MINUTES – SEPTEMBER 16, 2019

The Caswell County Board of Commissioners met in regular session at the Caswell County Historic Courthouse in Yanceyville, North Carolina at 6:30 p.m. on Monday, September 16, 2019. Members present: Rick McVey, Chairman, Jeremiah Jefferies, Vice Chairman, Sterling Carter, William E. Carter, Nathaniel Hall, Steve Oestreicher and David Owen. Also present: Bryan Miller, County Manager, and Brian Ferrell, County Attorney. Paula P. Seamster, Clerk to the Board, recorded the minutes.

MOMENT OF SILENT PRAYER

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

Commissioner W. Carter stated that he would like for everyone to remember the family of Mr. Ben Blalock in their thoughts and prayers.

PLEDGE OF ALLEGIANCE

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

APPROVAL OF AGENDA

Commissioner S. Carter stated “Mr. Chairman I’d like to add one item in between #11 and #12 if there is no objection, this is regarding the sample survey letter that is lying on your desk about Farmer Lake.”

Commissioner Oestreicher stated that he would like to meet with the Personnel Committee after the meeting for about 20 minutes.

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

APPROVAL OF CONSENT AGENDA

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

The following items were included on the Consent Agenda:

A. Approval of Minutes of August 29, 2019 Special Meeting

B. Approval of Minutes of September 3, 2019 Regular Meeting

PUBLIC COMMENTS

Chairman McVey opened the floor to Public Comments.

Chairman McVey asked if anyone would like to speak during Public Comments. With no comments Chairman McVey closed Public Comments.

RECOGNITIONS

Commissioner S. Carter recognized General Aviation at the Danville Airport. He added that General Aviation has been the FBO operator for 70 years. Commissioner S. Carter stated that Averett University has a flight program and General Aviation and Averett are planning to join together.

Commissioner Oestreicher recognized the Spaghetti Dinner that was held at the Senior Center through the Caswell Cancer Center. He added that it was a pretty good turnout and the food was very good.

Commissioner Owen recognized the Caswell Family Medical Center is going to be expanding to Eden. He congratulated The Caswell Family Medical Center on their success and for their service to the residents of Caswell County and now for those residents in Eden.

Commissioner S. Carter stated “Yes, before the Hoedown takes place I would just like to recognize all the countless individuals and the Chamber of Commerce for all of their work that they have done to put that event together. I know the citizens…they are doing a great job and I know the citizens are looking forward to that event this year. And also on a positive note as well I would like to congratulate the football team at the high school on their winning streak because they have not had one like this in over 15 years and that’s instilling a lot of pride in those of us that went to Bartlett Yancey.”

YOUTH VOICE 4-H REPRESENTATIVE BLISS POINTER

Miss Bliss Pointer stated “Good afternoon, my name is Bliss Pointer and I am part of the Caswell County 4-H Leadership Club and I was the representative for Caswell County at Youth Voice during the NCACC. I enjoyed speaking to you and appreciated your support that you have given me to go to these types of experiences. I learned about leadership skills including how to be productive with others in a government setting. I got to meet many amazing people including an award winning author that taught us about how she got to where she is today. I really enjoyed Youth Voice and appreciate your support of the Caswell County 4-H Program.”

Everyone applauded Miss Pointer.

APPOINTMENTS TO BOARDS AND COMMITTEES

ABC Board

Commissioner Owen moved, seconded by Commissioner S. Carter to appoint Mr. Jon Crispin to the ABC Board. The motion carried unanimously.

Agricultural Advisory Committee

Commissioner S. Carter moved, seconded by Commissioner Owen to appoint Mr. Tony Kirby to the Agricultural Advisory Committee. The motion carried unanimously.

Recreation Commission

Commissioner Jefferies moved, seconded by Commissioner S. Carter to appoint Mr. Eddie DeLuca and Ms. Natashia Wiley to the Recreation Commission. The motion carried unanimously.

Senior Center Advisory Committee

Commissioner W. Carter moved, seconded by Commissioner S. Carter to appoint Ms. Lou Ann Reaves to the Senior Center Advisory Committee. The motion carried unanimously.

APPLICATION PUBLIC SCHOOL BUILDING CAPITAL FUND NORTH CAROLINA EDUCATION LOTTERY – EXTINGUISHMENT OF DEBT FOR

N.L. DILLARD MIDDLE SCHOOL

Mr. Miller stated that the Board has before it an application from the Board of Education that will draw down $422,900 for the payoff of the Dillard Middle School.

Chairman McVey stated that he thought the MOU called for $600,000. Mr. Miller responded that the MOU called for $653,925 which is a difference of $231,025 because a payment has been made on the loan.

Commissioner S. Carter moved, seconded by Commissioner Jefferies to approve the application for the extinguishment of debt for N.L. Dillard Middle School.

Commissioner W. Carter asked if the county attorney had a chance to review this application. Mr. Ferrell responded that he saw the form which is a state application and he did not have any questions about the form but he noted the same thing that the Chairman pointed out that the request is less than what was provided in the MOU and the reason was the timing of a payment that came due. He added that he did not know if the County or the School Board would be precluded from asking for the difference in the money on an additional application and he asked if the last quarterly payment could be reimbursed. Mr. Miller responded that he spoke with Ty Wellaford with Davenport and he said that this would not affect their financial analysis of the project moving forward. He added that the only thing they were looking for was that the funds would be applied to the payoff of Dillard Middle School.

(At 6:45 Commissioner Hall entered the meeting.)

Commissioner W. Carter asked for the motion to be repeated for Commissioner Hall.

Commissioner S. Carter moved, seconded by Commissioner Jefferies to approve the application for the extinguishment of debt for N.L. Dillard Middle School. The motion carried unanimously.

APPLICATION PUBLIC SCHOOL BUILDING CAPITAL FUND – IMPROVEMENTS AT BYHS INCLUDING SECURITY ENHANCEMENTS, DEMOLITION, AND CONSTRUCTION OF A NEW 2 STORY ACADEMIC & DINING FACILITY

North Carolina Education Lottery Application

ADM (Corporate Tax) Fund Application

Mr. Miller stated that the Board has two applications from the Board of Education. He added that in the MOU the Board of Education is to supply $1.6 million to help fund the construction and renovation of Bartlett Yancey High School. Mr. Miller stated that the two applications total $1.6 million.

Commissioner Oestreicher asked if these applications were reviewed by the county attorney. Mr. Ferrell responded that he looked at the applications and the MOU speaks to the fact that the School Board would be seeking funding in this way.

Commissioner Owen moved, seconded by Commissioner Oestreicher to approve the North Carolina Education Lottery application and the ADM (Corporate Tax) Fund application. The motion carried unanimously.

PUBLIC RECORDS POLICY AND EMPLOYEE PROTOCOL

Mr. Miller stated that he is presenting the Board with the policy for several reasons. He added that Caswell County local government needs a better and more formal system of tracking and assessing public records requests. Mr. Miller stated that in the last 6 months Caswell County local government has fulfilled 45 public records requests that he has been directly involved with answering and he added that he is sure there are a number of requests that he is not aware of. He added that the 45 public records requests have incurred conservatively over $12,000 in actual labor costs that result in taxpayer dollars being spent. Mr. Miller stated that the 45 public records request have cost the county in excess of 390 employee hours which is equivalent to more than 2.5 months of work for a full time employee. He added that the requests that were fulfilled in the last 6 months have accounted for over 4,000 pages of public records. Mr. Miller stated that it is the county’s responsibility to fulfill these requests as promptly as possible and added that the law does not set a specific time within which an agency must respond but constitutes a reasonable or prompt response. He added that the response will depend on the nature of the request and the available personnel and other resources available to the agency that receives the request. Mr. Miller stated that as the requests become more substantial and the burden becomes greater it is reasonable to allow more time to locate, deliver and produce the desired records. He added that factors that may delay access is the number of records requested, whether the records are located in multiple or remote sites, how large the request is, and whether any part of the records have to be redacted. Mr. Miller stated that the Caswell County local government has a relatively small number of employees and an even small number of employees equipped with training and expertise to fulfill these types of requests. He added that based on the types of requests that have been received staff cannot continue to fulfill these requests in the same manner that has been done in the past. Mr. Miller gave examples of the requests that have been received: water testing, what happens to discarded library books, revolving fund loan application, rumored loans to companies that were never given loans, basically all documents involving one local small business, construction budgets for the library project, RFPs and RFQs for the greens machine and gators, 911 Communications backup plans, County vehicles and equipment being located at Virginia International Raceway, commissioners exchanging positions on boards, all permits issued from the Buildings Inspections Department for the last 10 years, County website issues, public school system’s social workers, sheriff’s vehicles, solid waste, benefits administration, salaries of county employees and officials, personnel files, list of county vehicles assigned to departments, Board of Elections salaries, IT salary, any and all electronic purchasing records from 2012 to current, PCC transportation, information about specific commissioners, Caswell County personnel policy, tornado drills, CATS and DSS board minutes, ambulance dispatch logs, and added that the list goes on and on. Mr. Miller stated that there are provisions in state statutes that allow for special service charges when a request requires extensive use of information technology resources or extensive clerical or supervisory assistance by personnel of the agency involved and that is one way he plans to deal with this moving forward with the public records requests of if it pleases the Board additional staff can be added to help accommodate the large number of requests that are being received. He added that staff will continue to fulfill these requests in a reasonable time frames and under reasonable supervision and as promptly as possible but he wanted the commissioners to know that the requests will not be fulfilled in 2 days, 3 days, or in some cases even 2 weeks or 3 weeks. Mr. Miller stated that one request that is being worked on now will be well over 1000 pages. He added that the policy that was emailed to the Board is a policy that deals with staff’s ability to track and account for not only the public records requests but employees’ time associated with the public records requests moving forward. Mr. Miller stated that he would be happy to answer any questions about the policy.

Commissioner W. Carter asked if the requests for the last 6 months were from one person, one group, or several people. Mr. Miller responded that these requests are from several people from individual citizens to corporate entities to political activist groups so it is not just one individual or one group. He added that the requests that he referred to earlier were from 5 to 6 different groups. Mr. Miller stated that he is sure there are other public records requests that go to the clerk, DSS, health department, etc. that he is not aware of but the ones that he talked about earlier are the ones that he is aware of that were fulfilled in the last 6 months. Commissioner W. Carter stated that he was very concerned about the cost and time that has been involved in fulfilling these requests.

Commissioner Owen asked if there is one person in the policy that all public records must pass through before they are released. Mr. Miller responded that the Custodian of Records which is the clerk to the Board is how it is now. He added that the policy is written that regardless of which department the public records requests comes to it is sent to the clerk to the Board and the county manager so that the request is dually noted and the two can make sure that the request is answered in a timely manner. Commissioner Owen stated that the answering of the public records request is his main concern because there may be information that is being released that should not be released. Mr. Miller responded that there are different levels of review but the last level of review remains with the county manager and clerk to the Board as the Custodian of Records and the public records requests will be reviewed by both before the records go out and then the Custodian of Records will fulfill the request with the individual that made the request. He added that he has several department heads present at the meeting tonight that are ready to answer any questions the Board may have regarding those requests.

Commissioner S. Carter stated “I know that you mentioned, was it the last 6 months 390 employee hours.” Mr. Miller responded that this was correct. Commissioner S. Carter continued “Is there a rough estimated dollar amount that is associated with that?” Mr. Miller responded that is about $12,000. Commissioner S. Carter continued “And just a couple comments. I like what we just got through discussing or you just got through explaining the coordination between the key individuals in this policy I think is a great asset to have with this change and I am curious and I don’t want to put anybody on the spot but I am curious if one of the department heads would like to say something, just give their perspective on how it might have impacted your day to day tasks.” Commissioner Hall responded to the Chairman that before the Board goes there the Board is working on a policy and unless there is a specific reason he did not think staff needed to be involved at this point. He added that the Board needed to deal with the policy. Commissioner S. Carter stated “I hear you. I just think the public is unaware how extreme this current situation is and how it may be impacting how county government functions. Like I said I’m not trying to put anybody on the spot but I am not able to speak…” Mr. Miller responded that without hearing from staff he could answer one of the questions. He added that a public records request was received just last week and from this request one of the county departments has already logged 12 hours of employee time answering that one specific request and this is the request that will probably exceed 1000 pages so some of the requests can be quite burdensome and they cannot be fulfill in a day or two. Mr. Miller stated that the School of Government has taken up to 2 ½ years to respond to public records requests but he was not saying the county would take 2 ½ years but the county cannot respond to these request quickly all the time.

Commissioner Hall stated that the reason he made the suggestion earlier is because handling public records requests is a statutory requirement and he did want it suggested in any way to staff or to the public that it is optional or negotiable and the Board needs to deal with the fact that it needs to be done. Commissioner S. Carter responded “And I would say that perspective was what I was looking for and sorry for sticking my neck out there.” Mr. Miller responded that he agreed and added that he said in his opening statement about the policy the county has the duty to fulfill these requests because at the end of the day all of the records are the public’s records but it is just the time frame that staff has been asked to response to the public records requests in the past that is growing continuously burdensome for himself and the county departments.

Commissioner Jefferies asked if this policy would include DSS. Mr. Miller responded that the policy would include DSS. He added that of the 390 hours there was one request that came through DSS that probably would have been included in these hours.

Commissioner W. Carter asked if the request from last week was from an individual or a political group. Mr. Miller responded that the request that he and Commissioner Carter had spoken about last week was from a political group. Commissioner W. Carter asked if this request is the one with 1000 pages. Mr. Miller responded that the request will be over a 1000 pages once it is completed. He added that a small portion has been completed and it is already over 300 pages. Commissioner W. Carter asked if this request from a political group. Mr. Miller responded yes.

Commissioner Owen asked the county attorney if public records requests are public records. Mr. Ferrell asked if this was a trick question. He stated that yes that documents requested are county records that are subject to disclosure and are not subject to an exception of public records laws. Mr. Ferrell stated that the presumption is just as Commissioner Hall and the county manager stated records of county government are public just like the Board’s meetings are open to the public. He added that records of county government are subject to inspection by the public unless an exception applies.

Commissioner Hall stated that if someone is done with county resources on county time in a county department it is a public record. He added that one time the county manager put in this policy is there is no expectation that whatever is put in there is open to the public. Mr. Hall gave the example of him using the county equipment and/or email these are no longer classified as personal. Mr. Ferrell disagreed with Commissioner Hall slightly because he believes in county policies or email policies the county has taken away any expectation that any employee that uses county property has any privacy but under the law it is a little bit different. Commissioner Hall stated that he accepts that. He added that if he sends an email to the county attorney and states the chairman is a jerk and that information gets out it is a public record. Mr. Ferrell responded yes it would be public record. He added that there are exceptions to the rule of public record and that would be personnel information or safety information. Mr. Ferrell stated that if a county employee uses their own personal account for public business that is a public record so it is not just county email or county resources but it is anytime a record is created in the conduct of county business. Mr. Miller added that the School of Government defines it best as when talking about a public record it is the content of the record that is pertinent and not necessarily the means of the delivery.

Commissioner Hall asked the Chairman if the Board could go to pages 2 and 3 of the policy where is states ‘All emails, in all folders, with the exception of any folder marked “Personal”…may be reviewed.’ Mr. Miller responded that the Personal folder would be reviewed by the county attorney, IT director, himself, clerk to the Board, and if these may still be subject to public records requests but they may not. Commissioner Hall stated that this is his point, that if it is marked personal it will not be seen and he did not think this should be included in the policy. Mr. Ferrell responded that he thinks this is a good point and added that the presumption is there is no privacy. Commissioner Hall suggested to the Chairman and Vice Chairman that as the Board goes about developing this policy the exceptions that general counsel mentioned need to be put in the policy so show what is personal and non-business so the employees of county government will understand how narrow the field is on privacy. Mr. Ferrell responded that that presumption is there is no privacy in county business.

Chairman McVey asked if there were any more questions.

Commissioner Hall asked the Board to go to page 2 of the policy where it states that the clerk to the Board as the custodian and the manager has indicated that the clerk to the Board in conjunction with him will be the deciding factor on which information will go out and if this is what the Board wants to do this needs to be included in the clerk’s and manager’s job description because he has heard some discussion about job overreach and if it is not in the job description then we don’t know where overreach starts. He added that this is just a suggestion. Mr. Hall stated that 390+ hours were mentioned and labor costs and he added that some way or another the Board needs to determine a cost for fulfilling these requests and the cost does not have to be fixed because this is a statutory requirement to fulfill public records requests. He added that when citizens make a request the citizens will have an idea of what is being requested and what it might cost.

Commissioner Oestreicher asked if Commissioner Hall was suggesting a fee schedule without necessarily having fees. Commissioner Hall responded yes. Mr. Miller responded that there is a fee schedule posted at the end of the policy. He added that if there is a case where the county could charge time in addition to materials it would only be applicable to the actual amount paid to the employees that answer the request. Mr. Miller stated that a fee could not be set above the actual amount that was incurred. He added that upon review of the request contact the requestor and let them know it is above and beyond what is considered normal and inform them that charges may be associated with the request for technology of whatever the case may be.

Commissioner Hall asked if the county could charge for direct hours for public records requests. Mr. Miller responded that he thought in certain situations the county can but it is not clear cut and he would want to consult with the county attorney on the request before doing something like that.

Commissioner Oestreicher asked if this would be on a case by case basis. Mr. Miller responded that only a few public records requests rise to this level but he has received several lately that have risen to this level but it is not the norm for public records requests. Commissioner Oestreicher asked if the predetermined levels would be reached without consulting with the county attorney. Mr. Miller responded that trigger points have been discussed about several other issues but this does not have a trigger point because a 1000 page document may only take 5 minutes to fulfill while another situation of a 100 page document might take 2 weeks to fulfill. Commissioner Oestreicher stated that time is what is being discussed and not pages. Mr. Miller responded that this is correct. Commissioner Oestreicher stated that the unit of measure should be time and not pages. Commissioner Hall responded that it may be a combination of both. Commissioner Oestreicher stated that pages are time but time is the overarching factor but he did not like the idea of asking the county attorney every time. Mr. Ferrell responded that the vast majority of public records requests can be fulfilled fairly easily in an hour or less and the cost of the paper and copies are fairly easy to figure. He added that he did not know what the trigger is but perhaps is the public records request takes more than an hour of staff time that is a trigger but the county manager does not need to consult with him every time. Commissioner Oestreicher asked how other counties handle their public records requests and could the county get these guidelines. Mr. Ferrell responded that he expects different local government do it differently but a survey could be done. He added that the question is what is a comprehensive, problematic request is because for Mecklenburg County it would be a lot different than what it would be for Yadkin County because Mecklenburg probably has 5 employees that are dedicated to fulfilling public records requests and Caswell County does not have any employees assigned to do just public records requests. Mr. Ferrell stated that the manager or the clerk could get some good feedback on their listservs about when counties charge and how much is charged. Commissioner Oestreicher stated that this is what he is looking for.

Commissioner Owen stated that it is apparent that this Board does not want to hear from the department heads and asked if they could be released unless they want to stay on their own time. Mr. Miller responded that this would be fine with him.

Commissioner S. Carter stated “To the effect of what the attorney just said, I know I have asked our clerk on some random occasions about random county policy questions, the Clerks listserv is a very resourceful tool that we have and I would through it out there that we authorize our clerk to put that question out and see in regard to a special service fee for these public records requests.” Commissioner Oestreicher added for small counties like Caswell. Commissioner S. Carter continued “You can really send it out to specific counties though can you?” The clerk responded that she could. Commissioner S. Carter continued “You could, okay. Sure.” Commissioner Oestreicher stated that the example the county attorney gave of Mecklenburg is a perfect example because they have staff that does this and the Board would only be interested in counties that do not have staff to do public records requests. Commissioner S. Carter stated “I think we would be able to get some good information that way.”

Commissioner Hall stated that he had one more comment on the policy, on page 3, #4 Automatic Deletion. He thinks this should be removed from the policy and there should not be any automatic deletions of emails. Mr. Ferrell responded that this is a policy decision but the rule on emails is if it is transitory in nature it does not need to be kept but if not it has to be kept and this may be difficult for some employees to make that determination on a case by case basis. Commissioner Hall stated that from what he read once it is automatically set to delete the emails it will automatically do just that. Mr. Miller responded that this would only delete the items in the deleted items folder. Commissioner Hall gave the example again of him calling the chairman a jerk and stated that he would delete that email and he could not support any automatic deletion of emails because what may seem benign to one person may not be benign to someone else. Mr. Miller responded that he did not have any strong feelings about automatic deletions or not.

Commissioner Oestreicher stated that if an employee decides to delete a file it is not really gone if it is in their delete folder. Mr. Miller responded that this is correct but it still takes up space on the hard drive. He came the example of receiving 150 emails a day and over time this builds up and he has to go into his esinc account to delete emails because he cannot have over a certain amount of megabytes of data on that account or he will not receive any emails so these emails are being stored on his personal computer and he is at the point where his personal computer does not work as it should. Commissioner Oestreicher asked if this opened up the county manager’s personal computer for examination. Mr. Miller responded that when he is speaking about his personal computer he is talking about his county laptop in his office. Commissioner Oestreicher asked if a person empties their deleted files are they gone. Mr. Miller responded yes they are gone. He added that to Mr. Hall’s point that is an intentional action so if an individual takes that intentional action then they should be prepared to back it up. Commissioner Oestreicher stated that there would not be any evidence of it. Mr. Miller responded that there are always two people with an email, the sender and the receiver and in most cases it is the sender of the email that is required to keep the document as a public record. Commissioner Oestreicher agreed that the automatic deletion is a dangerous thing.

Chairman McVey asked if there were any more questions about the policy.

Commissioner Oestreicher asked if more information was going to be received on when and how much to charge on public records requests. Commissioner S. Carter responded “Unless there were objections to that I was going to ask that question to go ahead and authorize the clerk to put that question out.” Commissioner Owen stated that he did not have any objections to this. Commissioner Oestreicher stated that he thought it would be good.

Chairman McVey asked the clerk to put the question out to the clerks’ listserv.

Chairman McVey asked if there was anything else to be discussed on the policy.

Commissioner S. Carter asked “So we will just plan to discuss this next time?” Chairman McVey responded yes, that it would be brought back at the next meeting for discussion and maybe there will be some answers to some or all of the questions.

FARMER LAKE RESIDENTS SAMPLE LETTER

Commissioner S. Carter stated “Everyone should have a copy of a sample letter to the residents and property owners of Farmer Lake. A while ago when I brought up the Farmer Lake ordinance and possible amendments to that the idea was thrown out there to do a public community meeting on proposed changes or ideas, putting it out there for them to give us input to say the least. And at the Farmer Lake Board meeting I brought this up as we discussed in our meeting a couple of months ago about changing the water classification allowing certain things to happen there, they of course made their opinion loud and clear, they were not interested in changing the water classification which would allow for swimming but when I brought up the possibility of doing a community meeting in the form of a basic survey just to see what the property owners around the lake would say they had no objections to that so this is just a sample of something that we would be sending out to property owners in lieu of having a community meeting to save time and maybe have softer emotions on the question. So I am putting it out there to you, is this something we want to pursue and if there are any possible changes or concerns about the content of what this survey would be asking for in the manner that it is asking?”

Commissioner Owen stated as a matter of public record, neither the Farmer Lake Board nor this Board can change the classification of that lake. Commissioner S. Carter responded “Correct, we are beyond that.”

Commissioner Oestreicher stated that he would encourage Commissioner Carter that if he is doing this that he marks it ‘draft’. Commissioner S. Carter responded “Say again, sorry.” Commissioner Oestreicher asked Commissioner Carter if he does this to mark it draft so it does not look so official. Commissioner S. Carter responded “Sure, I appreciate that.” Commissioner Hall asked why it should be marked draft. Commissioner S. Carter responded “Because this looks like an official document just lying around. Commissioner Hall stated that it is an official document and he asked why a survey would be marked draft. Commissioner S. Carter responded “This is not the final version of it; I see where he is coming from.” Commissioner Oestreicher stated that it should be marked draft for the Board’s discussion. Commissioner Hall responded that the Board is the only ones that received it so the Board knows it is a draft but it is fine to mark it draft. Commissioner S. Carter responded “Noted.” Commissioner Oestreicher asked if this survey would be better coming from the Farmer Lake Board than the County Commissioners. Commissioner S. Carter responded “I would say no because they don’t have the authority over the ordinance, it falls to this Board with any possible amendments or changes.” Commissioner Oestreicher stated that he understood this but he thought it would be better for the Farmer Lake Board to gather input. Commissioner Hall responded that the Farmer Lake Board’s heart would not be in it. Commissioner S. Carter responded “If they make the initiative they probably could have very well done it but because there was not a lot of discussion on the matter and there was no objections, they basically said hey do what you want to do and go for it. It’s nothing binding, it is just a survey and it doesn’t matter which group is sending it out but either could have done it.” Commissioner Oestreicher stated that it kind of looks like the Farmer Lake Board is being ‘leap frogged’. Commissioner S. Carter responded “Right.”

Commissioner W. Carter asked if the questions on the sheet are going to be ones on the survey. Commissioner S. Carter responded “Sorry.” Commissioner W. Carter asked if the questions on the sheet are the actual questions that will be on the survey. Commissioner S. Carter responded “Again, this is a sample of possible changes to that ordinance, things that it could include and that’s why I was asking if there’s any concerns over any of these items or if there is any that need to be removed or changed.” Commissioner W. Carter suggested that Commissioner Carter complete the questions for the survey and then come back before the Board with those. Commissioner S. Carter responded “It’s really…” Commissioner W. Carter stated that he could not approve the sheet if the questions are going to be changed to something else. Commissioner S. Carter responded “I will say this, that the six questions, survey questions, which is just a yes or no to six points of change, there could be no additional ones that I know of so it’s just a matter of do you want to remove any or keep them as they are.” Commissioner W. Carter asked if the Farmer Lake Board has been the questions. Commissioner S. Carter responded “I’m sorry there’s five points, yes, that’s why this is a draft.” Commissioner W. Carter asked if the Farmer Lake Board approved of this survey or not. Commissioner S. Carter responded “They had no objections for the Board to survey the residents of the lake. So yeah there’s five points instead of six. Do y’all want any of these items to be removed, these questions? Is there any language changes you would like to see?”

Commissioner Oestreicher asked if the swimming is no longer being asked for. Commissioner W. Carter responded that swimming is not allowed because it is a C classification because it is a public water supply. Commissioner S. Carter responded “I’ll try to be as clear as I can; this is just to see what their thoughts on it are. As the process of that classification, as Mr. Owen said the Board and the Farmer Lake Board are not the direct boards that can make the change, we would have to apply to the state, it’s a long process but this is just to see what the thoughts are. Again, none of this is binding. Commissioner Oestreicher stated that Commissioner S. Carter said there were five questions but he sees six. Commissioner S. Carter responded “Sorry, there are five. It’s a typo Mr. Oestreicher.”

Commissioner W. Carter stated that he thinks swimming needs to be taken off the survey because swimming is not allowed due to the classification. Commissioner S. Carter responded “Well none of these are allowed, that’s the point, these would be changes to the ordinance. Commissioner W. Carter stated that the state would have to approve the classification. Commissioner S. Carter responded “I am there with you; this is just to see what the residents around the lake think on these five points.”

Commissioner Oestreicher stated with all of this being said he was okay with the survey.

Commissioner S. Carter asked “Any language change? You are fine with how this is worded? It’s coming from this Board?” Commissioner Oestreicher responded that the last thing Commissioner S. Carter wants is for the Board to wordsmith him. Commissioner S. Carter responded “I want to give everybody ample opportunity to just review it and either thumbs up or thumbs down.”

Commissioner Hall stated that it has personal water craft but he asked if something could be added as far as launching personal water craft from private property. Commissioner S. Carter responded “That’s basically what that means. I was trying just to be as minimal when wording on that as possible for it to be on one page.” Commissioner Hall stated okay. Commissioner S. Carter responded “Because currently nobody on the lake can have a personal water craft whether on the bank launching it or on a dock or whatever.” Commissioner Hall responded that the residents can if they store it somewhere else. Commissioner S. Carter responded “They cannot launch anything off of their property.” Commissioner Hall responded that he knew they could not launch but Commissioner S. Carter said the resident could not have personal water crafts. Commissioner S. Carter responded “Oh, you can have them in your yard.” Commissioner Hall stated that he has seen canoes in yards. Commissioner S. Carter responded “Because they are putting them in the lake, nobody is regulating it; I will call it for what it is.”

Commissioner S. Carter stated “So we would be sending this out and hopefully getting responses. I am happy to bring it back to the Board and also to the Farmer Lake Board. And we have a list of the property owners’ addresses and whatnot so we are good to go.”

Chairman McVey asked if Commissioner S. Carter needed a consensus. Commissioner S. Carter responded “That’s all I need.”

Chairman McVey asked Commissioner W. Carter if he was okay with this survey being sent out. Commissioner W. Carter responded that he would like to see the final draft. Commissioner S. Carter stated “This is it.” Commissioner W. Carter asked if this was the final draft. Commissioner S. Carter responded “Other than that one typo, on it being five questions instead of six and obviously changing the date. Thank y’all.”

The Board was okay with the survey being sent out to the property owners at Farmer Lake.

Chairman McVey stated to send the survey out.

GATEWOOD BUSINESS PARK RESTRICTIVE COVENANTS

Mr. Miller informed the Board that he received an email from an attorney that has a client that is considering purchasing some land which is currently restricted by covenants placed on the land by the Caswell County Board of Commissioners in 1998 but the covenants were originally conceived in 1989. He added that the covenants currently do not allow this attorney’s client to operate his business in the way he wants to. Mr. Miller stated that the business is an automotive repair and sales operation. He stated that after consultation with the county attorney he believes what can be done is a resolution can be brought before the Board that authorizes some of these usages and if the Board approves the resolution this can be provided to the attorney’s client and this would authorize this use on the land.

Commissioner Hall asked where Gatewood Park is located. Commissioner Owen responded that Gatewood Park is located just on the right before you go into Virginia on Highway 86 near where Wooden Ladder is. Commissioner S. Carter stated “And that road is called Gatewood Business Park.”

Mr. Miller stated that there are 5 parcels that are governed by these covenants currently. He added that he did not think what the attorney was requesting in his letter is out of line with the current usages that are being conducted in the park.

Mr. Ferrell stated that the covenants were applied in the late ‘80s and restricted uses to industrial manufacturing uses but these terms were not defined in a meaningful way. He added that there is a provision in the covenant that stated that other uses can be approved if the committee administering the covenants thinks the use is compatible with the other uses in the park and the Commissioners sit as this committee. Mr. Ferrell stated that the resolution is being suggested instead of going through the process of amending the covenants to specifically allow this use or that use.

Commissioner S. Carter asked “Mr. Chairman, on those lines, would it be sufficient to just remove on page 3 at the top #2 Prohibited uses Part B. to just commercial uses and that would cover not only this property but any other potential business?” Mr. Ferrell responded that he did not think it would hurt but because of the way the definitions are tied together making a change like that could have other implications on how the covenants are drafted.” Commissioner S. Carter continued “Such as?” Mr. Ferrell responded that for instance if the Board removes just for commercial use and it says it can be used for any commercial uses this may not be what the Board wants to do because it may not be suited for an adult establishment for instance but the Board does have the flexibility with the covenants to say ‘this use is compatible’ on a case by case basis.

Commissioner Hall asked if tenants were in this park now. Mr. Miller responded yes but the County does not own any of the parcels of land in the park. Commissioner Hall asked how many parcels are out there. Mr. Miller responded five. Commissioner Hall asked the county attorney if the covenants benefited the business owners out there. Mr. Ferrell responded that the business owners bought into the covenants so there are questions in his mind about amending the covenants because it will change the character of the development of the property. He added that through the covenants the Commissioners have the ability to permit uses that the committee believes are consistent. Commissioner Hall stated that he did not doubt this but the county does not own property and the tenants that are out there purchased based under these covenants so there are two questions that need to be answered 1) does the Board think the use is compatible and 2) do the other tenants out there think it is compatible. Commissioner S. Carter responded “They have some say don’t they?” Mr. Ferrell stated that the covenants don’t involve the other tenants in the decision of what is appropriate or not. Commissioner Hall stated that it does involve the tenants to the extent that they purchase the parcels based on the covenants and the tenants should have some say so. Mr. Ferrell responded that there is nothing that says the Board could not solicit feedback.

Mr. Miller stated that the two other businesses located out there are a garage and a transmission repair shop.

Commissioner S. Carter stated “Mr. Chairman, permit my humor I think we need to rename it the automotive business park.”

Commissioner Oestreicher asked if this use would fall under the purview of the Planning Board. Mr. Miller responded that he did not think so. Mr. Ferrell responded that he did not know the answer to that. Mr. Miller responded that the use if irrelevant to the Planning Board review simply because the business would still have to meet the conditions of the UDO having owned a parcel in Caswell County. Mr. Ferrell stated that the Planning Board does not approve or disapprove use of property. Commissioner Oestreicher stated that the Planning Board has to approve the rock quarry. Mr. Miller responded that he did not think this was the case. Commissioner Oestreicher responded that he was told this by the Planning Board chairman. Mr. Miller responded that he did not think this was the case.

Commissioner Owen stated that he was good with a resolution being crafted.

Commissioner S. Carter stated “I see no problem with it on this individual request.”

Commissioner Oestreicher stated that he thinks the other property owners should be included in the decision because it is a neighborly thing to do. Mr. Ferrell responded that the Board could proceed however it chooses and he added that there was nothing that prevented the Board from terminating the covenants if the Board did not want to be involved in it anymore. Commissioner Oestreicher stated that he like this idea a lot. Mr. Ferrell stated that the owners may like for the Board to terminate the covenants.

Chairman McVey asked would be involved with the termination of the covenants. Mr. Ferrell responded that 50% of the current owners would have to agree to terminate to the covenants but he would like to see all 100% agree to the termination of the covenants.

Commissioner S. Carter stated “Just so that we are all aware, this also applies to the industrial park.” Mr. Miller responded that the same covenants apply to the industrial park on Firetower Road but the covenants could be removed from this business park without removing them from Firetower Road. Commissioner S. Carter continued “It says industrial park committee so I did not know if that would change.” Mr. Miller stated that the county still owns parcels on Firetower Road.

Commissioner Oestreicher stated that he was in favor of the resolution. Commissioner S. Carter responded “I agree.”

Mr. Ferrell stated that a resolution would be pretty straightforward and the manager may be able to provide the Board with this resolution. He added that this process could take place first and then the Board could look into the termination of the covenants at a later date because it will take longer for this to happen.

COUNTY MANAGER’S UPDATES

Mr. Miller stated that he did not have any updates for the Board.

Commissioner W. Carter asked about the status of the cutting the timber at the Pelham Industrial Park. Mr. Miller responded that bids are still being taken. He added that there is a process that has to be followed: the property has to be flagged, identify areas that will not be timbered, walk prospective bidders through the property, have the timber evaluated, etc.

Commissioner W. Carter asked about the status of the project on the Square. Mr. Miller responded that the project is moving forward and he hopes to have the construction contract before the Board at the next meeting.

ANNOUNCEMENTS AND UPCOMING EVENTS

A. Caswell County Blood Drive -Thursday, November 14, 2019 10:00 a.m. – 2:00 p.m. –

Senior Center

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

3:00 p.m. – Civic Center

Mr. Miller announced that the Hoedown will be on Saturday, September 21st.

Commissioner W. Carter stated that he had the opportunity three weeks ago to go to the Danville City Council meeting. He stated that the Board makes a motion to go into a public hearing but the mayor stated that they were in public hearing. Commissioner W. Carter stated that he also noticed that at the podium there was a black box with green, orange, and red light that timed the speaker. He added that the mayor or the clerk would give them the warning before the speakers time was up. Commissioner W. Carter stated that there were several speaking about the contract coming up for the FBO operation for Averett University and General Aviation. He added that in 1990 John Kennedy, Jr. visited Danville several times because he was dating Daryl Hannah and she was starring in a movie that was being made in Chatham, VA called ‘Crazy People’ and Mr. Kennedy really liked the hospitality at the airport at General Aviation.

CLOSED SESSION

Commissioner W. Carter moved, seconded by Chairman Owen to go into Closed Session to consider the compensation, terms of appointment and performance of an individual public officer (NGS 143-318.11(a)(6)). The motion carried unanimously.

REGULAR SESSION

Commissioner Jefferies moved, seconded by Commissioner Owen to resume the regular meeting. The motion carried unanimously.

EMS Ambulance

Mr. Miller stated that he had been asked about an ambulance being jumped off. He stated that evidently there are two batteries that run the ambulances and one of the employees tried to use jumper cables to jump the ambulance off and this should not be done. Mr. Miller stated that the ambulance did incur some damage but he would get all the information and bring in back to the Board. Chairman McVey responded that he would like to know this information and then asked if this person was using a personal vehicle to jump the ambulance off. Mr. Miller responded that he did not know. Chairman McVey asked the county manager to get the information.

Commissioner S. Carter stated “This is a very citizen sensitive question and we need to be aware of this. Mr. Miller responded that he was providing weekly updates from all departments but the Board asked him to stop but he would be happy to inform the Board of what they would like to know. Commissioner S. Carter continued “Was those reports before I came on the Board? I don’t want someone to call, text, or approach me on the street and I not be able to answer them.”

Commissioner Oestreicher asked the county manager if he prepared weekly updates. Mr. Miller responded no.

Commissioner Hall stated that Caswell uses a county manager form of government and he did not need weekly updates but his problem is with EMS and if something happens with EMS he would like to know about it. Mr. Miller responded that he did not report this to the Board because he did not know all the facts. Commissioner Hall stated that someone will always tell a commissioner. Mr. Miller responded that the Board would have an email before the end of the day the next day.

REGISTER OF DEEDS OFFICE

Commissioner Owen moved, seconded by Commissioner W. Carter to increase the Register of Deeds Department salary line to $111,510 and to have the county manager to bring a budget amendment back to the Board that does not increase the county budget. The motion carried unanimously.

Mr. Miller stated that the Board would have a budget amendment within the next 2 meetings.

Upon a vote of the motion, the motion carried by a vote of six to one with Commissioner Hall voting no.

ADJOURNMENT

At 8:30 p.m. Commissioner W. Carter moved, seconded by Commissioner Oestreicher to adjourn. The motion carried unanimously.

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Paula P. Seamster Rick McVey

Clerk to the Board Chairman

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