

April 22, 2010  
Board of Commissioners  
Met in Called Session

The Duplin County Board of Commissioners met in Called Session on Monday, April 22, 2010 at 2:00 p.m. in the Commissioners Room, County Administration Building (224 Seminary Street), Kenansville, North Carolina.

Present: Chairman Cary Turner, Commissioners David Fussell, Frances Parks, Harold Raynor, Reginald Wells and Zettie Williams.

Also Present: Mr. Mike Aldridge, County Manager; Ms. Paige Marshburn, Administrative Officer; Ms. Teresa Lanier, Finance Officer, Ms. Wendy Sivori, County Attorney, Mr. Neil Yarborough of The Yarborough Law Firm, P.A.

Mr. Mike Aldridge appeared before the board stating that the meeting was advertised as a closed session for legal purpose.

Commissioner Turner requested that it not be a closed session.

It was the census of the board along with Ms. Wendi Sivori and Mr. Yarborough's recommendation to have a closed session for a few minutes and then open to the public.

Commissioner Turner read a letter, he received a couple of hours ago, from Mr. David Phillips, Board of Education Attorney, in reference to what the North Carolina Supreme Court rendered regarding the Board of Education lawsuit.

Motion was made by Commissioner Parks, seconded by Commissioner Williams, to go into closed session to receive advice from the attorney. Commissioner Parks, Turner, Raynor, Williams and Wells voted for. Commissioner Fussell voted against.

Mr. Neil Yarborough appeared before the board to outline his recommendations for the board of education lawsuit.. Mr. Yarborough and Ms. Wendi Sivori reviewed any possibilities of further challenging the decision of the Supreme Courts in this matter, and believe it is not effective or cost sufficient to continue challenging this judgment. He recommended doing all things to comply with the order. The court has ordered the Duplin County Commissioners appropriate to the local current expense fund to the plaintiff, Duplin County Board of Education, the amount of \$4,795,784 for the FY 2008-2009 and the defendant is further ordered to levy taxes on property as necessary to make up this fund when added to other revenues available for this purpose. After a brief financial review, it appears there are not enough funds to meet the other requirements, mandates and financial responsibilities at this time, so this leaves Duplin County with the option of a supplemental tax to pursue and pay for this judgment by the Duplin County Board of Education's lawsuit. The mechanism for doing this is provided upon statue 115C-141, which this action was brought through and the judge is referring. It is Mr. Yarborough's recommendation is to begin with immediate steps to comply with the judgment and direct the staff to begin a mechanism for imposing

supplementing tax of \$4,795,784 and then bring the proposal back as soon as possible so Duplin county can begin raising the money from the taxpayers to pay this money back to the board of education (See handout in minutes.)

Commissioner Turner: Any questions from the board?

Commissioner Fussell: Is this a recurring or a one time supplemental tax?

Mr. Yarborough: It is a one time supplemental tax to pay the judgment of \$4,795,784. The jury was posed with two questions: (1) what amount of additional money, if any, is needed from sources under the control of the board of county commissioners to maintain a system of free public schools in Duplin County in FY 2008-2009. That was the question and was broken down to two parts. For the current expense it is \$4,795,784 for FY 2008-2209. For the capital outlay, the jury verdict was zero. The \$63 million that the board of education asked for capital outlay for 2008-2009 was not granted by the jury.

Commissioner Turner: Any questions from the public?

Mr. Jimmy Dixon appeared before the board to make a statement that the statue was designed to allow school boards to operate when they did not have enough money in 2008-2009. They did not in fact need the money to get by that year. The courts have spoken, therefore; the board of commissioners, as soon as possible, should send the board of education the money and continue to be prudent to the money delegated to Duplin County schools. Mr. Dixon would like to see, when all said and done, the court cost and attorney fees by line item showing exactly what this has cost and the net affect to the board of education absent of the attorney fees. Mr. Dixon feels he has had fraud committed on him by the direction of Mr. Wiley Doby, Mr. Reginald Kenan and Mr. David Phillips.

Mr. Dick White, Wallace, appeared before the board to commend the board of commissioners for such a costly experience but was necessary to protect the residents and taxpayers of Duplin County. Duplin County is a poor county without an industrial or commercial base. Mr. White feels the jury was defrauded, board of education defrauded the board of commissioners, board of education defrauded the taxpayers and duplin county did not do a good job in the courts. He advised the county commissioners to write a letter to each citizen in the county to expect a supplemental tax bill. In the letter indicate it was a lost lawsuit; indicate who the board of education members are and their telephone numbers. If this goes forward, Mr. White feels there will be no economic development in Duplin County.

Commissioner Turner: Anyone else would like to make a comment or question?

Commissioner Turner: Asked Ms. Teresa Lanier, Finance Officer if we go into fund balance, how does this affect motor vehicle and property taxes? This question has been presented to the institute and at this time we are waiting for an answer (See handout in minutes.)

Commissioner Williams said that we need to determine exactly the amount in the fund balance and how much we can use for this debt and then do the letters to the citizens.

Wendy Sivori stated that the statute that this judgment was entered under, which is the law of North Carolina, specifically gives the citizens 120 days to pay the supplemental tax before interest starts to accrue. Using “immediately” as read in the letter is not realistic when talking about supplemental taxes and is not the law.

Motion was made by Commissioner Williams, seconded by Commissioner Williams, carried unanimously, to follow advice from Mr. Yarborough to direct the staff to do a financial analysis and to investigate mechanisms for implementing a supplemental tax.

Motion was made by Commissioner Williams, seconded by Commissioner Parks, carried unanimously, to recess to meet on April 26, 2010 at 9:00 a.m. for a Board of Equalization and Review Meeting and Board of Commissioners meeting.

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Clerk



