanted to protect Caswell County as much as we can, but at the same time he wants to be reasonable. Commissioner Oestreicher questioned in other counties that had shorter setback distances, how many of them had zoning. Vice Chairman Owen stated from what he can recall very few of them. Mr. Miller stated ordinance like this it is going to regulate operations setbacks, land use spacing, and it is going to regulate placement. Zoning would regulate where within the county a business could locate. This does not do that, a business still can locate anywhere in the county long as they can meet land use spacing and operations setbacks. Alamance County reduced their land use from 2,000ft to 1,250ft and they do not have county wide zoning. Chairman McVey suggested this maybe something we want to put off and see if zoning passes on the referendum. Vice Chairman Owen stated we need to be reasonable. Commissioner Oestreicher stated we need the max amount of protection. Commissioner Jefferies suggested putting this off until after the election and see if zoning is passed. Chairman McVey agreed. Vice Chairman Owen stated it will be after the election before a final draft will even be submitted. Commissioner Williamson stated or the first of the year. Vice Chairman Owen stated we need to take these issues back to the Committee and make changes and bring it back to the Board of Commissioners. Then he suggested adding buildings to area of operations as well.

COVID 19 UPDATES

Mrs. Eastwood stated our current numbers are 427 and since the last update, there have been 60 offenders that tested positive, along with 44 community members. We are now in Phase 3 and this mainly applies to entertainment facilities. The state will be setting up a testing site that will be 5 days a week and this will free up some time for the Health Department to take on regular appointments.

COUNTY MANAGERS UPDATES

- UDO Amendment Public Hearing at November 3, 2020 meeting.
- Looking at transitioning back to regular meetings.
- Planning Board Approved Solid Waste Site.

COMMISSIONERS COMMENTS

Vice Chairman Owen reminded that Board that there were several items within the budget that was supposed to be looked at in October and we needed to get a update from the Finance Director and the Tax Director. The Board came to a consensus on have a special meeting sometime the next week.

ANNOUNCEMENTS AND UPCOMING EVENTS

There were no announcements or upcoming events.

ADJOURNMENT

Vice Chairman Owen made a motion at 10:28 a.m. to adjourn, seconded by Commissioner Williamson. The motion carried unanimously.