

MINUTES – DECEMBER 17, 2012

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, December 17, 2012. Members present: Cathy W. Lucas, Chair, Kenneth D. Travis, Vice-Chairman, William E. Carter, Larry G. Hamlett, Jeremiah Jefferies, and N. Kent Williamson. Absent: Nathaniel Hall. Also present: Kevin B. Howard, County Manager, Brian Ferrell, County Attorney, and Angela Evans representing The Caswell Messenger. Paula P. Seamster, Clerk to the Board, recorded the minutes.

MOMENT OF SILENT PRAYER

Chair Lucas stated “I would like to welcome everybody and I am thankful that everybody is here. I greatly appreciate it.”

Chair Lucas opened the meeting with a Moment of Silent Prayer.

PLEDGE OF ALLEGIANCE

Chair Lucas asked the Board of Commissioners and the citizens present to stand for the Pledge of Allegiance.

APPROVAL OF AGENDA

Commissioner Jefferies moved, seconded by Commissioner Williamson to approve the agenda as amended. The motion carried unanimously.

APPROVAL OF CONSENT AGENDA

Commissioner Travis moved, seconded by Commissioner Jefferies to approve the Consent Agenda.

Chair Lucas asked “On the laptop donation, what specifically is that?” Mr. Howard responded “AOC has a program or the Administrative Office of the Courts, they use laptops for different types of programs and they change them out every three years. When they come out local governments can request those and they are donated or given to those local governments and then we can do whatever we would like with them.”

Upon a vote of the motion, the motion carried unanimously.

The following items were included on the Consent Agenda:

- A. Approval of Minutes of December 12, 2012 Special Meeting
- B. AOC Laptop Donation

PUBLIC HEARING – HYCO LAKE ZONING/SUBDIVISION ORDINANCE VARIANCE
REQUEST – THOMAS BERRY, POLARIS LLC & KIRK WEST

Commissioner Travis moved, seconded by Commissioner Jefferies that the Board enter into a public hearing to receive comments on the Hyco Lake Zoning/Subdivision Ordinance Variance Request. The motion carried unanimously.

Mr. Ferrell stated “Madam Chair before we get started this evening I will be happy to go over the procedure in a minute but this is a quazi-judicial proceeding and any testimony that you hear from a witness has be to sworn testimony so I would ask the Clerk that everyone who is going to give testimony this evening would stand and be sworn in and this would include Mr. Collie and anyone who would like to speak. The applicant’s attorney does not have to be sworn in because he will just be providing an argument.”

Chair Lucas asked all those who were going to give testimony to step forward so the Clerk could swear them in.

The Clerk to the Board swore in Mr. Brian Collie and Mr. John Claggett.

Mr. Brian Collie stated “Good evening Commissioners what you have before you tonight is a variance request from the Hyco Lake Zoning Ordinance to the minimum lot size. This is for Tax Map and Parcel 0139.00.00.0053.0000 which is located on Hyco Lake. The current Hyco Lake Zoning Ordinance minimum lot size for this lot would be 20,000 sq.ft. for a single family dwelling. The applicants are proposing to do a cluster development on the property that I just described. They would like to do six single family cottages on this property. The applicant is requesting to do 2,000 sq.ft. lots with 5 ft. setbacks around each house and preserve the rest of the parcel as common space to be maintained and controlled by the Homeowners Association. Using the current requirements each cottage would be sold to buyer’s without any land owned besides the 2,000 sq.ft. under them. You have attached a variance application. The one that is attached in your agenda packet is the one for the subdivision ordinance but I believe it would be correct to use the variance requirements from the Hyco Lake Zoning Ordinance.”

Chair Lucas asked “Does everyone have a copy of those or were they included?” Mr. Collie responded “The subdivision was in the agenda package. The Hyco Lake Variance procedure was not.” Mr. Ferrell stated “I would like, if Mr. Collie you have it with you tonight, to enter a copy of the Hyco Lake Zoning Ordinance into the record. If you have one would you hand it to the clerk?” Chair Lucas asked “Could the Board members get a copy?” Mr. Ferrell responded “To the extent that they don’t have those, we could make them real quick or I could read them into the record, however you would like to proceed but since they had the findings and facts from the Subdivision Ordinance it would be helpful for them to have the Zoning Ordinance which is the applicable variance standard this evening.”

Mr. Collie stated “The Caswell County Planning Board voted to deny this request with a 4 to 3 vote. You should also have some supplemental information from the applicant providing in your packet showing the site plan and their reasoning for the variance request is stated in their application.”

Chair Lucas asked “Mr. Attorney, do you have any questions for Mr. Collie at this time?” Mr. Ferrell responded “No I do not. If the Board would like for me to talk about what its role is tonight as it sits in this quazi-judicial capacity I would be happy to do that. It is a little different than what you typically do as commissioners. A variance hearing under the Hyco Lake Zoning Ordinance is a quazi-judicial hearing, you are essentially sitting as the Board of Adjustments and your ordinance sets it up so that the Board of Commissioners can essentially sit as the Board of Adjustments for a variance request under the Hyco Lake Zoning Ordinance. There is an interplay between State Statutes and variance procedures in your ordinance. State statutes require in order for there to be an approval of a variance that four-fifths of the applicable board approve the variance. Your zoning ordinance sets out essentially three findings of facts that we can go through. You can hear them now if you would like or certainly when you begin your deliberations. You will need to be familiar with the findings and facts that you are required to make prior to approving a variance or denying the variance of which case may be. Essentially your job tonight is to be the fact finder. To hear the evidence as it is presented by the applicant as to the findings of fact and then determine the determination to apply the ordinance of the law to the facts as you hear them and then decide whether or not to grant the variance. That is the job you are tasked with. I am happy to answer any more questions again it is not how you typically sit so if there are any questions let me know. Due process rules apply during a quazi-judicial hearing. If anyone of you has a predetermined or your mind is made up before the evidence comes in we need to know that now because it requires that you keep an open mind and that you let the evidence decide or guide your choice tonight.”

Chair asked “Would you recommend that we cover those three findings of facts at this point because the commissioners do not have copies?” Mr. Ferrell responded “Sure. I will be happy to read those out to you and again if I have not said it already the applicant has the burden of proof of showing you and proving to you by substantial, material and competent evidence that they have met the findings of fact required for the issuance of the variance. The three findings of facts that you will be concerned with this evening are contained on, it’s on my page 14 of the Zoning Ordinance. It is record in Book 1 Page 278 of the Caswell County Register of Deeds and it says as follows:

‘When granting an appeal for variance of the requirements of this ordinance the Zoning Board of Adjustments shall find

- 1) *Granting the appeal shall not allow the establishment in a Residential District of a use not otherwise permitted in the Residential District by this Ordinance.*
- 2) *That the practical difficulties or unnecessary hardship is due to the peculiar characteristics of the property in question and is not applicable to the other property in the Residential District.*
- 3) *That the practical difficulties or unnecessary hardship do not result from the actions of the applicant.’*

Those are the findings you will be concerned with at the end of the presentation of the applicant’s evidence.”

Chair Lucas asked “Do any of the Commissioners have any questions at this point?”

Commissioner Jefferies asked “Mr. Collie I understood you to say that the Planning Board denied this request is that right?” Mr. Collie responded “Yes sir.”

Commissioner Williamson asked “May I ask why?” Mr. Collie responded “There was a long discussion on it. It was a 4 to 3 vote to not recommend it. At the time, we used at the Planning Board level, the variance conditions for the Subdivision Ordinance. That is the reason why those were included in your agenda packet. Since submitting the memo for the agenda packet the reason the Subdivision Ordinance is in there is because it is more restrictive. In the past we have used in the Hyco Lake area whichever ordinance requirements are more restrictive but that is not correct in doing that that is why we have the Hyco Lake Zoning Ordinance. As far as why the Planning Board voted no I believe it was due to finding a lack of hardship in a couple of those findings of fact.”

Chair Lucas stated “So it was determined to go strictly by the Hyco Lake Zoning Ordinance in lieu of the Subdivision Ordinance. Any other questions? Do you have anything else Brian?” Mr. Collie responded “No ma’am.”

Mr. George Daniel, attorney for the applicant, stated “First of all if it pleases the Board I am George Daniel. I am representing the applicants or the owners of The Harbor at Hyco Lake. I understand that possibly back in 2007 there may have been a presentation put before this Board concerning cluster development at that time but due to that property it was in the works of being sold. Matter of fact a lot of the lots they thought were sold and given 2008 we all know what happened with the economy it went south. I think they had to go and resell some of those lots so now it is coming back to revisit a tract of land that is there that has a unique feature in the way it is shaped, the size of it, the topography leading down to the 420 contour line that is the basis for the variance that was requested from the Planning Board. Now I did not represent the owners at the Planning Board. I think that a lot of time, I think you said it was a 4 to 3 vote, was spent on the finances of this and I think it specifically has in the subdivision ordinance but financial hardship does not really enter into this. It is more of a different type of hardship. I need to look at a copy of your subdivision ordinance. I think I submitted some pictures in your packet, some photographs, and I think also maybe some elevation shots and of things I don’t have a copy of the subdivision ordinance. I have a copy of the Hyco Zoning ordinance but I don’t have the County Subdivision Ordinance.” Mr. Brian Collie provided a copy of the Subdivision Ordinance. Mr. Daniel asked “Brian do you have the page number of what you were referring to earlier?” Mr. Ferrell responded “It is in Book 1 page 278 is the recorded page. It is the Hyco Lake Zoning Ordinance.” Mr. Daniel continued “Members of the Board actually there is more way to address this. It is not just the variance before this Board. I was not present when the presentation was made before the zoning board but I think that given the fact that Person County in 2005 adopted an amendment to allow cluster development on Hyco Lake speaks volumes to what we are doing here because the uniqueness of this property when it speaks of Residential Districts. There is only one place I am aware of that has a zoning ordinance in Caswell County and as I understand it is at Hyco Lake and that we share that lake with Person County. We have a governing board that we appoint members every so many years the Hyco Lake Authority so they can attend to the needs that are on that lake as the enforcement on waters, the certain laws

that allow certain types of boat docks and what can be done at least on the 420 property coming to it and then what is above the 420 falls within the purview of the Hyco Lake Zoning Ordinance. Where we have been consistent in every way on Hyco with the laws that are regulated and enforced by the Hyco Lake Authority as well as what is done with the boat dock dimensions and what the building inspectors will approve the one place that we are not consistent yet is with this cluster development in this 1966 ordinance that Person County has already adopted and not only adopted and added in August of 2005 but has amended it as late as December 7, 2009. Why that is important is because as we mature as people and as we mature as a county there are different needs for people and their living situations and sometimes they are not necessarily met by a 40,000 sq.ft. lot, a 30,000 sq.ft. lot, a 20,000 sq.ft. lot adjacent there to your neighbor even though it is your right under the ordinance that is why if you have those photographs on your iPads there, I have paper copies, I have a set for everybody if you need them, since y'all are tech savvy. I wanted to share that some of the problem that is being seen at Hyco Lake. I want to show you this particular photograph right here it looks like there is a whole host of boat docks clustered together. When someone buys a lot on Hyco Lake they generally buy that lot because they want an access to water otherwise why not buy a lot somewhere else less expensive. They want access to water whether it is to recreate or to just look at the nature beauty. The Hyco Lake Authority then has the task of trying to be fair to everybody so in being fair to everybody they have to draw a site line to where that boat dock in which they are entitled to request is going to be placed on that property. As you can see in some of these photographs when you have a lot of lots coming in there that are either 30,000 sq.ft. or they are long and skinny as I may describe it and you end up with a conglomeration that not being is not very aesthetic to the eye it can also be very problematic with that many boats in a particular area as far as boating safety. There are a series of photographs of five or six that show you that in your iPad. I also want to point out a much closer shot you will have this particular photograph as well as this particular photograph. You can see in those photographs these boat docks are within inches of each other and I would hasten to say members of the Board that not only are they within inches of each other you have a cove off the main area of the lake probably accommodating 20+ boat houses that probably should be only supporting about a third of that but under the current regulations that is the way the land is divided and put together so therein lies an issue. Once this was done in Person County and that area is off of Elmore Road. It is partially in Person County and partially in Caswell County and I think as a result of that in and one of the driving features in Person County to go ahead and adopt its amendment for cluster home development on the Person side of the lake. Now again that lake is in Caswell and Person County the only places that have utilized the cluster development in the Residential District are Talley Point in Person County, there is another place on the dam side of Highway 57 is the reserve where it is being used so when Brian speaks of issue #1 is that when you are looking at a variance so you don't open up a flood gate so that everybody is now rushing to the Planning Board or Board of Commissioners and saying do this for me, do this for me, do this for me I would say to you members of the Board in this instance you already have a unique situation. The only place in this county that has a zoning ordinance is Hyco Lake and you say well what about up here at Farmer Lake. That could be akin to it but again you don't have the boat dock issue at Farmer Lake, the boat docks are prohibited. That is a different type of living arrangement. Why I put the layout of the proposed structure put on there is the concept is to use the same amount of land but use it in such a way that folks understand on the front end that we are not going to have this skinny lot running all the way down to an access roadway down to the

water's edge or to the 420 but we are going to have a group of homes together and we are going to have a commons area that will have a boathouse that will accommodate three or four boats or whatever the number is so that it is one set place and they will understand that on the front end and then another commons area to deal with other landscaping needs and all of this would be regulated through a homeowners association. When someone would be purchasing this style or type of property it would be done with the front end knowledge that this is not the regular lot with the house on it and you put your garage on it there are going to be rules and restrictions that go along with this type of development. One of the issues that comes up is whether or not this was created by the owner's own doing. I would say to you members of the Board that is not, if you look at what is in your packet you would say that is not the case here. The best and maximum use has been made for the property because anyone that has had any dealings with any type of residential development once you invest your efforts and money into it you want to put your best and highest use because of the efforts, time and money and so for that reason it is only natural that you are going to attempt to develop the lots that are broad enough according to the type of land that it is on and that they lay in such a way that you have sufficient frontage for the boat dock, boat house and that you also have sufficient area from the 420 to build a single family structure on there. Now with this particular development you have a sewage treatment package system which enable a lesser square footage lot to be there but even at the size that it is we could end up in Caswell County if you like what you say in that photograph. I think a picture says a thousand words. At the end of the day some of the better areas that we can get tax revenue are from our most desirable places to live and if I had my way about it years and years and years ago we would have dammed up all of these creeks and we would have plenty of these lakes but I am afraid that horse is out of the gate to do that. I think and I submit to you members to have a desirable development scheme as part and parcel this goes right along with the regular subdivision development in what has been offered before the zoning board. Well you say can you meet your burden since the zoning board has voted 4 to 3 to deny and I don't think the chairman voted in that and there was one person that got up and left before the vote was taken so there again even with what was said it was a very close vote. I am also aware of some other things that have come along. I understand that you have a Unified Development Ordinance and I understand that there may be a report on that sometime in February. The one thing I want to employ is the best way that you as a board see to deal with this I can deal with it, I am looking at the time frame that I don't want to get caught and be back here next year this time. I think when this started before what sidetracked it was the 2008 economy. We are back before you now asking what is the best way for us to do this. Is it by granting the variance? It is adopting the same type of cluster amendment that Person County did in 2005? I would say to you if this is done that it would get wrapped into your Unified Development ordinance but the time has come because we are going to see some of this. We are going to see this in unique property that we need to see this like Person County. What makes this important is again every year roughly we have a 98% tax collection rate to create revenue. We want to generate some revenue and we certainly want to generate it in these desirable places to live that have a little higher value on the tax books. As I told Brian I did not bring the owners here tonight I came mainly to speak to you on their behalf to make the points that I have made here. I am going to request it three ways. If you see fit to provide this variance, if you feel that we have carried our case and that we have met our burden that is an option and as Brian has pointed out it takes 4/5 of the Board. Another option would be if you are not ready to do that but you do see that there has been activity with the Hyco Lake Zoning Ordinance and that our time has come to consider that then I would ask

you to use even the language that Person County has adopted. Person County uses a minimum of 6,000 sq.ft. on a 10 acre lot. This does not increase the number; the density would be the same it is just how we do it. Rather than having 6 lots running down to the water's edge you are going to have 6 parcels that will share that front. I don't want to call it a playground but it has a commons area where they are allowed to have a fire pit out there but certainly a boat house and they will share the back commons area on the back side of the lot. That is certainly a consideration that this Board could give. Finally those two things would dovetail into the Unified Development Ordinance that I understand that the zoning board has been studying for some time and will be coming up for your consideration within the next month or so. Please be aware that spring is going to be here before we know it and if the Board is of mind to vote positive in one of these areas I would just ask that you keep that in mind."

Commissioner Hamlett asked "Mr. Daniel did you put these pictures in here? Did they come from you or Brian?" Mr. Daniel responded "I think they came from me. Again I am happy I have copies for everybody if you want them." Commissioner Hamlett continued "On page 53 is that on the property now?" Mr. Daniel responded "Yes. I do know that this happening on Hyco Lake drove Person County to the adoption of cluster development."

Chair Lucas asked "You are giving three choices here that would be acceptable to your client is that what I understood you to say?" Mr. Daniel responded "Yes ma'am. I have explained to my client that you are sitting as a Board to overturn a variance. Nobody is saying that anyone is wrong we are trying to look for a win-win for everybody. There seems to me that there is something at Hyco that we have not done yet and this may be the catalyst to drive us in that direction." Chair Lucas asked "With the fact that we are in the process of the UDO Brian what is the exact time frame for the completion of that?" Mr. Collie responded "Holland Consultants say that we are on time for the completion of late February." Chair Lucas continued "And it is my understanding that it will include cluster development, is that correct?" Mr. Collie responded "If the Planning Board votes to include it in there." Mr. Daniel stated "Let me say this, that tells you about the uniqueness there of this particular project so if that is oncoming Madam Chairman and the Hyco Lake Zoning Ordinance is amended later in the UDO there not going to be a great deal of time if there was a great rush to do so. It sort of narrows the time frame to do this. If the Planning Board is favorable to cluster development and by this time that this is amended in 30 days the UDO is going to pick it up 30 days later, 60 days later." Chair Lucas asked "And that time frame would be acceptable?" Mr. Daniel responded "Yes ma'am. The thing is the landscape architects and the surveyors needs some finality so they can go ahead and get the work done. I don't want too much into March or April before something is done."

Commissioner Travis asked "Brian this new thing coming up in February would that takes care of this if it passes?" Mr. Collie responded "If the Planning Board and the Board of Commissioners vote to do cluster development then yes. The Planning Board is looking at Person County's regulations during the UDO process. Whenever that is done then yes this will be feasible at that point." Commissioner Travis asked "So if that passes this would go right through?" Chair Lucas responded "Yes."

Mr. John Claggett stated "Good evening. My name is John Claggett and I reside at 108 Jaye Lane, Providence, NC. First, please allow me to provide you with a little history. On November

16, 2009 the County Planner came before the Board of Commissioners to clarify an issue with the Hyco Lake Zoning Ordinance regarding development. He was seeking guidance in using the correct requirements in certain development standards. He stated the difference in requirements between the Subdivision Ordinance and the Hyco Lake Zoning Ordinance and requested direction from the Board on which to use when it came to interpreting issues for the development of multi-family homes, in this particular instance townhouses on Hyco Lake. The County Planner informed the Board that in discussing this issue with the County Attorney, the County Attorney stated that when the Subdivision Ordinance was adopted in 1979, there should have been a provision included in the Ordinance stating that the area around Hyco Lake is to be regulated by the Hyco Lake Zoning Ordinance. The result of this was a unanimous vote by the Board of Commissioners to operate under the current Hyco Lake Zoning Ordinance as written until changes are made by the Caswell County Board of Commissioners, and for the County Planner to bring back a recommendation from the Planning Board. On February 9, 2010 the Board of Commissioners entered in a Public Hearing to receive comments on consideration of the repeal of the Hyco Lake Zoning Ordinance. The County Planner gave some background for the reason for the Public Hearing and explained that during the Planning Board meeting of November 24, 2009 the Planning Board voted to repeal the Hyco Lake Zoning Ordinance and noted that all land that was included in this zone will be governed by the Subdivision Ordinance and that he was in the process of submitting information to the North Carolina Department of Commerce, Division of Community Assistance, for them to develop an impact study for the use of multi-family dwellings on Hyco Lake. The County Attorney reported that he did not think that the Board of Commissioners should repeal the Hyco Lake Zoning Ordinance at this time, and noted that the Board is currently in the process of examining all of the County's land use regulations. He explained some of the differences between the Hyco Lake Zoning Ordinance and the Subdivision Ordinance and explained that the Hyco Lake Zoning Ordinance is a true zoning ordinance in that it addresses uses and not just subdivision of the land, but permitted, and non-permitted uses. The County Attorney added that he felt for the time being the Board would be better served to leave the Hyco Lake Zoning Ordinance in place while it is examining the County's Land Use Ordinances. There was no action taken by the Board of Commissioners that evening. All of this is public record. This evening there is a variance request before you regarding multi-family dwellings at Hyco Lake, only the variance request is for the Subdivision Ordinance and the Hyco Lake Zoning Ordinance as both are supposedly applicable. Based on the Board of Commissioners unanimous vote back on November 16, 2009 it seems as though the Hyco Lake Zoning Ordinance would take precedence over the Subdivision Ordinance. The Planning Board is currently working with Holland Consulting Planners, Inc. who is preparing the Caswell County Unified Development Ordinance and is discussing additional multi-family development language such as "Cluster Development" to be included in this ordinance. This variance request before you tonight is not in the spirit of the ordinance but more in the spirit of banker friendliness with the developer. As stated by Mr. West to the Planning Board and I quote "the variance would allow the owner to actually own the home and the lot under instead of just owning the house in which banks call them units, that banks do not want to loan on units if no land goes along with it". This variance request is the manipulation of our process, the process which is intended to serve the many. This variance request is so a few can gain monetarily. So what's the real hardship, if any? It is recommended that the Board either deny this variance, or table this variance request and heed the former County Attorney's recommendation and wait for the county's land use ordinances to be brought up to date by way of the Caswell County Unified

Development Ordinance which will hopefully also eliminate the possible perception of a double standard such as this. Thank you.”

Mr. Ferrell stated “Mr. Daniel certainly has the opportunity to cross examine the witness or to have rebuttal testimony.

Mr. Daniel stated “I don’t manipulate anything, I can tell you that right now. I came before this Board in good faith and I am trying to advise the Board the best I can to give you the best information. Regardless of what was said to the Planning Board about banker friendly or financial all you have to do is look at the Hyco Lake Zoning Ordinance. When it speaks on the Residential District there is a definition in the ordinance on that. When it speaks to dealing with uses in the ordinance and I will refer you to pages 277 and 278. When I read that and it says the necessary findings of the board that they use will not materially endanger the public health or safety if located where proposed development according to the plan is approved. What I want to explain to you is it is not going to increase traffic if anything it is going to better and increase safety because of what you have seen in those photographs. That the use will not substantially injure the value or adjoining property that is used as a public necessity. I feel that we have met that burden. Certainly by doing this it does not substantially injure the value of adjoining property or the use of public necessity. That the location, design and character of the use of development according to the plan as submitted and approved will be consist with development in the area. The only other two types of development that I am aware of are one is just a couple of coves down and it happens to be in Person County at Talley’s Point. At if the proposed use is expected to increase the traffic volume to the adjacent road. Again I will point out when you are looking at traffic flow you are looking at numbers. There is the same number of people it is just a different configuration in the way the land is developed. If you were to answer those three questions then we have met our burdens. If you choose so that is certainly your prerogative. I want you to understand that this is going on already in Person County and somehow to benefit the few you know where we choose to live or to offer in this County that is any of our rights. Some people would rather live in a nice forested area and not see a drop of water. Some people like to live in an urban setting. It is here for everybody. I think we have seen some changes in the Hyco Lake area and I think we need to adjust as well. That is my comments in rebuttal.”

Commissioner Hamlett asked “Brian, the 2005 amendment that Person County has have you seen that?” Mr. Collie responded “Yes sir.” Commissioner Hamlett continued “Do you have copy with you?” Mr. Collie responded “Let me see.”

Chair Lucas stated “While he is looking for that Mr. Ferrell we are at the point that we need to proceed on making a decision on the variance or if it is the Board’s wishes to postpone the hearing.” Mr. Ferrell responded “You have a couple of options. You have a variance request pending before you. The applicant at any point before you start deliberating can withdraw the application. That is an option. Your ordinance does not necessarily require you to make a decision tonight; I know that you have another public hearing and other items on your agenda. If you would like to take what you have before you and consider it you can sit as the Board of Adjustments at a later meeting you can do that. However if the application is not withdrawn you need to make a decision on it. As a matter of process you don’t necessarily have to do it tonight

but within a reasonable amount of time the Board has to make a decision on the application.” Chair Lucas stated “That answers my question.”

Mr. Daniel asked “Brian if the application is withdrawn what would be the time frame for this to be reasserted?” Mr. Ferrell responded “I will have to look and see if the ordinance has a provision. I know that a quazi-judicial permitting question there is some time limits on bringing it back. If you withdraw it I believe that you have the right to bring the variance back in a time that the applicant would see fit.” Mr. Daniel continued “What is the time frame of being able to bring that back?” Mr. Ferrell responded “Are you asking the alternative process to 1) get the UDO in place or 2) to consider an amendment to the free-standing zoning ordinance i.e. option that I see is 1) you wait for the UDO process to play out which contains the cluster development language that addresses this issue. Alternatively you have a zoning ordinance now and you can consider an amendment to the existing zoning ordinance not necessarily with the UDO process because you have an ordinance that can be amended now to do what Person County has seen fit to do as well as other jurisdictions have seen fit to adopt cluster development. There are several ways such as what counsel has mentioned during his testimony on different ways to address this issue. Those are some options. Again you have an application before you and you have an obligation to vote on the application that has been brought before you by the applicant. As far as time frames there are time frames in general statutes.”

Chair Lucas asked “Attorney Ferrell what would those time factors be? There are two public hearings involved?” Mr. Ferrell responded “Yes you have to look at whether you want to do it as a text amendment to the zoning ordinance or whether it is a map amendment. The map amendment requires much more notice and opportunity. The Planning Board has to weigh in on a rezoning. The Planning Board would address it and make a recommendation to the Board of Commissioners which would hold their own public hearing. I believe you can do this just as a text amendment to allow the cluster development so it’s a process. Let’s be frank it could be done at the first meeting at the first of the year or possibly the second meeting but it is certainly possible by springtime.”

Commissioner Carter asked “So we can do an amendment to the Hyco Lake Zoning Ordinance?” Mr. Ferrell responded “Yes.” Commissioner Carter continued “So we have two options and correct me if I am wrong, we can amend the Hyco Lake Zoning Ordinance or we can do a variance and do it case by case?” Mr. Ferrell responded “You always have the opportunity to grant a variance when the conditions for the variance favorable, you will always have that opportunity. I think for this particular situation it appears what the applicant is really seeking is a new planning concept that our ordinance does not embrace yet. The variance opportunity is there is you meet the standards of the variance. The idea of introducing a zoning concept that we don’t have is certainly something that this Board can also entertain if it is interesting in doing.” Commissioner Carter stated “The amendment for zoning will take a whole lot more time than the variance would.” Mr. Ferrell responded “The variance can be handled conceivable tonight. Again the variance standards are specific on purpose. The intent of a variance is to vary the ordinance based on the three factors before you and not to rewrite the ordinance for one landowner.”

Chair Lucas asked "Do we continue with the variance request or are you entertaining withdrawing the request?" Mr. Daniel responded "When I started this process and I listened to Brian about the length of time it is going to take I am almost to the point that I will take my chances with the Board and if I fail then I am no less off than coming back and asking that you amend the zoning ordinance. I would like to say this if you feel like we have met the burden tonight and you vote in favor of that well guess what we will have a UDO within in the next 6 months. I don't think you will be getting a lot of these variance requests before this is finalized." Chair Lucas stated "It could be sooner than 6 months." Mr. Daniel responded "Yes ma'am."

Commissioner Travis asked "Brian the zoning ordinance for Person County the only difference in theirs and ours is the cluster development right?" Mr. Collie responded "The cluster development portion of this ordinance for Person County would allow for this project." Commissioner Travis continued "That is the only difference right?" Mr. Collie responded "No sir. Person County has countywide zoning." Commissioner Travis stated "I am not talking about the county. I am talking about Hyco Lake." Mr. Collie responded "No it would not be exactly the same." Chair Lucas stated "The terminology of the cluster development would be the same." Mr. Collie responded "Yes the terminology of cluster development would be the same." Chair Lucas asked "They have a unified development is that not correct Brian?" Mr. Brian responded "They have countywide zoning. I don't know about a UDO." Mr. Ferrell responded "I don't know if they have put all of their ordinances in a UDO but I do know they have zoning." Mr. Collie stated "In 1966 when Caswell County adopted the Hyco Lake Zoning Ordinance Person County as well adopted the Hyco Lake Zoning Ordinance prior to their countywide zoning. The ordinances were both the exact same. We just have Hyco Lake zoning. Person County since then developed a countywide zoning so our ordinances are not the same. The cluster development that the Planning Board is proposing is the same." Commissioner Travis responded "That is what I am getting at, if we had this then the zoning ordinance for Hyco Lake would be the same on both sides right or wrong?" Mr. Collie responded "No not the entire zoning ordinance no." Commissioner Carter stated "He is talking about Hyco Lake Brian not the entire county." Mr. Collie responded "I know but Person County does not have a separate Hyco Lake Zoning Ordinance, it is a district within their countywide zoning map now so you can't really compare them." Commissioner Travis asked "Have you had more people to want to do this on the lake?" Mr. Collie responded "No sir."

Commissioner Williamson stated "Chair I make a motion that we table this for two weeks." Mr. Ferrell responded "I think that would be at the Board's discretion if it would like to take this matter under advisement and to hear it within a reasonable time. I think that would be within your discretion. I would be interested if the application would have any objections to this. It would be a couple of weeks because of the holiday so it would be three weeks out versus two weeks."

Commissioner Hamlett stated "I would like to see what Person County adopted in 2005." Mr. Ferrell responded "So essentially you would like more evidence on cluster development. That makes sense to me."

Commissioner Travis moved, seconded by Commissioner Williamson to recess the Board of Adjustment meeting until January 7, 2013 at 6:30 p.m. The motion carried unanimously.

PUBLIC HEARING – AMENDMENT FOR THE RECLASSIFICATION OF THE HAW
RIVER WATERSHED AREA TO A WS-IV WATERSHED

Commissioner Travis moved, seconded by Commissioner Hamlett that the Board enter into a public hearing to receive comments on the Amendment for the reclassification of the Haw River Watershed area to a WS-IV Watershed. The motion carried unanimously.

Mr. Brain Collie stated “Currently Caswell County has a Watershed Protection Ordinance. The watersheds encompassed in that ordinance are Stoney Creek, Countyline Creek, South Hyco and Fullers Creek. All four of those watersheds are WS-II watersheds. In your watershed classifications you have I through IV. Currently you have WS-IIs. I through IV, I is the most stringent and IV being the least stringent. Before you tonight is the Haw River Watershed reclassification. This watershed affects five counties and I will pass out a map if that is okay. This map shows the land area in each county where the watersheds are located. As you can see there is a very small portion in Caswell County as compared to the other five. In terms of real world application this watershed would be established in the southeastern part of the county encompassing the area of Cherry Grove Road, Brown Chapel Road to the southernmost part of the county line. There should be other maps that I passed out of a zoomed in map as well as another map showing the entire county that Commissioner Travis has if you will pass it around.”

Commissioner Travis stated “Brian explain to everybody where it is. It goes down the Browns Chapel Road down 87 towards the Alamance County line so that the people will understand the map better.” Mr. Collie responded “In looking at that map there is approximately 155 addresses and a total of 820 acres that will be affected. This area of land is already currently under the Jordan Lake Buffer rules which was adopted January 18, 2011 in Caswell County. Under the WS-IV which this is the classification would require the minimum lot size of ½ acre. The Subdivision Ordinance currently requires a minimum of 1 acre lot size so the minimum lot size would not be affected in this reclassification. The built upon area restriction of 24% total acreage for multi-family. In the WS-II which is the rest of the county is 12%. The only other thing that this watershed reclassification would change in that part of the county which would not change but there is a requirement perennial and intermittent streams to have a 50 foot buffer and no development can be within that area. Currently under the Jordan Lake, that is why I brought that up; the Jordan Lake Buffer rules are more stringent than the WS-IV buffer rules. So essentially the minimum lot size is not going to change, the built upon area restrictions are not going to change and the buffer restrictions are not going to change. For clarification if you want to call it a technicality that we have to adopt this WS-IV reclassification into our Watershed Protection Ordinance to meet state requirements.”

Commissioner Carter stated “Like Mr. Collie stated the WS-IV is not as stringent as the WS-II. It is not a public water supply. All public water supplies are WS-II or WS-I. Greensboro put the Haw River pump station to pump to Lake Townsend and it did not have enough flow in it so it is my understanding that the Haw River is not a public water supply so that is probably the reason that DENR is asking for the reclassification of WS-IV.”

Chair Lucas asked “Brian is that true that the Haw River intake prompted this reclassification? What was the purpose of the intake? Go supply water to Greensboro?” Commissioner Carter

responded “To supply water to Lake Townsend.” Chair Lucas continued “And they are not utilizing it?” Commissioner Carter responded “There was not enough flow in the Haw River.” Mr. Collie responded “This all started back during the drought of 2002.” Chair Lucas asked “Have all the counties approve this? I think Alamance County has not.” Mr. Collie responded “Of the five counties the only two counties that have not approved is Caswell County and Alamance County. I spoke with the Alamance County Planning Department today as far as the time frame and why they have not approved it yet and it is basically a timing of submission. It will be presented to their board of commissioners in January and they hoped to get it approved at that point.” Chair Lucas asked “How was this advertised, the initial public hearing that DENR had concerning this?” Mr. Collie responded “I believe it was back in 2007 I think and in 2009 I think, whatever year it was the public hearing was advertised in the Caswell Messenger.” Commissioner Carter stated “I think it was in 2007 when they had the drought.”

Mr. Ferrell asked “Mr. Collie did you send a copy of this to the State for their prior review?” Mr. Collie responded “Yes sir.” Mr. Ferrell continued “And they have approved what is before the Commissioners tonight?” Mr. Collie responded “Yes.” Mr. Ferrell stated “Part of the process is there is a watershed implementation that essentially says local governments shall implement watershed protection as required by the State at the threat of civil penalty and threat of the State taken over of your watershed. It sounds like Mr. Collie has implemented what the State has asked him to do with the Haw River reclassification.” Commissioner Hamlett asked “So we don’t have a choice?”

Chair Lucas asked “Did the Planning Board approve this reclassification?” Mr. Collie responded “On November 27, 2012 the Planning Board unanimously made a recommendation to adopt this reclassification. The ordinance should be attached in the agenda. The WS-IV is verbatim from the model ordinance that the State has provided and it is the highlighted yellow areas in your ordinance.”

Chair Lucas asked “Did the 155 addresses get notification?” Mr. Collie responded “Not specifically no.” Mr. Ferrell responded “It is a little quirk. If the enabling legislation or the watershed statute works is if a county is going to adopt a regulation that is more stringent than the model you are required to give notice in the same manner that you would give notice for rezoning which requires giving notice to particular addresses in the affected area. It is not a requirement to do that if the county is going to adopt the model with no stricter requirements.”

Commissioner Hamlett asked “Is this the same stuff the Mike Cuzimano was working on some time ago?” Chair Lucas responded “I think that might have been Jordan Lake.”

Chair Lucas asked if there was anyone would else who would like to speak during the Public Hearing.

Commissioner Travis moved, seconded by Commissioner Jefferies to go out of the Public Hearing. The motion carried unanimously.

Mr. Ferrell stated “Before you move on to deciding whether to implement this the way police power ordinances are enacted if the entire Board was here tonight and you voted in the

affirmative you could adopt the ordinance one time and one time only and you would be done. However since we are missing a member tonight assuming that there is a majority vote to approve you will have to hear this again. It will have to be read to you a second time within 100 days of tonight in order to actually implement the ordinance.”

Chair Lucas asked “Even if it is a unanimous vote?” Mr. Ferrell responded “It cannot be a unanimous vote of all seated members because one is absent tonight.” Chair Lucas stated “But the ones present you are saying we still have to hear it again?” Mr. Ferrell responded “That is right because you are missing a member.”

Commissioner Carter moved, seconded by Commissioner Travis to adopt the Haw River Reclassified to a WS-IV Watershed as presented by DENR. The motion carried by a vote of five to one with Chair Lucas voting no.

Mr. Ferrell stated “If the motion carries the next time you consider it a simple majority passes it then it is adopted.”

PUBLIC COMMENTS

Chair Lucas opened the floor for public comments. There were no public comments.

RECESS

Commissioner Travis moved, seconded by Commissioner Williamson for the Board to take a brief recess. The motion carried unanimously.

CONNECTOR BETWEEN COURTHOUSE AND DETENTION CENTER

Mr. Justin Doyne stated “Good evening Commissioners, two weeks ago I passed out drawings that had some different elevations and drawings of the connector and I was just passing those out to get your feedback on anything that needed to be added or changed. Has anybody noticed anything on that? Ms. Lucas the architect is going to try to incorporate some arched windows.” Chair Lucas responded “They were not arched windows they were just arched openings.” Mr. Doyne stated “Yes ma’am he is trying to incorporate that. He is going to issue those drawings to you.”

Commissioner Carter asked “Has anything changed since the last meeting?” Mr. Doyne responded “Nothing has changed. I am just trying to keep everyone abreast of what we are doing. If there is anything that needs to be changed you can let me know.”

Chair Lucas asked “Is this fencing something that is new? Was that part of the drawings that you had previously?” Mr. Doyne responded “They were on there the last time. These two gates that are on the end of it, yes.” Chair Lucas continued “And what is the total cost?” Mr. Doyne responded “They don’t have a final estimate yet. They are working with the electrical contractor right now to get him to incorporate his items. Once they get that they will have a final estimate for you.” Chair Lucas asked “So this is just a report, we are not approving anything?” Mr.

Doyne responded “No.” Chair Lucas continued “Okay so you were just giving us an update on it. When do you think the pricing will be put together?” Mr. Doyne responded “I would say he got approvals from the State I think it was last Friday that everything checked out with codes so I would say within the next two weeks they should have these drawings finalized.” Chair Lucas asked “So at the next commissioners meeting we should have a price?” Mr. Doyne responded “I will do my best to have a price for you.”

Chair Lucas asked “Any further questions for Mr. Doyne?”

Mr. Doyne stated “Thank you very much and y’all have a Merry Christmas.” Chair Lucas responded “Merry Christmas to you.”

APPROVAL OF EMS TOOL KIT CONTRACT

Mr. Jeff Sicz, EMS Director, stated “Evening Madam Chair and Commissioners, Merry Christmas. I come before you tonight to get approval for two contracts and we will address the first one titled EMS Tools. Mr. Ferrell has reviewed these contracts and I believe he is satisfied with the contracts now.”

Mr. Ferrell stated “Yes both contracts are fine with the legal form. We did do some negotiations with both vendors on these contracts and we have incorporated the substances of those negotiated terms in the agreements before you so we have reviewed them and worked on the language.”

Mr. Sicz stated “EMS Tools is a program that will allow us to do maintenance scheduling, payment training, and attendance all in one program. I will take an off shoot here, as far as maintenance this is how we have been doing maintenance and Caswell Tire has been keeping it online. This is all the maintenance that has been done since I took over as director. It is a fairly large page so it is easier to see it on a computer so if you real quickly will follow through with me. You have page 1 and page 2. Page 3 is actually the next column of page 1 I just could not fit it on the same sheet of page and page 4 is the final column of page 2. As you can see it tells everything that has been done, where and how it has been done so forth and so on. Also if you look at page 2 you see www.google.com/google.caswellems.gmail.com and the word that is printed there is ‘do no harm’ at anytime that any commissioner wants to they can go online and see all the maintenance that has been done on all the ambulances anytime all year. That is the system we use via Jerry Potter at Caswell Tire to track maintenance.”

Chair Lucas asked “This is currently in place now?” Mr. Sicz responded “Yes ma’am this has been in place since I was hired or somewhere there close. So anytime that any commissioner wants to get online they can see 99% of what has been done to the ambulances, cost and where it has been done they can go online and see. That is just a side bar. EMS tools will allow us to track that at the EMS base so we will have duplicate tracking of all the information, scheduling, pay, the problems that we have been having with our pay system and our scheduling system will be resolved. We had a problem today and we fixed it that will be resolved. We could actually incorporate whatever system Ms. Graves wants into this system and give her a sheet of paper exactly like she uses all the time. It costs us roughly \$1,000 to do scheduling only. This entire

system will cost us roughly \$2,500 a year; I think that is what it was. It is definitely a benefit and I request that you give me permission to go ahead and have the contract signed. We will make an attempt to start this January 1st if I get your approval. It is called EMS Tools.”

Commissioner Carter stated “I would like to make a comment. I think this is valuable information so that we can see what maintenance has been done on the ambulances.” Mr. Sicz responded “Thank you.”

Chair Lucas asked “Is this a 3 year contract?” Mr. Ferrell responded “Yes it is a 3 year term with an annual subscription fee of \$2,592 which gives you the number of users that you need which is 40 users. So the annual cost for each year for the initial three year deal is \$2,592.” Chair Lucas continued “Is this money in your budget currently?” Mr. Sicz responded “Yes ma’am.” Chair Lucas asked “It is?” Mr. Sicz responded “Yes ma’am.” Mr. Howard responded “There is enough money to cover it in the budget.”

Chair Lucas stated “So this will cover scheduling, maintenance...” Mr. Sicz continued “Pay, training and attendance. In other words we could literally do our own pay if we had to because it covers all of that, training, scheduling, who is going to work when. It is extremely sophisticated. There is really no need to get into detail but it is down to the point where it schedules a medic and a basic on one truck and on what truck they will be on and if we do something that violates certain standards that we set it will not allow us to schedule that person. It incorporates training and let’s say I get scheduled on a truck and my certification has run out it will not allow me to schedule myself onto that truck. Like I said it incorporates all the data into a general pool where it can be drawn into any of the systems. It actually clocks mileage and it cannot be fixed except by an administrator. If I get on the ambulance and I say there is 250 miles and I log that in and the next day the person gets on the ambulance and says there is 210 miles it will not allow him to finish the check sheet because that is a wrong number and I will be the only person that can override that. There are numerous safeguard like that that was just the easiest and most applicable at this time.”

Chair Lucas asked “Has this program been around for some time?” Mr. Sicz responded “I don’t know the answer to that ma’am. I know it is not something brand new. I am not going to lie to you I don’t know who long it has been around. It is a well known company and a well known item.”

Commissioner Carter moved, seconded by Commissioner Hamlet to accept the contract for the EMS Tool Kit for the annual fee of \$2,592. The motion carried unanimously.

APPROVAL OF ESO PROGRAM CONTRACT

Mr. Jeff Sicz, EMS Director, stated “The second contract I would like the Commissioners to approve is ESO which stands for Electronic Solutions. We currently have a system we call EMS Charts and that is the way by which we document everything we do with the patients. Anything that documents an EMS run that is what is documented. We have found through a little bit of research that our billing is directly related to how we chart our patients. This will allow us a more complete way of charting which will allow our billing company to bill more accurately.

Also ESO is connected directly to a couple of the hospitals we service which will allow them to review our charts first hand and give us constructive criticism back on how we can better serve the citizens of Caswell County. This will cost us nothing. NRG will pay for it. Our billing company is willing to pay for it just like they pay for EMS Charts now.”

Mr. Ferrell stated “This is just a pass through cost. There is a cost of the service but NRG will pay for that cost. Should they not pay for whatever reason though this Board would be responsible for making those payments. Be assured there is a cost, it is not free it is just NRG is going to be paying for it and to the extent for some reason they don’t the County would be responsible to pick up that cost.” Mr. Sicz stated “Along those lines ma’am NRG, how do I say this tactfully, politics to use the system because it is more efficient for us. It makes charting considerable easier. There is actually an option to it that we chose not to accept, we could talk to a recorder and it would type everything for us but we chose not to accept that.”

Chair Lucas stated “So NRG will pay all the subscription fees; I believe that is what the contract said. I just need some explanation on the breakdown of the cost because it said with the subscription fee the customer has chosen to have NRG with its principal pay all of or a portion of the ESO subscription and a one-time fees on its behalf as indicated in Exhibit A and when you look at Exhibit A it does not say subscription fees. Is all of that subscription fees?” Mr. Ferrell responded “That is right; the grand total of what you see less discount of \$14,101 is the fee for this service.” Chair Lucas continued “So that includes the subscription fee and we don’t have to front this money or the county does not have to front this?” Mr. Sicz responded “In essence they are just shifting from EMS Charts to ESO Solutions and that will benefit both of us.”

Commissioner Carter moved, seconded Commissioner Hamlett to accept the ESO contract as presented by the EMS Director.

Chair Lucas stated “I just want some assurance that it is definitely not going to cost the county any dollars. Can we get that assurance?” Mr. Howard responded “Unless NRG goes belly up and no longer provides this service they will pay for this service.”

Upon a vote of the motion, the motion carried unanimously.

Mr. Sicz stated “Just for informational purposes we intend to start this February 1st. There is a transition period of getting charts from EMS Charts into ESO Solutions so this will start February 1st. That is our intended start date.”

APPROVAL OF VEHICLE USE POLICY

Mr. Howard stated “What you have in your packets is an updated version. First you have a copy of our current policy that covers our vehicles. The second is a request was made for the mileage reimbursement by departments. This is just an average: Inspections has 1. DSS averages 15 to 20 per month. EMS has 1. The Health Department has 20 a month. Planning has 1. Senior Center has 4. The Sheriff’s Department has 1 to 3 a month depending on their training schedules. Then you have an updated version of the policy incorporating the language that was discussed during the last meeting. Then you will see in red there is some language that Brian

added to replace how it will read for the employees' insurance coverage and also some verbiage for cell phone use."

Chair Lucas asked "And those were the two issues that we asked to be addressed from the last meeting?" Mr. Howard responded "Yes ma'am."

Commissioner Hamlett asked "I will go back to what Commissioner Travis asked how do we know that all of the employees have insurance?" Mr. Ferrell responded "We tried to address that the best we could. Like Mr. Travis stated they may have insurance on the day we request it but they may not have it on day two and so what we put in here in the amended language in your policy is that employees must provide the Human Resources Coordinator evidence of insurance on initial employment and they have to update that each year thereafter on the policy renewal date and also if their policy lapses or is cancelled at anytime during the interceding months they also have to notify the Human Resources Coordinator. We did the best we could to address the issue of getting and cancelling their insurance as soon as they get their license or as soon as they show it to the County. We tried to address that as best we could."

Commissioner Travis asked "But it is still going to go back if they don't have any insurance and they have a problem the County is probably going to end up taking care of it right?" Mr. Ferrell responded "If there is no primary insurance coverage through their own policy then yes the county's policy presumable would come into play, yes." Mr. Howard stated "If their insurance lapses then DMV will send someone to seize the tags off their personal vehicles."

Chair Lucas asked "Did we determine how many employees use their personal vehicles?" Mr. Howard responded "Yes just before this you have a list of the mileage reimbursements and those are the employees that use their personal vehicles for the county. Like I said about 90% of those are in DSS and the Health Department."

Commissioner Travis stated "There is no way to have this thing say 100% to be safe. It needs to be in here somewhere if somebody is using their car do to county business if they don't have insurance and something come up and they had a wreck and the county had to pay for it they need to be terminated right then." Commissioner Williamson responded "That is an ethics situation." Mr. Howard responded "I might be speaking off the cuff cut if this policy requires them to have insurance in place when they are using their personal vehicle and at the time of the accident they don't have it then that would be grounds for disciplinary action."

Chair Lucas asked "Would it be feasible to have a separate document or have the employee sign to the affect that they understand those conditions?" Mr. Howard responded "Sure when they are hired we can have them sign a document stating that they are supposed to have insurance coverage that covers the State minimum." Chair Lucas continued "And if for any reason there should be a lapse they should be the ones to incur the liability?" Commissioner Hamlett responded "That will not hold up." Mr. Howard responded "If someone asks and they tell that they are on county business we will be pulled into the lawsuit no matter what because we have deeper pockets than the employee's insurance."

Commissioner Travis stated "What you are saying though is everybody that you hire will sign that paper." Mr. Howard responded "Correct." Commissioner Travis continued "It does not matter if they drive their car or not they still sign it." Mr. Howard responded "Correct. We have several employees that go out of town on training and they drive their personal vehicles. The ones I gave you are on a regular basis out there driving on a regular basis." Commissioner Travis stated "But everybody when they are hired needs to sign that piece of paper." Mr. Howard responded "Correct and when the policy is adopted we will send it out and we will do the same thing on the current employees."

Chair Lucas stated "That will be a separate document that they will be signed that they understand that this is the conditions that the County is imposing on them concerning their personal vehicles." Mr. Howard responded "What we will do is similar to what we did when we adopted the Personnel Policy they will sign that they received and understand the document." Mr. Ferrell stated "In the policy there is a page titled Caswell County Employee Vehicle Use Acknowledgement and it spells out 'I have read and fully understand the Caswell County Employee Vehicle Use Policy and what is expected of me as a Caswell County employee. I further understand the responsibilities I have for the County-owned vehicle that has been issued to me.' I agree it may be a good idea to specifically spell out the requirements for the insurance coverage."

Commissioner Hamlett asked "You still have the minimum State requirement in here right 30/50/25?" Mr. Ferrell responded "What is in here now is the statutory minimum yes." Commissioner Hamlett continued "I cannot vote for that." Chair Lucas asked "What would be your recommendation?" Commissioner Hamlett responded "100/300/100 but I know a lot of people cannot afford it so I would be okay with 50/100/50 coverage. I would vote for that." Commissioner Travis asked "How much more money are we talking about?" Mr. Howard responded "There is no way to tell you that. It would depend on the employee's driving record and all of that." Commissioner Williamson state "That would cause us to have to pay someone's insurance coverage if you put that requirement in there you can be made to pay it." Mr. Ferrell stated "I think the issue is if you requirement more and you have a question from someone okay I only have the minimum and you are telling me that I have to bump up my coverage amount so I am going to want someone to help me with that cost or I am not going to drive my own car thank you very much and if my job duties require a vehicle well then just show me where the county car is and I will take it. Just be mindful that if there is an increase some employees may just pay it. It may only be a couple bucks a year but some folks may decide that they don't want to pay it and they may come to the county to ask for that additional expense that they did not have otherwise or they may decide not to drive their own car and you may have a run on the motor pool. Those are some of the issues that I see that could arise but I understand Commissioner Hamlett's concern that this is pretty minimum coverage and it is and there is no denying that this is not optimum coverage so I certainly understand the concern."

Chair Lucas asked "But as it stands currently we don't have a policy so what is happening now with these employees that are using their personal vehicles?" Mr. Ferrell responded "We don't know if they have it or not." Chair Lucas continued "Consider the liability there." Commissioner Hamlett stated "I have companies that I send copies of their employee's coverage. They request it every 6 to 10 months. They require that I fax it to them when they request it."

Mr. Ferrell stated "It may be interesting to see what the employees have now. It may be that 95% of the employees already have the additional coverage. A lot of people carry more than the statutory minimum." Commissioner Travis stated "That would be a good idea to have everybody that drives their own car to provide this. They can get Kevin a copy of their insurance coverage and then we could see where we are at."

Chair Lucas asked "Is that the pleasure of the Board that you would like to get that information prior to adopting the policy?" Commissioner Hamlett responded "If it is possible." Mr. Howard stated "We don't have a policy in place that requires them to give us a copy of their insurance coverage and there is no recourse for them not giving it to us." Mr. Ferrell responded "I think we can get a sample to see where we stand." Commissioner Travis stated "I think it would be a good idea to find out whatever everybody has."

Commissioner Williamson asked "Who is going to check all of that? Are you going to bring all of that in for the Board to check?" Commissioner Hamlett responded "The County Manager." Mr. Howard stated "You are talking about 200 employees if they all turn it in and going through all of that and then try to give you an idea of what is the average. My recommendation would be to pass the policy as we have it and once we get these in and we have a few months to review it and if we see that everybody has more than 50/100/50 then we can require it."

Commissioner Williamson moved, seconded by Commissioner Travis to approve the Vehicle Use Policy as it stands.

Commissioner Jefferies asked "I don't agree with the department heads and the county manager being able to drug test if needed. Any damage that occurs should be drug tested. Where I used to work the nurse did the drug testing and it did not cost the company a lot of money. They were not sent out for testing. That is one of my problems." Commissioner Carter responded "Do you think you should be drug tested if he hits a deer?" Chair Lucas stated "You will be tested if there is \$500 worth of damage. Commissioner Jefferies stated "I don't think you should be drug tested if you hit a deer." Commissioner Travis asked "What is the difference if you hit a deer and it costs \$500 or if you go in a ditch and it costs \$500. \$500 is \$500."

Mr. Howard stated "Let me explain why it is written the way it is. We had a workshop on this. In the first sentence it says 'An employee who is charged by law enforcement in an accident or incidence will be tested.' If you are charged for speeding or any kind of incident you will be tested because you were at fault. The reason why we have the leeway in there for the manager and department head and really the department head is going to give input but it will really be left up to me essentially is if it is a deer then maybe you don't do that. We do hit deer and you can do up to several thousands of dollars when you hit a deer and then we could have the little knick up that cost less than \$400 but the employee was negligent in what they were doing so that is kind of why we wanted to have the leeway in there so we could look at the circumstances around that accident and we can say you need to be tested because you were not paying attention and something was really out of whack. If the Board wants to do a limit that would be fine."

Chair Lucas asked "Mr. Jefferies you said the nurse did the preliminary testing?" Commissioner Jefferies responded "Yes. They can do this here in the County with our nurses. It will not cost

the county a dime. We did not send everyone to the lab.” Mr. Howard stated “The only issue with that is we will be using the Health Department is if the accident happens on the weekend. I don’t know the timeframe on when you want to have the testing done and the accident but if there is an accident on Saturday there is no one at the Health Department to give a drug test.” Commissioner Jefferies responded “If it happens on a Saturday they need to go to the lab.”

Upon a vote of the motion, the motion carried by a vote of four to two with Commissioners Hamlett and Jefferies voting no.

BI-MONTHLY PAYROLL UPDATE

Ms. Gwen Vaughn, Finance Director, stated “Good evening. In your packet you have some information based on your requests from a prior Board meeting for the change of the payroll cycle. The first thing I would like to discuss is the upgrade of the financial software and that is one of the things that you asked about. Currently Caswell County uses the ACS Xerox Financial package and I have conducted a survey of counties surrounding us and in similar sizes of a generic group and found that there are several different types of packages out there: Logics, SAP, HTE, Lawson, SunGard, Munix and they vary depending on the county. In order to move forward with an upgrade it usually would take about a year’s process because first of all we would have to do research to find the best fit for the county. We would need to do an RFP to get the software in place. We would need to do an RFP for installment purchasing if it is determined to pay for it rather than to use fund balance to pay for it in total and it can be very costly. That is the first option that I looked at. The next thing I gathered information on was outsourcing payroll or parts of the payroll. During that survey I found only one county that is using a portion of outsourcing and that county only has that company printing the checks and returning them to them and also doing the payroll tax reporting. So the company prints the checks and sends them back to the county and the county was hoping that it would alleviate some of the work for the payroll department or the payroll personnel but actually instead it changed the scope of what that person was doing and caused that person to review more in depth of what was going out and coming back in and also to enter in adjustment journal entries that the company would send back. That does not seem to be very productive. Last I looked at automation which I know you as a Board are very interested in having the county to move forward in automation and updating what we do in general and during this survey I check with different counties and found that some of the counties use the timekeepers system. This system is not necessarily their financial package but an outside company that will be able to write a program that would fit your software package that would allow employees to enter in their time using a PC either in their office or at home. They have to approve it. It has to be approved by the department head or immediate supervisor and so forth so that is one of the options that I looked at. The software that is written by an outside source you can customize it depending on how much or how little Caswell County might want to go with that so further research is required to get the best company to determine the start up cost, to determine what kind of program we would need and to customize the product. Also for training of the staff and all of Caswell County’s employees. It is unclear at this time how many days it would cut back on the payroll processing. If you remember at the last meeting in November I gave you a timeline and it would only cut out about 3 days reducing the length of time for reviewing the timesheets because there would no longer be timesheets and for reducing the time for checking the timesheets against the cover pages that the department

heads signs off on. It would also reduce the time for entering the payroll which entering the payroll is not one of the largest things that the payroll coordinator does. So however everything would still remain the same except for cutting out about 3 days. One of the neighboring counties that I spoke with pays about 800 employees. They have paid about \$300,000 plus for the timekeeper system for the employees to use. That is about three times as many as we pay so doing the math it would cost about \$75,000 to \$100,000 to do that. That is just a ballpark figure. I would not know until we actually have a company to come in and sit with us and give us all the information and go through all the configurations and determine what our needs would be. At this time I would like to entertain any questions that you may have.”

Chair Lucas asked “So Gwen, specifically for bi-monthly payroll?” Ms. Vaughn responded “For bi-monthly payroll the timeline I gave you it takes a full month to do payroll. For bi-monthly payroll the only thing we are reducing is 3 days to go to a timekeeper. So if we go to the timekeeper, even the school system uses the timekeeper and they still have a monthly payroll.” Chair Lucas continued “But that does not address the bi-monthly payroll.” Ms. Vaughn responded “It does not change that at all.”

Commissioner Travis stated “By what you said before there is not enough time in the month for y’all to do two payrolls.” Ms. Vaughn responded “To do two payrolls it would not be sir.” Commissioner Travis continued “I still just don’t understand it. I just can’t see why it takes that long to do a payroll.”

Commissioner Hamlett asked “How many employees do we have?” Ms. Vaughn responded “We pay over 300 employees a month.”

Commissioner Travis asked “And we have how many people in there working on it?” Ms. Vaughn responded “One person does payroll.” Commissioner Travis continued “One person does payroll and that is all they do.” Ms. Vaughn responded “Yes sir.” Commissioner Travis asked “Nobody helps her do anything?” Ms. Vaughn responded “Correct. No one else does it just one person.”

Chair Lucas asked “Did we find out if any other counties use the bi-monthly system? Ms. Vaughn responded “There are other counties that pay bi-monthly. Orange County pays bi-weekly. They pay about 800 employees.” Mr. Howard stated “Some do monthly. Bi-weekly would be every two weeks. Bi-monthly would be twice a month. I don’t think from what we have talked about I don’t think we want to look at the bi-weekly because that would reduce in most months the amount of take home pay because an employee would be getting 26 paychecks so two months out of the year you will get less money than the other ten months.” Commissioner Travis stated “From what she is saying now it would be outrageous to try to change anything to pay every two weeks.” Mr. Howard responded “You are looking at an increased cost yes sir.” Commissioner Travis stated “I think we need to vote on this thing tonight and move on.” Chair Lucas responded “But we don’t have an actual cost on it.” Commissioner Williamson added “No we don’t.” Mr. Howard stated “I would like to get a cost on what it would cost to do some of these things.” Ms. Vaughn stated “The cost of the software would still not allow for us to go to every two weeks or bi-monthly. It would not eliminate the time as far as the processing for one person. It would reduce the time by about 3 days looking at

the timeline and that depends on which module we get, how much we want to pay for the module and how much we want the employees to do so that would make a difference. We talked about the bi-weekly and that would go from 12 pay periods to 26. Employees who do not work hourly would basically have a drastic change to their payroll. They would lose upwards of \$200 to get on a bi-weekly payroll. Their check would change..." Chair Lucas asked "Would that be an initial loss or would it be consistent?" Ms. Vaughn responded "It would be a consistent change." Commissioner Travis asked "How are you going to lose money by changing the pay. If you are making \$50,000 a year you are still going to make \$50,000 a year whether you get paid every two weeks or if you get paid once a month." Ms. Vaughn responded "That is correct but when you get paid for 26 payrolls you have to..." Mr. Howard added "An example would be 26 pay checks, I have a scenario..." Commissioner Carter stated "This is what is throwing me off we did not discuss bi-weekly, we discussed twice a month, the 15th and the 30th." Ms. Vaughn responded "Either way it is almost the same. If an employee takes home \$24,000 that is \$2,000 a month, you are going to take home \$2,000 a month. If you go to a bi-weekly your bi-weekly pay would change to \$938 each pay period. For the month instead of \$2,000 you would take home \$1846." Commissioner Travis asked "Are you telling me that your tax rate is going to go up because you are getting paid different?" Ms. Vaughn responded "No sir." Commissioner Travis continued "Well that is the only way you are going to take home less money is if your taxes are going to change." Mr. Howard stated "What we are talking about is bi-weekly, every two weeks. There are 26 pay periods in a year to do bi-weekly. Bi-monthly would have 24 and you would get paid twice a month." Commissioner Carter stated "That is what we discussed bi-monthly." Mr. Howard stated "I have been paid bi-weekly before and what you actually get is two extra pay checks a year. We have had employees sending us emails about getting bi-weekly pay so we wanted to address this as part of the process so that everybody can understand what we are looking at. That is why we have the bi-weekly in here." Commissioner Carter stated "But the Board wanted you to look into bi-monthly." Ms. Vaughn stated "In order to change that for instance if we start bi-monthly or bi-weekly the first weeks payroll would be for only one time in January because we would have to hold the pay before we would need a timesheet to get paid by. We would have to hold the pay and get paid on the third week in January which would be a two week check and the next check would be in February so in January you would only get one check for two weeks." Commissioner Travis asked "How far do you hold people behind now?" Ms. Vaughn responded "We don't hold them behind." Commissioner Travis continued "Why would you hold people behind to do it twice a month?" Ms. Vaughn responded "Because we would be paying by a timesheet." Commissioner Travis stated "But that is no difference." Ms. Vaughn stated "It would be because of the timing of the payroll when you would get your first check it would be the third week so it does not matter whether you work hourly or monthly we would still have to hold that."

Commissioner Williamson moved, seconded by Commissioner Hamlett to look at the automated system not just by one company but by two companies and get recommendations from them how the county should pay, whether we should pay monthly, bi-monthly, or bi-weekly.

Ms. Vaughn asked "Mr. Williamson do you want to have the company recommend?" Commissioner Williamson responded "They can recommend how they would tie into your system in order for you to do it. Get a couple of estimates just don't get one estimate."

Commissioner Hamlett asked “I know I am on the end of this but where did this come from to start with?” Commissioner Travis responded “People came to me about it and I brought it up and this is as far as it has gotten and I think this is as far as it is going to go because of the expense from what I understand with all the retraining. You already know how to do payroll so why do you have to retrain?” Mr. Howard stated “The training would be with the new automation and that is not the major expense. The major expense would be the cost of the software.” Commissioner Travis stated “I don’t understand why the software we have now won’t do it.” Ms. Vaughn responded “Not only does it not work but there are several counties that have an initial financial software package but they have to get an outside source to do the timekeeper.” Commissioner Travis stated “I hope that we are not going to go to another county to find out what we need to do. Every time someone gets up here I get tired of hearing what other counties do. I really don’t care what other counties do. This county here is really all I am concerned about.” Ms. Vaughn responded “We use that as a basis sir.”

Upon a vote of the motion, the motion carried unanimously.

Ms. Vaughn asked “The request was to Commissioner Travis by a few employees to go bi-weekly or bi-monthly. One of the parts that we would like to do is to have a survey from the county because employees may not know what will hit them if we make a change that way.” Chair Lucas responded “That is reasonable.” Commissioner Williamson responded “That is up to them. I don’t know why we would have to be a part of that.” Commissioner Travis stated “If it is going to cost the county employees money you know they are not going to want to do it.” Chair Lucas asked “So you are requesting to...” Ms. Vaughn responded “I think that 90% of the employees would like to have a say in whether their pay is going to be changed from once a month to two times a month.” Mr. Howard stated “I think we need to have some informational meetings and let the employees know what we are talking about so they will understand what we are going through instead of two months from now we say we are going to change how we do payroll.” Commissioner Travis stated “If you are going to do that why not show the department heads what it would be and let them explain it to the employees because it was the employees that asked about this.” Mr. Howard responded “That is fine.” Chair Lucas stated “That sounds reasonable.” Ms. Vaughn responded “We will do that. Thank you. Merry Christmas.”

APPOINTMENT OF VOTING DELEGATE FOR LEGISLATIVE GOALS CONFERENCE

Commissioner Hamlett moved, seconded by Commissioner Travis to appoint Chair Lucas as the representative to attend the Legislative Goals Conference. The motion carried unanimously.

DISCUSSION OF SINGLE FAMILY REHAB APPLICATION PROCESS

Mr. Howard stated “The Single Family Rehab is through the North Carolina Housing Finance Agency. It is a little bit different than the other housing grants we do. Most of those we have to go through a process well let me back up. Right now we have two companies that are doing the housing grants in the county. Hobbs and Upchurch are finishing up the ones that they were doing and then most recently we hired Benchmark to do the 2011 Scattered Site. Normally the company we have on staff does the applications for us, sends them in and as part of that process for most of the housing grants we get we have to advertise and hire an administrator to do the

process. Under Single Family Rehab they allow us two options: 1) the folks that you have to do the application can administer the grant for you; you don't have to go through the other process. Also the legislatures changed the rules for Single Family Rehab to where they can be administered through the COGs or with the Piedmont Triad Regional Council as in our case. So the grant would actually go to PTRC. They would administer it. They would receive all of the money and they would pay out instead of it coming through us. We have two options. We can do the grant with the COG if the Board will entertain that. We would still have the authority and the money would still be ours. The money cannot be spent anywhere besides Caswell County but everything would be handled in Greensboro or Kernersville within the COG offices. We would not participate or have any liability of how the money is spent out or if you choose to keep it within the County and us hire the administrator my recommendation would be to have Benchmark to do the application for us and send it to the state and have them to administer the grant for us as part of that process. It is just a matter of how much of control the Board would like to have in that process."

Commissioner Hamlett asked "What do you recommend?" Mr. Howard responded "Initially we thought about going with PTRC and taking everything off of us completely but the citizens would still get the benefit of the grant. What we would have to do is send a letter to NC Housing Finance stating that we are allowing PTRC to receive and administer this grant for us. The problem is this is the first time this has been allowed to be done anywhere so there is no history to look back on to see how it is working in other places." Chair Lucas stated "And that is the one thing that concerns me and that is we don't have that as a point of reference and the fact that we don't have control. We do have some control but..." Mr. Howard responded "You are still part of the process because they can't send the money anywhere else but here. You will still be a part of the process such as the selection committee and all of that but nothing is handled in house. Everything will be handled in that office down there. Nothing would come before the Board. You would not look at the grant before it went out. It would all go down there and they would handle it. The reason I mentioned really going with Benchmark is with the last four months with having two companies handling grants it has been two fragmented." Chair Lucas asked "How much longer do we have with Hobbs Upchurch?" Mr. Howard responded "They have to finish up two grants. They probably will be here another year or so."

Commissioner Williamson asked "What kind of fees does PTRC charge?" Mr. Howard responded "If they administer the grant they will get 100% of the administration fee whereas if we hire a company to handle it for us we are still getting some of those fees because we are still handling some of the process and we are writing checks and making draw downs from the granting agency so we get some fees out of that. If it goes to PTRC they will get 100% of it and it would pay for their staff in that aspect. The other option we have had in the years is to take it all in house but that will require additional staff. One is for inspections. Our normal building inspector cannot go in and inspect these houses. They will have to be trained because they have to look at a lot of energy efficient stuff and other things so it would require them to have to be trained. That is an option in the future to bring it all in house."

Chair Lucas stated "Kevin I thought initially the discussion was that we would try to keep it in house until we had some sort of history on how this grant is going to work in the future. I think we should try to keep it local until we know more about PTRC."

Mr. Howard stated “The grants are due by the end of January and going through the process to hire someone would take too long to get the grant done.”

Chair Lucas stated “The choice would be to go with PTRC or Benchmark. Those would be the two choices.”

Commissioner Hamlett moved, seconded by Commissioner Carter to hire Benchmark to process the Single Family Rehab application.

Commissioner Williamson stated “We are a part of the PTRC and we pay money to them now and we do have some so called administrative board members that are part of that process. I know that Commissioner Hall is a member of that and I am a member of the transportation side of it.” Chair Lucas responded “This is new as part of the new non-profit.” Mr. Howard stated “What has happened is the two COGs merged. The COG we merged with already did the housing stuff in house more so than the Piedmont Triad Council of Government did. When they merged they combined those things. What we pay into them will not cover the cost to do those grants. Any grant that they handle for anyone they charge those administrative fees like anyone else would.” Commissioner Williamson stated “I understand that but what I am saying is we are a part of that and we do have some controlling interest in the PTRC.” Mr. Howard responded “Yes we do have a member on the board.” Commissioner Williamson stated “I just want you to know that.” Chair Lucas responded “So well noted.”

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

COUNTY MANAGER’S REPORT AND UPDATES

Mr. Howard stated “I have three items that I would like to mention.”

Pelham Industrial Park Pump Station Upgrade

Mr. Howard continued “The pump station upgrade for the Pelham Industrial Park we are still about 30 days out from the actual materials showing up on site. They had to order those. They were special made. As that moves along I will bring it back to the Board.”

Capital Projects

Mr. Howard stated “I wanted to update you on the capital projects that we have been working on the last couple of years. Everything on the list that you initially approve has been completed except for the HVAC for the new courthouse. I should be bringing proposals from engineers I am hoping the first meeting in January or maybe the second meeting in January to hire an engineering firm to help us with that process.”

Mr. Howard continued “The third item is there has been a request from USARS Services for a turn signal and that was installed over the last couple of weeks at Hardee’s at the intersection of

County Home Road and 86. They just want to express their thanks to the Board and the county for helping to get that put in.”

ANNOUNCEMENTS AND UPCOMING EVENTS

- A. Joint Meeting with the Town of Yanceyville and the Town of Milton – Thursday, January 10, 2013 at 6:00 p.m. at the Yanceyville Municipal Building.

Commissioner Carter stated “I agree with the County Manager the turn signal will be a great help and it may help to reduce accidents. I want to comment on the meeting room here tonight, the courthouse ceiling looks good and it really looks nice. I also want to comment since the DOT has finished around the square it really looks good.” Commissioner Travis responded “The corner out there still has standing water and it really looks bad.”

Commissioner Williamson stated “I would like to thank the County Manager and at the same time warn our Commissioners if you go up Cherry Grove Road the speed limit has been changed to a 45 mile per hour speed zone. I would like to thank the County Manager for making that happen.”

CLOSED SESSION

Commissioner Jefferies moved, seconded by Commissioner Travis to discuss matters relating to economic development (NCGS 143-318.11(a)(4)). The motion carried unanimously.

REGULAR SESSION

Commissioner Travis moved, seconded by Commissioner Williamson to resume regular session. The motion carried unanimously.

ADJOURNMENT

At 9:22 p.m. Commissioner Carter moved, seconded by Commissioner Williamson to adjourn. The motion carried unanimously.

Paula P. Seamster
Clerk to the Board

Cathy W. Lucas
Chair
