

MINUTES – MARCH 7, 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, March 7, 2011. Members present: Nathaniel Hall, Chairman, Kenneth D. Travis, Vice-Chairman, Erik D. Battle, William E. Carter, Jeremiah Jefferies, Cathy W. Lucas and Gordon G. Satterfield. Also present: Kevin B. Howard, County Manager, Brian Ferrell, Interim 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 that he would like to move Item No. 13. Staff Report on Johnson Property Issue to right after Item #5 Public Comments.

Commissioner Jefferies moved, seconded by Commissioner Travis 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 as presented. The motion carried unanimously.

The following item was included on the Consent Agenda:

- A) Approval of Minutes of February 21, 2011 Regular Meeting

PUBLIC HEARING – 2011-2012 COMMUNITY TRANSPORTATION PROGRAM GRANT APPLICATION

Ms. Melissa Williamson, Director of CDOT, came before the Board to present information and to seek approval on the 2011-2012 Community Transportation Program Grant Application.

Ms. Williamson stated “It is that time of the year again when it is time for us to apply for our Community Transportation grant application for the fiscal year 2011-2012. This will be due to the Public Transportation Division on March 11th. What we need to do is hold a public hearing on the proposed project to allow members of the community the opportunity to comment on the transportation needs and grant application.”

Chairman Hall declared the public hearing open.

Ms. Williamson continued “We will also need to have a motion made by a board member and seconded by another board member for the adoption of the resolution to put to vote to duly adopt the resolution that is included. We went ahead when preparing for our Community Transportation grant application and followed our Public Involvement Plan. We placed the public hearing notice in all of our CDOT vans. We distributed the public hearing notices in English and Spanish to the Department of Social Services, Library, Senior Center, Piedmont Community College, Vocational Rehabilitation, Historic Courthouse, and we also requested that each agency post the notices where the general public would be able to view the information. We also published them in The Caswell Messenger in English and Spanish. We offered auxiliary aids and services under the ADA regulations and also if anyone needed a translator we would provide one for them. We are asking for an administrative cost from the state in the total of one hundred twelve thousand nine hundred and four (\$112,904.00) dollars and in capital we are requesting one hundred sixteen thousand eight hundred (\$116,800.00) dollars from the state. We have two vans that have met their life expectancy of one hundred thousand (100,000) miles. We will be asking for replacements in that fiscal year for two of them. That is why the capital is high. This will also pay for lettering all of the vans that we get as well. The administrative cost takes care of some of the salaries, our marketing, our promotional items, our legal advertisements. There are a lot of things that are covered under that to help to pay our costs. Does anyone have any questions?”

Commissioner Lucas stated “Ms. Williamson, on page 32 where it says Enterprise Funds for local match. Is that the transportation fund?” Ms. Williamson responded “Yes. It is what we generate in our revenues.”

There were no public comments made.

Chairman Hall declared the public hearing as closed.

Commissioner Carter moved, seconded by Commissioner Jefferies to approve the resolution as presented. The motion carried unanimously.

PUBLIC COMMENTS

Chairman Hall opened the floor for public comments.

Dr. Elin Armeau-Claggett came before the Board and made the following statement:

“I am Dr. Elin Armeau-Claggett and reside at 108 Jaye Lane, Providence, NC. I thank you in advance for your time. In preface, today is about how you, as Commissioners make decisions and is only exemplified by the recent Board of Health decision.

As you are all aware, the Board of Health has requested additional operational funds in November, 2010 and again in February 2011. These budget deficits represent a lack of fiscal responsibility and a deficit in understanding current challenges in the health care market. This is the business of medicine. As noted in the last Board of Commissioner’s meeting,

misappropriation of funds, inadequate billing and lack of revenue generating have contributed to budget shortages, in excess of \$160,000.

Ultimately, the Director of Public Health and the Board of Health should be held accountable for gross short-sightedness the mismanagement of funds. Perhaps this 18 month downward spiral contributed to the resignation of two members of the Board of Health at the beginning of this year.

On February 7, 2011, the Board appointed two new members to the Board. There were three applicants presented to the Commissioners. One of these two individuals had an extensive background as an RN and the second was an employee in a pharmaceutical company with interest in health care law. On their applications, both these individuals seemed sincere in their desire to improve the state of health of persons who reside in Caswell County through serving on the Board of Health. I wish them success in this endeavor.

These two people were nominated by Commissioner Jefferies, seconded by Commissioner Carter, and the three remaining commissioners present on that day affirmed this motion, albeit with no interim discussion.

The third applicant was not afforded any consideration by the Board although her experience and education in the field of health care is extensive. To be specific, her experience includes:

1. Over 30 years clinical experience as a health care provider across multiple health care settings.
2. Over 10 years didactic experience teaching Community Health and Health Policy at a medical school and two universities.
3. Administrative experience as Director of Intermediate Health Care Facilities.
4. An educational background that includes a BS as a Physician Assistant, Master's Degree in Health Science Administration and a PhD. D (Doctorate) degree in Public Health Administration.

It is unlikely that any other resident of Caswell County has comparative credentials or expertise, based on these educational, administrative and clinical experiences within the Health Care field. I am perplexed that I was not even considered as a legitimate applicant as evidenced by zero discussion by Board members.

Commissioner Jefferies - I am uncertain about your relationship to these applicants and why you perceived them as optimal candidates, other than politics as usual.

Commissioner Carter – Your roll on this Board appears to second motions fed by Commissioners Jefferies and Satterfield. As documented in the minutes of the Board over the past years, you consistently parrot these two but rarely express an independent thought.

Commissioner Satterfield – As a member of the Board of Health, either you are intimidated by the idea of someone with more experience possibly challenging your domain or simply are not vested in strengthening the Board of Health and thus the health of patients served by the Health Department. The previously noted financial struggles will have resultant impact on patient care

services. If I was building a home, I would hire the most qualified contractor. If I was looking to optimize patient care and health in Caswell County I would want the most experienced applicant on the board. Your fears are not justified. However, having relative(s) nominated to a board on which you also serve, may be sufficient reason for your vote.

Commissioner Travis – Since you offered no comment, you either did not review the applicant’s background or had no vested interest in the outcome of the Board of Health.

Commissioner Hall – If this had been a job interview rather than a political appointment, the best qualified individual should have been selected. Your extensive experience as an advocate for equality should have enabled you, at minimum, to consider all applicants without bias to enable selection of the most qualified applicant. Perhaps your talk of equality and anti-discrimination forums does not extend to this setting where politics and personal agendas take priority over public welfare.

Commissioner Battle – You have to show up to participate in a discussion.

Commissioner Lucas – I’m truly sorry for the loss of your family member during this time.

My motive is applying for this position, similar to the other applicants, was to offer my knowledge to enable access to health care, to provide quality health care and to manage the cost of health care for the people residing in Caswell County. The impending mandates by health care law will increase the burden on the administrators. Contrary to some public beliefs, there is no free health care.

My motive today is to try to understand how your decision-making process, as Commissioners, serves the people of Caswell County. Again politics, relatives, and personal agendas seem to trump logic and concern for the welfare of the citizens of this County.

I expect no response based on your prior lack of consideration, but sincerely hope that as you progress through your elected terms that your discussions and decision outcomes demonstrate more integrity than it has in this straight forward scenario. Look at the unemployment, the lack of infrastructure, the number of vacant business buildings and the progressive demise of the County. If you are not teachable or honorable, this county will continue to fail. Please learn and do better – be better for the benefit of the people who live here and those you serve.

Thank you for your time.”

STAFF REPORT ON JOHNSON PROPERTY ISSUE

County Attorney, Brian Ferrell, stated “Mr. Chairman at the last meeting there were certain documents provided to the Board regarding a building permit issued by the Inspections Department last year. My review of the documents indicates that a building permit was issued for the construction of a car port on tax map 0082.00.00.0073.0000. That permit was issued. Construction began. The building inspector did do an inspection as required during the construction process. At that time the inspector had a question about the location of the

improvement in relation to a property line. A survey was provided by the property owner which clearly shows that the car port improvement was not contained entirely on the tax map parcel on which the application said it would be constructed on. In fact, the building was constructed on a separate parcel which happens to be a private road right of way. Because the application did not contain the correct location of where in fact this car port was to be built, pursuant to his authority, the building inspector declined to issue a certificate of completion or certificate of occupancy for this structure and has requested of the owner that the structure be removed. I found that both of those actions are consistent with the building inspector's authority. For the reason that the building is not constructed as it said it was going to be on the permit the building inspector required the structure to be removed, and I find this is within his authority."

Commissioner Jefferies stated "Mr. Attorney, I went to look at this thing where it was previously surveyed the whole car port is not over that line. Is that correct?" Attorney Ferrell responded "That is correct. There is an encroachment some sixteen feet into the right of way. A portion of the car port is in fact on the tax parcel that it was applied to be constructed upon. However, there is a significant encroachment into the right of way. The exact encroachment amount is 19.4 feet of encroachment."

Commissioner Lucas asked "Brian, are you saying that he did a second inspection or did not do a second inspection after his initial inspection?" Attorney Ferrell responded "There was an initial inspection done prior to the final inspection which is required by law to issue a C of O. He, the building inspector, had questions about the location of the building in relation to the property lines." Commissioner Lucas continued "My point is when he had the question it was after it had been built?" Attorney Ferrell responded "That is correct. It was after the framing was constructed." Commissioner Lucas asked "So my question then would be why did he not stop it at that point instead of letting it continue?" Attorney Ferrell responded "That is a reasonable question. I think from my perspective from my analysis the fact that the permit itself references that the construction was going to take place on one lot and it did not take place solely on that lot. I don't have the answer as to the exact time that the inspector had the question."

Mr. Lonnie Johnson came before the Board and stated "When he got the permit and everything he had no idea of where it was going. I thought that was the purpose of getting a permit was to have the inspector make sure of where it was supposed to be. The school built that house. He had no way of knowing until he got the thing." Attorney Ferrell responded that the building inspector does not tell the citizens where to build a structure. They only provide the permits to allow the person to build. The permit stated it would be on that tax parcel and the contractor did not build it on that lot. Mr. Johnson stated "Neither you nor the contractor knew where it was. They did not know where it was." Attorney Ferrell stated "We know now by looking at the plat where the construction took place. The fact remains that it was built on two lots." Mr. Johnson stated "So he should be reimbursed his money for the license I think because he can't use it." Chairman Hall stated "Let us address that as we proceed with this whole process."

Commissioner Lucas asked "Brian, my question would be, is he going to be allowed to go through the variance procedure to request a variance?" Attorney Ferrell responded "There is no variance available in this case. He does not own the parcel on which this encroachment occurred." Commissioner Lucas asked "Who owns it?" Mr. Johnson responded "My brother-in-

law owns it.” Attorney Ferrell stated “It was platted in 1978 when the subdivision was put in. I don’t know who owns it. It may be the situation where his brother could give him the property or they could work it out privately. That may be the solution. There is nothing the county can do in regards to a variance.”

Commissioner Satterfield stated “The variance could be given on a portion of the building. Is that correct Mr. Attorney?” Attorney Ferrell responded “The portion of the building that sits on the property line is in the setback area. Is it conceivable, yes sir.”

Mr. Kenneth Graves came before the board and stated “My name is Kenneth Graves and I own the adjacent property in which he is blocking my entrance to get to my property. I own just over five acres back in there. The school built two houses back in there. When they built those houses in there all the property had been surveyed and staked off. When he bought his portion of the property, when he bought the house, the property line stakes were there. Anybody could see the property line stakes when he built. During the thirty-seven (37) years I have owned the property my property line stakes that join his property have been removed. When he built his first portion, his first construction, his carport or garage on I approached him and I told him that he was building too close to the property line. He is only about three feet off the road right of way, his garage. He cursed me out and threatened me in front of my wife. He told me he would kill me. Just like he did on January 15th when me and my son went down to walk over my property. He knew clearly where the property lines were. He or somebody removed the stakes. I got Conway Moorefield, before he passed, to go back and reset the stakes that joined his property and my property. They were removed again. They were just put back maybe thirty days ago when he went back and had it surveyed again. He has been trying to give me a hard time for the last twelve years with my property down there over a dispute that me and my brother-in-law had which is his first cousin. I really don’t appreciate what he has been trying to do to me and my property. I am fed up with it. He also has another building that is over the property line down there also. His other car garage or shed is over the property line. If you go down there and take a look you can see it. If you can’t see it I will go with you down there. I have pictures of it right here if you want to see the pictures. That is all I want to make perfectly clear. He knew where the property lines were. He built out there knowing where the property lines were.”

Mr. Otis Johnson came before the Board and stated “Mr. Chairman, when I bought that house I bought it from the school. I did not know where the property line was because I did not have it surveyed. The school surveyed it. He is telling something that is wrong. When I bought it I bought it from the school. I did not have it surveyed until he told me to survey it. I assumed the property line was there because I have been down there for twenty-seven years and the reason I even built the building was because every time it rains it floods my garage. I built that building to compensate for that. He is telling ya’ll that I knew where the property line is. I would not have paid nine thousand (\$9,000.00) dollars for a building if I knew there was something wrong with it. That is all I have to say.”

Chairman Hall stated “For Mr. Johnson and Mr. Graves our issue as fellow commissioners has to do with our authority to entertain a variance request based upon the facts that we have heard. Based upon our recommendation from our attorney we do not have the authority to entertain a

variance request for property built on the right of way. Is that correct Mr. Attorney?" Attorney Ferrell responded "That is correct." Chairman Hall continued "So at this point based on that, it is not appropriate for us to take any action on this." Attorney Ferrell stated "The building inspector did give notice and I find that is within his authority."

SUBDIVISION ORDINANCE VARIANCE REQUEST – SANDRA BARBER

Chairman Hall stated "Before we get started I wanted to give my fellow commissioners a clarification on the process of what we are about to do. This variance request is a quasi-judicial hearing so we are outside of the normal rules for a board of commissioners meeting. I am going to ask the attorney to explain this to make sure that we get it right."

Attorney Ferrell explained the quasi-judicial process to the commissioners. He informed them that they would be the 'fact finders'. The board would be sitting as the Board of Adjustments. As 'fact finders' they would need to determine if the evidence presented meet the standards required to offer a variance to Ms. Barber. Each person that is going to testify will have to be sworn in. The applicants would have to prove the burden of proof. Attorney Ferrell asked that as each individual came forward to give their testimony if they would state their name and verify that they were sworn in. After the testimonies deliberations would begin and then a decision would have to be made.

Attorney Amy Galey came before the board and stated "My name is Amy Galey. I am an attorney for George Daniel's Law Firm and we represent Sandra Barber. The issue of coming forward as a quasi-judicial proceeding was just raised for the first time less than thirty minutes ago with us. We are prepared to proceed on that but I want to object for the record. I would like for the Board to have the opportunity to consider the reasons for our objection before proceeding. In the first place when you look at the subdivision regulations and the procedure for a variance Section 5b. deals with appeals from the Planning Board to the Board of Adjustments. Number 4 says that the Board of Adjustments announces the time for the hearing and gives notice thereof to the parties. At the hearing any party may appear in person, by agent or by attorney. Any person can approach the board without being sworn in. I don't think there is a procedure in place for you to sit and take testimonies from sworn witnesses. Also, I think it is very important in my research before coming before you tonight my understanding is that the last petitioner that came before you seeking a variance was a gentleman that was having difficulty with a mobile home situation with the underpinning. That gentleman was not treated this way. It was a more informal procedure where you just talked to him. There was a dialogue. I feel that would be more fair to Ms. Barber. If we are going to have witnesses sworn in Ms. Barber has not been prepared to testify. I think that as her attorney I should be given the opportunity to ask her questions. Any witnesses I should be given the opportunity to cross examine them. Those are the bases of our objection but we are willing to proceed tonight however you decide to go forward."

Attorney Ferrell responded that the objection is that this is a quasi-judicial proceeding. He explained that the courts would require this type of a proceeding. The way that the standards are set up in this ordinance it does give rise to a quasi-judicial proceeding. Attorney Ferrell also stated that the previous variance request was an entirely different ordinance.

Attorney Galey stated "It may be a different set of ordinances but it is still a variance request. It gives the impression that people are treated differently depending on narrow hair splitting about when you come in with one set of ordinances then you have different rights than a taxpayer that comes in with a different set of ordinances. I think that everybody should be treated the same."

Chairman Hall stated "Ms. Galey, Mr. Ferrell, I am going to throw out a comment here for the both of you. I would not want to put either side at an unfair position. I would hope that whatever we do that Ms. Barber would be prepared to move forward without reservation. This was also to address my fellow commissioners. What I am suggesting is that it might be appropriate if the two of you would agree that we postpone this. I think we are going to follow our attorney's recommendation and do it as a quasi-judicial. I would not want to take an unfair advantage for you not being prepared."

Attorney Galey stated "Thank you Mr. Chairman. I have a question about the procedure. If witnesses are going to come up and sort of speak sort of off the cuff and say what they have on their mind or would Ms. Barber's attorney have the opportunity to examine the witnesses and ask questions and cross examine?" Attorney Ferrell responded that this proceeding would be consistent with due process. He informed Attorney Galey that she would have the right to ask questions and to cross examine the witnesses.

Attorney Galey stated "In that case Mr. Chairman we are ready to go forward tonight. The county attorney knew about this ahead of time and he had time to prepare so I can't see why he would have an objection to moving forward. I don't withdraw my objection to the nature of it or for Ms. Barber being treated differently for the record. We don't ask for a continuance and we are prepared to move forward as long as her right to examine witnesses is kept in place."

Chairman Hall stated "That is fine as long as we have that covered. One other housekeeping order for the fellow commissioners. Everyone should have received a sheet on Variances due to site conditions and appeals. We have tests and we have findings. Is that correct Mr. Ferrell?" Attorney Ferrell responded that this was correct. There are five findings that have to be determined in order to grant or deny the variance.

Chairman Hall stated "Fellow commissioners, we have this sheet that we will follow after we hear the witnesses. These are the findings that we must agree to. I have taken this time to make sure that everybody has it in place. I will declare this quasi-judicial hearing open. We will ask all of those that plan to testify to please stand to be sworn in." The clerk to the board swore the witnesses in.

The individuals that were sworn in were Ms. Sandra Barber, Attorney Amy Galey, Clyde Kelly, Attorney John Thomas and Brian Collie, County Planner.

Chairman Hall stated "We will first hear from our County Planner, Mr. Brian Collie. All we ask is that you give a short overview of what this hearing is about."

Mr. Collie stated "Good evening Commissioners. As you are aware at this point, this is a subdivision ordinance variance request. Ms. Barber's property is located on Hyco Lake. Tax map and parcel 0140.00.00.0005.0000. Her lot is currently approximately six and a half acres. She came to me the early part of 2010. She wanted to survey off a lot off of her current lot. Due to the current standards in the Subdivision Ordinance under Article X the private road is a previously existing road prior to the 1964 aerials. It does not meet two requirements in the Subdivision Ordinance. It does not meet the minimum state right of way requirement of fifty feet and nor does it meet the minimum travel width for the road of eighteen feet. I told Ms. Barber at that time that she could request a variance of the Subdivision Ordinance and to come before the Planning Board. She came before the Planning Board on 5-25-2010. After reviewing the variance the Planning Board voted unanimously to not recommend it. I told Ms. Barber at that time that she could continue, even though the Planning Board did not recommend it, to the Board of Adjustments and to let me know if she would like to continue. I did not hear from Ms. Barber after that. I got a phone call from Ms. Galey on approximately 2-15-2011 stating that she would like to be put on the Planning Board agenda for 2-22-2011 to rehear the case. That happened and the Planning Board said that their recommendation still stood and recommended her to come before the Board of Adjustments. That is where we stand tonight. I have some pictures of the road that was taken today. If the Board would like to review them just let me know."

Attorney Ferrell asked Mr. Collie if he was sworn in and if he had a current copy of the Subdivision Ordinance to submit for the record. Mr. Collie responded "Yes, I was sworn in." (Mr. Collie entered a current copy of the Subdivision Ordinance into evidence).

The quasi-judicial proceeding continued with witnesses for Sandra Barber of 3863 Jimmy Boles Road, Elon, NC. Ms. Barber was the first witness called by Attorney Galey. Attorney Galey asked a series of questions meant to show that not allowing Mr. Barber to subdivide her property at Hyco Lake would present an unnecessary hardship. Ms. Barber stated that she was sixty-six (66) years old and that her husband was deceased. She stated that she has a limited income in the form of retirement from AT&T and Social Security. Due to health concerns she is unable to maintain her property at Hyco Lake. She was hoping that the sale of the lot she wanted to cut off of her current property at Hyco Lake would help with some of the financial burden.

The next witness to come forward was Clyde Kelly, a real estate agent for Prudential Real Estate. He sells property on Hyco Lake. He testified that the road going into Mr. Barber's property is narrow but is not any different from any other road in that area. He stated that the road could be better but that is not what sells the lots on Hyco. Some of the subdivisions have paved roads and some do not. He also stated that the road is more like a driveway. There is about four or five areas that only one car could pass. Ms. Galey showed Mr. Kelly a picture of the road where there is a culvert under the road. Ms. Galey entered this picture as Ms. Barber's Exhibit #1. Attorney Galey asked Mr. Kelly if he thought it would be feasible to have a guard rail put up on the road to Ms. Barber's property to protect public safety. Mr. Kelly's response was that if the county recommended it in order for Ms. Barber to get the variance it would not be an outrageous price to do.

Commissioner Carter asked what the distance of the road was. Mr. Kelly answered approximately one hundred yards. Commissioner Battle asked Mr. Kelly if he received a commission on the property that he sells on Hyco Lake. Mr. Kelly responded yes.

Commissioner Lucas asked Mr. Kelly what a typical lot of this size would sell for today in this area. Mr. Kelly responded somewhere around two hundred thousand (\$200,000.00) dollars.

Commissioner Satterfield stated that it looked like there was another driveway in that area. Mr. Kelly stated that there was another driveway that goes to a boat dock. Commissioner Satterfield asked how far it was from the water from the road. Mr. Kelly responded about seventy-five (75) to one hundred (100) feet or more.

Attorney John Thomas was the next witness to testify. Attorney Thomas stated that he had been on the road where Ms. Berber's property is and he believed that it was safe. He stated it had gravel on it and that it was well maintained. Attorney Thomas stated he was familiar with the deed, covenants and restrictions to Ms. Barber's property. Attorney Gale asked Attorney Thomas several questions regarding the roads that were located around Ms. Barber's property. Attorney Gale also asked him if he knew how many people used this road from Ms. Barber's road to the Osmond Road. Attorney Thomas responded two households. Attorney Gale asked Attorney Thomas if there was anything in the deed that restricted her to the eighteen foot requirement. She asked if the hardship for Ms. Barber come from the deed or from something else like topography. Attorney Thomas responded it was from the topography. Attorney Gale ask Attorney Thomas to describe the right of access to Ms. Barber's property. Attorney Thomas stated that she has an implied easement by a grant from the common owners or the previous owners before the subdivision. It was implied due to the necessity. Attorney Thomas stated that he had been in conversation with these owners and they stated that they would convey an express or an implied easement of twenty feet in width.

Chairman Hall asked "Mr. Thomas, the implied easement that Ms. Barber has now would that implied easement follow with the subdivided lot?" Attorney Thomas responded "Yes, sir. It would follow but I think the better practice would be to get an expressed easement while we have everybody willing to do that and get it put on the record opposed to having to come back and look at the title as I have done to show that it is done."

Commissioner Carter stated "Mr. Thomas, I know that you said you were at the property today. Did the road appear to be graveled and easily accessible going in and out?" Attorney Thomas responded "Yes, sir. Like I said earlier I would like to have that driveway to my house. It is in very good shape."

Attorney Ferrell asked if Attorney Thomas was sworn in. Attorney Thomas stated that he was.

Commissioner Lucas asked "Mr. Thomas on lots three, four and five that have been subdivided extensively into more than twenty-five lots. Do those roads meet our subdivision requirements? It seems like we are implying that there is some injustice here towards Ms. Barber." Attorney Thomas responded "I think that lots three and four were maybe divided after the institution of the

subdivision ordinance. I think that lot five was instituted before the subdivision ordinance was made.”

Attorney Galey then called Brian Collie, County Planner, to be the next witness.

Attorney Galey asked Mr. Collie a series of questions regarding the Planning Board’s meeting regarding Ms. Barber’s variance request. There were discussions about the road to Ms. Barber’s property being an Article X road. According to Mr. Collie an Article X road is “In common terms without reading the ordinance, the first year that planes flew and shot photographs of Caswell County was in 1974. That was the first record that we can actually look back and view the land from an aerial view. An Article X road is if on those first maps in 1974 if you could view the road was present at that time and it still follows the same general scope as it did in 1974 that would be an Article X. What that basically means is that current subdivision regulations for private roads do not have to be met. The one that does is the issues at hand which are the right of way and the travel width.” Attorney Galey responded “Isn’t it also not only the aerial fly over that designates it as an Article X but if it is also recorded in the Register of Deeds being an easement or some sort of right of way. Doesn’t that also make it an Article X road?” Mr. Collie responded “I am not certain of the second one I would have to look.” Attorney Galey asked “Would you like to take a minute to look at that?” Mr. Collie responded that he would.

Chairman Hall asked “You did say it was an Article X road, right?” Mr. Collie responded “Yes, sir.”

Mr. Collie showed the Board of Adjustments a power point presentation of the road going to Ms. Barber’s property.

Attorney Galey asked “Mr. Collie is the hardship for Ms. Barber and the reason she needs the variance is it due to the physical nature of her property? Is she going to be able to without really doing a lot of work, will she be able to change the topography of this driveway to be in compliance with state standards?” Mr. Collie responded “Not state standards. The requirements are to widen that road to make it the width that it needs to be will cost a lot.” Attorney Galey stated “So the hardship comes from the topography of the land.”

Attorney Galey asked if she could make a closing argument. Attorney Ferrell stated that the proper procedure was to make sure that no one else had any questions or comments before the closing arguments.

Chairman Hall stated “Our county attorney has suggested and recommended that we make sure that everybody that wanted to speak on these proceedings has had an opportunity to speak. That being the case then we will close the evidentiary part of the proceedings.”

Attorney Ferrell asked Attorney Gale if she had submitted everything that she needed to submit. Attorney Galey responded “Will the memo from Mr. Collie to the Caswell County Board of Commissioners, will that be part of the record?” Attorney Ferrell asked that the agenda package be made a part of the record evidence.

Attorney Galey's closing arguments "Thank you for the opportunity to be here tonight and to address you all and to present Ms. Barber's side of the story. We really appreciate that and for your attention and your questions. I think that when Commissioner Satterfield asked the question about where the lake is related to this driveway, I thought that was a really excellent question. It really goes to show where the Planning Board having an assumption that they were making based on the drawing they had in front of them which is really incorrect. If you will look at the tax drawing it looks like it is over water, that you have a one lane bridge over water, but it is not like that. That is one thing, I think, that the Planning Board misunderstood about the project. Another important thing that the Planning Board misunderstood about the project is the appearance that there is a road that goes from Osmond Road all the way over to Pelican Point. As witnesses have testified that is not the case. This is a driveway, technically it is an Article X road and there is no dispute about that. There is no dispute that she does not have the fifty foot right of way. There is no dispute that it is not eighteen feet wide. It is important to know that there are only two houses that are using this driveway now. Practical common sense is it is not a road. It's a driveway that is being used right now for two homes. What Ms. Barber wants to do is just to add one more home to this existing driveway. As Mr. Collie testified it appears that the Planning Board, when it was making its decision, was considering that she was going to be adding more lots to her property and that there was going to be significantly more traffic. The first prong of the variance test is that this is the minimum amount of deviation from the subdivision ordinance that is possible. That is true in her case. She only wants to make one more lot not twenty-five or thirty like the other people who bought from the original plat. She only wants to make one more lot and to put only one more user on this driveway. The other thing that came out from the Planning Board's minutes, was this idea that this could create a safety problem. Ms. Barber is a tax payer. She is a landowner. This is her vacation home. She has been contributing to the economy of Caswell County since 1982 when she actually bought the property. To take away her right to develop an acre lot and use her lot to her best economic advantage. Seems like it would require something more than it could create a potential hazard. It could not. They did not have all the information before them that you have tonight and they still did not say it creates a problem. This right here is a safety hazard. This right here is dangerous. They did not say that. They said it could be dangerous. It seems like if you are going to treat Ms. Barber differently than other people based on than just a 'could'. As far as the test go, the first one is that a reasonable return or reasonable use is not possible without the variance. The only way she can sell the one acre lot is with the variance. She cannot build a second house on her lot without getting a variance. I think it is important to recognize that this is not the case of a developer who has a plat that they want to subdivide and leverage as much money as they can out of their acres. She is requesting the minimum amount possible to try to provide for herself. She is sixty-six (66) years old. The Lord willing she may be with us for quite a while. We know when folks get older they have more and more burdens put on them through their health care needs and other things. I think that it is important to consider that Ms. Barber really needs this money. She needs this two hundred thousand (\$200,000.00) dollars to help provide for herself since her husband has passed away. There is a substantial difference between a lady that wants to provide for herself after her husband has passed away and a developer that is seeking to leverage as much profit as possible. Also adding the lot increases the tax base in Caswell County. There is increased tax revenue without placing any burden on any other tax payer through raising taxes or issuing a bond or anything like that. The second test says when the hardship results from the application of the ordinance to the property rather than

from other factors such as deed restrictions or other hardship. Mr. Thomas addressed this point in his testimony. The problem is not the deed restrictions. The problem is the topography of the land. There are no deed restrictions and there is no other hardship just the topography of the land. Mr. Collie addressed that too in his testimony that the topography creates the problem. The third test is that the hardship is due to the physical nature of the property which is different from that of the neighboring property. Mr. Collie addressed that in that the topography of the land makes it impossible to get the eighteen foot width without extensive road widening procedures. The fourth part of the test is that the hardship is not the results of the actions of the applicant. Ms. Barber has not done anything to create this situation. She has owned her home since 1982. This driveway existed before they bought the house. It is important to know to that even though the people on Pelican Point have the right to come across her property to get to Osmond Road she does not have the right to go the other way. The only way she can get in and out of her property is by using this easement across over to Osmond Road. Ms. Barber did not build the driveway and she and her neighbor has enjoyed the use for about thirty years without any problems. The last part of the test says that the hardship is peculiar to the applicant's property rather than a result of conditions that are wide spread. As we see the other parcels of the original plat have already been divided. This is the last time that anybody will be taking anything off this parcel or any other parcels on this plat. The reason the hardship is peculiar to Ms. Barber's property is because she is the only one that is in a place where she can still have the potential to subdivide her land. I think that it is important to remember that anybody buying a lot they are going to go there and they are going to look at it and see how the road looks. They can also make a decision if that is where they want to have a vacation home or if that is where they want to live. Then as Mr. Kelly addressed people might would like the driveway the way it is better rather than having it eighteen feet wide. Another point that we want to raise is that if the Board in considering this, if there is a public safety issue, then there is an alternative that we could ask Ms. Barber to put a guardrail around the areas that seem problematic. It would not have to be a state standard guardrail made out of steel because this is a driveway. If anybody is going over twenty miles an hour they deserve what they get anyway. It could be like a guardrail that you see in national parks made out of creosote poles and posts that are in concrete in the ground. This would protect somebody from going off the side of the road. That is an alternative rather than simply denying her variance all together. If that were done it would benefit everybody. It would benefit Ms. Barber because she would be able to get the use out of her acreage. It would benefit the people who use the road. It would increase the public safety. It would address if there was a legitimate public safety issue and because we would increase the tax base of the county then the county would win. So the question before you tonight is whether adding one more home to the present use of this driveway would be dangerous so that Caswell County would impose on Ms. Barber's property rights and as a taxpayer and citizen and to deny her the chance to improve her economic situation. Whereas if she were able to develop her lot it would not only benefit Ms. Barber but also the county by increasing the tax base. It would increase tax revenue. If a guardrail were added it would make the road safer for everybody and address any public safety issue. Ms. Barber would benefit. The county would benefit and the public would benefit. In conclusion, on Ms. Barber's behalf I would ask the Board of Adjustments to grant her variance request so that she can sell a one acre lot.

Chairman Hall asked "Mr. Attorney our next step should be, we have this list of findings and Ms. Galey went over them, we need to make sure that the Board goes over them." Attorney Ferrell

stated “Before the Board of Adjustments may grant a variance, it shall make the following findings, which shall be recorded in the permanent record of the case, and shall include the factual reasons on which they are based. I went over these a little bit earlier. It is my opinion that as you go through these that you read the exact language of the ordinance for each item. Have a time for discussion. Then a motion one way or the other based on the findings and then a second and then take a vote just like anything else you would do. You will need to go through each of the findings.”

Commissioner Satterfield asked “Mr. Chairman I would like to ask one question. I looked at these pictures that she presented to us and I have looked at the pictures that Mr. Collie presented to us and it looks like two different locations to me. This one does not look dangerous but that one does look a little dangerous. I am going to have a problem of voting on this thing, Mr. Chairman without looking at this driveway.” Attorney Ferrell responded “It is the responsibility of the board to weigh the evidence that is presented as it has been presented to it. The rest of the case is before you. The record is before you. You have to make a decision based upon the information you have before you.” Attorney Galey responded “This is going to sound strange but I agree with you they do look different. I was there today and that is what it looked like today. I was the one who took that picture. I think the difference Mr. Satterfield is that one is black and white and it does not have a lot of dimension and the other is color and it does show more of the dimension. I would not want to give you the impression that I gave you a shady photograph that is supposed to twist it some way or another. Color is a hard thing for us to pull off with being cost effective and that is why you have a black and white picture. It was taken by a video camera so I agree with you they do kind of look different.”

RECESS

The Board held a brief recess.

SUBDIVISION ORDINANCE VARIANCE REQUEST – SANDRA BARBER (continued)

Chairman Hall resumed the quasi-judicial hearing.

Chairman Hall stated “As I understand it Mr. Attorney we need to go through Items One through Four and vote based upon the evidence that has been presented to us tonight. I will read them fellow commissioners. Mr. Attorney do you have any final comments?” Attorney Ferrell responded “No, sir.”

Chairman Hall stated “Before the Board of Adjustments may grant a variance, it shall make the following finding, which shall be recorded in the permanent record of the case, and shall include the factual reasons on which they are based. Number one. That there are practical difficulties or unnecessary hardships in the way of carrying out the strict letter of this ordinance. In order to determine that there are practical difficulties or unnecessary hardships, the Board must find that the five following conditions exist:

The first condition. If he or she complies with the provisions of this ordinance, the applicant can secure no reasonable return from, nor make reasonable use of, his or her property. Merely

proving that the variance would permit a greater profit to be made from the property will not be considered adequate to justify the Board in granting a variance. Moreover, the Board shall consider whether the variance is the minimum possible deviation from the terms of this ordinance that will make possible the reasonable use of his or her property. We shall discuss this, fellow commissioners, the first one and then vote yeah or nay.”

Commissioner Satterfield stated “I agree it creates an unnecessary hardship on Ms. Barber. The reason for that is from the testimony of Mr. Collie.”

Chairman Hall asked “Do we find then in favor of Ms. Barber in this Item A, this paragraph that I just read?”

Commissioner Satterfield moved, seconded by Commissioner Travis that the Board finds in favor of Ms. Barber.

Attorney Ferrell stated “Mr. Chairman, I understood that he said the testimony of Mr. Collie supports 1A. If he would just site the facts that Mr. Collie mentioned.” Commissioner Satterfield stated “The reason I say it is the fact that Mr. Collie mentioned the topography of the land. The lay of the land and how difficult it would be to even get the eighteen foot in places.”

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

Chairman Hall continued “1B. The hardship results from the application of this ordinance to the property rather than from other factors such as deed restrictions or other hardship.”

Commissioner Carter stated “It would be a hardship to Ms. Barber due to having to widen the road according to what Mr. Collie explained. It would cost her a considerable amount to widen the road. That would be a hardship to her and she does not have the sufficient funds to do this.”

Chairman Hall stated “the hardship results from the application of this ordinance to the property rather than from other factors such as deed restrictions or other hardship.”

Commissioner Carter moved, seconded by Commissioner Jefferies in the favor of the hardship as a result of the application for Ms. Barber. The motion carried by a vote of five to two with Commissioners Battle and Lucas voting no.

Chairman Hall stated “The hardship is due to the physical nature of the applicant’s property, such as its size, shape, or topography, which is different from that of neighboring property.”

Commissioner Jefferies stated “Mr. Chairman I think that there is a hardship with Ms. Barber because of what Planning said with the way that the property is laid out.

Commissioner Jefferies moved, seconded by Commissioner Travis to find in favor of Ms. Barber because of the way the property is laid out. The motion carried by a vote of five to two with Commissioners Battle and Lucas voting no.

Chairman Hall stated "The hardship is not the result of the actions of an applicant who knowingly or unknowingly violates this ordinance, or who purchases the property after the effective date of the Ordinance, and then comes to the Board for relief."

Commissioner Carter stated "Mr. Chairman according to Ms. Barber she acquired the property in '82 and that road was there prior to 1982. She was probably unaware of the eighteen foot right of way and it was before the adoption of that ordinance. It would still be a hardship on her not knowing that she had to have an eighteen foot right of way."

Commissioner Carter moved, seconded by Commissioner Travis to find in favor of Ms. Barber for the reason that she purchased the property before the adoption of the ordinance. The motion carried unanimously.

Chairman Hall stated "The hardship is peculiar to the applicant's property, rather than the result of conditions that are widespread. If other properties are equally subject to the hardship created in the restriction, then granting a variance would be a special privilege denied to others, and would not promote equal justice."

Commissioner Carter stated "Being familiar with the Hyco Lake area. I have been down there on numerous roads I think it would be equal justice to grant the variance. A lot of the roads down there do not have eighteen feet right of ways. I have been down to the lake numerous times. There are a lot of roads that are not as good as that road or equal to that road."

Commissioner Battle moved, second by Commissioner Lucas to find in favor of the ordinance for the county being that there are other roads that are similar to the road that we are discussing. The motion failed by a vote of two to five with Commissioners Satterfield, Jefferies, Hall, Travis and Carter voting no.

Commissioner Carter moved, second by Commissioner Satterfield to find in favor of Ms. Barber because of the hardship due to the applicant's property. The motion carried by a vote of five to two with Commissioners Battle and Lucas voting no.

Chairman Hall stated "That the variance is in harmony with the general purpose and intent of this ordinance and preserves its spirit."

Commissioner Battle moved, seconded by Commissioner Lucas in favor of the county being that it does not preserve its spirit. It is stated in the ordinance that the road needs to be upgraded and it has been stated tonight there are other roads that have the same situation that we are not addressing. This road is not peculiar to any other road in the Hyco Lake area.

Commissioner Carter stated “Mr. Chairman according to this the general purpose and intent of this ordinance and preserving its right. Preserving its right would be to look at it as a tax base for another lot and a house being built on that lot would bring in an additional tax base.” Commissioner Battle responded “I don’t think the subdivision ordinance states anything about tax base in it if I am not mistaken.”

Upon a vote of the motion, the motion failed by a vote of two to five with Commissioners Satterfield, Jefferies, Hall, Travis and Carter voting no.

Commissioner Carter moved, seconded by Commissioner Satterfield to find in favor of Ms. Barber. The motion carried by a vote of five to two with Commissioners Battle and Lucas voting no.

Chairman Hall stated “That in granting the variance, the public safety and welfare have been assured and substantial justice has been done. The Board shall not grant a variance if it finds that doing so would in any respect impair the public health, safety, or general welfare.”

Commissioner Carter stated “Mr. Chairman I can’t see where the road would cause a public safety issue. The road has been there for a lot of years. We heard testimony that there was gravel on the road. I think to put up guardrails or something else there again would present a hardship on Ms. Barber financially.

Commissioner Carter moved, seconded by Commissioner Travis to find in favor of Ms. Barber.

Commissioner Battle stated “Going off the memo that we were given it was stated by the chairman of the Planning Board that the slope of the road is dangerous and there is a potential that a car could be driven off the road and go into the lake. Whether it could or could not happen is not the matter, the potential is there that it could happen. No matter how safe of a driver you are anybody can make a mistake. I don’t see how we can grant this particular one knowing that we have a safety issue.”

Chairman Hall stated “One of the notes that I took on that one was when the County Planner was testifying was that this was an Article X road and this should not have been considered. That is just one of the observations that I made. During the testimony there was only one thing that should have been considered.” Commissioner Lucas responded “So safety was not a consideration that is what you are saying. Have you given consideration to the passage of emergency vehicles?” Chairman Hall responded “We have not.” Commissioner Travis stated “This road is considered no more than a driveway. We cannot tell people how to maintain their driveway going in and out to their house.”

Upon a vote of the motion, the motion carried by a vote of five to two with Commissioners Battle and Lucas voting no.

Chairman Hall stated "In granting the variance, the Board may attach such conditions regarding the location, character, and other features of the proposed building, structure, or use, as it may deem advisable in furtherance of the purpose of this ordinance. If a variance for the construction, alteration or use of property is granted, such construction, alteration or use shall be in accordance with the approved site plan. This basically says that if this is granted we may attach some special conditions if any. They have to be appropriate to what we are doing."

Attorney Ferrell stated that this is the provision that allows the Board if they approve Mr. Barber's variance to add guardrails as a safety feature or to require an easement be recorded granting access to the parcel from the adjacent property owners.

Commissioner Satterfield stated "Mr. Chairman in view of the fact that I cannot go down there and look the only thing I can look at is this picture I would suggest that the Board add a provision that guardrails be put into place especially across the portion with the culvert in it. That is the only part that looks dangerous to me. I don't know how long it needs to be or anything else. Also Mr. Chairman how can we be assured that there will be just one lot down there? Can we make some assurance of that at this time as part of the variance?" Attorney Ferrell responded that Ms. Barber has stated that she will only sell one lot. The applicant has agreed she could obtain an express easement in writing and on record." Commissioner Travis stated "What we are voting on tonight is us giving her a variance on one acre. Before she can do anything else or anyone else they have to come back before this Board, right?" Attorney Ferrell stated that this was correct. He stated that if she wants to put another lot there they will have to seek another variance.

Chairman Hall asked "One question on the picture we saw with the culvert in consideration on the guardrail. Who owns that property? Who owns the driveway?" Ms. Barber stated "I own from my house down to the fall of the hill." Chairman Hall stated "That answers my question. My question just had to do with adding other conditions to granting the easement. She does not own the property." Attorney Ferrell stated that he did not know what the maintenance issue would be with the easement. Chairman Hall stated "I guess the question is fellow commissioner do we want to consider any special conditions. As I look back we have passed each section so the variance will be granted. The question now is should there be any special conditions attached."

Commissioner Jefferies stated "She has stated that she does not own all of this road. I don't think we should put a condition on her when she does not own all of the road." Commissioner Travis stated "We don't go down the road telling people how to maintain their driveways. If we tell this lady that she has to put a guardrail up on this driveway all we are going to do is to start a new fad that is all we are going to do. I don't see where there needs to be guardrails. If someone goes down there and they slide in the ditch they will have to call someone to pull them out. That is how I see it." Commissioner Carter stated "I fully agree with Commissioner Travis. You are talking about a one hundred yard driveway. Ms. Barber owns half of the driveway and someone else owns the other half. If we restrict her to put up the guardrail we could then have another problem with another property owner. I agree with Mr. Travis this is a typical driveway I don't see a problem with leaving it the way it is."

Chairman Hall asked "Is there any action to be taken on Item four? There being none as the results of our individual actions the variance is granted."

SHOOTING RANGE UPDATE

Mr. Brian Collie, County Planner, came before the Board to give an update on the status of the Shooting Range Ordinance from the Planning Board.

Mr. Collie stated "I believe it was December 2010 the last time we talked about this. At that time it was suggested that the Shooting Range Ordinance be reviewed and discussed at the Planning Board level. It was requested at that time that I would get back with the Board at the first meeting in March of 2011 about the progress of what we currently have. As you will see before you. I have given you numerous documents. One being the current state of what we have been working on. It has not been voted upon at the Planning Board level. It is still in draft form. There are also other articles that were placed in your agenda packets that I hope you have read over. I have a few questions before the Planning Board moves forward on this that they, as well as myself, would like answered. At the Planning Board meetings since December we have discussed this at length and I am requesting another three months to review this. There are a lot of things that go into this ordinance that we have not been able to satisfy yet. I think that we need more time. This is not something that we need to rush through. We need to make sure that this will work in the real world before we consider passing it. I have done research and I have spoken with numerous other counties in North Carolina. I have obtained other shooting range ordinances from counties in North Carolina. The Planning Board has reviewed those. This ordinance draft you have before you is based upon those shooting range ordinances. The language has been pulled from other ordinances in the state. In my research, if you will notice, a lot of the counties are referencing a National Rifle Association Range Source book under the development requirements. That to me threw up a flag at first. I tried to find out what exactly those requirements are. I contacted the NRA and spoke with numerous individuals and I purchased a copy of the Range Source book that any of you may come to view. It is a 674 page document. I have it on CD so you can come any time to my office and view it if you would like. In talking with the NRA and pulling that from other counties that are using that as a guide or reference. I do not build shooting ranges for a living and for me to go out and say that it meets all those requirements I cannot do that. The NRA has a program in place that I found. I have spoken with the NRA. I have spoken with numerous other counties that have shooting ordinance in the state. I have spoken with a few range owners in the county. I would really like to sit down and talk with the Sheriff because a lot of the counties I have researched the enforcement of this ordinance they leave it upon the Sheriff's Department. I really want to get some advice for him. He has a copy of this current draft. I am just waiting for a time that I can speak with him on that. As you may recall right now the North Carolina Division of Community Assistance is working on some stuff for us in compiling all of our land development forms into one document. I think it would be a very good idea to get some comments from them on this. I have given them a draft copy and I am waiting on comments from them. Basically, if I could, can I ask you a handful of questions about some of the main things that the Planning Board and myself reviewed that need to be answered before we can take any further steps. The first being: does this Board want this ordinance to regulate both indoor and outdoor shooting ranges? Because specifying one or the

other or just outdoor shooting ranges that would change the ordinance and its requirements. The second question is: do you want this ordinance to grandfather all existing shooting ranges? I am not clear at this time on the legality of grandfathering the existing ranges. Grandfathering in the existing shooting ranges needs to be talked about and steps need to be taken to find out what we can and cannot do. There are a lot of issues that can arise if it is not or if it is. Third question: do you want this ordinance to regulate both public and private shooting ranges? For private shooting ranges, all these hunting clubs or just these people that just have a shooting practice we really need to look at that. This could affect a lot of people and this needs to be talked about as well. Also with using the NRA guidelines like a lot of the other counties have done, do you feel that using the NRA's Range Source Book guidelines is a good practice? Obviously, with the other counties that I researched a lot of their ordinances were put into place are relatively one or two years old. They have not been in practice long so I really could not get a lot of feedback from them. That was my fourth and final question."

Commissioner Satterfield asked "Mr. Collie how many shooting ranges do we have in Caswell County?" Mr. Collie asked "Are you talking about public or private or both?" Commissioner Satterfield responded "I guess I am talking about both." Mr. Collie stated "I have no idea." Commissioner Satterfield continued "Paid membership. I am not talking about hunting clubs or people going out their back door and shooting. It said that it does not include incidental target practice on private property so forget about those people. I take hunting clubs to be a part of that. I know we have one in Prospect Hill. Do we have any others?" Mr. Collie stated "That right there what you have said is another thing we have talked about, incidental target practice." Chairman Hall asked "How many do you know about?" Mr. Collie responded "A handful." Chairman Hall asked "Ten, fifteen, thirty, approximately?" Mr. Collie responded "I want to answer this correctly. Public and private, I know of at least fifteen or twenty."

Chairman Hall stated "Here is what I am going to suggest. Through the board you have given us four questions that you want answered. I think that number one do we want to regulate indoor and outdoor. We need to have a definition of what indoor and outdoor is or what they are going to work with. Of course we would ask our attorney to look at these. Do we want to grandfather all existing shooting ranges? Your best guess is that there are fifteen. There are some security issues and some other issues that we would want to think about before we say yes or no on that. There again I am leaning towards our attorney." Attorney Ferrell responded that he and Mr. Collie had talked. There is an issue of grandfathering or non-conforming uses in question, and he asked if the Board wanted to give the ranges a period of time to come into compliance or if existing ranges should be exempt from the proposed ordinance. He stated that there is an issue with vested rights if existing ranges will be subject to the proposed ordinance. He stated that the county could issue permits for the shooting ranges. He stated that these will need to be discussed and the legal issues need to be addressed prior to ordinance adoption.

Chairman Hall stated "I think that is part of the discussion we need to have. You mentioned a value issue about the issuance of a permit. We have not issued any, at least to this fifteen." Attorney Ferrell stated that this would come down to a vested rights analysis. It would be a case by case analysis.

Chairman Hall stated "Here is what I am going to suggest then to the fellow commissioners. We have these four questions. We need out County Attorney, County Manager and Planner to chew on them before they make a recommendation us. There may be more questions that the Board may need answered before we put them in here. I don't want to jump the gun on these things until we have some good discussions and make sure that we cover all the bases."

Commissioner Carter asked "I guess you are talking about hunting clubs in your fifteen or twenty. Is that right?" Mr. Collie stated "I want to clear that. Mr. Hall asked me how many did I know of. Just because I know of fifteen or twenty does not mean I know about all of them. I just want to make that clear. That may not be how many there is." Commissioner Carter stated "My question to you is, are you including hunting ranges?" Mr. Collie responded "Public and private, yes, sir. I would consider a hunting club that has a shooting range on their property a private shooting range." Mr. Carter stated "What I consider a hunting club and what you fellows have back there is called an outdoor shooting range? It is different than a hunting club. I don't think we have more than two or three in the county."

Chairman Hall stated "I think we are moving along pretty good here. What we want is for our attorney to get with Mr. Collie. The Board has to be comfortable with these definitions. We need to have a recommendation on how to define it. We would want some input from the Planning Board also. It is not enough to ask us the questions. Give us some recommendations on some of these based on the research that you have done."

Commissioner Battle asked "Are we going to look at the draft ordinance that was presented tonight?" Chairman Hall responded "If you want to." Commissioner Battle stated "There are a few things that I saw that I would like changed." Chairman Hall stated "Recognizing that it is a draft and that we have had these issues, we can look at it later. We are not going to take any action on it. You are a member of the Planning Board, right?" Commissioner Battle responded "Yes." Chairman Hall continued "So anything that we have, any of us that want to get back to the Planning Board on the draft can do so. We are really in the discussion stage."

Commissioner Travis asked "I guess my question would be for the attorney. Has any of this land value been changed since the shooting ranges have been put on it? It should be commercial property." Attorney Ferrell stated that a shooting range could be considered commercial property. He was not sure if the county is doing this or not. Commissioner Travis stated "I guarantee that none of them do. None of them probably bought a permit to have a business. The first thing we need to do is to find out if we can start selling permits then we would know how many are being put in. If they don't come in to buy a permit, the county does not know what is going on and the value of the land stays the same. The tax rate does not change."

Commissioner Battle stated "Mr. Chairman, I think that Commissioner Travis makes a good point in that saying that the value of the land needs to be changed. I think we are failing to look at the main issue why we have this before us and that is for the residents of Caswell County for their safety and welfare. I think we are missing that whole point right now. It seems like we are be lingering and not doing what we need to do to pursue some action. Like I said I do not live near that so it is oblivious to me to have to deal with it. You probably do not have to live near that but there are people in this county that have to deal with that. Just like you have given some

people action they deserve some action. That is a good point about the land designation but that is not the reason we are looking at this right now. We are looking at it for safety and welfare. I know myself that I am not going to be responsible if somebody gets hurt because we have not taken appropriate action like we should have. So I think we are missing that point. I just want to reiterate that is the reason why we are doing what we are doing.”

Mr. Melvin Butler, Planning Board chairman, stated “Mr. Chairman and commissioner of the board I am Melvin Butler chairman of the Planning Board. These questions that Mr. Collie brought before you tonight were some of the questions that we have had and there have been numerous others. The request we have is to continue our research. Now we would like very much to rely on the NRA, on their recommendations. They do have people in the field that they charge a fee to go to any shooting range and certify that range. If that range is certified by the NRA, if I understand correctly then that would take some of the liability off the county. We are leaning on that. We have not received all the information we want from that. We continue each week and each month to get more information from other counties. When we put this together it needs to be something that we can have some teeth into and something that will work. It will be at the best interest of everybody in this county as far as the county is concerned and the health and welfare of this county. We talked a lot about do we want to regulate incidental shooting. Incidental shooting, I take that to be hunting, the definition on that. On private shooting ranges, a hunting club may have a shooting range over here and then have a house or a lot and the hunting land is somewhere else. Where are they going to shoot at? They are going to shoot at the house. They are not going to go out on the land and shoot. We are going to have to regulate that. There are a lot of questions that we have. We just need more time. We just don’t want to put something together to try and satisfy somebody. We need to put it together where it will be good. When we get it together then we will have the legal counsel to look at it. We want to rely a whole lot on NRA. We have run into a lot of stumbling blocks but I understand he does have a lot of the information now. We will get it out to the different board members and move forward with it. We do need some more time and we would like some input from some of you as well. Do you have any questions for me?”

Attorney Ferrell stated that the Planning Board chairman stated that this was a science. He thought it would be a good thing to look at the NRA regulations and maybe to have the NRA people to come and look at a shooting range.

Mr. Butler stated “To get a NRA representative here we may have to pay him. I think the fee is two hundred (\$200.00) or two hundred and fifty (\$250.00) dollars to come. It would be worth that to get him to come here to get him to go over that with us. They may come free. We don’t know yet. Just give us more time.”

Mr. Collie stated “I agree with Mr. Butler the main thing is we need more time. That is what it all boils down to. Like he mentioned with the NRA, yes there is a program in place. They send their employees out to inspect these places to see if they meet the NRA Source book standards. It sounds like a good program but I have never used it. I don’t know what they do. I don’t know what their requirements are. I don’t know how stringent they are. Just because the NRA has that program, I don’t know if this is a good program for us. It is there to use. I have not seen it used in the real world. I don’t know what they will make these places do but that needs to be

considered. The people that have operated shooting ranges and built shooting ranges here on the facts that there were no requirements when they built here. You need to look at that too I think.”

Chairman Hall stated “We plan to look at that. The only thing I will repeat is as you move forward we want to work with the attorney and use the resources that you have feel free to give us some suggestions. To ask me about the NRA Source book, I have not read it and chances are within the next few days I will not read it, six hundred and some pages, but this is a project that the board is working on. You can look at it and you can make a recommendation back to this Board that you have looked at the six hundred and some pages book and three hundred pages are applicable to Caswell County and we can move forward. That is just an example.” Mr. Collie responded “I might be out of line here but just thinking off the top of my head. Could we as the county pay for one of these people to come out and say this is what the shooting ranges should do? This would give us a real view example of what will happen. Just reading the NRA Source book we still may not know. This is just an idea.” Chairman Hall stated “Again, we will be open to recommendations from the Planning Board. Somewhere in your memo you mentioned you needed more time. About how much time do you need? We do want to make sure we are moving forward on that.” Mr. Collie stated “This is a recommendation from the Planning Board. They just said that they need more time. They would like at least three more months. I am not saying we will complete it in three months but I will give another report in three months on what we have completed. That is my request.” Chairman Hall asked “Can we get a little more than a report?” Mr. Collie responded “As you can see right now we have done more than a report in the research.”

Commissioner Carter stated “I would be in favor of giving them more time. Like Mr. Butler said they want to do a more thorough part on the research to get it right. Even it takes six months to get it done.”

Chairman Hall stated “We will take that report and accept that as information as we move forward. Thank you.”

GUILFORD MILLS BUILDING

Piedmont Community College

Attorney Ferrell stated that at the last meeting there were some questions raised about the facility. The proposal stated that the county would provide adequate parking for the students and teachers. He stated that he had a question about the front part of the building and the parking there along the street. Attorney Ferrell had the opportunity to speak to the Assistant District Engineer of the DOT for the county. The assistant to the DOT stated that he would look at a sketch plan of the parking to determine what could be done on Wall Street. The suggestion was made that the lease be contingent upon the Department of Transportation’s finding on the parking spaces and driveway access should the board decide to act on the proposal.

Mr. Howard stated that he had contacted the church and the town and the different departments in the county about the parking situation. He stated that he had sent a letter of intent to the church for them to review and accept for the use of their parking lot.

Attorney Ferrell stated that he had one more point. He had an issue with the lease term in the proposal. He stated that a ten year lease is normally used during the sale of a property. He stated that this is an interlocal agreement so there may be some exceptions, but typically a lease of more than 10 years would require the county to comply with the process of for the sale of county property. He is not sure the County can enter into a lease of more than 10 years without checking into it further to see if the public sale requirements need to be satisfied.

Dr. Bartlett stated "My concern is that if we go into an agreement that we would not find ourselves in the situation we have found ourselves in the past." Attorney Ferrell responded that he understood his request. Dr. Bartlett continued "If ten years is the trigger then nine years is fine. I am looking for some long term commitment from the County. Nine years would be fine." Attorney Ferrell stated that this proposal needed to be reduced to writing. The next step would be to move forward with a formal agreement.

Chairman Hall stated "There is one more issue that the Board needs to address other than parking and that is the maintenance of the building. Was I the only one that saw that?"

Commissioner Lucas asked about Item B on this part of the agenda.

Chairman Hall stated "I think the issue, Ms. Lucas is why is Item B is on the agenda. When I saw that in all honesty we have that this discussion for a couple of months now about the community college. The space was vacated several months ago. After we started this discussion with the community college we received this letter. In my mind we have already started the commitment process quite frankly. We can discuss it but that is the way it is in my mind." Commissioner Lucas stated "I don't understand the commitment. I understand the discussion. I understand the date on the letter from PHP. Why was it even included here?" Mr. Howard explained that it was the same type of business the Orange Enterprises was. PHP wants the same kind of deal that Orange Enterprises had with the County. He stated that he checked with Orange Enterprise to see how many clients were working with them now from Caswell County. They informed him that only one or two clients did not come to Alamance County. Orange Enterprises picks up the clients here in Caswell County and transports them to Alamance.

Commissioner Lucas stated "But if we had PHP here that would eliminate the need for them to be transported out of the county." Mr. Howard stated that in the beginning they did not like the idea of being transported to Alamance County. He also stated he did not know if they would want to come back to the county. Commissioner Lucas stated "That is a big hindrance for someone with difficulties to be transported to Alamance County." Mr. Howard stated the reason that the change happened was that Orange Enterprise did not have enough business here to keep them busy.

Commissioner Battle asked "Dr. Bartlett if you were not given any more parking than what is around the building would that be enough parking for what you need?" Dr. Bartlett responded "We would make it work."

Chairman Hall stated "Back to the other issue that was in the request to do with the maintenance of the building." Commissioner Battle asked "Was that either our guys do it or to give them the money to do it." Chairman Hall stated "That was it, yes."

Commissioner Satterfield stated "Mr. Chairman I said this the last time and I will say it one more time I am still worried about the parking. Dr. Bartlett I know you said you could make it work. I don't think the parking is adequate up there. I think we are going to have a mess. I think we need to find out more on what we can do. It may be adequate today but I can assure you that if you grow any at all it is not going to be adequate and you will have to come before us again asking for some type of parking. I think we need to make sure that we have the parking straight. We need to find out how much the parking is going to cost us. We need to get all these facts before we make a decision. I don't know how long it will take to get an answer on if we can lease a parking lot or how much we have to spend to prepare the parking lot. It is more expense to it than what we are seeing here tonight. Another thing Dr. Bartlett I don't like is ya'll are talking about spending between fourteen and twenty-six thousand dollars in the initial investment but you want a nine year commitment from us and we are going to pay the maintenance, keep up the building and everything else and give you a nine year commitment. That sounds like a long commitment for no more investment." Dr. Bartlett responded "That will be an initial investment in terms of getting up walls and doing electrical but we will always have an ongoing investment with the up keep of technology and supplies. A nine year commitment that is a lot but we are going to make a big investment as well. Parking has always been an issue ever since Guilford Mills has been talked about. Parking has been the first thing I have raised. The question was can we make it work. Yes we can make it fit like we are making it fit over here. The way we make it fit is we don't teach everything we can teach. If we were to be given enough parking there is no doubt in my mind this will be an extremely successful training facility. We could possibly look at teaching basic law enforcement training. That is an investment of fifty to sixty thousand on the college's part. That is if we had a facility to do that in. We can put some in there. I think we would have a lot. With maintenance and facilities that is the way the community college system is set up. It is part of the local commitment." Commissioner Satterfield responded "I understand that. We want it to be successful and we want it to grow if we didn't we would not have talked about this thing, I hope. All I am saying is the parking is going to be critical for the development of the program that I hope you are going to do if you go up there. It is all about bringing some more money into the economy for this town and this county. That will be the only benefit out of this, tangible benefit."

Dr. Bartlett stated "We are a non-profit. When I say fourteen to twenty-six thousand we can't use state funds. That is a huge investment for us in that regard. I know in terms of the nine year commitment maybe doesn't seem like a huge chunk but that is a lot of money out of our institutional funds. I appreciate what you are saying and the parking that is an issue."

Commissioner Travis asked "Mr. Manager how long is it going to take to find out about this parking?" Mr. Howard stated that he hoped he would have an answer by the next meeting. He stated that he had sent the church a letter and was waiting on their response. Commissioner Travis continued "I am like Mr. Satterfield we need to know everything before we do anything. How much parking are we going to have? If we are not going to be able to have enough parking up there to do what they need to do then they might as well stay over here. We need to get

everything in black and white. Everything we can do and what we can't do. If these people are not interested in letting us have parking all they have to say is we are not going to let you have it." Mr. Howard responded they have said verbally we can use it for parking. Commissioner Travis responded "We don't need it verbally, we need it on paper. The problem is we have got to know what we can do before we go into this situation."

Chairman Hall asked "Can you contact them again Mr. Manager?" Mr. Howard responded that he would.

Commissioner Carter stated "The only comment I would like to say is I hope we can get the parking. I remember when you folks were over at the municipal building and people were coming in from all different parts of the state. It really helped the local economy. I remember hearing them talk about it at the local cafes. People were spending the night and eating at our cafes."

Commissioner Satterfield stated "Dr. Bartlett I don't want to give you the impression that I am against the project. I just want to make sure that the project can grow to the point I think it can grow. If we don't have adequate parking we are both wasting money and time. If we go up there and we can't park more than thirty or fifty cars, that is not going to be adequate for future development. We need to look at what the future holds and not what just today holds." Dr. Bartlett responded "I understand that. That is a concern. It is one of those things we are a little fearful of. I look at it and it has a lot of potential. I think it could easily be very successful. I appreciate your frustration."

Commissioner Satterfield added "It has always been a problem over there when Guilford Mills was in operation in there. It was always a problem on that street between the residents and Guilford Mills because of traffic and parking and things like that. I don't want that same problem to come back and haunt us and PCC."

Chairman Hall asked "So am I getting the feeling that the consensus is to deal with the parking issue before we move forward with this." Commissioner Travis stated "Mr. Chairman I don't think we need to make a commitment to something until this Board knows what we can and can't do. If we are going to lease the building for nine years we need to have a nine year lease on the parking. We can't have parking for two months and then they say no more parking. This Board needs to get these answers before we can answer this right. I think we maybe should have some answers by the next meeting." Mr. Howard stated that he thought the people at the church were interested just talking to them over the phone. He was trying to get it in writing. Commissioner Travis continued "I think we need to put it on the agenda for the next meeting."

USE OF BIODIESEL IN BUSES

Dean Price with Red Birch Energy came before the Board to discuss the opportunity for having a Biodiesel plant in Caswell County. He started a Biodiesel facility in Bassett, VA. His journey with Biodiesel started on August 20, 2005 when Hurricane Katrina hit. He tried to find a way to make truck stops more cost efficient so he built a Biodiesel facility next to a truck stop. He contracted with the local farmers to grow a crop called canola. Canola is a winter crop and it is

forty-four (44%) percent oil. Their vision is “smaller in scale, community owned, farmers supplied, bio refineries.” There are no engine modifications to a diesel engine to use biodiesel. Biodiesel is totally compatible with number two diesel. “Biodiesel is the only fuel commercially available today that meets all the federal government’s criteria of an advanced bio fuel. You can use multiple feed stocks. You are not just hog tied to canola. You can use soy beans. You can use sunflowers. You can use waste vegetable oil, animal fat, brown and yellow grease.” Biodiesel is a renewable source that can be used year after year. “In the past there have been five levels to the biodiesel industry. There has been the farmer, the oil supplier, the biodiesel manufacturer, the transporter and the retailer. What we have done is we have vertically integrated all five of these levels and put them into one level therefore cutting out all of the middle men.” He stated that canola oil can be made into biodiesel, heating oil or cooking oil. He stated that they pick up waste vegetable oil from restaurants and turn it into biodiesel. Canola oil today is selling for eight to ten dollars a gallon. He stated that if Caswell County is interested in bringing this type of industry to the county it will take the Board of Commissioners, the School Board, the farmers and the local gasoline merchants to make this program work.

PTCOG DISSOLUTION AND MERGER

Chairman Hall stated “You have two items on the agenda. Two resolutions that we need to approve.

Commissioner Carter moved, seconded by Commissioner Satterfield to approve the resolution dissolving the Piedmont Triad Council of Government and providing the distribution of assets and obligations. The motion carried unanimously.

Commissioner Carter moved, seconded by Commissioner Satterfield to approve the resolution for the formation and membership in the Piedmont Triad Regional Council. The motion carried unanimously.

2010 CENSUS REPORT

Chairman Hall stated “For those that do not know the Census released the North Carolina figures last week and that included Caswell County. We have the official count for Caswell County which is twenty-three thousand seven hundred and nineteen (23,719) people. It is flat. That is right around where we were about ten years ago. I believe at that time it was wrong but I believe this number is pretty accurate. They did a better job doing the census this time and I believe there has been an out migration throughout the county. I mentioned that because one of the things we will be required to do as a result of this census is redistricting. We are under the Civil Rights Act of 1965. There were two districts created as a result of a federal court order. Each time the census comes out we should take a look at these districts and make sure that they are maintained at the same level. What I am going to do is let the attorney explain anything that I may have missed. In essence the reason I am mentioning this is the redistricting has to be done by the filing time of the next election and that is around January of 2012. We have less than a year. It involves getting approval from the Justice Department. This is a tight schedule.”

Attorney Ferrell stated that Chairman Hall provided a good summary. He stated that the possibility of redistricting does arise out of the Civil Right Act of 1965. The Attorney General approved must approve any redistricting that takes place process. They have put out guidelines on how the redistricting is to be done.

Chairman Hall stated "I put this out there not necessarily for any action tonight. Probably by the next meeting we will have all the guidelines for moving forward to start the development of a plan to adhere to the Civil Rights Act of 1965 as it applies."

DISCUSSION OF TAX DEPARTMENT'S POLICIES AND PROCEDURES

This agenda items was moved to the next meeting's agenda by Chairman Hall.

BUDGET AMENDMENT #4

Commissioner Lucas stated "Mr. Howard the justifications for five, six and seven where your indirect cost to actual per cost allocation plan. It seems like a significant amount there for indirect cost. Was that done during the audit process? Was that a recommendation?" Mr. Howard responded that the cost is based on a study that was done by Maximus.

Commissioner Carter moved, seconded by Commissioner Jefferies to approve Budget Amendment #4. The motion carried unanimously.

COUNTY MANAGER'S REPORT

School Board Meeting Dates

Mr. Howard stated that the School Board had gotten back with him on two dates to meet regarding the Lottery and ADM funds. The two dates were March 14th and April 18th. On March 14th the School Board will meet at 9:00 a.m. He stated that the Board could meet with them after their meeting. On April 18th the School Board will meet at 6:30 p.m. and he recommended meeting with them before their meeting.

Chairman Hall stated "If you will look at your calendars and let Ms. Seamster know which day is better. Ms. Seamster if you will follow up with us in a day or two."

NCACC Health Benefits

Mr. Howard stated that the Association met this past week and they decided to disband the health care benefits to the counties. He stated that the county will have to go out and look for health insurance this year.

Chairman Hall stated "We do have a broker but I need to encourage Mr. County Manager to contact this broker and we need to do something way before the budget process that is coming up."

Commissioner Lucas asked "The county has a broker?" Mr. Howard responded "Yes, for insurance purposes."

ANNOUNCEMENTS

Mr. Howard stated that he had put a letter from PBH at each of the commissioner's desk. They are interested in joining with Alamance-Caswell. Chairman Hall stated "I would like to put this on the next agenda with a follow up and somebody's best professional guess as to how this will play out with the legislature. We still need to move forward."

Mr. Howard stated that the State Humane Society is having a meeting in Caswell County at the Piedmont Community College campus on March 31st at 6:30 p.m. to discuss animal rights.

Chairman Hall asked "Have you contacted the Commerce Department?" Mr. Howard responded that he had and that Ms. Kane was supposed to email him a schedule by today but she has not done that. Chairman Hall continued "I just want the Board to have that information again so we can continue to move forward."

Commissioner Satterfield "Mr. Chairman I hate to keep bringing this up. I still don't think we are doing a very good job on things that we discuss. We put them aside. I thought that any old issue was going to be looked at more closely. We had talked at the last meeting about comp time. I have asked the County Manager about it. I think you are developing a list of county employees comp time." Mr. Howard stated this would be on the next agenda. Commissioner Satterfield continued "These items that are getting pushed aside a little bit Mr. Chairman. Is there some way the clerk to the board can keep a running tally of items that we have not finished?" Chairman Hall responded "She has been doing that for me and I should have gotten that on here. She does keep a tally. This agenda was much, much longer than I ever anticipated. But we will follow up on that."

Commissioner Jefferies stated "The only thing I have is Wal-Mart. I called a man and told him that there was not a Wal-Mart coming to Yanceyville. I am just sitting between a rock here. Last Thursday I look at the paper and it jumped out at me."

Commissioner Lucas stated "Just a comment about the proceeding tonight with the variance request. I guess this was put together by the county. I don't know where it came from. It was just laying here in front us tonight. I guess it was proper procedure once the variance was requested to go ahead with the hearing. Is that correct? I felt a little bit blindsided with the information just laying here when we got here." Mr. Howard stated there was an error in the

packet. Mr. Collie got the correct variance proceeding to me on Friday. The correct material was emailed to all the commissioners and faxed to Mr. Travis.

Chairman Hall stated "Ms. Lucas the bigger issue is if we look very closely there was not a lot of differences in what we needed to do. The big thing was we had to decide on the quasi-judicial aspect of it. I talked with our attorney before we got into the meeting. We met with their attorney and we tried to give them the opportunity to understand this quasi-judicial process was what we had anticipated." Commissioner Lucas asked "So there was a meeting before the meeting." Chairman Hall stated "Yes, there was a meeting before the meeting." Attorney Ferrell stated that he and Mr. Hall talked with Mr. Daniel prior to the meeting to allow them to seek a continuance and we also talked about the process of the hearing only.

Chairman Hall stated "I made that decision Ms. Lucas because we have had one other occasion since I have been on the Board to go through this quasi-judicial process. There were some discussions. I don't think that staff was aware that we needed to do it this way until we got with our attorney."

Commissioner Carter stated "I just wanted to mention that Royal Park Uniforms over at Prospect Hill is having a giant sale. Shirts are seventy (70%) percent off. The reason for this is they have a military contract coming in and they are going to switch over to the military. The sale will last for two months."

Chairman Hall stated "The only thing, Mr. Manager, please follow up on Item 8B. I didn't intentionally overlook that. I do think we need some additional information. We need to look at this program and he possible viability of the program. We just need to look at everything."

Ms. Seamster stated that she had contacted the representatives in the legislature regarding a meeting with the commissioners. The dates that were given from the representatives were not good for the Board. She asked the Board how to proceed on getting another date that would work for all three parties. The Board asked that the meeting be held in April in Caswell County and to hold it in the evening.

Ms. Seamster read thank you cards from the families of Commissioner Cathy Lucas, Sheriff Michael Welch and County Inspector Woodrow Bigelow.

ADJOURNMENT

At 10:45 p.m. Commissioner Travis moved, seconded by Commissioner Jefferies to adjourn the meeting. The motion carried unanimously.

Paula P. Seamster
Clerk to the Board

Nathaniel Hall
Chairman
