

MINUTES – AUGUST 29, 2011

The Caswell County Board of Commissioners met in special session at the Historic Courthouse in Yanceyville, North Carolina at 6:30 p.m. on Monday, August 29, 2011. The purpose of the meeting was to discuss Redistricting. Members present from the Board of Commissioners: Nathaniel Hall, Chairman, Kenneth D. Travis, Vice-Chairman, William E. Carter, Jeremiah Jefferies, Cathy W. Lucas and Gordon G. Satterfield. Absent: Erik D. Battle. Members present from the School Board: June Dailey, Chair, Gladys Garland, Vice-Chair, Mel Battle, David Byrd, Ross Gwynn, Sylvia Johnson and Betty Sartin. Also present: Kevin B. Howard, County Manager, Brian Ferrell, County Attorney, Dr. Doug Barker, Superintendent of Schools and Angela Evans representing The Caswell Messenger. Paula P. Seamster, Clerk to the Board, recorded the minutes.

Chairman Hall called the Commissioners' meeting to order.

Chair Dailey called the Board of Education's meeting to order.

MOMENT OF SILENT PRAYER

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

REDISTRICTING

Chairman Hall stated "The purpose of our meeting tonight is to have a work session to look at reallocating the districts for the Board of Commissioners and the Board of Education. In case there may be some questions I will ask our general counsel to give a statement on why we, as commissioners, are doing this and of course if you want to make any comments you can. Our general counsel is Brian Ferrell."

Mr. Ferrell stated "Good evening. Thank you, Mr. Chair. The redistricting question comes up every ten years as a result of the new census data. The principle and issue is found in the Equal Protection clause in the United States Constitution which has been construed to require a 'one person, one vote' requirement and any election where you have district elections, which is the case for both the county board of commissioners and the school board. The history of how you came to elect on a district basis stems from a 1989 consent judgment in a lawsuit brought by the NAACP against these two joint boards and resulted in a consent decree and ultimately a legislation passed by the General Assembly which created a district election system for these two bodies here. So every ten years when new population data comes out you have to take a look at your population information to see if you are consistent with the principal of 'one person, one vote'. There is a court mandated formula on how to determine whether or not there was a deviation in population since the last census which triggers the need to redistrict. In this case using the formula the ten percent rule was exceeded by about 2.8% mandating the need to look at redrawing the districts to balance out the population but also to conform with Section V of the

Voting Right Act of 1965 which requires that there is no retrogression in the impact of the new districts after the minorities are recalculated. That is some history and I would like to say that I have enjoyed meeting most of the Board of Education members tonight. I understand that you do not have counsel but I will do my best to answer any questions that you have but of course I cannot offer any legal advice in the procedures for redrawing the districts between the two bodies are statutorily different and distinct so that is all I will say other than there is a different process for each board to follow and to approve this.”

Chair Dailey asked “In looking at that court judgment and when it says ‘substantially more’ is there a certain criteria we are looking for, 1%, 2%, 3%?” Mr. Ferrell responded “I know the question that you are asking and I don’t have the answer of what percentage that means as far as a substantial majority in a minority district. I don’t know by a percentage what that would mean in a court of law. I think what you can do is take a look at the consent decree, what the numbers were the last time the Department of Justice looked at it and as a matter of percentage figure out based on what was approved then. What was found to be in compliance with the Voting Rights Act at that time and that might give you some indication. I cannot tell you that it has to be this percentage or that percentage. Unfortunately the law is not that clear as far as I am concerned.”

Chair Dailey asked “Mr. Hall as far as your Board goes is it the objective of the Board of Commissioners to stick with the letter of the law and to have as minimal changes in district lines or is it to stick with the law and even if the lines move and it is drastic changes in voting districts, have ya’ll discussed which would be the better of the two?” Chairman Hall responded “We have not and I think this is the time now to do that. We have not had any discussions about this session on what we would say tonight so whatever we say will be in your presence. My personal opinion is I would want to stick with the letter of the law even if the lines have to be moved but we have everyone’s opinion.” Chair Dailey stated “I know we have to stick with the letter of the law but if we are looking at making our map look more uniform, which would mean drastic changes in districts, or are we better off to stick with the letter of the law but move the lines in a way that there is not that drastic of change in those districts. I think that is something that probably needs to be decided upon before we go any further because you have one plan that really looks better than anything we have had in the aspect of the districts looking more uniform but it has drastic changes in those voting districts.” Chairman Hall responded “As I said, we need to discuss that because the end result will be that both boards will have to vote. We have to vote independently of each other.”

Commissioner Lucas asked “Has the School Board made that determination?” Chair Dailey responded “We have not taken a vote but we have discussed the fact of a hardship it puts and how much confusion it makes to the voting population when districts are changed. Even minor ones you have people who are confused but when you go doing major changes it really is confusing. I think that everybody felt like if the end result in complying with the law we could do without drastic changes it would probably be better for the voting public.”

Mr. Battle stated “Mr. Hall I am looking at the first sheet stating ‘Prior to Redistricting’ which is what we have now and then I see a few options. The thing that bothers me is if you move a line how does it affect the numbers and the only things I am looking at are these options right here. Do you follow my train of thought? For example, if you move line A over a couple of rows how

will that affect the numbers? When we were here the last time I think the lady said this was all she ran. Now it behooves me to know where you move a line. To give you an example on Option A where it says District 3 and District 4 where it shows a black majority, it does not necessarily tell me if that is a big percentage whereas if you move a line somewhere else would those numbers go up that percentage? Do you follow what I am saying?" Chairman Hall responded "I understand what you are saying. We do not have near the information I thought we would have. The county manager has the numbers. First let me say, the way the districts will be designed is by census tracts. The census tracts are made up of census districts so each census district will have so many people. I think we have the information on the makeup of each district. So when you talk about moving a line, I think you have to move a whole district. Let's say you have a block with 200 people in it, you can't move 50 of them you have to move the whole 200 of them." Chair Dailey added "Each one of those things have a cell." Chairman Hall stated "Right that determines the lines, a cell. I was using the wrong terms. There are tracks and there are blocks. I think we will stop and ask the county manager and anybody else he asked to help him to explain this and answer your questions about this."

Mr. Howard stated "These small lines here are your census blocks. They range in size and configuration. When you decide to move one you have to decide if you want to move it here or here. This information came from Sylvia with our GIS. She played with it and the one we have up here right now is very close to the current districts. It brings District 3 and District 4, District 3 has 50.4% African Americans and District 4 has 50% African Americans. Now where it gets hard is when you look at those blocks at the edges of the districts it is hard to find blocks that will change that significantly."

Mr. Battle asked "For example, which district is Marshall Graves Road in?" Chairman Hall responded "District 4." Mr. Battle continued "Now that is the point, you can't move Marshall Graves Road to another district to make it right because of the way it is." Mr. Howard responded "That is right. Each of you has a map like this. This shows the population of each census block. The darker color represents the higher percentage of African Americans. If you look at that map and compare that to the other map you can see that they are scattered out. We can try to manipulate it to try to make it fit but it will be hard." Chair Dailey added "When I look at this for Option A it looks like that District 3 has 47% that are white and 50.4% that are black. Is that correct?" Mr. Howard responded "Yes ma'am." Chair Dailey continued "And also with District 4 it is 47.2% and 50%. Is that a large enough percentage to comply? When I pulled data from the last redistricting it looked like what was approved in District 3 was 47.9% was white and 49.39 was black and then in District 4 was 46.31% and 51.49%. So looking at the percentage of District 3 that had been approved, the Option A is further apart than what had been approved for previously." Chairman Hall asked "You are looking at the previous census, right?" Chair Dailey responded "I am looking at the previous census. This is what was approved previously in the districts, the 24 page report that went to the Justice Department. I did not make a copy of the whole report but I thought that summed it up, well what I was looking for. Because I was trying to narrow down what kind of percentage we were thinking they would approve." Mr. Battle asked "Does it give the population in that right there?" Chair Dailey responded "Yes sir." Mr. Battle asked "What was the population?" Chair Dailey asked "In those two districts?" Mr. Battle responded "Correct." Chair Dailey responded "District 3 had a population of 4,908 and District 4 had a population of 4,461." Chairman Hall added "That also tells us that something

was wrong with the way the Justice Department approved that. There should not have been a difference in District 3 and 4's total population that big. You are talking about a difference of 4900 and 4400. There should have not been that large of a gap." Ms. Johnson added "District 5 was also 4903 so it was large also." Chairman Hall continued "Somewhere the last time around they did not check these things close enough." Mr. Ferrell added "To clarify, the Justice Department is looking at the issue of the Section V compliance and not necessarily the 'one person, one vote' regulation. There are two separate issues."

Mr. Byrd asked "You say the figures from before were wrong?" Chairman Hall responded "No, I think our counsel has clarified that. There are two things we should look at: 1) 'one person, one vote' where we should have even distribution of population and 2) consent decree which requires two majority minority districts in Districts 3 and 4." Mr. Byrd continued "That is decreased by 325 from then and until today. That is very possible." Chairman Hall responded "I am sure. Our population has stayed about the same so there has been some movement around. The black population has dropped significantly in the county so I am sure this is probably correct." Chair Dailey added "Here is what he is saying, this should not have been 4900 and this one 4400. All of these districts should have been closer in numbers and that would be the difference but they did approve it." Mr. Ferrell stated "I do agree with the numbers in which she just read were the numbers that were submitted to the Justice Department so that was what was submitted and approved."

Commissioner Carter stated "I know that District 2 has changed with this new district with District 4 at about ½ mile." Chair Dailey asked "In which option Mr. Carter." Commissioner Carter responded "Option 2." Chairman Hall stated "I think one of the things that both boards will have to consider before any changes are made is what board positions are affected when moving lines that involve the sitting members." Chair Dailey responded "Well Option A that is on the board, does not do that." Commissioner Travis asked "That does not affect anybody?" Chair Dailey responded "Everybody will be in the same district, all the sitting members would be in their districts." Chairman Hall stated "It is my understanding that this was just put together. We need to know exactly what we want so this board can vote." Commissioner Carter asked "Does it show on the new map how the districts have changed?" Chair Dailey responded "District 3 was changed and District 2 was changed." Commissioner Travis stated "District 2 looks worse than what it was." Chair Dailey responded "It is hard to find those blocks that give you the direction in which you are trying to go." Commissioner Travis stated "The worse part about this thing is when you split roads. I know you have to split them because there is no way of not getting by this. That is the worst thing for the people because you have one person that lives on this side of the road that votes at Cherry Grove and the person on the other side of the road votes at Casville." Mr. Battle stated "I think that is better than voting in two different places for a board member such as a commissioner and a school board member." Commissioner Travis continued "I think it is bad for a person who lives right there at the voting place and has to drive 20 miles to vote." Chairman Hall stated "I think what happens is because we are driven by the blocks and not by road is the problem but we can't change that. There will always be somebody on the edge." Commissioner Travis stated "I think with the computers the people should be able to vote in Cherry Grove without having to drive all the way over to Casville to vote." Chairman Hall responded "Someone asked about that at our last commissioners meeting and our response is federal election laws. It just does not make since but we just do not have the

option to change it.” Mr. Byrd stated “There were people who were in District 2 that thought that they were going to vote for me and they got down there at the Prospect Hill Fire Department and my name was not even on the ballot. You cannot vote for David Byrd because he is not in our district but you can vote here but you will have to vote for the people who are in this district.” Commissioner Travis added “There are some people in Cherry Grove that are voting here at the Yanceyville Fire Department for District 5. I know they do.” Chairman Hall stated “I agree and I understand but my point is that is not something that we can change. The Board of Commissioner cannot change that.” Commissioner Travis asked “Who changed that?” Chairman Hall responded “The Board of Elections changed that. They change the precincts in the districts. I think you are confused about what happened. The Board of Elections cannot change anything other than what these two boards approve. They get special permission at times to allow special elections. If they move somebody it is because these boards approved it.” Mr. Byrd stated “They did not move out of their districts, they just went and voted out of their districts. I can call a gentleman on the phone and he can tell you.” Chairman Hall responded “I was responding to Mr. Travis, you cannot live in one district and vote in another. The Board of Elections cannot change people’s districts. The way it is set up now is these two boards have to change that. Any change that is made has to go to the Justice Department. Now I have seen over the years where people have not voted in a while and they did not realize that their district had changed and they could not vote. They said that they had always voted there and if you looked back in the records they had not voted in several years. That has happened but the Board of Elections cannot move anything around and we cannot. I will agree with Mr. Travis that this does not make sense with today’s technology, we all should be able to vote anywhere but the federal election laws do not allow that.” Ms. Johnson stated “Mr. Hall I pulled up the map. It is in precincts and not in districts. For example these people are in District 4 but they can vote in Casville and at the Yanceyville Fire Department. These people in District 2 can actually vote in Yanceyville 4. They are voting for people in District 2 but the polling place is in District 4.” Chairman Hall responded “I agree but I cannot decide to go to the civic center because it is a half a mile closer.” Ms. Johnson stated “That is correct. It depends on where you live.” Commissioner Satterfield added “I know a fellow that was changed from the Pelham precinct a few years ago that lived on the Bertha Wilson Road and moved to the Blanch Road and he got move to the Milton district but when he got ready to vote he had to go back to Pelham to vote. When he got to Pelham he received a Milton District 3 ballot. That is what he told me.” Commissioner Lucas asked “Which one would have been closer?” Commissioner Satterfield responded “Milton.” Commissioner Carter stated “It makes no sense to drive across the county to vote.”

Chair Dailey stated “I think we need to decide on some district lines before we address where people are going to vote at.”

Mr. Byrd stated “I don’t like to see people being changed because on Election Day there is enough confusion to begin with. Kenneth Travis knows just as well as I do that there are people on Cherry Grove Road that do not vote anymore because they had to drive too far. Elderly people do not want to drive too far. I think the best way to serve the people of Caswell County is to minimize the changes that we make as much as we possibly can to satisfy the numbers so we can get this approved through the Justice Department to make it easier for the people and to make is less expensive on the county. These two boards also need to be on the same map and to

have the same districts. It will be the easiest, simplest, and cheapest way to keep them in line to help the voters in Caswell County. If the commissioners and the school board are on the same ballot it would be the easiest way to run this thing and cheapest. The older people get the most confused it seems to me and it looks like we get more older people that vote than the younger people. I think we would better serve the people if we would do this and make as few changes as we can to satisfy what we need to do.”

Commissioner Travis asked “Didn’t we say a while ago that the way it is now is that the board members would stay the same way?” Chair Dailey responded “With Option A.” Commissioner Travis asked “There is no way to look at this map to see which roads you lost or which roads you gained is it?” Chairman Hall responded “The county manager should be able to tell us. He has a map that shows each census block which shows it by the road.”

Commissioner Lucas asked “Is Option 1 and Option A the same?” Chair Dailey responded “No.” Commissioner Lucas continued “But in the packet that we have of these two Option 1 and 2, which is A?” Mr. Howard responded “Neither one. It is a totally different option.” Mr. Ferrell stated “I think it will be important to the Justice Department if you will look at these meeting minutes to identify what you have in front of you so we will be clear. We have three options. You have a Redistricting Option 1 which equalized the districts by population only. That was the only consideration. Then you have the Redistricting Option 2 which takes into account the population balance but also takes into account the majority minority regulations in the two districts 3 and 4. Then you have Option A and some copies look like Option H. Option A is another map that takes into account both population balance and addressing the minority issues as well. Those are the three options and if you would refer to them that way it will be clear to those that read this going forward as to what we were talking about.”

Mr. Battle asked “Who did Option A?” Mr. Howard responded “County staff.” Mr. Battle continued “And the other two were done by the Council of Government?” Mr. Howard responded “Yes sir.”

Commissioner Lucas asked “Why are we considering Option 1 if it is not an option?” Mr. Ferrell responded “I think it is there just to show you what it would look like if we were to do it based upon a population basis. I agree that does not address the Section V issues so there are two options that can be voted upon and they are Option 2 and Option A.” Chairman Hall added “I think Option 1 is good to see the numbers so when we start to move numbers around we will know.”

Commissioner Lucas asked “What is the difference between Option A and Option 1?” Chairman Hall responded “Option 1 equalizes the current population and Option A attempts to equalize population and addresses Section V to provide two majority minority districts. Option 1 does not do that. It does not deal with the majority minority districts.” Chair Dailey added “Cathy if you will look at District 2 if you go all the way over to the right hand side where that block got increased and also at the top and come down middle way where District 2 changed in the first cell or the first block. Part of District 3 went to District 2. District 3 dips down a little deeper into the north part of Yanceyville. District 2 gets very narrow there where it was not that narrow before.” Commissioner Carter asked “How much was changed in District 2?” Commissioner

Lucas responded "She just went over that." Ms. Johnson responded "Part of Milton was added to District 2." Commissioner Lucas asked "Where would that be?" Chair Dailey added "It is Blanch Road. It changes me. Does that help or hurt Sylvia said? She put the road names up. The right side of the Blanch Road used to be in the Milton District. The reason was because that section right through there had a whole lot more white population than it did black. That is why it was taken out. We were trying to get the white folks out of Milton so we could have a majority black in District 3."

Commissioner Lucas asked "So the Providence folks are not going to Milton according to that?" Chair Dailey responded "No." Commissioner Lucas continued "Because one of the choices previously I think they were."

Chair Dailey asked "Did your Board ever come to a consensus about if the minimum changes was the way to go?" Chairman Hall responded "We have not discussed it at all. If we can get the frame work in place I think we can move pretty quickly." Chair Dailey asked "Do you think it would be helpful if we had this map in a larger scale?" Chairman Hall responded "It would be helpful." Chair asked "If it were that size and had the road names on it?" Commissioner Lucas responded "Absolutely." Chair Dailey stated "I just think it might be helpful to everybody if we had everything together with the road names. I think if we had the road names on it may help you know who is where and what not." Commissioner Lucas responded "I think it would certainly help the public at a public hearing." Chair Dailey stated "Yes that will be forth coming."

Chair Dailey asked "Does anybody know how long it took the last time from the time it was submitted until the time it was approved with the Justice Department?" Mr. Ferrell responded "The documents I have show it was as late as April of 2004 for changes made on the 2000 census. I don't think we should use the last time. There is a minimum of 60 days and of course we are not the only ones going through this process. There are a lot of local governments and state governments that are having to do this. The requirement is that it be approved prior to the January filing period." Chairman Hall responded "What he is saying is we violated that the last time." Mr. Ferrell stated "Well I did not say that. I just told you the date I had." Chair Dailey stated "Well after eleven tries to come to an agreement it was pretty time consuming."

Chairman Hall asked "Mr. counsel what was our deviation on the total population?" Mr. Ferrell responded "The rule of thumb is it cannot be no more than 10%." Chairman Hall stated "I was just looking at these totals." Mr. Ferrell responded "I did not check the Option A numbers." Mr. Howard added "I think those are around 7%."

Mr. Howard asked "Do you want to take a recess to review the map in a larger scale?"

RECESS

The Board of Commissioners held a brief recess.

Chair Dailey moved, seconded by Mr. Byrd to recess the Board of Education meeting. The motion carried unanimously.

REDISTRICTING (cont'd)

Chair Dailey asked "Did everybody have the opportunity to look at the map?"

Mr. Byrd moved, seconded by Ms. Sartin that the Caswell County Board of Education adopt Option A to be submitted to the Justice Department for approval.

Mr. Battle asked "Are ya'll going to vote tonight too?" Chairman Hall responded "Right now I think not. This is not part of your discussion but I will tell you what I am thinking and we might. One of the things that our general counsel mentioned is that there cannot be no retrogression. When I looked at District 4 there is about a half a point of retrogression from the previous time. In District 3 there was retrogression 10 years ago and that should not have occurred. I think it was originally around 51%. I think we are very close. The reason I don't think we will vote is I have some questions in my mind and I would like to try to sort them out." Mr. Ferrell added "Well let me say to that point. The statutes, again, for the county are different from the School board. The statute for the county requires two things before it approves new districts. One is to adopt a resolution that declares that there is a substantial inequality in the numbers of the percentages that necessitate redistricting and we have talked about that and this resolution will have to be adopted. So that will be step one. Then the statutes require a formal resolution be approved adopting the new districts not just by referring to a plan. We need to have a full resolution and that is not before you tonight so I would want to work with that." Chairman Hall stated "So to answer your question we cannot vote tonight. We can agree on principle but we cannot vote." Mr. Ferrell continued "That is the formal process to getting there for the county." Commissioner Travis asked "We still need to have a public hearing right?" Mr. Ferrell responded "There is no requirement that there be a public hearing. You can hold a public hearing but there is no statutory requirement that the adoption has to have a public hearing. Although you have had a couple already."

Ms. Johnson stated "I would like to make that on the condition of getting Anne Edwards or someone else to check the figures first. I would just like to have a double check of the figures to make sure that everything has been taken into account and that we have not missed anything." Mr. Byrd asked "You would like to amend the motion to say that the numbers be checked again by Ms. Edwards?" Ms. Garland stated "I guess my concern is that we either amend the motion or withdraw the motion in order to have time to check the information." Chair Dailey asked "You want to amend the motion that we not do anything?" Ms. Garland responded "No I just want to make sure there are no changes." Mr. Battle asked "Are you amending the motion?" Mr. Byrd responded "I am amending the motion." The motion was amended and seconded by Mr. Byrd and Mrs. Sartin.

Upon a vote of the motion as amended, the School Board voted unanimously to adopt Option A to be submitted to the Justice Department for approval after getting Ms. Anne Edwards or someone else to double check the figures.

Chair Dailey asked "Your Board, if you do something different than Option A then we will relook at what we, as a board, have agreed upon with what ya'll have came up with. We will just have to work back and forth until we come to an agreement." Chairman Hall responded "We

will have a meeting Tuesday night. We will have these resolutions prepared by our general counsel.”

Mr. Battle asked “When is this due to the Justice Department?” Chairman Hall responded “The only thing I can say is as soon as possible. It has to be approved by the filing date. There are 40 counties that have to do this. I know this will be a pretty heavy load on the Justice Department.”

Mr. Howard stated “The Ground Breaking Ceremony for the Detention Center is tomorrow at 10:00.”

Dr. Barker stated “Our thing is, as a board, that we keep it as close to the districts that now exist. Once the determination is made by the county commissioners and what they are going to do that both boards have the same conclusion before it is submitted. If for some reason it changes a little bit let us know. We would like for the districts to be the same for the Board of Commissioners and the Board of Education.” Chairman Hall responded “I think that is a consensus with this Board.”

ADJOURNMENT

At 8:05 p.m. Mr. Byrd moved, seconded by Ms. Garland to adjourn the Board of Education meeting. The motion carried unanimously.

At 8:05 p.m. Commissioner Jefferies moved, seconded by Commissioner Travis to adjourn. The motion carried unanimously.

Paula P. Seamster
Clerk to the Board

Nathaniel Hall
Chairman
