

MINUTES – SEPTEMBER 27, 2011

The Caswell County Board of Commissioners met in special session at the Historic Courthouse in Yanceyville, North Carolina at 6:00 p.m. on Tuesday, September 27, 2011. The purpose of the meeting was to discuss the Capital Needs for the county. Members present: Nathaniel Hall, Chairman, Kenneth D. Travis, Vice-Chairman, Erik D. Battle, Jeremiah Jefferies, Cathy W. Lucas and Gordon G. Satterfield. Absent: William E. Carter. Also present: Kevin B. Howard, County Manager, 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.

LME MERGER

Chairman Hall stated “Our agenda tonight is to cover two items. The first is an update on the LME merger and the second will be on redistricting. We have present with us tonight Mr. John Moon and Mrs. Debra Welch. We will proceed with an update.”

Mr. John Moon stated “Thank you Chairman Hall. We appreciate the opportunity to speak before you tonight. I talked with Commissioner Jefferies last week at what we thought was going to be the last LME board meeting but now I don’t think it was and he asked if we could come up and speak with you tonight and give you an update on where we are and possibly what’s ahead for us on some issues. It has been a while since I have addressed a board of commissioners and a long while since I have been up here so I am kind of going to struggle through this so bare with me please. Debra Welch is currently the interim director and will be the director once this merger is completed. It is scheduled to be completed October 1. We feel like we are on track and we feel like that she would be the administrator, the chief executive officer to be located on South Church Street in Burlington. Her title will be Community Operations Center Director. We are in the process of vacating the administrative offices we are in now. Next week we will be at the Church Street location. We felt like when you all decided to pair up and you all passed a joint resolution along with Alamance County, I felt strongly that the Piedmont Behavioral Healthcare service in Caswell, Alamance and Cabarrus Counties is the best choice we had in the state. I will call your attention to the last document you have which is a copy of a Community News newsletter. This shows where we are compared to the rest of the state. If you will look half way down the page where it says ‘PBH (exiting MCO) to manage the waiver for Orange-Person-Chatham (merger pending). Alamance Caswell (merger approved), and Five County (merger pending). Alamance Caswell is scheduled to merge on October 1, 2011.’ That this means is we are approved and all the other counties are trying to get approved. We are now and everybody else is trying to get approved. I thought that this would give you an idea of where we are. I think this is something that we ought to be proud of in spite of our struggling in trying to get this thing put together largely since we were the first to get approved. There have been no other counties to get this approved in North Carolina. I think you are to be commended for putting your confidence in administration and in the program we are merging

with. I think it puts Alamance County and Caswell County in a very desirable position with respect to mental health, substance abuse, developmental disabilities than any of the other counties in North Carolina.”

Chairman Hall stated “Tell us what waiver means.” Ms. Debra Welch responded “What that means is we can waive the Medicaid. That means that we can move that out from under the standards of Medicaid. Caswell County is one of the highest counties in North Carolina that has Medicaid recipients. The Medicaid waiver is not a new thing. This has brought more health care and more money to the counties to help with the clients. PBH has spent years to get this up and running and they have the software and they know what to do to be successful. The state declared that the LMEs had to have a certain population and we missed the population. Everybody in the state now has to merger together to become a part of this Medicaid waiver. It brings more Medicaid services to the county. We will actually have case care coordinators going out to the homes.” Mr. Moon added “Care has already been under this model in Caswell. We already have care coordinators on the job up here working with Caswell County’s eligible residents on this service. As we spend down the program, let’s talk about dollars a little bit. We have actually transferred the state dollars to PBH. Most of the dollars that have come in to this program, Alamance and Caswell, are from federal Medicaid dollars. As we get into this new way of funding and new way of administering public mental health in Caswell and Alamance Counties we had to spend down to where we are. There are three areas of potential liability. The primary one is going to be the obligations for the health insurance for retired employees for Alamance and Caswell County and a handful of active employees that are vested in the retirement system. That is the primary liability that the Alamance and Caswell LME had and has. We do have two lawsuits. One of which has been settled a couple of weeks ago. The other one has not been settled and we have insurance for that. The insurance company from day one has represented us and we do not feel like there will be any negative ramifications for Alamance or Caswell or the LME from that. There are no workers’ compensation claims that we are aware of. The primary liability that we have and one of the primary reasons I am up here tonight is because Mr. Jefferies asked me to discuss what we are planning to do and to recommend to you what we do with the health insurance for retirees and for your active employees. We do have some responsibility for health insurance. I have one correction on one of the handouts. On the ordinance about half way down where it says ‘Alamance/Caswell LME Budgetary Surplus - \$3,767,553.68.’ We have paid for our insurance risk, this is not health insurance this is liability insurance for 3 years through 2014. We also paid the entry fee to Piedmont Behavioral Healthcare of about 8% which is about \$1.2 million. Part of that was spent with their approval in reimbursing Rockingham County their fund balance when they came in and the balance left was around \$600,000 for the entry fee to Piedmont Behavioral Healthcare. That has been paid so there should be no other fees associated with that except for operations and we will go into that in a minute. The balance then on the fund balance available is instead of \$3.7 million it is \$2.4 million today and we expect that to increase slightly as we move along. What Alamance County has suggested is that we enter into an Interlocal Agreement. I think that Alamance’s attorney has talked with your attorney, Brian, and I think there were some questions about as to whether or not Caswell County needs to be a partied to the Interlocal Agreement. I do. In the Interlocal Agreement that was passed by Alamance County, it was passed by the LME last Tuesday night Caswell County is a partied to that but as to whether or not that will be determined at a future date. What this is Alamance County is agreeing to take the fund balance and to administer the

health insurance for retired employees in Caswell and Alamance Counties and that there are no other expenses. Nobody knows the future on insurance. Really we don't know what the future holds because of the national insurance. For our purposes tonight what this Interlocal Agreement does is if approved and it has been approved by the Alamance County commissioners and it has been approved by the LME board and I thought when we came up here that it should be approved by Caswell County even though Alamance County is the administering authority. They will take the balance of the fund balance which is \$2.4 million and take responsibility for paying the retiree insurance until there is none left. No one knows what enough is. The expectation is that the \$2.4 million is not going to be enough. In the case that it is not enough what they are saying is this has to do with the ordinance is even after this merger, Alamance County and Caswell County has an obligation to maintain the same level of local expenditures of \$125,000 per year. If and when the \$2.4 million is not enough to cover the costs associated they are suggesting that Alamance at 80% and Caswell at 20% to pay additional fees to be addressed by the Maintenance of Effort monies. This has been approved by PBH. They are saying if it is earmarked for this they understand that this is a liability and that is okay. Whether that will be needed or not I don't know and I don't think anybody knows. That is the essence of what these documents are. On the Interlocal Agreement Kevin said that he talked with the county attorney in Alamance on Friday and he said that he did not think it needed to be executed by you. I don't know. I was under the impression that it needed to be because the Interlocal Agreement that the Alamance County commissioners passed earlier this month did have Caswell County as an active part of it. I think the primary purpose for me being here is to give you an update on where we are. I think the largest hurdle we have is this insurance liability but I think we see the light at the end of the tunnel. If there are insufficient funds, we feel like we can identify the funds that will not cause a tax increase for Caswell County or Alamance County but yet address the obligation. We feel like we have gone a long way in getting the merger completed in fact the services are already basically merged. We have the contracts in place with the hospitals in Burlington and with other caregivers in both communities. Debra may want to make some contributions but I think the cooperation, the leadership and the investment really with PBH has been better than we ever anticipated. Once we decided and once we got the joint resolution passed they were all in on it. I think it is very important to them for us to come in and they have demonstrated that by their cooperation and leadership and their flexibility and everything."

Ms. Welch stated "I know when you are looking at the Maintenance of Effort money you have given from Caswell or from Alamance but under the PBH system that is really a very, very small part of what we are going into with this Medicaid waiver. Most of the money will come from Medicaid Maintenance of Effort and the rest from the state and other funds. That means that a lot less money will have to come from the counties. I am not saying that negates us from contributing the money but it will help. Even though there is money coming out of the Maintenance of Effort fund we feel there is enough money coming in from Medicaid dollars to take care of the services. This will not take anything away from the services for the consumers. The whole PBH partnership will offer so much more to help our consumers."

Mr. Moon stated "We are still going to get large amounts of state funding. That will be a small part of the mental health financial puzzle when we get into this Medicaid waiver and this has been proven from where PBH has operated in the past. In fact, I don't think there is going to be an increase in local funds. I have been led to believe that once this happens there will be no

additional increases for mental health coming to Caswell County. Again, the Maintenance of Effort regardless of whether it is spent for program enhancement or at a future date to address the liability for health insurance for retirees there would not be an additional request made.”

Ms. Welch added “This is actually an insurance company. Every month they will receive a premium. Any excess monies will go back into client services and the community. They cannot take this money and put it into administration and it cannot go into fund balance. They are trying to ensure that the consumers are getting the right amount of services. There are some folks that are not getting enough services and there are other folks that are getting all of their services and they don’t need any more. Any monies in excess of the Medicaid are going back into the services for the clients. A huge piece of what is going on here is going back into the community.”

Mr. Moon stated “Early on before the boards did the joint resolution there were a lot of discussions between the managers in Caswell and Person on which way to go. Again I will call your attention to the flyer. Person County is still trying to get on board and they are thinking they will get on board next year. Centerpoint is behind but they are trying to get on board. Had we of paired up with them we would have been behind. You made the right decision. Alamance County made the right decision. I think when Rockingham County pulled out of our LME it set the wheels a turning. In retrospect that probably was the best thing that could have happened for Alamance and Caswell Counties because it forced the hand that we had insufficient populations to meet the state guidelines and we had to make a decision to go somewhere. Who we have paired up with is the most aggressive program in North Carolina. I think you made the right decision and I think Alamance County made the right decision. As far as the joint resolution I don’t know I know you just saw this tonight when I gave it to you plus this other information so I know you want some time to digest it and Kevin probably needs to talk with Brian to find out to what extent if any on what needs to be done to take action. Debra and I will try to answer any questions you might have.”

Chairman Hall asked “How many employees are we talking about?” Mr. Moon responded “On the health insurance, a little more than 90 employees.” Ms. Welch added “Just as a reference 60% of those are over 70 years of age.”

Commissioner Satterfield asked “What is the projected cost for next year? Do we have a projected cost for next year?” Mr. Moon responded “There is no projected cost over and above the fund balance. If there is a cost we will have to get into the Maintenance of Effort money.” Commissioner Satterfield stated “That is not what I am talking about. Do you have a cost on what it is going to cost next year?” Ms. Welch responded “Each member that is under the age of 65, it is \$300/month. Any retiree over 65 is \$127/month.” Commissioner Satterfield stated “So 60% of the 90 people are over 65.” Ms. Welch stated “94 people, yes sir.” Commissioner Satterfield asked “This Maintenance of Effort money for the county is how much per year?” Ms. Welch responded “\$125,000.” Commissioner Satterfield continued “In the contract we have with PBH does it state in that contract that if in fact some of this Maintenance of Effort money is needed in the future to pay this insurance thing is that in the contract that we would be able to take MOE money?” Ms. Welch responded “It is not in the contract now. Mr. Albright has requested that it be in there and I am sure that Brian has also requested that.” Mr. Moon added

“We do not have it in writing but they have agreed to this.” Commissioner Satterfield responded “So they have agreed that this money can be subtracted from the MOE, whatever that bill is?” Ms. Welch stated “We made them aware of this from the very minute we started talking with them on this merger.” Commissioner Satterfield continued “Well the merger is supposed to take place October 1st and it is still not in writing.” Ms. Welch responded “The insurance issue was just brought up.”

Commissioner Lucas asked “How is the service going to change for the Caswell County clients? I have a concern. I received a call this week from a local nurse and appointments apparently were being scheduled but were not being kept. Do we have a local provider that is seeing patients now?” Ms. Welch responded “We actually have several providers. What we have had is 2 or 3 in the building where we used to be. Most of the providers are out of Alamance County. The way it will change is these care coordinators are going to be given a certain case load. Their office will be actually out of the car. They will actually touch each one of your consumers. PBH will be bringing more providers to Caswell County. If the services are not here then they will make sure that there are enough providers in this area. If you ever get any complaints that they are not being seen we have a number that they can call and complain if they are not receiving services.” Commissioner Lucas continued “They called and they were told by the lady that answered the phone there that her last day was Friday.” Ms. Welch responded “That was her last day.” Commissioner Lucas continued “They were confused about what will happen after that for patient care.” Ms. Welch responded “That was her last day. The care providers will still be there.”

Mr. Moon stated “I retired about 8 or 9 years ago. The Clinic was actively staffed here and likewise in Alamance County. When I left Alamance and Caswell Counties had 250 people on staff. At one point they had more people than that. Your services are being provided by for profit and not for profit providers. In the long run we feel like under the Medicaid rules of the providers that are in place they will be of a higher standard and they have to be held to a higher standard to meet Medicaid requirements.”

Commissioner Lucas asked “How do we make the patients aware of the changes?” Ms. Welch responded “They will actually receive a letter. The letters are going out this week with the new number and the new location of the office. A lot of the time they do not get their mail so if they show up to the old location they will be redirected to the new location.” Commissioner Lucas asked “How many clients do you have currently?” Ms. Welch responded “128 Medicaid recipients.” Mr. Moon added “I was thinking probably around three or four hundred. That is a good question and we can get the specific number. That is just my guess.” Ms. Welch continued “PBH has been holding consumer meetings. We have held two up here and two or three in Alamance. We have had a lot of people to show up. Those people have told other people.”

Commissioner Jefferies stated “Could you bring us up to date on the 3 cars that were purchased by the money that was going to be reverted back to the state.” Mr. Moon responded “That was an issue that was misunderstood. We had available state money that was available for administration. We had communications with PBH and they asked us specifically if we had monies available because we were going to need some cars. Like Debra mentioned earlier this is going to be a vehicular service. We will have 11 health care coordinators and we will need cars

for them. She asked if we had administrative monies and if we could buy three cars and we did. This has come to the attention of the leadership in Alamance County knowing that we had a shrinking fund balance they said we bought these cars out of the local fund balance, in which we did not. This was misunderstood and misstated. The fact was they were bought with state administrative mental health dollars. If we had not spent them it would have reverted back to the state. We tried to spend the money for the purpose it was intended for. It was state administrative mental health dollars to buy vehicles that we need and use in mental health. In no way was it added to or subtracted from the fund balance dollars. We are still arguing about this in Alamance County. I don't think the vehicles can be used for any other purposes except for mental health. I think if you did that the state would come back and ask for these vehicles. We have a meeting tomorrow with the Alamance County attorney. To me it is a non-issue. It was used in an appropriate way and not to the detriment of the fund balance." Ms. Welch added "We have 11 care coordinators and we will need some way to transport clients to Umstead Hospital and ARC. Probably before it is all over with we will need 13 cars. PBH is bringing vehicles down here. They are providing us with the vehicles because we have to have them to provide these services."

Mr. Moon stated "We were asked why did we buy these particular vehicles. The money was intended for this purpose." Ms. Welch added "The majority of these care coordinators are women. They are not going down main streets. They are going down back roads. I want to make sure the care coordinators have reliable transportation and that is the way PBH feels as well. They will have GPS' on the cars. This will be there in case something happens to one of our care coordinators. This has happened in the past. There was one time a lady did not get home and they were able to use the GPS to locate her. They will also have a laptop and a blackberry as well."

Commissioner Satterfield asked "The interlocal agreements, we have two of them here tonight. Mr. Manager I guess you have talked with the county attorney about these. One looks like it has our name and their name and the other one has nobody's name. Has anyone signed these things?" Ms. Welch responded "The LME has signed and Alamance has signed." Commissioner Satterfield continued "I just noticed on the back of this one where it has Caswell and Alamance signed off on it. I guess my question is do we need to sign off on it?" Mr. Moon responded "I think Kevin said that he had had some conversations with Brian." Mr. Howard added "I had some conversations with our attorney and he did not feel that we needed to be a partied to this particular contract being that we are not providing any of the services. I have an email from him to Clyde Albright and the Alamance County attorney agreed. That is something that we can bring up to discuss if you want to be a part of it or not we just need to get to that point." Mr. Moon stated "That same discussion was had at the area board meeting of the LME. It was thought at that meeting that Caswell County should be a partied to this agreement. The actual responsibility is that of Alamance County according to the LME agreement but since the LME is a body from both Alamance and Caswell Counties my thought was that you would sign off even though you would not be a partied to the administration." Chairman Hall responded "We will take a look at that and talk with our attorney. Thank you for taking your time for coming out to explain this to our Board."

Mr. Moon stated “This will wrap it up for me. I really appreciate your reception and your open mindedness on a complex issue where we have some joint responsibility. I am grateful for the time you gave me tonight and also in the past.”

RECESS

The Board held a brief recess.

REDISTRICTING

Chairman Hall stated “At this time we would like to welcome the School Board members and we thank you for your patience as we handled the other item we had on the agenda for tonight. At this time we will have our county manager to review with us what we have here on the latest map for the School Board and fellow Commissioners. This is very informal so if you have any questions or need some clarification just stop us. We want to make sure that everybody is on the same page with all of this. Please feel free to interject.”

Commissioner Lucas asked “We are revisiting this because of what reason?” Chairman Hall responded “We are revisiting this because the last map showed District 3 as 50.4% majority minority and it included those people in the Dan River Work Farm. Once you backed the Dan River Work Farm out the percentage fell below 50%.” Commissioner Lucas asked “Can you take those people out?” Chairman Hall responded “Yes.”

Mr. Howard continued “Exhibit B that you have before you has to do the one man, one vote which is to have the total population count, the prisons are included in that number. Now what they did was in Districts 3 and 2, well for all the districts really, was to determine the majority black percentage. They just used the voting age population of 18+ and took out the prison population to come up with those numbers. They could take these out to do the majority black numbers but they cannot take it out of the one man, one vote numbers.”

Commissioner Travis asked “You didn’t actually take the prison out of the district?” Mr. Howard responded “They are included for the total population. When you get over to the white voting age population and the black voting age population those numbers are taken out.” Chairman Hall stated “Just for clarification, the Dan River Work Farm was not moved to another district.” Commissioner Travis stated “People were moved from other districts.” Mr. Howard responded “There have been changes, yes.” Commissioner Travis stated “In other words the prisoners are not in the percentage. What about the Brian Center? There is no difference in that and the prisons.” Chairman Hall responded “There is a difference.” Commissioner Travis stated “No there is not. Those people at the prison do not vote and the people at the Brian Center don’t vote.” Chairman Hall responded “Prisoners can’t vote.” Commissioner Travis stated “The people at the rest home can’t vote because they can’t go to the polls. The people at the Brian Center are not residents of Caswell County.” Chairman Hall responded “Everybody at the Brian Center has the option to change their voter’s registration therefore they have the option to vote.”

Ms. June Dailey asked “So on the most recent map these percentages are just voter ages, is that correct?” Chairman Hall responded “Yes.” Ms. Dailey continued “So you are not comparing

apples to apples when you look at the percentages. Because in the others, to the best of my knowledge, they were not based on voter ages, it was based on population.”

Ms. Sylvia Johnson asked “Was the prison population pulled out of District 2?” Mr. Howard responded “Yes, he pulled both of them out. I have not looked at the numbers but my understanding is that census block was just county corrections so he could just pull that one out and he adjusted the other one. He pulled out the prison population from District 3.”

Commissioner Lucas asked “The total census population changed by what number?” Mr. Howard responded “By about 700 people I think.” Ms. Dailey responded “By 1148.” Commissioner Travis stated “The census population should not have changed.”

Mr. Mel Battle asked “Ten year ago, was that the right way? Who is he that ran these numbers on this new map?” Chairman Hall responded “Office of Southern Coalition of Social Justice.” Mr. Battle continued “I understand that you said that the new map represents the people of voting age. Is that the only way or are there other options?” Chairman Hall responded “To answer your question, no, that is not the only way. I will go back to your original question, my personal opinion 10 years ago we did not do it probably the best way in keeping with the spirit of the law. Ten years ago #1 we did not put forth the effort to make District 3 a majority minority district in accordance with the court order. What I found in reviewing this information is after the boards did their work a couple of years went by and the communication between the manager and the attorney and the Justice Department they did not actually approve this until at least 2 or 3 years after so there were some problems there. Again that is my personal opinion. What we are trying to do now or at least what I am suggesting is that we try to follow not only the letter of the law but the spirit of the law in the two majority minority districts. So the issue of the voting age population is one that comes up and certainly the issue of the prison because those that are in prison cannot vote right now. We checked our voter registration and there are no people registered to vote right now.”

Mr. David Byrd asked “Who came up with these figures?” Chairman Hall responded “The Southern Coalition of Social Justice an organization in Durham.” Mr. Byrd asked “Did you hire them to do this?” Chairman Hall responded “No, we did not hire them.” Mr. Byrd continued “How did they get involved in this?” Chairman Hall responded “I went to a workshop back in May and in asking questions I met a couple of attorneys. Once we finished this they contacted Kevin and just asked Kevin to send our files so they could take a look at them.” Mr. Byrd asked “What is their credibility?” Chairman Hall responded “I don’t know how to answer that.” Mr. Byrd continued “Could the Board of Elections have been able to do that?” Chairman Hall responded “Probably not. I spent a couple of hours with staff in our tax office and we did a lot of things manually and we could not come around to some of the things that were able to do here. Now I am saying probably not but that is a personal opinion. Maybe they could if given enough time.”

Ms. Dailey asked “Was there some reason why you did not go back to the COG?” Chairman Hall responded “No, I think the county manager contacted the COG as late as today because they offered to help us with this. They just had the computer technology to do this so we just went ahead and had them to do it. The COG staff, I spoke with them in May, June and July on what

we were trying to do and they made no effort to take the prisons out and I don't know why." Ms. Dailey continued "This most recent map, has it been sent to anybody to see if it complies?" Mr. Howard responded "I have sent it to the COG and they are looking at it. I talked with her this afternoon. She could not open up some of the files he had sent. They were talking this afternoon to do that. I have not heard anything from her since that. Looking at it, the numbers match up. I have talked with our attorney and there are no issues on how the numbers were came up with. It is just a matter of what your preference is."

Mr. Byrd asked "Who is looking at it?" Mr. Howard responded "Anne Edwards who was here from the COG a while back. She was going to look at it but there is a little bit of differences in the files that were emailed to her. She could not open them so I called the gentlemen with the Southern Coalition for Social Justice and he was going to send her new files this afternoon. As of tonight she has not gotten back to me." Mr. Byrd asked "She is with who?" Mr. Howard responded "The Council of Governments. She said just looking at the numbers, she was not able to open up to files to compare it with what she had done before, but looking at it on face value it met the requirements. Our attorney looked at it and we talked about how they came up with the numbers and there was no issue. To meet the Voting Rights Act on the one man, one vote you have to meet the percentage of total population deviation. How you come up with the majority black numbers there is no real set way to do that."

Chairman Hall stated "I think the issue is two-fold. Number one the question is who is the second set of eyes that has looked at this. You have the COG. The legal point the attorney has looked at that and I don't think that is the big issue."

Ms. Dailey asked "Mr. Hall when you talk about majority and you look back at the numbers in 2004, is it your feeling that if it is not over 50% it is not a majority?" Chairman Hall responded "Yes." Ms. Dailey continued "Even though the other number is less?" Chairman Hall responded "Yes." Mr. Dailey asked "Now, is that just your interpretation?" Chairman Hall responded "Yes that is my interpretation." Ms. Dailey stated "That is your interpretation." Chairman Hall responded "I understand where you are going and if there were three or four racial groups that would not be a valid question. So if you are asking if that is my opinion, yes that is my opinion." Ms. Dailey continued "So that is not to say that the Option A percentages don't meet?" Chairman Hall responded "One could say that." Ms. Dailey stated "I think the thing that has most befuddled me is the fact that we tried to minimize change in the district lines because they were bad to start with. When we look at the newest map District 2 goes from the northeast corner down. I think the voting population is going to be so confused that they just will not vote. That is my opinion."

Commissioner Lucas stated "On reading the email from Mr. Ketchie he stated that he found slight retrogression. What is that? Mr. Ketchie with the Southern Coalition, I think the terms were he found slight retrogression. I did not know what slight meant?" Chairman Hall responded "First ignore the expression slight retrogression. The Civil Rights Act of 1965 said that there should be no retrogression in redistricting." Commissioner Lucas continued "And retrogression means?" Chairman Hall responded "Going backwards." Commissioner Lucas continued "That is what I am curious about. How did he define that we were going backwards?" Chairman Hall responded "The two districts are not majority minority as established in 1989."

That is why my response to Mr. Battle was 10 years ago we did not do as good of a job as we could have on dealing with this.” Ms. Dailey asked “But it did work, didn’t it?” Chairman Hall responded “It did work but I don’t know how well.” Ms. Dailey continued “The fact that we did have two districts that ended up with the minority representation. Was that not the whole purpose of having the two districts with majority minority so that there would be minority representation?” Chairman Hall responded “I think that was the big thing with the courts when they looked at it.” Ms. Dailey continued “So even with the number in 2004 the end results were the same. We still had the representation from those districts.”

Commissioner Lucas asked “What are you trying to accomplish?” Chairman Hall responded “In my mind what we are trying to accomplish goes back to the spirit and letter of the consent decree that these two boards signed that we would have two majority minority districts. If you read the consent decree they use the term substantial majority which is subjective.”

Commissioner Lucas asked “Has the courts determined what substantial is?” Chairman Hall responded “I don’t think there is any federal case law that says this.” Commissioner Lucas continued “I was told otherwise. I was told that the courts have determined anything over 50% plus 1 is substantial.” Chairman Hall responded “I disagree.”

Commissioner Travis asked “What happens if we leave it like it was?” Chairman Hall responded “Two possible things. It depends on how the Justice Department looks at it during their review and it depends upon the actions of what the citizens may take.” Commissioner Travis stated “Well since you are talking about the citizens, I have some citizens in Prospect Hill that are not happy with this either.” Chairman Hall responded “I am talking about the citizens that are a partied to the consent decree or the minority citizens of Caswell County. So that is the citizens in Districts 3 and 4. Those are the citizens that the Justice Department will be listening to based upon the actions that this board takes.” Mr. Byrd asked “Do you think the citizens in the other districts don’t matter?” Chairman Hall responded “Again in my opinion, this was a Civil Rights suit, two majority minority districts. When the Justice Department gets whatever we submit they will be looking at whether or not we comply with the consent decree. They are not going to be looking at the personal feelings of the citizens. They are going to be looking at whether you comply with the court order.” Mr. Byrd stated “I think the track record is what they will first be looking at. They might say what they did a few years ago was not to the letter of the consent decree but it worked. Until it does not work it should be left alone.” Chairman Hall responded “I would hope not because what they looked at backwards from 1989 to 1865 was the track record. You can’t compare a ten year track record with a hundred year track record and say that everything is fine.” Mr. Byrd stated “They can’t go back 100 years.” Chairman Hall responded “This consent decree was agreed upon by these two boards and went back because of the history of Caswell County. They went back to 1965. That is how the feds got involved. I doubt very seriously that it will take one 10 year period to say that everything is okay now. Again that will be up to the Justice Department.”

Commissioner Lucas stated “But we do have a proven track record. We have had two majority minority districts. Not only do we have two majority minority districts, we also have an at large seat that has minority representation.” Chairman Hall responded “I can’t argue that. The only thing I can tell you is we have this court order in front of us. If you want to use that to violate

the court order then that is your position.” Commissioner Lucas asked “How are we violating the court order?” Chairman Hall responded “Two substantial majority minority districts.” Commissioner Lucas continued “Well with the numbers we have here with the new maps that have been drawn up I don’t have the actual numbers but I think I am pretty close to the original numbers. In District 3 the new number is at 50.84% and District 4 is at 53.17%. So there is a discrepancy there between District 3 and District 4 as far as substantial, is it not?” Chairman Hall responded “Yes.” Commissioner Lucas continued “I thought the concern was with District 3 but it seems like District 4 ended up with a better percentage.”

Ms. Dailey stated “With Option A both districts were at 50% or better.” Chairman Hall responded “District 3 was not because it included the prison.”

Commissioner Travis asked “Why couldn’t they just deal with the prison instead of going in and changing all of this?” Chairman Hall responded “I can’t answer that because I don’t know how they did it. We are dealing with two things. #1 we are trying to keep the districts as close to even as possible. The one man, one vote, that is the first part. The second part is the two majority minority districts. So why the changes, I can’t answer that.” Commissioner Travis asked “Why is it so difficult to move the prison out of the district.” Chairman Hall responded “It may sound small but I sat with staff and we tried to do some things but they would not work.” Commissioner Travis stated “I just need to say what is on my mind, why don’t we just take District 3 and District 4 and say that only minorities can run in those districts?” Chairman Hall responded “You would have to get the federal government to agree to that. Personally I don’t think the courts will agree to that.”

Ms. Dailey stated “District 3 in 2004 was 49.39% and it included the prison. I don’t see the problem with including the prison and having a 50% because that is a bigger percentage than what it was in 2004.” Chairman Hall responded “You have people in the prison who can’t vote.” Ms. Dailey continued “They could not vote then either.” Chairman Hall responded “That is why I said to Mr. Battle that I don’t think we did the best we could do 10 years ago.” Ms. Dailey stated “I can’t remember 10 years ago being able to pull out the population. I am not saying that it can’t be done but it has never been done before.” Chairman Hall responded “I was on the board and I don’t remember either. Part of this is because I did some homework and I found out when I went back to look this time around that maybe this is not the right way.” Ms. Dailey stated “Well in 1989 or whenever it was done to start with, the prison population was included.” Chairman Hall responded “Right. The reason we are having this big discussion about the redistricting is because the black population has dropped from 49% in 1989 to about 34% today and that is what is making this so difficult.” Ms. Dailey continued “That is why I don’t understand why 50% is not enough. The percentage has dropped. I can’t see why that is a problem.”

Mr. Battle asked “What is the time frame for your Board to make a decision?” Chairman Hall responded “Our Board has not set a time frame but I can tell you what we are up against. Whatever we decide on has to go to the Justice Department and has to be approved by filing time of the next election. The filing time for our next election is in January so we have three months to make a decision and get this to the Justice Department and to get it approved.”

Mr. Byrd stated "Option A that we got at the last meeting, the Board of Education pretty much endorsed it by their votes and it seemed to be the least amount of change for the voting people in Caswell County. I think the least amount of change we can do by the board would help. The small amounts of change the last time were confusing to the people and if we change it much more you will confuse them even more. On the other hand if the School Board goes with Option A and ya'll go with something else it will cost the county more money on elections."

Ms. Dailey asked "Has there been any discussions with the Board of Elections in regards to the time they need to get any kind of changes done?" Chairman Hall responded "No, that is a legitimate question. That is one that we need to address right away."

Dr. Doug Barker asked "Is it possible to get a legal opinion on what is substantial in order to meet the guidelines?" Chairman Hall responded "I am sure we can. I guess there are three ways we can do that. One is from our respective attorney and I don't know who the third source would be but another source would be..." Mr. Howard added "The School of Government would be a good source." Mr. Battle added "The Justice Department would be logical option." Chairman Hall responded "Since the Justice Department will be the one looking at this that would be a good one."

Mr. Byrd stated "The School of Government, I think they would be able to point you in the right direction."

Mr. Battle asked "The Board of Education has concurred. I believe that you are not on the same page with us that is the reason I asked about the time frame. Caswell County is not large enough to me to have two separate districts. I think that your Board is split on this as well." Chairman Hall responded "We are going to have to take a vote to make a decision."

Chairman Hall stated "We will check to get a legal opinion on the majority minority districts. We will also check with the Board of Elections to see how much time they will need to make any changes."

Dr. Barker asked "Does the prison population have to come out? Can you decide to leave them in?" Chairman Hall responded "I think the Board can do that. Again, in my person opinion if you go back to the spirit of the law, why would you include them?" Dr. Barker stated "Alzheimer's units do not vote." Chairman Hall responded "The people in that unit can vote with a guardian. All they have to do is sign that over. The people in the prisons don't have that right." Commissioner Satterfield asked "People in prisons, Chairman Hall, with misdemeanors do they not have the right to vote? Only felons are prohibited from voting. What is the population out there that is misdemeanor?" Chairman Hall responded "I don't know. All I know is we have had no one to register from the Dan River Work Farm to vote." Commissioner Satterfield stated "It doesn't mean that they are not eligible to register to vote." Chairman Hall responded "But the ones that are eligible, they are not voting. If they are they will have to come in to change their registration status." Commissioner Satterfield stated "That is the same with anybody else."

Commissioner Travis asked “Were both prisons checked on?” Chairman Hall responded “I am not sure.”

Chairman Hall stated “I am assuming from the questions and the things that we will need to follow up on that there will be no action taken tonight. I want to thank the School Board members for coming out and for participating in this discussion and for helping us to guide our direction.

ADJOURNMENT

At 7:32 p.m. Commissioner Travis moved, seconded by Commissioner Battle to adjourn. The motion carried unanimously.

Paula P. Seamster
Clerk to the Board

Nathaniel Hall
Chairman
