

## MINUTES – SEPTEMBER 21, 2020

The Caswell County Board of Commissioners met in regular session at 9:00 a.m. on Tuesday, September 21, 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.

### WELCOME MOMENT OF SILENT PRAYER

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

### PLEDGE OF ALLEGIANCE

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

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

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

Mr. Ferrell swore in Mr. Hoagland, County Planner. “I affirm that the evidence that I shall give to the County Board of Adjustments on the referenced application shall be the truth and nothing but the truth, so I affirm.” Mr. Hoagland replied I affirm. Thank you Mr. Chairman, I appreciate the opportunity to present before you this morning. The issue that we have, and the reason for the variance is; the applicant that is located at 189 Taylors Cove Road, Semora, Christina Widmark and Matthew Maron submitted plans to the Planning Department in June 2020. These plans were to add a garage to their existing dwelling. The thing that caught my attention was that the site plan for the garage would extend out to touch the property line at the 201 Taylors Cove Road to the side and to touch the right of way line that abuts the road. As you likely know the setbacks in the Hyco Lake area are 15ft from the side property line and 30ft from the front property line. The reason this is an interesting situation is that the lot is so small, it is roughly 9,000ft. It is a non-conforming lot. In the Hyco Lake area, lots can be as little as 20,000 square foot with the approval of the Environmental Health Department. Since this lot is so small it exists as a non-conforming lot. In cases when we have a non-conformity, I typically look at Article 7 of the Caswell County UDO to make a determination. Article 7, section 7.27 states; any structure used as a single family dwelling, may be maintained as non-conforming situation and maybe enlarged or replaced long as it does not create new non-conformities or increase the extent of non-conformities with respect to such matters as setbacks and parking requirements. Clearly this is an issue where there is a violation of setbacks all the way down to zero since it would touch the lot

line. As a result, I rejected Ms. Widmark's site plan. Then she took the course of action to appeal before the Board of Adjustments.

Mr. Ferrell stated just to be clear this is an appeal to the zoning officer's determination and it is a variance appeal to allow the reduction of the setback to zero on the front and side property lines.

Chairman McVey questioned Mr. Hoagland; was the lot originally this size when the ordinance requiring setbacks as implemented. Mr. Hoagland stated; as far as I can tell, the lot has never changed size since it was created in 1965, and has been the same size ever since. The change in ordinances over the years, both creation of the Hyco Lake Zoning Ordinance and later the adoption of the UDO, is what has cast this into a non-conforming status. This is when we have a problem with a development of this nature which would exacerbate the setbacks.

Chairman McVey questioned; does this create a hardship. Mr. Ferrell stated; the applicant has the burden to prove to you whether or not it's a hardship, in this case, results in conditions that are particular to the property. If the Board so inclines, it would be appropriate to hear from the applicant.

Mr. Ferrell swore in Ms. Widmark; "I affirm that the evidence that I shall give to the County Board of Adjustments on the referenced application shall be the truth and nothing but the truth so I affirm." Ms. Widmark stated "I affirm." This does create a hardship. We originally purchased the home at 189 Taylors Cove for a vacation weekend home. We purchased it in July 2018 and we fell in love with our lake house and would like it to be our permanent home. In order to do so we need more space. We have been collecting antique cars and collectables for the last 35 years and we could really be disheartened if we had to give it up. The garage would make it a livable space and we would be able to live there. We currently live in Pittsboro, but we would rather be on Hyco Lake. I did take the liberty of looking into the property lines and the setbacks and I agree that the setbacks were set after the property was divided and the house was built. Let me explain how the house sits. That far end of the house is 43ft back from the road but the topography on that side of the house is extremely steep and the only way to access that from the road would be where the shared well for the Daniels and Petry's is located. If we go further down the road towards our front walk way then we run into the septic. Therefore, we looked at doing it on the other side of the house. The garage would start at 24ft back so; the setback would be encouraged by 6ft. Then for the side setbacks we readjusted the size and the drawing in order to remain in the setbacks as much as we can, but still getting the garage we want. The side setback would be 10ft and due to the angle of the lot and the house tapers in and gets smaller toward the lake side and the back of the garage, we are asking for 5ft from the front. We are willing to give up 13ft by 27ft of decking on the side of the house so we could build the garage up against the side of the house to give that extra space.

Chairman McVey questioned Mr. Hoagland; do we have an agreement from all adjoining property owners at this time. Mr. Hoagland replied I have not heard from any adjoining property owners. Mr. Ferrell stated as a technical matter the legislatures provided authority to precede with Quasi-Judicial Hearings in the electronic format. In the case when the Planning Director sent out notices to the adjoining property owners of this hearing pursuant to the land use management and state law he asked if anyone objected or wanted to participate in the hearing.

Then Mr. Ferrell, questioned Mr. Hoagland; do you receive any feedback or reply. Mr. Hoagland replied no. Mr. Ferrell replied; neighbors may have a particular hardship from the application. Please raise your hand on the attendee list assuming not you can call again for public comment if you like as part of this hearing. If the I.T. department does not see any one asserting that they have any standing at this point. David Norris, I.T. Director stated that currently attendees cannot raise a hand, looking for a way to enable that.

Ms. Widmark stated; I would like to add one more thing, I just want it to be known that our neighbors, the Daniels, their dwelling next door sits at 22ft from the street now and their tobacco barn which is next to the home sets 6ft from the front setback. Just so you have an idea how the neighborhood looks, most of the neighborhood was built prior to the setbacks being put in place. So by adding this addition to the garage this will not change the look of the neighborhood in anyway shape or form. Our home sets back now at 43ft from the road so, it is much further than the Daniel's home that is setting at 24ft and the tobacco barn is 6ft. Where the garage will be over 24ft back from the center and at its furthest point forward, if that helps describe where it set with the rest of the neighborhood.

Chairman McVey questioned when was the property most recently sold, before or after the setbacks where imposed. Mr. Hoagland replied; I would assume after, not sure when Ms. Widmark purchased the property. I believe she stated sometime in 2018. Ms. Widmark replied; yes, 2018. Mr. Hoagland replied setbacks where enshrined in local ordinance in 2013 in the UDO. They were originally codified in 1966 in the original Hyco Lake Zoning Ordinance.

Vice Chairman Owen questioned Ms. Widmark; in the original drawings that we received, did you say you had made changes to the dimensions of the garage. Ms. Widmark replied yes, the 10ft would be the side property setback and the front would be 24ft, at the point closest point to the street, and then would diminish down to the property line at the back end because of angle. Chairman McVey questioned; is it still on the property line. Vice Chairman Owen replied yes. Commissioner Williamson questioned whose property is number three listed on the map. Vice Chairman Owen replied the Daniel's. Ms. Widmark replied; the Daniels, we have spoken a great length with them, we are friendly. Mr. Daniels gave us the ok on our boat dock that we have rebuilt; he wasn't opposed to it at all. We were originally talking to the Daniels about purchasing land, but the option is not available at this time.

Commissioner Oestreicher stated that the drawings we have show the garage actually is on the property line at two points. Ms. Widmark replied; correct. Commissioner Oestreicher questioned these have been modified now for your new proposal, or is this the new proposal that we have in front of us now. Ms. Widmark replied no, they have been modified. We took it back 6ft to try to get further back in the setbacks. Commissioner Oestreicher questioned if the garage is still sitting on the property line. Ms. Widmark replied yes, it touches the property line at the back end. We attached it to the house and removed parts of the decking and down sized the garage from 36ft to 30ft. This would gain more frontage setbacks; originally it would fill the entire space and go to the property line. We were able to look at the alternate plans and bring it up on the house and remove the deck and gained 6 to 7ft. Commissioner Oestreicher questioned; is this a single or double garage. Ms. Widmark replied double.

Vice Chairman Owen questioned Mr. Hoagland; where you aware of this change. Mr. Hoagland replied no, this is the first time that I am is hearing about this potential change in the site plans. Vice Chairman Owen questioned would we not need to come back before the Planner again where he could make his determination as to whether you approve it or disapprove it and bring it back to the Board. Mr. Ferrell replied from what he understands, that the applicant recognizing the dimensional issues and that we are discussing this morning has reduced the intrusion on the front setback by some 6ft. From what he understands, the front corner is within 6ft of the property line. It is less of a violation. There is still a need for a variance and the side still touches the property line. Mr. Hoagland stated based on Ms. Widmark description the garage would be less of an intrusion, but most likely still in violation of the setbacks. Mr. Ferrell stated it is hard to visualize. Perhaps, Mr. Chairman, if you would like to continue this where you can see it drawn down to scale size on a map you can, if this is helpful. The four findings that you're going to be required to make when you vote on this matter. 1. You are going to have to determine that a necessary hardship results from the strict application of the ordinance. 2. You are going to have to find that the hardship is from conditions that are particular to the property, such as location, size, and topography. Hardships resulting from personal circumstances as well as hardships resulting from conditions that are common in the neighborhood and the general public may not be the basis for granting a variance. 3. That the hardship did not result from actions taken by the applicant or property owners, in this case, the act of purchasing the property with knowledge of circumstances that may exists justify granting a variance shall not be regarded as a self-created hardship. 4. You must find that the request for the variance, is consistent with the spirit purpose and is content of the ordinance such that public safety is secure and substantial justice is achieved. Those are all the findings that you are required to make. Again id it is helpful for you to have additional information before you make those findings you are certainly permitted to continue this meeting until the next Board meeting.

Commissioner Williamson questioned should the adjoining property owners be a part of this to get their feedback. Mr. Ferrell stated it is not necessary, but maybe helpful for you to hear from the adjoining property owners. There is nothing legally that would require them to come offer a testimony or approval of the application, but I think you have heard from the applicant her interpretation from the conversations that was mentioned. All though the best evidence would be testimony from the adjoining neighbors there, is nothing requiring them to come in. You can certainly ask the Planner to make contact if you want to continue the meeting, if they would be willing to participate in the continued hearing. Commissioner Williamson questioned if they could participate by letter. Mr. Ferrell replied generally speaking in a Qusia-Judical Hearing direct testimony is the preferred method of participation, but via phone or affidavit of general emails would not be confident evidence.

Chairman McVey questioned what the pleasure of the Board is. Commissioner Oestreicher stated he would like to see a revised drawing to make this a little easier to understand. Also, he suggested if Ms. Widmark would consider a single car garage to get it off the property line. He does not like to see any buildings on property lines, there are lots of reasons it is generally prohibited. Vice Chairman Owen stated he agreed, he would like to see it off the property lines.

Commissioner Oestreicher motioned to recess until October 5, 2020 at 9:00 a.m., seconded by Vice Chairman Owen. The motion carried unanimously.

## PUBLIC COMMENTS

Dennis Kopec  
145 Lake Pointe Drive  
Yanceyville  
NC 27379

I live on Farmers Lake and have been a resident of Caswell County for 12 years. I am also a 100% disabled combat veteran. For years I have enjoyed viewing the lake from my porch as well as fishing from a boat. About 2 years ago I could no longer fish from a boat any longer. Thus I have enjoyed fishing from my shoreline. I hope you can consider this when making your decision on whether to allow fishing from shore as well as launching kayaks and canoes from our properties. I know that there are other disabled residents and seniors who use the lake in this manner.

Please consider the following proposal for minimizing any erosion to the shoreline. Any request to launch kayaks and canoes from the shore could be made through the lake warden. The lake warden would in turn forward this request to Environmental Health. Thus, an onsite inspection could be done and a location on the property could be selected as to have the least impact on the environment. The county could charge a fee for both the inspection and the permit. If it is deemed that there are no appropriate locations on the portion of county land located in front of the homeowner's property, then the homeowner could use the next closest approved location. A County employee such as Donny Powell of environment Health could conduct the inspections. Donny is respected by everyone in the County.

I think that the above proposal would increase control for the lake warden as well as providing the county with a revenue source all while eliminating concerns over erosion.

Thank You for consideration in this matter!

Dennis Kopec

Pat Warren  
36 Main St  
Prospect Hill, NC 27314

On the September 8 Board of Commissioners' agenda there was a hastily included action item stating, "Repeal of the Environmental Impact Ordinance" (EIO). Considering the utmost importance and high impact of such an action item, it felt like a kick in the gut to the Caswell citizens who are tirelessly working to preserve Caswell's pristine environment.

However, putting that aside, there are several points that deserve an expression of gratitude. Without expressed complaint, each board member accepted a vast number of calls and read numerous emails of appeal that the EIO not be repealed. With wisdom, the Board agreed to delay the vote on the EIO at least until an environmentally protective ordinance is written and passed.

For several months, the development of the Heavy Industrial Development Ordinance (HIDO) has been in consideration but had not yet been acted upon. Thank you for accelerating the

process of developing the HIDO and welcoming highly capable Caswell citizens as members of the HIDO committee.

The Board listened to the citizens and delayed the vote to repeal the Environmental Impact Ordinance at least until the Heavy Industrial Development Ordinance is written and passed.

It is important that the Board continue to investigate vested rights and to retain the Environmental Impact Ordinance and Environmental Assessment (EA) as outlined in Chapter 14, Article III of the Code of Caswell County due to the vast amount of information these ordinances would provide.

Thank you for your service to Caswell County and its citizens.

Phil Barfield, Yanceyville, NC. Thank you to the Board of Commissioners for your actions to protect the health of the citizens and the environment of Caswell County by passing the moratorium on January 6th of this year and thank you for your letter to the Department of Environmental Quality on April 6th asking them to redress citizen concerns in their permitting process. I believe together, you and concerned citizens, have caused the Department of Air Quality to reexamine the pollutants from the proposed asphalt plants and to determine, in fact, the plants would cause harm by polluting our air up to four times the legal limits set by EPA through the Clean Air Act. This discovery resulted in the denial of the two air permit applications and thus temporarily halting the company's progress with the construction and operation of the two plants. Please note the State's reexamination came late in their permitting process after their review was accomplished and after they drafted their approval letter. So, this begs the question - what else did they miss? There may be more impacts not discovered because they have not looked. This is why we need our Environmental Impact Ordinance. To quote the ordinance: ***"The intent of this article is to provide a mechanism for full disclosure of anticipated impacts of developments and to make such information publicly available so that citizens of the county may have input into developmental issues before they become moot."***

The issue of the high pollutants was just about to become moot until the State reexamined the plants' emissions. Repealing our Environmental Impact Ordinance will place the entire environmental review at the State level and remove any local board involvement. The State may not evaluate the impacts our county considers important such as traffic, noise, safety, and socio-economic impacts. I request you **not** repeal the Environmental Impact Ordinance and you continue to require the company to provide you with a compliant Environmental Impact Statement (EIS). After all, the company has shown a willingness and obligation to meet the ordinance by already submitting documents to meet the requirements.

Gay Pleasant

1268 Painter Road, Prospect Hill

Dear Commissioners,

Thank you very much for listening to the numerous community members who contacted you earlier this month out of concern that the Caswell Environmental Impact Ordinance might be removed without a better plan in place beforehand.

We appreciate your taking decisive action toward crafting a reasonable and effective high impact development ordinance, one which would protect our clean environment and support desirable growth, while ensuring a good measure of local control over future development in Caswell County.

Sincerely,

Gay Pleasant

To the Caswell County Board of Commissioners:

My name is Mimi Logothetis, I live at 9501 NC highway 86 N in Cedar Grove, NC.

I want to thank you all for listening to all of us who wrote, called and commented arguing against the repeal of the Environmental Impact Ordinance. I for one, am very heartened to know that you heard us, and delayed the repeal of the only ordinance on the books currently which can inform factually and categorically the governing body and the citizens of Caswell County of environmental impacts and assessments of prospective industry. This ordinance is a necessary gatekeeper of protection against polluting industry, I would hope that it remains in place even once a more aggressive and permanent Heavy Industrial Development Ordinance is put in place. I think the two can work hand in hand to continue to safeguard our air, water, soil and rural way of life while allowing Caswell to progress in forward thinking avenues and revenue streams. We as concerned citizens are fighting at the state level to oppose permitting of polluting industries attempting to gain access and disturb our peaceful, clean communities, in Caswell, Northern Orange, Person and Alamance Counties and in doing so, we ask you to help us, at the local level. I urge you to stay strong and resolute and do all you can in your positions to protect Caswell for the future.

Thank you.

Respectfully,

Mimi

Dear Commissioners,

I have reviewed the letter from Fox Rothschild dated July 27, 2020. Their concluding opinion is that Carolina Sunrock does have vested rights and permit choice and they should be allowed to begin construction IF they are successful in completing all the required State permits and county approvals.

You will recall the Protect Caswell Chapter of BREDL submitted a letter on "vested rights" to you on June 6, 2020. The opinion of that letter which was based on documentation from the UNC School of Government was that Carolina Sunrock **did not** have vested rights on the Burlington North proposed facility. Other letters from "Lawyers' Committee for Civil Rights

Under Law” and “Calhoun Bhella & Seacrest” have stated similar opinions. Therefore, multiple opinions of “no vested rights”.

It is a fact that Fox Rothschild had a copy of the June 6 Protect Caswell vested rights letter. Why were none of the key points from the Protect Caswell letter addressed? Why are there no arguments in the Fox Rothschild letter explaining why the UNC School of Government documentation would not apply? Until this is answered, I and many citizens do not consider this matter closed. The county owes the citizens a complete assessment.

I sent a letter to Mr. Miller and Mr. McVey on Sept 8, 2020 with the full details of my disagreements with the Fox Rothschild opinion on vested rights. I will attach a copy for public record.

Fox Rothschild should either be required to complete the job by answering the June 6 Protest Caswell letter as they were hired to do, or we need a second outside opinion.

Sincerely,  
Scott Oakley

Sept 8, 2020

To: County Manager Bryan Miller, Chairman Rick McVey  
From: Scott Oakley

Subject: Fox Rothschild letter dated July 27, 2020 and contents related to “vested rights”

Mr. Miller and Chairman McVey,

I have reviewed the letter from Fox Rothschild dated July 27, 2020 and would like to offer feedback on its opinions. You will recall I submitted a letter on “vested rights” to you and the County on June 6, 2020 with the opinion that Carolina Sunrock does not have vested rights on the Burlington North proposed facility. Therefore, any ordinance changes which occur prior to the end of the moratorium would apply and this would mean Carolina Sunrock does not have “permit choice”. Other letters from “Lawyers’ Committee for Civil Rights Under Law” and “Calhoun Bhella & Seacrest” have stated similar opinions.

“Permit choice” is a critical point of debate. As you are probably aware, if Carolina Sunrock has vested rights then the moratorium would not apply to currently unpermitted projects in Anderson and Prospect Hill. Therefore, any new ordinances passed during the moratorium such as a HIDO would not apply to the Anderson and Prospect Hill facilities.

In the Fox Rothschild letter, Mr. Terrell’s opinion is that Carolina Sunrock **does have vested rights and permit choice** if they are successful in getting all the required permits and county approvals, they can proceed with construction. Mr. Terrell’s letter did not directly argue the vested rights points in my letter. I emailed him separately asking why, but no response thus far. Here are the key points I would like you to be aware of on this topic where I disagree with his opinion.

Fox Rothschild letter, (page 4 (V., B.) Expenditures in Good Faith Reliance on Government Information). One of the key points in that Sunrock made “substantial expenditures” prior to the moratorium’s enactment and “these expenditures were in good faith reliance upon the government-confirmed absence of local zoning approvals to develop the plants”. Also, on page 6, paragraph 4 the letter states “Carolina Sunrock proceeded to expend substantial funds in good faith reliance upon the County’s written affirmation that no zoning existed, there were no use restrictions.”

It is Indisputable that Caswell County did not have County wide zoning and at the time Sunrock purchased the land for the two sites and began the State air quality permitting process. It is also indisputable that Sunrock requested and eventually received a zoning consistency determination about the Burlington North site on October 23, 2019 from Bryan Miller. In Mr. Miller’s letter to Diane Rupprecht on the topic of zoning consistency he also included reference to the Unified Development Ordinance and that the County was contemplating zoning. I assume it was an oversight that the EIO was not mentioned along with its requirements for an EA, EIS, FONSI, etc.

There is no argument that “substantial expenditure” under Common Law can establish vested rights. However, the following criteria has been outlined by the UNC School of Government and appear to me to conflict with the Fox Rothschild opinion.

- **Cost of purchasing the land does not count as substantial expenditure nor does money spent in preparation for applications. Substantial expenditure must be after permit approval and dependent on the permit approval.**



Sept 8, 2020

- Substantial expenditure can only occur following **valid government approval** and the minor site work which has been done is not considered substantial for large scale project such as these.

This would lead us to the following questions:

- Did Sunrock have "valid government approval"?
- Did Sunrock have "permit approval"?

I interpret the Fox Rothschild letter has establishing "government-confirmed absence of local zoning" as the basis for "valid government approval". If that is an accurate representation, that would seem to conflict with the UNC School of Governments description of valid government approval.

*"Valid governmental approval. An owner must obtain an affirmative governmental action concerning the property or project. This could be a conditional use permit, a subdivision plat approval, a building permit, or some other site-specific affirmative action by the local government. This is more than merely relying on the general zoning district or advisory zoning"*

Fox Rothschild letter (Page 4 (V., B.) Expenditures in Good Faith Reliance on Government Information). On the topic of "permits" the letter states "More specifically, Carolina Sunrock..... obtained driveway permits, stormwater permits, conducted extensive site planning and civil engineering studies, spill containment plans and other studies necessary to proceed through state level review or to obtain local or state permits that were outside of or were to be obtained in processes parallel to state level permitting."

This appears to be combining activities from multiple sites into a single conclusion for all sites. Vested rights must be an evaluation on a site by site basis. In the Fox Rothschild letter, I cannot determine which **specific permits for each site were received prior to the moratorium which established "permit approval"**. For example, I am familiar that a "driveway permit" was received for the Burlington North site, but certainly a driveway permit does not establish vested rights for the entire project. Further explanation is needed from Mr. Terrell to consider on this topic.

Fox Rothschild letter (Page 4 (V., C.) Government Permit Not Required to Obtain Vested Rights). In this section the NC Supreme Court Case, *In Re Campsites Unlimited*, 287 N.C.493, 215 S.E.2d 73 (1975) is used as a comparison to claim vested rights. I obviously had to look this up to review the case and it's ruling. It is my opinion that the Campsites Unlimited case is a poor comparison to the Sunrock vested rights evaluation. The Campsites case seems very straight forward, and I would agree with the ruling that Campsites had vested rights simply because significant construction had occurred prior to ordinance changes taking place. Here are some excerpts from what I found, and I will follow with comments.

*"It is indisputable that prior to 16 April 1973 there was no zoning ordinance or other law in effect which prohibited the development and use of the property of Campsites as proposed by it. It is equally indisputable that at least three months prior to the enactment of the county zoning ordinance, Campsites purchased the property for the purpose of developing it as now proposed and immediately began its contemplated development with the intent to develop the entire tract as rapidly as possible, so as to take advantage of the spring and summer market for the sale of the contemplated camp sites*

Sept 8, 2020

*It is likewise indisputable that extensive work on the property itself, including the engineering and staking of roads and lots, the cutting and clearing of trees and the grading and opening of roads, occurred throughout several weeks prior to the enactment of the ordinance and was still in progress when the ordinance was enacted and that, for the purchase of the land, engineering, legal work, and the above mentioned construction work on the property itself, Campsites expended, or obligated itself to expend, in excess of \$250,000. Nothing in the record of the hearing before the Board of Adjustments suggests that, at the time Campsites embarked upon this project, made these expenditures and undertook these contractual obligations, any specific proposal for a zoning ordinance had been reported to the County Board of Commissioners by the Planning Board, had been publicized by the county or had otherwise been brought to the attention of Campsites or of its president, Mr. Darnley."*

*"In order to acquire a vested right to carry on such nonconforming use of his land, it is not essential that the permit holder complete the construction of the building and actually commence such use of it before the revocation of the permit, whether such revocation be by the enactment of a zoning ordinance or otherwise. To acquire such vested property right it is sufficient that, prior to the revocation of the permit or enactment of the zoning ordinance and with the requisite good faith, he make a substantial beginning of construction and incur therein substantial expense."*

In my opinion, comparing the two proposed facilities to the Campsite case is "apples to oranges". As stated previously, it is indisputable that Caswell County did not have County wide zoning at the time Sunrock purchased the land for the two sites and began the State permitting process. Specific to the Burlington North site and in stark contrast to the Campsites case, other than a driveway, there has been no development activity on this site. The Campsite case is highly based on "substantial beginning of construction". No such thing has occurred at either location, so I see no valid comparison in the cases.

Since most of the focus from the Fox Rothschild letter has been on the EIO discussion, I wanted to speak to the vested rights topic. If Mr. Terrell would have addressed the specific points from my letter which were all based on UNC School of Government documentation, I would be more open to accepting his opinions. At this point, we either need further explanation from Mr. Terrell or a second opinion.

Sincerely,  
Scott Oakley

To All it may concern:

As an owner of property on S.R. Farmer Lake, I respectfully request that you support our ability to fish from the shore and launch kayaks from the shore as it abuts our property. Please vote "YES" to protect fishing and launching kayaks from shore by lake homeowners and property owners on Monday, September 21, and on any other amendments that would affect this issue.

In our Lake Pointe neighborhood on S.R. Farmer Lake, we all place a high value on nature and sportsmanship, and want to pass that love to the next generation and share it with visitors to our homes. We were attracted to the neighborhood primarily because of the beauty of S.R. Farmer Lake. We are so grateful to be able to live on this beautiful, pristine lake and treasure it. We trust our elected representatives share this all-American value and will further legislation to protect sportsmanship and a love of the great outdoors.

We are tax-payers in Caswell county, we purchase valid lake permits, and we encourage everyone in our community to abide by all of S.R. Farmer Lake rules and regulations. We would willingly abide by extra rules you deem important, such as no storing kayaks in the buffer zone. Please feel free to contact me if you have any questions or need any information.

Respectfully yours,

Rita and Bill Deck

Lot 11, Lake Pointe Drive

7829 Beech Forest Rd.

Lewisville, N.C. 27023336-945-5422

To Chairman McVey and the Caswell County Commissioners

On behalf of the Town Council and myself I am writing this letter to be read in your Public Comment portion of your meeting.

Our main concern is with the affect these rule changes will have on the water quality of Farmer Lake. Farmer Lake is the sole water supply for Yanceyville and the areas of the County we serve. Water quality is not only a water safety issue but also an economic issue. As water quality degrades, treatment costs increase in order to achieve safe and quality water for consumers. This also means water bills would rise to reflect the increased treatment costs. Increased activity at the shoreline will increase erosion from county land, as the county owns to the high water mark.

One of the DENR rules for this class of water supply is minimal bodily contact with the surface water. If you allow increased activities on the lake, not only will that contact increase, but safety issues will arise from things like persons on the lake before/after hours, improper safety equipment etc. There seem to be some liability issues as well.

The Council, and I, do encourage that no changes be made to Farmer Lake Rules.

Thank You,

Alvin W. Foster

Mayor, Town of Yanceyville

Dear Commissioner McVey,

As an owner of property on S.R. Farmer Lake, I respectfully request that you support our ability to fish from the shore and launch kayaks from the shore as it abuts our property. Please vote "yes" to protect fishing and launching kayaks from shore by lake homeowners and property owners on Monday September 21, and on any other amendments that would affect this issue.

In our Lake Pointe neighborhood on S.R. Farmer Lake, we all place a high value on nature and sportsmanship, and want to pass that love to the next generation and share it with visitors to our homes. We were attracted to the neighborhood primarily because of the beauty of S.R. Farmer Lake. We are so grateful to be able to live on this beautiful, pristine lake and treasure it. We trust

our elected representatives share this all-American value and will further legislation to protect sportsmanship and a love of the great outdoors.

We are tax-payers in Caswell County, we purchase valid lake permits, and we encourage everyone in our community to abide by all of S.R. Farmer Lake rules and regulations. We would willingly abide by extra rules you deem important, such as no storing kayaks in the buffer zone.

Please feel free to contact me if you have any questions or need any information.

Respectfully yours,

Bill Conrad  
Treasurer, Lake Pointe HOA  
email - [treasurer.lphoa@gmail.com](mailto:treasurer.lphoa@gmail.com)  
cell # - 336.459.9629  
*Lake life @ S.R. Farmer Lake Caswell County NC*

Elin Claggett, Ph.D  
108 Jaye Lane, Providence, NC  
Submitted 9/18/2020

Everyone makes mistakes. The problem arises when these mistakes are repeated and no one is held accountable. I asked the following questions of my Commissioners at the last Board of County Commissioner meeting on Sept. 8<sup>th</sup> and followed up with email to the County Manager and Commissioners. Not one acknowledgement or reply - except 5 notices that Co. Oestreicher's county email could not be delivered. Last meeting, he demanded this to be fixed.

As our county's leaders, you either know the answers and do not want to answer, or you don't know the answer and don't care about wasted tax dollars, or you don't want the public to know. So I will repeat my request for public information and accountability:

1. How much was paid for the "White Space Project" discussed in October, 2016? The Library renovation has been completed and no antenna has been placed, so how much money was reimbursed to the county for this failed project? Who in the Caswell Co. government is held accountable for this project update and management of funds?

2. In April 2020, you voted to allocate \$24,000 for an assessment of Caswell Co. internet as required for a grant application. 5 months later, has this money been spent? If so, what are the results? Has the grant application been submitted and what is the deadline? Who in the Caswell Co. government is held accountable to provide follow-up of this internet assessment & grant application status?

3. In May 2019, N.C. Growing Rural Economies with Access to Technology (GREAT) program provided matching grants to internet service providers, including Open Broadband, LLC in Caswell Co. How much funding went to this Caswell Co. internet provider? Who in the Caswell Co. government takes responsibility for monitoring these funds and failed project?

4. Commissioners approved \$880,000 for 16 temporary classrooms at BYHS over 2 years, including one to be converted to a Field House. The Governor announced that students could attend school 5 days/week beginning October 4<sup>th</sup>. Are these classrooms ready and available for use? If not, when will costs be pro-rated and/or reimbursed towards this project's budget? This is a taxpayer expense of almost a million dollar. Hopefully, your discussion as noted on today's agenda will answer these questions.

On additional inquiry: Who's responsible for responding to this request for public information?  
Thank you.

### TEMPORARY CLASSROOM BUILDING FINAL CONSTRUCTION PROJECT REPORT

Chairman McVey opened the floor to Bill Powell. Mr. Powell presented the report to the Board.



## TEMPORARY CLASSROOM BUILDING

## FINAL CONSTRUCTION PROJECT REPORT



# TEMPORARY CLASSROOM BLDG. PROJECT FACTS

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- **Total Temporary Classroom Project budgeted amount** **\$1,057,852**
- **December 2, 2019 Quality Construction Contract Amount** **\$1,033,000**
- **January 27, 2020 Quality Construction Contract signed**
- **February 27, 2020 Quality Construction start date**
- **August 14, 2020 Project Substantial Completion –Certificate of Occupancy**
- **August 17, 2020 BYSHS Teachers moved in and teaching students**
- **Today** **Punchlist is in progress**

Overall BYHS Campus during construction

BYHS Temporary Classroom building  
between Baseball, Softball & Football

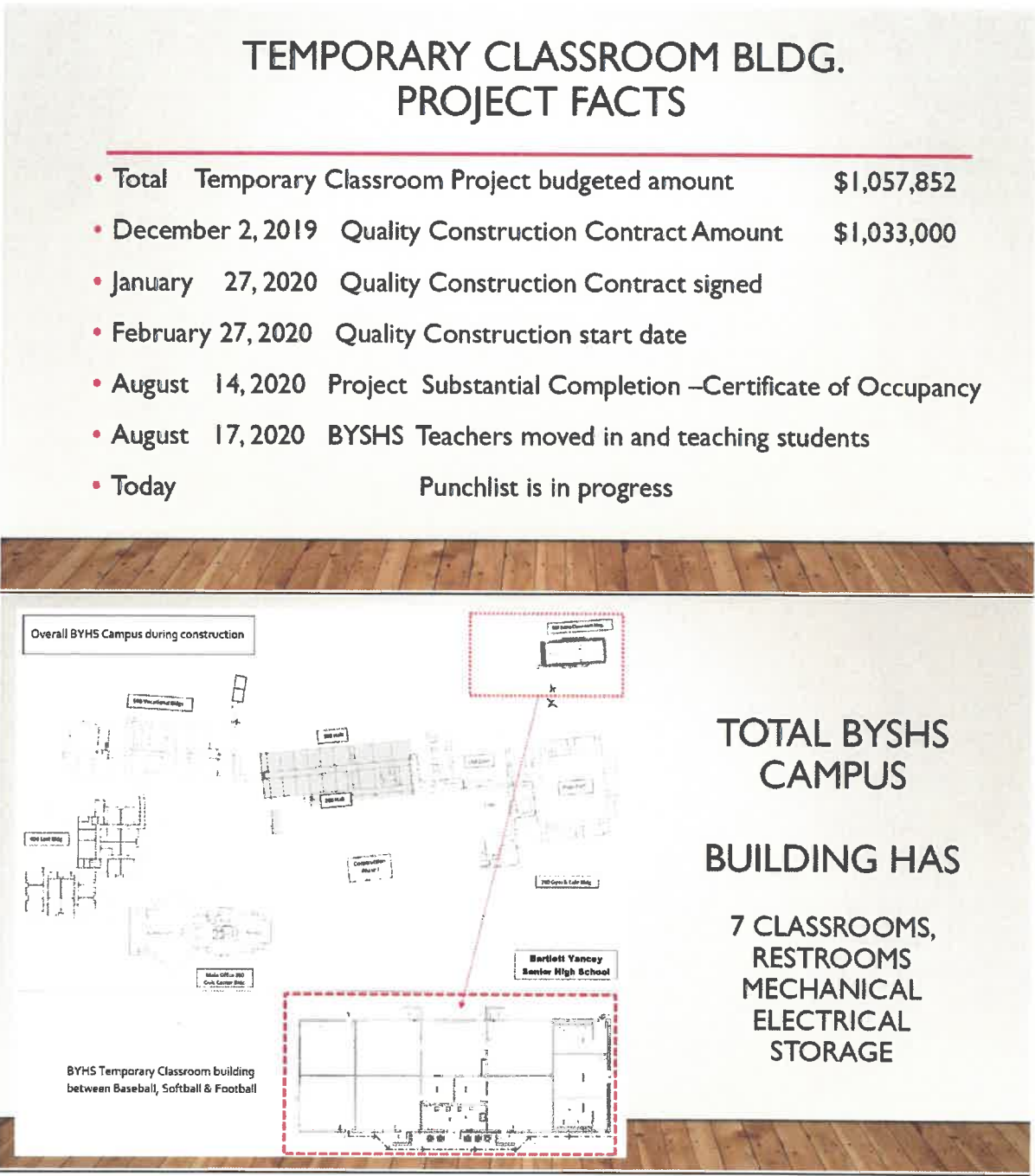
Bartlett Yancey Senior High School

**TOTAL BYSHS  
CAMPUS**

**BUILDING HAS**

**7 CLASSROOMS,  
RESTROOMS  
MECHANICAL  
ELECTRICAL  
STORAGE**

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### **An “On Time and “On Budget” Project**

- Project was completed “On Time”
  - Completed on time even though there was a wet spring.
  - Material deliveries were at times delayed due to COVID issues.
- Project was completed “Within the Project Budget”
  - Construction contract was completed without overruns
  - Construction contingency was utilized so the building could safely be used as a classroom facility.
    - Video Cameras, intercom speakers & paging
  - Before the old BYSHS 100 building was demolished, many components were salvaged and reused.
    - Including Wireless access points, IP Phones, data switches.
  - Included one-time costs to avoid future yearly maintenance expenses
    - i.e. Added slope to trench drains, to minimize drain clogs; Added fencing HVAC units to avoid vandalism; Removed large rocks to minimize weekly mowing & edging expense.



### **BYSHS REPLACEMENT AND RENOVATIONS PROJECT**

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### **INITIAL CONSTRUCTION PROJECT REPORT**

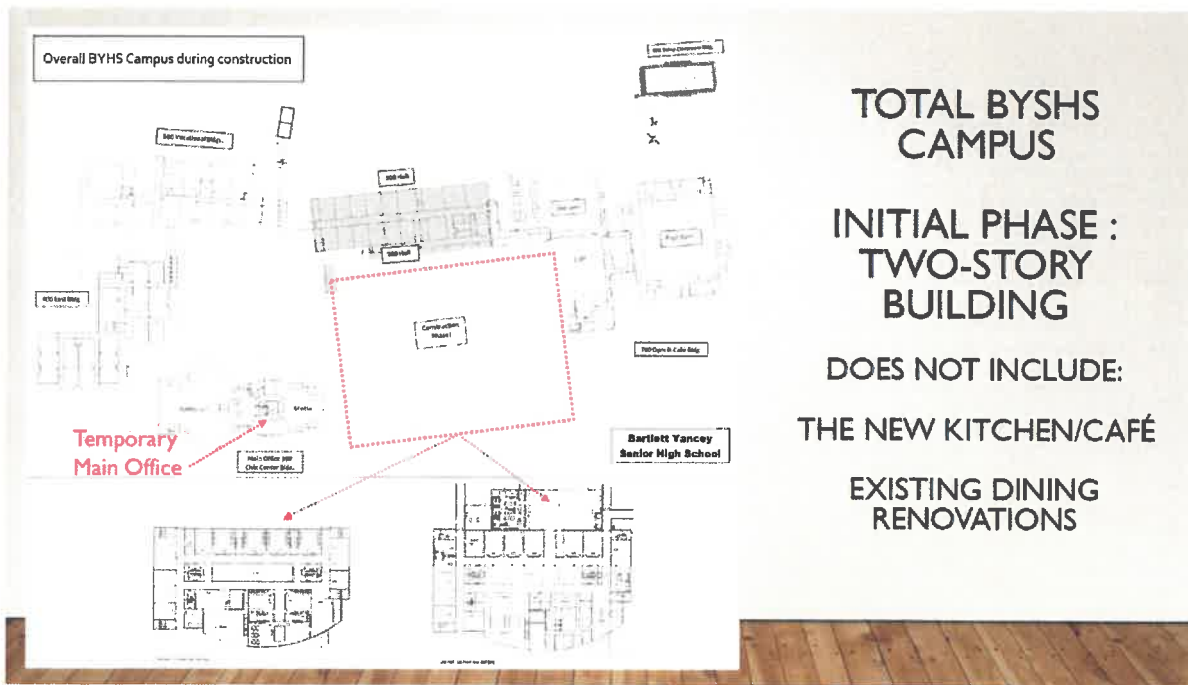
## REPLACEMENT & RENOVATIONS PROJECT FACTS

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	Project budgeted amount	\$ 29,123,510
• May 5, 2020	Project Bid Date	
• June 16, 2020	CT Wilson Construction Contract Signed	\$ 23,250,685
• June 16, 2020	USDA Loan Closing	
• June 19, 2020	Notice to Proceed & work start date	
• August 2, 2021	Schedule Milestone - Completion of Two-Story Building	
• August 1, 2022	Schedule Milestone – Total Project Completion	

**\$ 29,123,510**

- |          |          |   |               |
|----------|----------|---|---------------|
| • May    | 5, 2020  | Project Bid Date                                      |               |
| • June   | 16, 2020 | CT Wilson Construction Contract Signed                | \$ 23,250,685 |
| • June   | 16, 2020 | USDA Loan Closing                                     |               |
| • June   | 19, 2020 | Notice to Proceed & work start date                   |               |
| • August | 2, 2021  | Schedule Milestone - Completion of Two-Story Building |               |
| • August | 1, 2022  | Schedule Milestone – Total Project Completion         |               |





STARTUP JUNE 19,2020

## BUILDING ABATEMENT AND DEMOLITION

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## LOADING RECYCLED MATERIALS



MID- AUGUST

## BUILDING PAD PREPARATION

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## PREPARING FIRST FOOTINGS



## PROJECT SITE AERIAL PICTURE

SEPT. 3, 2020 CT WILSON, INC.



### For an Efficient and Fast Project Startup

- Before a shovel is in the ground ... Architect, County and School District have a lot of advance planning
  - Architect has plans to draw, codes to meet, and specifications to detail
  - County must secure agency approvals, funding/loans, contracts and inner agency agreements
  - School District has to plan moves, not just moving furniture, but keeping operational systems runningAll these were handled smoothly and expeditiously ...from a May 5<sup>th</sup> Bid to a June 19<sup>th</sup> Contractor start date
- After the project starts, decisions must be made quickly to keep the project on schedule and within budget
  - The Architect is moving product submittals as fast as possible so materials can be on site when needed
  - The Contractor must flag issues ahead of the time needed to allow for proper answers
  - Unforeseen situations, such as the unsuitable soils in some areas, were identified and solutions were givenAll items are being handled efficiently to date as the entire building team's goal is to complete the project on time & within budget



### APPROVAL OF THE AGENDA

Vice Chairman Owen made a motion to approve the September 21, 2020 agenda, seconded by Commissioner Williamson. The motion carried unanimously.

### APPROVAL OF THE CONSENT AGENDA

#### September 8, 2020 Regular Meeting Minutes

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

### APPROVAL OF RESOLUTION DELAYING THE EFFECTIVE DATE OF A REAPPRAISAL OF PROPERTY IN CASWELL COUNTY

Chairman McVey opened the floor to Thomas Bernard, Tax Director of Caswell County. Mr. Bernard stated that he came before the Board with a resolution that delays the effective date of the revaluation to January 1, due to the fact that the Tax Department's sales ratio is coming in for the first quarter of the year from January 1, 2020-May 1, 2020 at 98%-99%. With this little bit of fluctuation he did not see the need for the county to spend \$200,000.00 for a revaluation. Commissioner Hall questioned could you explain the sales ratio. Mr. Bernard replied that the sales ratio is based on the number of sales that are completed in Caswell County. We submit that information to the Department of Revenue and they give us the ratio. The sales are in line with the values we have in the books. Commissioner Hall questioned how many sales has there been this year. Mr. Bernard replied for the first quarter, 40 sales. The normal sales vary from 80-160 per year.

Commissioner Oestreicher questioned was that revaluation include in the budget. Mr. Miller replied the amount to conduct a revaluation is included in every budget. We appropriate \$40,000.00 a year, over a 4-year period to have the revaluation completed. An increase in the tax valuation would result in increased tax receipts. The increase in revenue was not included in the budget.

Vice Chairman Owen moved to approve the resolution delaying the date of the appraisal of property in Caswell County until January 1, 2021, seconded by Commissioner W. Carter. The motion carried unanimously.

#### APPOINTMENTS TO BOARDS AND COMMITTEES

##### ABC Board

Tony Mitchell

##### Agricultural Advisory Board

Lucas Bernard  
Kin Watlington

##### Board of Health

Amanda Everett

##### Gunn Memorial Library Advisory Board

Mark Hughes

##### Juvenile Crime Prevention Advisory Council

Brenda Day  
Aisha Gwen

Commissioner Jefferies motioned to approve all members, seconded by Vice Chairman Owen. The motion carried unanimously.

#### SECOND READING-AN ORDINANCE AMENDING CHAPTER 24, ARTICLE III, SECTION 24-64 OF THE CODE OF CASWELL COUNTY, NORTH CAROLINA

Commissioner Hall stated at a previous meeting there was an ordinance change submitted by Commissioner S. Carter allowing fishing and launching small boats around Farmer Lake. This

morning during public comments we heard 5-6 comments regarding this matter. This is brought back to the Board today; if it does not receive unanimous rulings it has to be brought back for a second reading.

Commissioner W. Carter made a motion to deny adopting the ordinance amendment; with a vote of 2-5 with Commissioner Jefferies and Hall voting no.

Commissioner Hall stated that he wanted to make a comment that this morning we heard 5-6 public comments from residents of Farmer Lake. Many of them expressed they were for the ordinance change. He believes those that expressed their support have some reasonable ideas and thoughts about why this should be done. He also recalled several months ago when this came up, we had members of the Farmer Lake Board come before the Board and they were against this. They mentioned at that time that the Board voted unanimously not to support these ordinance changes. He finds it interesting that the Board would vote unanimously not supporting the changes and we have members the Home Owners Association submitting public comments that they support the change. He wants to go on record as noting that there is some discrepancy here in what was said by the Farmer Lake Board and what we are hearing from the Home Owners Association.

Commissioner Williamson questioned who sits on the Farmer Lake Board. Mr. Miller replied Russell Watlington, Charlie King, Jerry Sykes, and Vinnie Beggarly. Commissioner Williamson questioned is there any members of the Home Owners Association. Mr. Miller replied yes. Vice Chairman Owen stated there are 3 if he is not mistaken.

#### APPROVAL OF LEGISLATIVE GOALS SUBMISSION TO THE NCACC

The following goals where submitted by:

##### Commissioner Owen

- 1- Seek legislation, funding, and other efforts to expand broadband/ fiber to all NC residents especially rural unserved and underserved areas.
- 2- Support provision of state resources to help counties provide essential health services, especially in the area of behavioral health.
- 3- Support increased levels of state funding and staffing of Cooperative Extension services.

##### Commissioner Oestreicher

1. Affordable Broadband/High Speed Internet available to everyone in Rural (Caswell County) Counties
2. Higher Quality teaching standards, with greater emphasis on the basics (Reading, Writing, Math)
3. Prohibit politically biased teacher *input*
4. Repeal use of "Common Core" *educational* programs
5. Reduce Mandated Programs/Policies that increase costs with no supporting State funding
6. Increase State DOT funding for improving Rural County roads
7. Increase support for Rural County New Business Development Programs and Projects



After a brief discussion Commissioner W Carter made a motion to forward the Legislative Goals to the NCACC, seconded by Vice Chairman Owen. The motion carried unanimously.

### RECESS

At 10:46 a.m. the Board took a brief recess.

### CALLED TO ORDER

At 10:52 a.m. Chairman McVey called the meeting back to order.

### ENVIRONMENTAL HEALTH SERVICES CONTRACT (SOFTWARE)

Mr. Miller brought before the Board a contract with Tyler Technologies for \$52,760.00 this contract amount is included in the 2020-2021 Budget. This software will allow Environmental Health to create on site records for food and lodging inspections and it would interface with the State's Environmental Health Data Base. This will prevent duplication of work by staff and save time; the State Division of Public Health is strongly encouraging this. This is not the first contract that the county has had with Tyler Technologies and they have agreed to make all necessary changes that they made in the last contract with the county.

Commissioner Oestreicher question if it interfaced with the other software packages that were recently installed. Mr. Miller replied, no, it does not interface with the tax and finance software. Commissioner Oestreicher questioned if the County attorney had reviewed the contract. Mr. Ferrell replied yes.

Commissioner Williamson questioned had this contract been approved by the Board of Health. Mr. Miller replied yes.

Commissioner Hall motioned to approve the Environmental Health Services Contract with Tyler Technologies, seconded by Commissioner Williamson. The motion carried unanimously.

### COVID-19 UPDATE

Mrs. Eastwood stated that the total number of cases in the county now are currently 319, there is currently an outbreak at the Dan River Work Farm, where 65 people are currently in isolation. They have not mandated that staff be tested it is up to the Department of Public Safety of Prisons. The Caswell County Health Department has offered to test staff if they would like. There are currently no new cases at the Caswell House prior to their outbreak. There are a couple of residents at the Brian Center who have tested positive, and cluster at an area church. The Health Department has some flu shots available, but are currently awaiting a shipment of more.

### HEAVY INDUSTRIAL DEVELOPMENT ORDINANCE

## COUNTY MANAGERS UPDATES

Mr. Miller stated that earlier this morning he sent out a draft for the Board to review. The committee that was formed would like to request more time from the Board to work on this ordinance to provide sufficient time and thought input into this and bring it back at the next Board meeting.

### *Covid-19 Spending Update*

Mr. Miller presented the Board with the COVID-19 spending's and stated that this information will be posted on the Caswell County Website.

### *Solid Waste Convenience Center Site on Highway 119 rezoning for Hyco Lake Area*

Mr. Miller stated that after taking a second look at what needs to occur to make this a valid Solid Waste Convenience Center Site we are looking at amending Article 5 and 6. He is currently working with Mr. Ferrell, Mathew Hoagland, Planner and are going to present this changes at the next Planning Board Meeting.

## COMMISSIONER COMMENTS

Vice Chairman Owen suggested moving the meetings back to the Historic Court House, but still keep using Zoom for people who cannot attend.

## ANNOUNCEMENTS AND UPCOMING EVENTS

There were no announcements and upcoming events.

## ADJOURNMENT

Commissioner W. Carter made a motion at 11:12 a.m. to adjourn the September 21, 2020 meeting, seconded by Vice Chairman Owen. The motion carried unanimously.