

**MINUTES OF THE MEETING OF THE
ROWAN COUNTY BOARD OF COMMISSIONERS
SPECIAL JOINT MEETING
WITH THE
ROWAN SALISBURY SCHOOL SYSTEM BOARD OF EDUCATION
July 8, 2013 – 5:25 PM
COOPERATIVE EXTENSION BUILDING
2727 OLD CONCORD ROAD, SALISBURY**

Judge Willis Whichard, mediator, reconvened the joint meeting of the Rowan County Board of Commissioners (BOC) and the Rowan-Salisbury Board of Education (BOE) at 5:25 p.m.

Commissioners present were Jim Sides, Chairman, Craig Pierce, Vice-Chairman, Jon Barber, Mike Caskey, and Chad Mitchell. County Manager Gary Page, County Attorney Jay Dees, Finance Director Leslie Heidrick and Administrative Secretary Peggy Price were also present. Clerk to the Board Carolyn Barger was absent.

BOE members in attendance were Chairman Dr. Richard Miller, Vice-Chairman Kay Wright Norman, Jean Kennedy, Susan Cox, L. A. Overcash, Joshua Wagner, and Charles Hughes. Also present was Superintendent Dr. Judy Grissom, Clerk to the Board Bonnie Holder, Attorneys Richard Schwartz and Brian Shaw and Finance Officer Tara Trexler.

Judge Whichard described his approach to the mediation process in accordance with North Carolina General Statute (N.C.G.S.) § 115C-431(a). Judge Whichard stated he was a mutual facilitator with no power, and his role was to bring the two (2) boards together for a resolution to the funding dispute. Judge Whichard expressed hope that there would be a good faith attempt to resolve the differences. Judge Whichard went on to say court proceedings should be avoided due to costs and agony. Judge Whichard emphasized he was the facilitator and each side should pay no attention to the amount of time he spent with one group or the other. Judge Whichard noted he would give the lawyers a lot of leeway during mediation. Judge Whichard then stated the attorneys had agreed upon the procedural stipulations, with the Board of Education (BOE) having ninety (90) minutes to present information and the County responding with the same amount of time.

BOE Attorney Richard Schwartz introduced his partner, Brian Shaw. Mr. Schwartz then used a power point presentation (Exhibit A) to detail multiple perspectives on the BOE's view of the County's funding for the RSSS.

Mr. Schwartz highlighted the BOE's strategic priorities, listing five (5) goals as follows:

- Goal #1 – RSSS will provide an inviting, nurturing and safe learning environment for all students.
- Goal #2 – RSSS will provide a rigorous, relevant curriculum, designed to prepare students for a globally competitive world.
- Goal #3 – RSSS will recruit, train and retain highly qualified professionals.
- Goal #4 – RSSS will develop and maintain strong communications and partnerships with all stakeholders.
- Goal #5 – RSSS will align system operations for all program areas to provide efficient use of resources.

Mr. Schwartz noted recent successes of RSSS, as well as challenges of the current 2013-14 budget. Mr. Schwartz highlighted the schools shortfalls and went on to explain four (4) areas where the BOE felt the County had money to fund the shortfalls without raising taxes.

Mr. Schwartz said per pupil funding was the same in the 2014 budget as it was in the 2013 budget. Mr. Schwartz mentioned the decrease in enrollment and said ongoing costs such as utility costs, fixed costs, and transportation were not affected by the decline.

Mr. Schwartz presented charts and graphs explaining the expansion needs for RSSS. Mr. Schwartz discussed the BOE's declining fund balance and said it was low compared to other school systems of similar size.

Mr. Schwartz continued by discussing Capital Outlay projects, as well as the restricted use of lottery funds and sales tax.

In conclusion, Mr. Schwartz read Dr. Judy Grissom's budget message.

Judge Whichard called for a recess at 6:55 p.m.

Judge Whichard reconvened the meeting at 7:05 p.m.

County Attorney Jay Dees said the crux of the issue and the tension between the two (2) elected bodies was a result of the State's history for funding the schools. Mr. Dees said a statute was put in place to help resolve funding disputes through a judicial process; however, he emphasized that the elected people in the room could be the ones to decide, or a judge would.

Mr. Dees said the biggest target was the expense fund and quoted the N.C.G.S. § 115C-426(e) as follows:

“The local current expense fund shall include appropriations sufficient, when added to appropriations from the State Public School Fund, for the current operating expense of the public school system in conformity with the educational goals and policies of the State and the local board of education, within the financial resources and consistent with the fiscal policies of the board of county commissioners.”

Mr. Dees said the matter was about the policies, abilities, and fiscal policies of the County Commission.

Chairman Sides said the statutes that determine funding across the state and the problem faced tonight was not unique to Rowan County. Chairman Sides the problem was not with the County Commission or the amount of money given to the local school, but rather with the State and how it funded the local schools. Per the statute, Chairman Sides said the responsibility of the County was to fund the capital needs and for the State to fund current expenses. Chairman Sides said Rowan County was in the position where the County puts three (3) times as much in the current expense fund as the capital needs.

Chairman Sides said the statute requires the schools to submit the entire budget as approved by the BOE to the BOC. Chairman Sides said he felt the BOE had failed in this legislative mandate. According to Chairman Sides, the only budget he had seen from the BOE was a power point presentation with a projected budget based on projected cuts on the local, state and federal levels. Chairman Sides said the BOE had not passed an actual budget but merely approved a request for additional funding on the local level. With no budget passed, or completed budget submitted to the BOC for review from BOE, Chairman Sides felt the BOE was premature in efforts to force the BOC into mediation or possible court action.

Chairman Sides went on to say the BOE attorney had provided a lot of figures. Chairman Sides said according to State figures, out of 115 school systems across the state, Rowan County was the 38th highest in per pupil funding. Chairman Sides explained that in actual dollars funded, Rowan County was 17th out of 100 counties in the State in funding the school system. Based on per capita income, Chairman Sides said Rowan County was 60th in ability to fund the school system. Chairman Sides stated that this was further substantiated by the Department of Commerce, County Economic Wellbeing Rating placing Rowan County as a Tier II County. Chairman Sides explained that the lowest forty (40) counties on the economic scale were Tier I, with Rowan County falling into the next forty (40), leaving twenty (20) counties in Tier III. With those statistics, Chairman Sides asked how one could equate the numbers to the quality of education the students in Rowan County received. Chairman Sides reiterated the County was 17th in the amount of funding provided, 38th in comparison to the

other 100 counties, and 60th in ability to pay. Chairman Sides stated that Rowan County was funding at a much higher rate than it had the ability to pay. Chairman Sides said RSSS continued to ignore the loss of students, noting there was no corresponding loss in local funds allocated. Chairman Sides pointed out this was the first time Rowan County had based its funding on the loss of students, while the State did so each year.

Chairman Sides recalled that prior studies paid for by the school system had revealed that redistricting would result in the closing of several schools and a reduction of costs. Chairman Sides went on to state that the schools had ignored the redistricting recommendations and were operating schools at less than capacity. Chairman Sides said the RSSS fund balance was at \$3 to \$3.5 million, and their request was for an additional \$4.6 million with only \$1 million allocated towards this year's budget. With no legislative requirement to maintain a fund balance, Chairman Sides said the remaining \$2 million to \$2.5 million would go to reduce the request for more local funds from the BOC. Chairman Sides pointed out that \$1 million of the request was for replacement of federal stimulus funds that were intended as one time funding. Chairman Sides did not feel the County should replace lost federal funds.

Chairman Sides said RSSS had no problem pulling \$1.3 million from their fund balance last year to give their employees a 1% bonus that was in addition to a raise the State provided. Chairman Sides said the additional bonus was given with total disregard to the financial conditions of RSSS and without considering budget needs for the next fiscal year. Chairman Sides said since 2004, RSSS employees had received 27.7% in raises compared to 13.4% given to county employees. Chairman Sides said county employees had been furloughed and their benefits had been cut as insurance premiums had increased. Chairman Sides pointed out the schools received in excess of \$4.4 million in local tax dollars for supplements whereas county employees did not receive any supplements. Chairman Sides said a simple cut of 25% of the supplements would result in no jobs being lost and would generate \$1.1 million in revenue to maintain current personnel.

Chairman Sides said the total 2013-14 budget was \$129 million. The County's investment in education was \$46,179,365, not including the \$3.8 million appropriated for Rowan Cabarrus Community College (RCCC). Chairman Sides said the \$46 million was 35.77% of the entire Rowan County budget. Chairman Sides said 63.8% collected in property taxes went to the schools. Chairman Sides said the citizens should let him know if they wanted taxes raised six (6) cents to go to the schools for the \$6 million request; otherwise he would vote against it. Chairman Sides said he had done what he could to keep taxes low, but he anticipated an increase next year. Chairman Sides said if the citizens wanted more to be spent on education; it would have to come from a tax increase and not the fund balance.

Chairman Sides said 46.2% of the County's expendable income goes to the schools.

According to Chairman Sides, the BOE's argument was with the State and not the County Commissioners. Chairman Sides said the State improperly funds the schools for current expenses thereby keeping the County from properly funding the capital expenses. Chairman Sides said the County could not continue to fund the debt service where it ought to and the County could not continue to give three (3) times to current expense or the County's ability to take care of capital needs would be hampered.

Commissioner Pierce said the focus of the BOE was on the schools where the County had to take care of the students who attended the schools by making sure they get a good education and were provided with fire and police protection, etc. Commissioner Pierce said he had been working on a capital improvement plan for the school system since December. Commissioner Pierce said he had tried to come up with a plan for a replacement school in the western area, which would take care of the needs at Woodleaf and Cleveland Elementary.

Commissioner Pierce said his plan would also have the ability to fund capital improvements for existing schools for up to \$8 million. Commissioner Pierce said the problem was the refinancing of the 1993 school bond fund, where the ability to pay off early had been taken away. Commissioner Pierce said the debt service would have to be borrowed for two (2) years. Commissioner Pierce said in moving forward, the County could utilize lower interest rates with the opportunity to take care of the energy program. Commissioner Pierce said he was willing to offer the plan for the BOC to consider. Commissioner Pierce said it would also show the BOE the Commissioners saw the need for capital improvements. Commissioner Pierce stated the plan would come with a guarantee that when the 1993 bond was paid off, the money currently being used from sales tax would be allocated to the loan. Commissioner Pierce said this money would not be available for the central office as he felt the students deserved the money first.

Commissioner Pierce said if current expenses had been addressed at an earlier time, something could possibly have been done, but it was too late as the County did not have the money. Commissioner Pierce explained that the Fund Balance had dropped tremendously and only by raising taxes could the balance be raised. Commissioner Pierce said the schools were very important, but now was the time for the school system to take the hits that others have had to take during the recession. Commissioner Pierce said he was putting something on the table to address RSSS capital needs.

Commissioner Barber discussed the fact that without taxes coming in, funding education would be hard. Commissioner Barber said Rowan County funded education in the top one-third, but performance was ranked in the bottom one-third. Commissioner Barber said however the numbers are looked at, there was

major concern with the demographics of the population. Commissioner Barber reported that 29% of people in Rowan County under the age of 18 lived in poverty and more than 20% were over the age of 65. Commissioner Barber pointed out that many cannot afford to pay more in taxes.

Commissioner Mitchell said he would like to clear up some questions he had been asked as to why he could not support the increase for RSSS. Commissioner Mitchell explained that for every decision that had to be made by the BOC, it took three (3) out of the five (5) people to make that decision.

Commissioner Mitchell said as far as school funding, he did not find fault with the BOE for seeking mediation to accomplish their mission. Commissioner Mitchell said he felt the BOE was between a rock and a hard place, or between Raleigh and Rowan County. Commissioner Mitchell said the school system did not determine the pay for its employees but rather the pay, as well as the cost of health insurance, was determined by state law.

Commissioner Mitchell discussed State funding and said there was a debate of where the dollars should follow: students, performance, or the County's ability to pay.

Commissioner Mitchell was of the opinion the per pupil expenditure was the worst method for funding a school system. Commissioner Mitchell said the County needed to come to an agreement as to whether the schools should receive a percentage of funds and how much of the County's budget should transition over. Commissioner Mitchell said an annual increase for the schools would be possible with the percentage scenario, but there would be a lot to discuss in the calculations.

Commissioner Mitchell said educational expectations from the State were changing, moving away from the direct instruction model. As a County and as a school system, Commissioner Mitchell felt the County needed to look at what the State was looking for in providing education. Commissioner Mitchell discussed various educational options. According to Commissioner Mitchell, these were options due to the State no longer providing enough dollars for a 1 to 25 ratio for instruction for the lower grades. Commissioner Mitchell went on to say that modification of instruction needed to occur.

Commissioner Mitchell said he hoped for a successful end to the mediation. Commissioner Mitchell restated Commissioner Pierce's proposed \$30 million for capital needs; providing for a West Rowan elementary school and having \$8 million left. Commissioner Mitchell said the remainder should cover all that was on the capital list. Commissioner Mitchell also said he would like to see a proposal for a percentage of the County budget allocated to the schools. The benefit of mediation, Commissioner Mitchell explained was the offer of \$30 million in capital to address the number one (1) priority of an elementary school

in the West Rowan area, with \$8 million left to address other capital needs on the list. Commissioner Mitchell said another good compromise would be for the school system to be able to count on a budget that would regularly increase. Commissioner Mitchell said he felt litigation was not a good thing for the County or RSSS and he expressed hope the two (2) groups would come to a conclusion.

Commissioner Caskey said he hoped the mediation would result with clear directions for both boards. Commissioner Caskey mentioned that economic development was important in providing increases to the tax base. Commissioner Caskey also said he hoped the mediation would help develop a plan for the schools, should the student population continue to fall. Commissioner Caskey questioned whether it was the County's responsibility to ask taxpayers to make up for lost federal dollars. Commissioner Caskey felt the County had compromised by stating the \$225,000 would be restored if the County received additional funds. Commissioner Caskey said he thought the central office was a decision that had been made, saying it was not up to the BOC to decide where the office was to go. Commissioner Caskey said the rub was how much to spend on the central office as he felt the square foot price was high.

Commissioner Caskey discussed the issue of funding for resource officers. Commissioner Caskey went on to discuss the fund balance and the need for \$4.6 in current expenses.

County Manager Gary Page pointed out the numbers used by Mr. Schwartz were from FY 2011-12 and the audit had just been completed for FY 2012-13. Mr. Page commented there had been quite a bit of change.

Mr. Page explained there was \$16 million, or 12%, in the County's fund balance and the County needed \$11 million a month just to operate. Mr. Page said a 7% fund balance was the legal minimum. Mr. Page said paying out \$11 million a month amounted to six weeks of operations. Mr. Page said five (5) years ago when he was hired by Rowan County, there were economic opportunities, but the recession had hit instead of prosperity. Mr. Page said in an effort to make ends meet the philosophy had been to cut overhead and use reserves until the economy turned around. Mr. Page said the problem was the recession had lasted five (5) years and the reserves had been pulled down and could not go lower. Mr. Page also explained that the BOC had not increased taxes during those tough years. Mr. Page said the County was 38th in appropriations for funding to the schools. Mr. Page pointed out that 63% of the students qualified for free lunches and the parents of those children needed to be considered. Mr. Page said in a recession, the County needed to be conscientious of the demands placed on taxpayers.

Mr. Page made a comparison of Cabarrus County and Rowan and the economic impact that the proximity to Charlotte had with a lot of commercial development. Mr. Page said Cabarrus County ranked 34th in appropriations, only four (4) slots

ahead of Rowan. Mr. Page said the State average was a bogus number and that Rowan County would never be able to fund where some systems were. Mr. Page said the 12th largest county was not able to fund at the state average, but rather at forty dollars below state average. Mr. Page said Rowan County lived in the real world and had provided the taxpayers with a good deal.

Mr. Page referred to the power point presentation concerning the sliding fund balance for the BOE. Mr. Page said the BOC had been accused of not providing enough money; therefore the BOE had used its fund balance. Mr. Page continued to explain that the BOE had a fund balance as a result of not using all of its funds in one year. The BOE had put the remainder of those funds into its fund balance and the pattern had continued each year until the fund balance had built back up. Mr. Page asked why the BOC would provide more funding when the BOE had not used what had already been allocated. Mr. Page said the situation created class warfare when county departments knew their departments and budgets would be cut in order to give the schools more funding.

Mr. Page said the County had cut staff and had made up cuts from the State. In reference to a comment made by Mr. Schwartz pertaining to inflation adjustments, Mr. Page said he, too, would like to adjust for inflation and be able to ask the Commissioners for more funds to offset inflation. Mr. Page said when the bonds were passed the lottery did not exist; however, when the lottery was approved, the legislature said the money could go towards debt. Mr. Page said the BOC chose to use the lottery money to pay for debt as opposed to raising taxes.

Mr. Page said the BOC could have raised taxes, but chose to use lottery money, as lottery money could pay for any debt incurred after 2003, thus creating another revenue stream. Mr. Page said for four (4) or five (5) years no one said anything. Mr. Page said the County had followed the letter of the law and if the County under-budgeted, the lottery funds had to go only to debt and not current expense. Mr. Page said the County had been prudent and tried to budget low. Mr. Page said if the County over estimated the budget and the money did not come in, taxes would have to be raised and there would still be a debt payment. Mr. Page said his comments were factual.

Finance Director Leslie Heidrick stated that when the BOE attorney discussed the sources of revenue that could be used from the County for capital needs or current expense with no tax increase, she wanted to point out that in 2011 the County showed a \$5.8 million surplus for the BOE. Ms. Heidrick said in that same year the County had a loss in fund balance of \$1.1 million. Ms. Heidrick said for fiscal years 2009, 2010 and 2011 there was a decrease in the total fund balance of over \$1 million each year. In 2012 revenues did exceed expenditures by only \$834,000. Ms. Heidrick said overall, the BOC had shown a good capacity for county budgeting. Ms. Heidrick said the County had used the fund balance to weather through the recession. Ms. Heidrick explained that the fund

balance had been used over three (3) years, and the original projections for the lottery funds were used instead of a tax rate increase. The state cut proceeds from lottery funds to \$1.5 million and the money was budgeted as revenue to pay debt service. If the lottery funds were to be moved over to the schools for capital needs, the only way to pay debt service would be from fund balance or property taxes, necessitating a rate increase. Ms. Heidrick said using the fund balance for the construction of a building would be reasonable, but to use it for ongoing needs was not a sound practice.

Ms. Heidrick said Mr. Schwartz had gone over the use of debt service savings. In 2013, Ms. Heidrick said the debt service for RSSS would be \$10.5 million and it would drop down over the next two (2) years to slightly under \$10 million, going back up in 2016 to \$10.5 million. Ms. Heidrick explained that after the 1993 bonds fell off the books the debt service would greatly decrease. Ms. Heidrick said over the next four (4) years there would be very little from debt service that could be used.

Chairman Sides said that N.C.G.S. § 115C-426 talks about the funding of the schools by the County for current expense, and states the "County shall fund those expenses within the financial resources and consistent with the fiscal policies of the Board of Commissioners." Chairman Sides went on to say that before the recession hit, the County was experiencing a 3% to 5% growth in property taxes and there was growth in sales tax, indicating the County had money to "play" with. Chairman Sides said that the policy was to give the schools \$1 million of the excess and the County would take \$1 million. Now, Commissioner Sides said, there were no increases. To maintain the same budget as last year in a recession, according to Chairman Sides, would be almost impossible. Commissioner Sides said as costs had gone up, the County had cut its budget from \$133 million to \$125 million.

Chairman Sides said debt service was pointed out by Mr. Schwartz indicating the County only provided \$1.5 million in capital expense money each year and that was all the County contributed to capital expense. Chairman Sides said the indication was not entirely true, and that \$2.5 million in sales tax to pay debt service was capital money for the schools. Chairman Sides said the reason for the debt service was due to the County's stepping up to pay for buildings that RSSS did not want to wait for funds to be available. Chairman Sides stated those were still capital funds the schools received every year, as was the \$1.5 million in lottery funds. Chairman Sides said in 2002 the County stepped out in good faith and borrowed \$76.9 million and currently uses \$1.5 million in lottery funds to help pay the \$7.5 million for debt service. Chairman Sides said the Board of County Commissioners voted to borrow an extra \$6 million to pay for furniture for the schools and there was debt service on that purchase also. Chairman Sides said the total debt service for the schools in 2013 was \$10.5 million. Chairman Sides said \$1.5 million dollars was paid on the debt service with lottery money and \$2.5 million with sales tax money, totaling \$4 million.

Chairman Sides said the argument that the County puts no more money into the capital expense program for the schools every year was simply not true, saying the County put \$6.5 million out of the current General Fund budget every year to pay debt service for what the schools said they needed and for what the county built. Chairman Sides said when all allocations were put together the County adequately supplied the needs of the schools based on what the County had available. Chairman Sides said the only other alternative was to increase taxes.

Judge Whichard thanked both boards for their presentations and called for a recess at 8:25 p.m.

The Board of Commissioners reconvened at 9:15 p.m. and Commissioner Pierce then moved for the Board to enter Closed Session pursuant to North Carolina General Statute § 143-318.11(a)(3) for Attorney-Client Privileged Communication.

The Board returned to Open Session at 2:10 a.m. No action was taken.

After further discussion, it was agreed the mediation would resume on Thursday, July 11, 2013 at 6:00 p.m. in the J. Newton Cohen, Sr. Room on the second floor of the J. Newton, Sr. Rowan County Administration Building.

Judge Whichard recessed the meeting at 2:20 a.m.

Respectfully Submitted,

Carolyn Barger, CMC, NCCCC
Clerk to the Board /
Assistant to the County Manager