

## MINUTES – DECEMBER 19, 2011

The Caswell County Board of Commissioners met in regular session at the Historic Courthouse in Yanceyville, North Carolina at 6:30 p.m. on Monday, December 19, 2011. Members present: Nathaniel Hall, Chairman, Cathy W. Lucas, Vice-Chair, William E. Carter, Jeremiah Jefferies, Gordon G. Satterfield and Kenneth D. Travis. Absent: Erik D. Battle. 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

Chairman Hall opened the meeting with a Moment of Silent Prayer.

### APPROVAL OF AGENDA

Chairman Hall stated “Before we get to the approval of the agenda I think we need to make an amendment of three items. The first item is a Closed Session which we will have after the approval of the agenda. The second item is to amend the agenda to discuss the qualifications of a commissioner. The third item is to delete Item #7 EMS Vehicle Purchase.”

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

### CLOSED SESSION

Chairman Carter moved, seconded by Commissioner Jefferies that the Board enter into Closed Session to consult with an attorney employed or retained by the Board in order to preserve the attorney-client privilege between the attorney and the Board (NCGS 143-318.11(a)(3)). The motion carried unanimously.

### REGULAR SESSION

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

### DISCUSSION ON QUALIFICATIONS OF A COMMISSIONER

Mr. Ferrell stated “Mr. Chairman on June 14, 2011 a resident of Caswell County submitted a notice of challenge of the right of Commissioner Erik Battle to remain registered as a voter in Yanceyville-4 precinct, Town of Yanceyville, Caswell County. The Board of Elections took up that challenge. They had a preliminary hearing in the matter on June 23, 2011. On July 6, 2011 the Board of Elections met to conduct a hearing to consider the challenge to Commissioner Battle’s registration. At that hearing the Board of Elections sustained the voter challenge. Commissioner Battle then appealed that decision of the Board of Elections to Superior Court. Last week the appeal of the Board of Elections’ decision was denied in Case # 11 CVS 259. In

order to be eligible to hold office, according to the constitution of the State of North Carolina, you have to be eligible to vote in the district from which you are elected. According to law, Commissioner Battle is no longer eligible to vote and therefore hold office under the constitution.”

Chairman Hall asked “Based upon your understanding what are the options of this Board?” Mr. Ferrell responded “The option available to you is to declare a vacancy in Mr. Battle’s seat and then move to fill that vacancy according to the statutory process for filling vacancies as set forth in the North Carolina General Statutes.”

Commissioner Carter asked “In filling the vacancy, does the party that he was affiliated with have to make a recommendation?” Mr. Ferrell responded “That is correct. The statutory process, the Board of Commissioners will have sixty (60) days from the date a vacancy is declared to fill that vacancy. Part of the process requires that to be able to fill the vacancy the person filling it must be affiliated with the same political party as the vacant seat and also as part of the process the Board must consult with the party about a recommendation. Let me also say that should the commissioners fail to fill the vacancy within sixty (60) days, the statutory process then is that the Clerk of Court within in 10 days of the expiration of the sixty day period fills the vacancy.”

Commissioner Lucas moved, seconded by Commissioner Travis that Erik D. Battle’s seat on this Board be declared vacant because it has been determined by the Board of Elections not to be a resident of the county and the determination of the Board of Elections has been sustained by court order in Case # 11 CVS 259 and that this Board proceed to fill the vacancy as provided by law. The motion carried unanimously.

#### APPROVAL OF CONSENT AGENDA

Commissioner Travis moved, seconded by Commissioner Jefferies to approve the Consent Agenda. The motion carried unanimously.

The following items were included in the Consent Agenda:

- A) Approval of Minutes of December 5, 2011 Regular Meeting
- B) Budget Amendment #5

#### PUBLIC COMMENT

Chairman Hall opened the floor for public comments. With no public comments Chairman Hall declared Public Comments to be closed.

2012 – 2013 HEALTH INSURANCE RENEWAL EXPECTATIONS AND PROPOSED  
IMPLEMENTATION OF HAS PLAN

Mr. Mark Browder and Ms. Michelle Love with Mark III came before the Board.

Mr. Browder stated “Good evening. My name is Mark Browder and this is Michelle Love and we are with Mark III. The goal tonight is to give you an update on how the health plan is performing and what we anticipate the renewal to be and again this is our estimate. Just to give you some background we are a family business and we focus on public sector, county business in North Carolina. We have over 35 counties as clients in North Carolina. We get to see a lot of different things and what we are going to share with you this evening is what we are doing with about twelve or thirteen other county governments across the state. The first slide is to give you some sort of expectation of what the renewal will be. As you remember the North Carolina Association of County Commissioners ended operations and got out of the public insurance business effective July 1<sup>st</sup> of this year. CIGNA was the winning bidder in that process. The information you see in front of you is the last twelve months of claims activity. When we do our renewal expectations we anticipate that the renewal should come back as no increase for the county. That gives you a lot of flexibility and a lot of options of going into the 2012-2013 plan year. Again this is not a promise, these are our expectations. We manage about \$175,000,000 of health plan business in North Carolina so we think our numbers should be pretty strong. Today when you look at the plan that you have today, for primary care the deductible is \$30 and for specialist it is \$50. You have a \$1,250 deductible and then it is an 80/20 plan thereafter. For pharmacy it is \$0 for generic, \$45 for second tier brand and \$60 for third tier. We anticipate for Option 1 that there will be no increase in the current plan. What we are discussing with leadership is looking at adding another option to the plan. There is a couple of reasons for this. One is today if you are a non-user of the plan or you do not need the plan there is no way you can build up savings for future health care costs. The second thing is it is an opportunity at looking at getting dependent care premiums down and would make the plan option more affordable for your employees and their dependents. The option on this plan now is no change in the plan design. The option we are going to discuss tonight is called a Health Savings Account and it is essentially back to the future. What you had in the 80s is deductible and co-insurance. Everything applies to the deductible. Once the deductible is satisfied then it is 20% up until you satisfy the co-insurance threshold and thereafter it is essentially covered at 100%. What we are going to look at is a plan that we have in about twelve to thirteen counties and cities throughout the state is a deductible that is slightly higher, it is a \$1,500 deductible. Specialist and primary care office visits would apply to the deductible, preventive services are free. The \$1,500 deductible is for a single, \$3,000 for family. The co-insurance limits are significantly less which may make it more attractive than the current plan you have today. Essentially you will have a plan that has no co-insurance. One of the significant changes or differences that the education process would be is if the county moved forward with this is the employees who are used to pay a co-pay for pharmacy, all of those charges would apply to the deductible. It is out-of-pocket \$1,500 first and then the plan pays 80% of the cost and the member pays 20% up until they meet the co-insurance threshold. The one nuance is that the county would fund a \$750 health savings account. Essentially what this is money given by the county into the employee’s account and they can use that money for unreimbursed medical expenses, office visits, pharmacy, there are a number of uses that those dollars can be used for. We anticipate that dependent coverage with

everything include would be a -5% total exposure. One of the reasons why this health savings plan is important is that it builds consumerism. Today when an employee goes to a physician or they get some medication they do not know the underlying cost of that service. What this does is it gives them protection, exposes them to the cost say the physician's visit is \$120 they can use the health savings plan to pay for that. It allows the employees to see what the cost of the services are. It changes the way the employee function in the plan so they will start to become better consumers of the health care dollar and ultimately it leads to better plan performance than you have with a typical healthcare plan. The way it works is you have a high deductible which is that \$1,500 deductible. With this plan you have to have a certain threshold which is required by the federal government. Preventative services are paid at 100%. The health savings account, the money that goes into the account by the county would be tax free. Any dollars that employees want to contribute on top of that are tax free as well. Typically our clients have used their State Employees Credit Union/Local Government Credit Union which has the best interest rates going as far as any other financial institution in North Carolina. Any interest that is built up on those dollars, are for that particular employee. Unlike the flexible spending account these dollars if not used continue to roll over into the future years. When people are looking at making a health plan choice they usually think of the most catastrophic event that occurred. What you will find is that most of your employees typically have a much lower cost. About 40% of the employee average around \$300 of annual medical cost exposure. If you look at the member who are on the low end of the scale they would be big winners in this plan because they would only use about \$300 of that \$750 that the county would give plus any other dollars they set aside. There is typically only a small portion of the population that has significant claims. They usually do well in a health savings plan as well because all services go towards the deductible once that additional \$2,000 is satisfied their maximum exposure is \$3,500 less the \$750 or the \$2750 and with the co-pay plan it could be significantly more than that. The people who would have the most challenging decision would be those who are in the middle. The health savings account is the individuals account. It is the employees account. They use it for unreimbursed medical expenses. It grows tax free. It is their money. The county contributes that \$750. Who is eligible to be in a HSA? Certainly all the employees that don't have coverage from another source. These are not CIGNA rules, they are not my rules, they are IRS rules. You cannot be covered by any other plan. You cannot be covered by Medicare, Tricare or Tricare for Life. You can't be covered by the state retiree system. You can't be receiving VA benefits. You can't be claimed on someone else's tax return and you cannot have a flexible spending account. All of the dollars have to be in the HSA. The contribution limits are \$3,100 for individuals and \$6,260 for families. The county puts in the first \$750. The contributions are subject to a penalty if you exceed those limits. Today if you look at the flexible spending account and you look at the health savings account what are the services that you can use both of these for? The FSA and the HSA cover the dental services that are not covered by the dental plan that the employees can purchase, contacts, glasses, hospitalization, all of these services are eligible in the FSA and the HSA. The big difference is right at the bottom, with the flexible spending account if you don't use those dollars, you lose them. With the HSA you don't lose those dollars. With the HSA you can't have a co-pay plan because that is required by the federal government. Finally, today if you participate in the flexible spending account you have to provide documentation that the service was actually a legitimate service. With the HSA the members retain those records and demonstrate that it was an eligible service at the time that they may be audited. They must save their receipts. That in a nut shell is what we are talking about with your staff. We are looking at

it as an option for employees. The advantage for employees is they would be able to save for future health care expenses. More and more plans are starting to go towards deductible and co-insurance. If you are on the HSA that does not mean that the PPO plan goes away. We have a number of clients who still offer both plans. It does give the employees the option to choose what is in their best interest or their family's best interest."

Chairman Hall asked "So for clarification, next year we can offer both plans, the PPO and the HSA?" Mr. Browder responded "Yes sir." Chairman Hall continued "And it is up to the employee?" Mr. Browder responded "You are not forcing someone in either plan or either direction." Chairman Hall asked "What happens with the termination of a county employee or retirement of a county employee?" Mr. Browder responded "Let's say if you have been contributing to the plan for ten years and you hit age 65 you can no longer contribute to the HSA but you can continue to use those dollars for unreimbursed medical expenses. You can also like an IRA take receipt of the dollars and use it and pay tax on it, you can use it for anything you want. It is essentially a medical IRA. You can use it for non-reimbursable expenses today when you hit retirement you can continue to leave the dollars in the HSA account unlike your IRA or 401K you are not forced to have distribution at 70 1/2. You can leave the money in there or you can take the money out of the account, pay the tax on it, go on a trip, buy a boat or whatever you want to do with the dollars." Chairman Hall asked "So the county cannot reclaim the dollars?" Mr. Browder responded "That is correct. Once you put the money in their account it is their money."

Commissioner Lucas asked "Chairman Hall my question would have been for the county manager. I read where it said timing critical to education for successful implementation. Is that just an educational process for the employees?" Mr. Howard responded "Yes for the employees. We want several months to educate the employees on what will be happening so they will make a good decision about which plan they want to go with." Commissioner Lucas continued "Do you need to do that soon after the budget process?" Mr. Howard responded "We would want to start in February, I would think."

Chairman Hall stated "You questioned when we would educate the employees. My response would be that we would get started right away." Mr. Howard responded "My thoughts were that we wanted to start in February. We will start by asking if this is something that you want to do and then we will start the education quickly after that." Chairman Hall asked "So this Board will need to make a decision if we want to offer this?" Mr. Howard responded "Yes." Chairman Hall asked "Do we need to make a decision tonight?" Mr. Howard responded "No sir. This was just for information."

#### DETENTION CENTER UPDATE AND CHANGE ORDER REQUEST

Mr. Justin Doyne came before the Board and made the following statement:

"Since our last meeting we have completed 100% of the footings for the actual detention portion of the jail. The admin portion of the jail we have ran the walls up to the first floor height. The site contractor completed the fire line and the water line connections to the building. They also completed the asphalt parking lot located to the east of the Health Department and Social

Services buildings. We still have to stripe that parking lot. We are trying to come up with a striking plan that will best suit the most amounts of parking spaces for that area. The plumbing prime contractor has completed all of his drain waste and vent piping for the detention portion of the job. He has moved to the admin portion. The electrician is still working on a portion of the electrical rough in. Once he completes that we will pour the slab on grade for the detention portion. That will hopefully be before the end of the year depending on weather. Once the slab is poured they will start running the interior walls up. This will allow the other trades to get open in there. The MEP contractors will come on board and start running ductwork and the plumbing will start setting fixtures and we will keep moving on with the project. I do have some pictures in here. Do you have any questions on the pictures?"

Chairman Hall stated "I do want to thank you for the written report. I had the opportunity to read through it slowly and carefully so you don't have to go through everything line by line. I did find it interesting that we found two septic lines and one septic line was not marked and it was suggested that no one moved it there and it was still active." Mr. Doyne responded "Yes. It was actually marked on the plan in another location. There was one identified but this one was nowhere near the location of the other one."

Commissioner Lucas stated "That is the question I had. Have we not talked about that previously at earlier meetings about the fact that this septic line was there?" Mr. Doyne responded "Yes. This was old business. It is just something that keeps coming up. Yes I have discussed this. I think we talked about it at the first meeting we had up here." Commissioner Lucas continued "I think so as well because we talked about whose responsibility it was that it was not charted. Are you looking at a map from the Town of Yanceyville? Is that what you are looking at?" Mr. Howard responded "No, that would have been based on site plans the county prepared when the construction was done over there. What probably happened was when the old jail and the sheriff's office was built they moved the line from the as-built drawings and they did not reflect the change on where that line went. The drawings we have show one location but it was actually located somewhere else. The drawings were done twenty or thirty years ago." Mr. Doyne added "This does happen on occasion. Everything will be located that is shown there. When everything is completed you will have a record of everything that has been moved or added." Commissioner Lucas continued "And that line is what caused the excess water problem that we had?" Mr. Doyne responded "It may have but it was still from the first change order, PPO1, change order 1, that \$40,845 for that large olympic size swimming pool of unsuitable soils that they found down there. I don't think the septic line caused it but there was just a bunch of alluvial clay soils in there that SM&E determined that it would not be suitable to build on."

Commissioner Lucas stated "Chairman Hall I saw something in here for \$5,000 for shrinkage. What is that?" Mr. Doyne responded "You can dig a hole and the dirt that you dig out of it will not fill it back up. I don't know if any of you have run into it but it is sort of a common thing in construction. If you dig a hole you will never fill it with the same material especially if you are compacting that material, they charge .15% for shrinkage. They have to bring more soil in to fill in the hole." Commissioner Lucas continued "So that is the cost of more dirt? Is that what you are saying?" Mr. Doyne responded "Yes ma'am." Commissioner Lucas stated "It says shrinkage for undercut. Well it is actually, to me, \$6,000. It is \$5,874." Mr. Doyne responded "Yes ma'am. That goes along with the change order that Bordeaux has submitted to me for

\$19,522.” Commissioner Lucas continued “And the one that is marked \$58,305 for Bordeaux. Is that where something was returned?” Mr. Doyne responded “That was the credit we got back for the retaining wall. That all goes along with that RCO #6. We discussed that one the last time. I originally estimated and had the prices in around fifty. I told them to resubmit because I did not agree with their pricing and they came back with \$43,361 and I think it will be a couple thousand lower than that, around \$40,000. That would be for the slope bank that we are adding in there instead of the retaining wall, tree removal. There is a pretty good breakdown in here from Bordeaux.” Commissioner Lucas asked “How far behind are you at this point?” Mr. Doyne responded “Approximately 35 to 40 days. We have had close to 20 days of rain and then the unsuitable soil removal in several areas has caused delays. I am hoping to catch that back up by February. I do want to ask what direction you would like to go on that change order #05 requested, the \$19,523.28. We removed one of the oak trees and we discussed this before we removed another tank, the old tank to the fountain. It was not marked on the drawings. We had to removed it because it was in the way of the building and then several other items. There is a breakdown in here if you would like to look at them. We moved the roof drain that was coming off the Health Department. It actually ended up right in the middle of the road we were putting in for access. We actually routed that roof drain out underneath the road and out to where it crosses 86. The water will go to that drain that goes under 86.” Chairman Hall responded “If I recall that tank was removed some time ago.” Mr. Howard responded “Yes sir. We have every change order in here so you will have the information concerning it.” Chairman Hall continued “So we have not approved the tank removal?” Mr. Doyne responded “No sir. I went ahead and told them to remove the tank because it was in the way of construction and the unsuitable soils are documented by SM&E. I just wanted to see which way you wanted to go on this one.”

Commissioner Lucas asked “On page 54 in our agenda package, I guess is a breakdown of the \$19,523.28?” Mr. Doyne responded “Yes ma’am.” Commissioner Lucas continued “It is \$18,146 plus a profit of \$1,088.76 is that right?” Mr. Doyne responded “Yes ma’am.” Commissioner Lucas added “For a total of \$19523.29. On the breakdown there a change in the sewer line from a 6” to an 8” DIP for \$2400. Run existing roof drain from the Health Department to outside work area for \$1500, material cost of \$890 and backhoe and laborers at \$690. Removal of the second oak tree behind the silt fence \$1500, did we pay to have the first one removed?” Mr. Doyne responded “Yes ma’am.” Commissioner Lucas asked “What was the cost of that one?” Mr. Doyne responded “\$1500.” Commissioner Lucas continued “I did not remember seeing that.” Mr. Doyne responded “I can get you the breakdown on that.” Commissioner Lucas added “And then the shrinkage, that \$6,000 fee and undercut stump pile and retaining wall another \$4,600. So that pretty much breaks it down?” Mr. Doyne responded “Yes ma’am.”

Commissioner Carter moved, seconded by Commissioner Satterfield to approve change order #5.

Commissioner Lucas asked “What part of the project is going to change?” Mr. Doyne responded “The site work portion.” Commissioner Lucas continued “The site work portion for Bordeaux?” Mr. Doyne responded “Yes ma’am.” Commissioner Lucas asked “His amount will change. We will be adding that amount to the \$602,754?” Mr. Doyne responded “Yes ma’am and if you noticed, I would like to elaborate on that...” Commissioner Lucas responded “The \$98,000 credit, I see that.” Mr. Doyne asked “Do you understand that we are still working out of that

credit?” Commissioner Lucas responded “I thought at the last meeting we were told we had used that up and that we had to actually take a thousand dollars out of something else.” Mr. Howard stated “The estimates we gave you for the change orders we gave you actually went down several of those which brought that total down from what you had seen before.” Mr. Doyne added “With that forty-three we are below the total. With the nineteen thousand that will run us about ten thousand into our contingency.” Commissioner Lucas asked “It will be \$10,000 in contingency.” Mr. Doyne responded “Yes. So that ninety-eight should be used up. So that will be the first thing we have actually taken out of contingency for the project.” Commissioner Lucas asked “What is the total on contingency?” Mr. Doyne responded “\$300,000, I believe.”

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

### APPROVAL OF RULES OF PROCEDURE FOR COMMISSIONERS

Chairman Hall stated “At our last meeting Commissioner Lucas asked for these to be approved. We will start at the top of the page and go through it to see if you have any suggestions.”

Commissioner Lucas asked “I just have one question. The reason I asked for this to be included in the agenda package is because I think it is good for us to review these yearly to see if there are changes that need to be made because we always have things that do change throughout the year. I just have one question maybe for the county attorney on Rule 8 on page 71, page 3 of the Rules of Procedure. It is on the Broadcasting and Recording Meetings. It refers basically to television broadcasting and radio broadcast but I was questioning the situation like if we had a closed session, is the recording of that allowable?” Mr. Ferrell responded “In my view, a closed session would not be subject to this Rule 8 by its very nature. It is closed to members of the public and Rule 8 contemplates allowing the recording for any member of the public to hear the meeting.” Commissioner Lucas continued “So it would not be proper to record something within a closed session meeting?” Mr. Ferrell responded “My take is Rule 8 does not apply to closed session.” Commissioner Lucas asked “So we would need to make an amendment to include a closed session? I just want to make sure that each member individually understands the importance of not recording in a closed session meeting and I think we generally do.” Mr. Ferrell responded “The clerk keeps minutes of closed sessions but in my view Rule 8 which would otherwise require the recording, the dissemination by TV or other means of the Board’s proceedings that would not allow to a closed session.” Commissioner Lucas stated “You cleared it up for me.”

Chairman Hall asked “Do we need to include that this does not include closed session meetings?” Commissioner Lucas responded “That would be appropriate I guess.” Mr. Ferrell responded “If you will read ‘Except as provided in this rule, any radio or television is entitled to broadcast all or any part of an official meeting of the Board that is required to be open to the public.’ A closed session of course would not be open to the public.” Commissioner Lucas stated “That is fine. I am good with that. I just wanted to make note of it. Thank you.”

Chairman Hall stated “Does anyone have any other changes to Page 3. Let’s go to page 4 under Agenda. I would like to suggest a change in here. In the second sentence ‘A request to have an item of business placed on the agenda for a regular meeting must be received at least two

working days before the meeting.’ If we go down to Section (b) it says “A copy of the agenda packet shall be delivered to each member of the Board at least seventy-two hours before the meeting.” This is inconsistent. The clerk would not be able to get it out in time if someone was to turn something in within two working days of the next meeting. I would suggest that we put seventy-hours in both so that the clerk will be able to receive everything, make changes to the agenda and be able to get the agenda out on time. I would also suggest that we add ‘with supporting documentation relevant to the item. If they want to put something on they need to have back up.’ Mr. Howard responded “You may want to make it more than that. My interpretation would include Monday which is a working day which occurs before the meeting at 6:30 that night. We usually send them out Thursday morning so the Board will have plenty of time to read them. Contemplating taking on the iPads we will be able to do it quicker than that probably, the way it stands now is if we do not have the information by Tuesday at lunch time we don’t usually have it on the agenda.” Chairman Hall asked “What do the commissioners think?” Commissioner Lucas stated “I just don’t see it as an issue, not really. It has not been one in the past.”

Commissioner Hall moved, seconded by Commissioner Jefferies to adjust the second sentence to read ‘A request to have an item of business on the agenda for a regular meeting must be received at least seventy-two hours before the meeting with supporting documentation that is relevant to the item.’ The motion carried unanimously.

Chairman Hall stated “Rule 19 (b) 4. To Suspend the Rules. Our current rule requires a vote equal to a quorum which would be 4 votes. In review of Robert’s Rules of Order a motion to suspend the rules requires 2/3 votes which is 5 instead of 4. Any discussions or thoughts on that?” Commissioner Lucas asked “A quorum is four, that is what you said, right?” Chairman Hall responded “Yes, a quorum is four. Right now it takes four votes but if you follow the Robert’s Rules of Order it requires 2/3 votes which is 5 votes.” Commissioner Lucas responded “It has not been an issue, that I recall, in the past or since I have been on here.”

The Board reviewed the remaining items in the Rules of Procedure.

Chairman Hall stated “That completes our procedures and we have voted for one change.”

Commissioner Lucas moved, seconded by Commissioner Carter to approve the Rules of Procedure with the change in Rule 9. Agenda. The motion carried unanimously.

#### DISCUSSION ON BOARDS AND COMMITTEES FOR COMMISSIONERS

Commissioner Jefferies moved, seconded by Commissioner Travis to appoint Chairman Hall to the following Boards and Committees:

Caswell County Joint Nursing Home/Adult Care Home Community Advisory  
Committee  
Caswell County Partnership for Children

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

Commissioner Carter moved, seconded by Commissioner Jefferies to appoint Commissioner Travis to the following Boards and Committees:

Farmer Lake Board  
Social Services Board  
Personnel Committee

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

Commissioner Travis moved, seconded by Commissioner Jefferies to appoint Commissioner Carter to the following Boards and Committees:

Farmer Lake Board  
Library Board  
E-911 Board

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

Commissioner Travis moved, seconded by Commissioner Carter to appoint Commissioner Jefferies to the following Boards and Committees:

Social Services Board  
Piedmont Behavioral Health Board  
Civic Center Committee  
Piedmont Emergency Medical Services Advisory Board  
Home Health Advisory Committee

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

Commissioner Jefferies moved, seconded by Commissioner Travis to appoint Commissioner Lucas to the following Boards and Committees:

Personnel Committee  
Planning Board  
Caswell County Area Transportation System  
NCACC Legislative Liaison

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

Commissioner Travis moved, seconded by Commissioner Carter to appoint Commissioner Satterfield to the following Boards and Committees:

Board of Health  
Economic Development Board  
Personnel Committee

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

The following Boards and Committees are still vacant:

Planning Committee for Services to the Elderly  
Juvenile Crime Prevention Council  
Recreation Commission  
Local Emergency Planning Committee  
Kerr-Tar Work Force Development Board  
Rural Planning Organization  
Piedmont Triad Partnership

#### APPOINTMENT OF PTRCOG DELEGATE

Commissioner Travis moved, seconded by Commissioner Jefferies to appoint Chairman Hall to serve as the Board's PTRCOG Delegate. The motion carried unanimously.

#### DEPARTMENT OF COMMERCE GRANT INVESTIGATION

Chairman Hall stated "We have in the packets a copy of the letter that we received from the Department of Commerce. I will ask our counsel to talk a little bit about it and our options."

Mr. Ferrell stated "Yes sir, Mr. Chairman, as we discussed at the last meeting on August 20, 2011, the county received a request from the Department of Commerce to execute a certification of grant compliance regarding a Grant Number 08-C-1818. As the Board is also aware a third party administrator has worked with the county for some number of years to administer these housing grants. Hobbs and Upchurch is the name of the firm that has administered these grants on behalf of the county. I mentioned to you last time that I would take a look at the certifications and contact Hobbs and Upchurch in an effort to move this matter forward to enable the county to complete its certification. I did contact Hobbs and Upchurch, specifically its principal, Michael Walser, regarding the certification. I asked him to provide the county with an affidavit certifying that he has conducted the relevant investigation. Essentially he will certify to the county an affidavit of the same things that the Department of Commerce is asking the county to certify to it. So a way to proceed, if the commissioners so desire, is to have the county to complete this certification on its own behalf, attach to it this affidavit of the administrator Hobbs and Upchurch, saying that it has completed the investigation and make these certifications and to reference the Hobbs and Upchurch, Michael Walser, affidavit as the basis for the county's certification. That is a way to proceed, Mr. Chairman, which this certification."

Commissioner Lucas asked “Mr. Ferrell, why is Mr. Walser being allowed to investigate himself?” Mr. Ferrell responded “It is not Hobbs and Upchurch who has been asked to investigate itself. The county has been asked to certify compliance with these grant requirements. The administrator of that program would be in a position to know...” Commissioner Lucas stated “But he is the person in question, right?” Mr. Ferrell responded “That is exactly right. There is an alternative to this procedure which is for the county to conduct its own independent investigation.” Commissioner Lucas responded “That is what we are supposed to do I thought.” Mr. Ferrell stated “Well that is an alternative for the county if it wants to proceed with an investigation, it certainly can do so. An alternative to that approach is to rely on the affidavit of Michael Walser from Hobbs and Upchurch.”

Chairman Hall stated “Another alternative we discussed at the last meeting was to have someone from the Sheriff’s Department to take part in this investigation. I spoke with the Sheriff after our last meeting and he was in agreement to having some of his staff to do this. We can do what our counsel advised, we can have our direct staff to do it, or the staff of the Sheriff or we could have some members of this Board to volunteer to do it.”

Mr. Ferrell responded “Just in support of, well I will say if you consider having staff to conduct the investigation and in talking with the county manager he was involved in some of these committee meetings that are referenced in the certification. He does have some first-hand knowledge himself of the facts that will ultimately need to be certified. I will just point that out.” Chairman Hall asked “Will that be a plus or minus?” Mr. Ferrell responded “Neither way. I just wanted to say that he has some personal knowledge.”

Commissioner Lucas stated “I think we all need to be reminded that we are talking about federal money here and it is something that needs to be considered seriously. Whoever is going to sign their name on this certification has to certify that after the investigation that all signatures on all Income or Need Surveys relating to the grant are authentic and were actually made by the individuals purporting to have signed the documents and that is what is in question. Also #2 a certification after investigation that all proper selection committee processes related to the grant and application to the grant were followed, that all selection committee meetings described in the application in fact occurred on the date specified in the application and were attended by the members described in the application, and the selection committee approved the selections indicated in the grant application. What is in question is did the selection committee meetings actually take place and were those individuals actually at the selection committee meeting that selected these houses to be rehabbed. I think once that information is found out, well I have personally found out something about that and it is that some individuals that were alleged to be at the meeting were not even employed with the municipality that supposedly they were with at the time. They had already moved on to another location in a different job and they were not even there at the meeting. There are a lot of questions about this and I really think it needs to be looked at more seriously. My recommendation would be to have an investigation conducted by law enforcement because I would be really hesitant to put my signature on there saying that it was correct.”

Commissioner Lucas moved, seconded by Commissioner Jefferies to proceed with the Sheriff and his investigators as to what is being asked for in the certification pertaining to the DOC Grant # 08-C-1818.

Commissioner Carter stated “Mr. Chairman with the investigation I would like for the county manager to be involved since he has knowledge of the committee meetings.”

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

Chairman Hall stated “I will talk with the Sheriff on this matter.”

### HVAC FOR THE LIBRARY

Mr. Howard stated “The HVAC is one of the projects that you have been reviewing as part of the capital improvements for this year. The issue we were having up until a few weeks ago was the air was not working well in the summer time. They started having problems with the heat portion of that unit over the last month or so. What I have brought to you is estimates to go ahead and replace that now.”

Commissioner Satterfield asked “Mr. Howard I noticed that no one put a seer rating on any of these estimates, did anyone give you a seer rating?” Mr. Howard responded “No sir. What they normally give us is the highest seer rating available in those types of units. They are not as high as a residential unit because of the size of them and the square footage of what they have to heat and cool.” Commissioner Satterfield continued “I think most of the proposals are including a new thermostat, are they all programmable thermostats?” Mr. Howard responded “Yes sir.” Commissioner Satterfield stated “Some of them say programmable and some of them do not.” Mr. Howard responded “We require those to be put in.”

Commissioner Lucas asked “Did the James’ proposal include the rental of a crane? I did not remember reading it or were there any discussions about it?” Mr. Howard responded “They were all checked and it includes the installation of the units so it would cover any costs to install those units.” Commissioner Lucas continued “Because the others wrote down the crane rental, I did not see it in the James proposal. Another question, how did we advertise?” Mr. Howard responded “We did not advertise because of the size of the project. We contacted the five companies that normally does work for us in various ways.”

Commissioner Jefferies moved, seconded by Commissioner Satterfield to accept the lowest bid, James Heating and Air, for \$17,855. The motion carried unanimously.

Commissioner Lucas asked “The funding for this is it coming out of the capital fund?” Mr. Howard responded “Yes ma’am.” Commissioner Lucas asked “Do you know the balance in that fund?” Mr. Howard responded “I will send that out to you.”

## WASTE, FRAUD & ABUSE POLICY

Mr. Howard stated “Again, you have a copy of the Waste, Fraud and Abuse Policy in your packets. I have received comments from various staff members. What I would ask for now and I probably should have asked for this at the beginning of this process, is to appoint a committee to look at the policy and to try to incorporate these ideas that other staff members and employees have came up with. Whether it is a staff committee or a staff committee with commissioners on it would be up to the Board.”

Commissioner Lucas asked “I was just curious about the questions or comments that the staff had?” Mr. Howard responded “Some concerns were if we had staff available to handle the policy and to enforce the policy and others things like wording needing to be changed.”

Chairman Hall stated “I don’t think we need a committee to answer the first one. Whether we have the staff or not we still need to pass this policy. Most of the people work for you. The only thing I would ask is by our next scheduled meeting we have this policy ready to be voted on.” Mr. Howard responded “The problem with that is we have the holidays coming up between now and the first meeting on January 3<sup>rd</sup>.” Chairman Hall stated “Get the folks together.” Mr. Howard responded “I mentioned that I had six, seven or eight emails that have items in them.” Chairman Hall stated “Get the folks together. I stated we need to get this policy approved. If it is not perfect that is fine but we need to get moving on it. If you have eight or ten comments and you know who those people are get them together and get the policy together. That is my request that we have the policy ready by the next meeting.”

Commissioner Jefferies stated “The next meeting is in January and you have Christmas that is coming up. Give the man a break. Let’s give him until the second meeting in January. We don’t want him to just put something together. We want something that will stick. Give the man the opportunity to get it right. I know we asked for it but the point is to give him time to make it a good policy that will stick. That is my opinion.”

Commissioner Carter stated “Being the holidays, I agree with Commissioner Jefferies, I think we can wait a couple more weeks to get a good policy.”

Commissioner Jefferies moved, seconded by Commissioner Carter to have the Waste, Fraud & Abuse Policy ready to be voted on by the second meeting in January. The motion carried unanimously.

## COUNTY MANAGER’S REPORT

### County Project Updates Pelham Water Tank Update

Mr. Howard stated “The Pelham water tank project is still moving along. It is ahead of schedule. I was out there last week and they are finishing up the priming and the first coat of paint. With the project there are several coats of paint that will go on there. Just to remind the Board when they finish painting the County Seal will be on there and it will say Pelham Industrial Park on the tank. They will face out towards 29.”

## Land Use Plan Update

Mr. Howard stated "I have talked with the Division of Community Assistance on what the hold-up is. They continue to lose staff through the budget cuts. I asked her how long she thought it would take her to finish. From where she is right now she said if she started January 1<sup>st</sup> it would take probably until the end of June to do what she needs to do and to bring something before the Board. We have that option or we can go out and do a RFP and get proposals from some private firms and see how much it would cost to have them do it. I am not sure on the time frame of that but I am sure it would be less than six months."

Chairman Hall asked "What do you recall we asked her to do?" Mr. Howard responded "The first thing she will do is to actually go through all the ordinances and check out the legality of them and see how they fit together or working against each other." Mr. Ferrell added "Yes, step one of the process was to create a unified development ordinance to package together of the county's existing regulations. We have the telecom ordinance that relates to land and the outdoor storage ordinance just to name a few, package those together in a unified development ordinance. That is phase one of the project. The second phase Betsy Kane presented to you when she came before you some time ago was to also contemplate putting together a zoning ordinance for the county after the existing ordinances are compiled in the unified development ordinance. Those were the two steps that were being considered by the department. I have talked with her too about her time frame and I will just reiterate that she is understaffed and overwhelmed and the original time frame which is now expired for getting something to you is something that she could not meet. She has backed up again another six months. This is not an expensive project, I anticipate, should you decide to go out for third parties to work on a unified development ordinance."

Commissioner Lucas asked "Who is she, Betsy?" Mr. Ferrell responded "Betsy Kane." Commissioner Lucas continued "She is with?" Mr. Howard responded "Department of Commerce Division of Community Assistance in the Raleigh office." Commissioner Lucas asked "When was it that she was here? Does anyone recall or remember?" Chairman Hall responded "Last spring."

Chairman Hall stated "I think we are at the point that we need to know a cost. It is holding up the county. At first she said she would have the information to us by the spring, then September, then December and now June. Now the issue we need to discuss is how to proceed. I think it would be appropriate for the county manager to put together a RFP to see what it would cost us to have a third party to work on a unified development ordinance."

Chairman Hall moved, seconded by Commissioner Travis to have the county manager to put together a RFP to find out from a third party the cost to review the ordinance and to create a unified development ordinance. The motion carried unanimously.

## School of Government Workshop

Mr. Howard stated "I mentioned a workshop that the School of Government will be putting on, Community Planning and Zoning: Making Better Decisions. I just wanted to ask again if

anyone from the Board would like to attend any of those. The closest one was on February 17<sup>th</sup> that has been changed to Research Triangle Park. We received new information today actually. If you would like to go let me know. I will probably attend as well as Brian Collie.”

Chairman Hall stated “There is no cost on this sheet.” Mr. Howard responded “I am not sure on the cost. I will check on that and let the Board members know who wants to attend. We still have time to sign up. It is usually between \$99 and \$150 for a one day seminar.”

### Update on Privilege Licenses

Mr. Howard stated “You have in your packets a draft of the Caswell County Privilege License Ordinance. This is for your review and discussion. It will be placed on the next agenda for continued discussion.”

Chairman Hall stated “I had a discussion right before our meeting with our attorney on this ordinance. It only offers a very few businesses we can charge. When we started this process I thought we would be able to tax all the businesses in the county. If we look at this listing 50% of the businesses in Caswell County are not included in the list. According to our attorney the only companies the county can charge for are what is listed and what the statutes allow.”

Mr. Ferrell stated “Just to tell you where this ordinance is coming from, it is the model ordinance that the School of Government has put together. The way county privilege taxes work is that counties can only tax those businesses that are expressly listed in statute. So we have compiled that list for you which is located at the end of the ordinance. This is a revenue statute so it is designed to collect taxes on those businesses that you are eligible to tax on. Again this is using the model ordinance. It does not call for the listing of all businesses. It is just the ones that you can tax.”

Chairman Hall stated “When I look at this list and the maximum tax we can charge it is around four or five hundred dollars at a cost of fifteen or sixteen hundred dollars. We need to look at this very closely and think about what it is that we are trying to accomplish and how cost effective it is to the county.”

Commissioner Satterfield stated “Mr. Chairman I know several months ago the manager included in our package copies of Rockingham County and other counties around and their lists were a lot more inclusive than what is back here. Like these gaming things that are popping up, Internet Sweepstakes, they are like \$2500 tax permits for those places. They had a list a lot longer than this Mr. Attorney.” Mr. Ferrell responded “We can certainly go through and look at what Rockingham County has in place but again whatever is authorized by statute is what you are allowed to tax. One way to handle it is to say that you are going to levy the maximum tax on all authorized business authorized by statute. You can certainly do that.” Commissioner Satterfield continued “It was Person County, Rockingham County and if I am not mistaken Alamance County, I am not sure about Alamance.” Mr. Ferrell responded “I don’t know how Alamance is set up but I know a lot of those schedules you are talking about lists the taxes applicable in a municipality as well as a county. The taxes that would be listed for a municipality are much more extensive that what a county is permitted to tax. We can certainly

take another look at it.” Commissioner Satterfield stated “That may have been the case, I don’t know.” Mr. Ferrell responded “We will take another look at the list and make sure that we have it right for your discussion. I do think that you will find and this is noted in the booklet on privilege license taxes that Kevin included in your packet I believe at the last meeting prepared by the School of Government. In there the author of that document makes the point that these are often money losers for counties. Most counties have found the general experience is that you lose more money administering the program than you take in taxes.” Commissioner Satterfield stated “I agree with Chairman Hall. If this is the list and if I understand why we did this to start with we were not doing this to generate revenue, it was to identify new businesses that may come in and get on the tax book at the right values and things like that. That is one of the complaints the tax director has. People come in and start a business and he knows nothing about it and no one knows anything about until someone rides by it and sees it. This is not going to do any good with what you have here.” Mr. Ferrell responded “One thing I can do is to look at a way, again this is the model of the School of Government put out and it is an ordinance designed to generate revenue. It is not designed to do what you are speaking of as far as identifying the businesses. I will be happy to go back and see if there is such a creature or if this document can be modified such that it will address the notion of getting a listing, whether or not they are taxed, of getting a listing of businesses. I don’t know if we can do that with this document but I can certainly explore ways of doing that.” Commissioner Satterfield stated “You are not going to generate any revenue in Caswell County with this document right here. You might in some counties but you will not here.” Mr. Ferrell responded “Even Durham County has repealed the majority of its, they call them Schedule B taxes, because even in Durham County they were not making any money on these.”

#### Town of Yanceyville Meeting Dates

The clerk informed the Board that she had spoken with Haynes Brigman, Town Manager, for Yanceyville and he suggested waiting until after the holidays to schedule a meeting date.

Chairman Hall asked “I have one question. We did not have it on the agenda but as a result of a personnel hearing, an issue came up regarding cell phone usage in the 911 center. Have you addressed that in anyway?” Mr. Howard responded “Yes sir. They are not allowed to have their cell phones on when they are working in the 911 center. The employees are banned from having their cell phones in the 911 center.” Chairman Hall asked “When will it be in effect?” Mr. Howard responded “It is already in effect.” Chairman Hall asked “Do you have an official policy in your office?” Mr. Howard responded “They have been told already that the policy will be coming out shortly, probably tomorrow.”

#### ANNOUNCEMENTS

Commissioner Jefferies stated “I went to a hunting club in Leasburg. I want to ask this Board one thing. We do not have an ordinance saying that I need to have my farm posted. They were saying that if you did not have your farm posted that you could not go on that land unless you had permission. Is that what the ordinance reads or do you have to have your land posted?” Commissioner Satterfield responded “A state law was introduced that prohibits in Caswell

County anyone from being on your land. It does not have to be posted. They have to have a permit to be on your land. They call that trespassing. That is state law.” Mr. Howard stated “It has been passed for I know more than 4 years or so.” Chairman Hall stated “There is a card that a hunter must carry at all times when they are on your farm that must have your signature on it.”

CLOSED SESSION

Chairman Hall moved, seconded by Commissioner Travis that the Board enter into Closed Session to consider the compensation, terms of appointment and performance of an individual public officer (NCGS 143-318.11(a)(6)). The motion carried unanimously.

REGULAR SESSION

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

ADJOURNMENT

At 8:55 p.m. Commissioner Jefferies moved, seconded by Commissioner Travis to adjourn. The motion carried unanimously.

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Paula P. Seamster  
Clerk to the Board

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Nathaniel Hall  
Chairman

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