

*Scotland County Board of Commissioners special meeting  
July 19, 2005, Commissioners Chamber, 1405 West Boulevard, Laurinburg*

**MINUTES**

**Scotland County Board of Commissioners  
Special Meeting, July 19, 2005  
Commissioners Chamber, 1405 West Boulevard, Laurinburg, NC**

At 1 p.m., Chairman J.D. Willis called the special meeting to order. Commissioners in attendance: Chairman Willis, Vice Chair Betty Blue Gholston and Commissioners John Alford and Leon Butler. Commissioners not in attendance: Commissioners Charles “Scoofer” Jordan, Joyce McDow and Clarence McPhatter. Staff in attendance: County Manager John Crumpton and County Attorney Ed Johnston.

**Motion was made by Commissioner Alford and duly seconded by Commissioner Butler to go into Closed Session held in accordance with N.C. General Statute 143-318.11(a)(3) to consult with an attorney. Vote: Motion unanimously approved.**

**OPEN SESSION RESUMED**

**Motion was made by Commissioner Butler and duly seconded by Vice Chair Gholston to approve the Joint Resolution and Settlement Agreement with the Scotland County Board of Education and to approve the Joint Resolution Regarding State ADM Funds. Vote: Motion unanimously approved.**

**Joint Resolution and Settlement Agreement**

**WHEREFORE**, the Scotland County Board of Commissioners (“Commissioners”) and the Scotland County Board of Education (“Board of Education”) have engaged in a joint meeting and mediation process for resolving differences regarding school appropriations for fiscal year 2005-2006 pursuant to North Carolina General Statutes Sections 115C-431 and 7A-38.1, and the Rules Implementing Statewide Mediated Settlement Conferences in Superior Court Civil Actions, as amended; and,

**WHEREAS**, both Boards have determined that it is in the best interest of each Board and the Scotland County community as a whole that, in addition to resolving matters relating to fiscal year 2005-2006, an agreement and process be established which will reduce annual disagreement between the Boards regarding the level of county appropriation for school capital outlay expense; and,

**WHEREAS**, the purposes of this agreement are to settle the matters in controversy regarding the school capital outlay appropriation for fiscal year 2005-2006, and to implement an agreement and process for future years’ school capital outlay appropriation which balances the Commissioners’ need to provide for annual debt service upon outstanding school construction bonds, and the Board of Education’s need for annual capital outlay appropriations for ongoing school capital needs.

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**NOW, THEREFORE**, in consideration of the mutual promises contained herein, the Scotland County Board of Commissioners and the Scotland County Board of Education resolve and agree as follows:

1. The Memorandum of Understanding regarding the Proposed 1996 School Bond Financing dated July 31, 1996, and the subject of a joint resolution approved by the Commissioners and the Board of Education on August 5, 1996, and August 12, 1996, respectively (the "Memorandum of Understanding") is superseded by this Joint Resolution and Settlement Agreement, and the parties hereto agree that, effective June 21, 2005, they are released from any and all obligations, promises, or agreements contained therein, including without limitation any obligation by the Board of Education to maintain a reserve account in the amount of \$420,000.00 dedicated to funding local matching funds for ADM disbursements, and any accompanying obligation by the Board of Education to make any further ADM match payments, including without limitation the \$139,199.94 match payment arising from the accompanying Joint Resolution Regarding State ADM funds, for which the Board of Education had previously budgeted. Henceforth, the Commissioners shall draw down all available state ADM funds whenever such funds become available, and the Commissioners shall make all ADM match payments necessitated thereby, including without limitation the \$139,199.94 match payment described herein, using Articles 40 and 42 restricted use sales tax revenue, and the said state ADM funds shall be deposited in and become a part of the capital reserve account defined in paragraph 3 below. The Board of Education shall execute all application forms required in order to draw down state ADM funds.
2. Pursuant to paragraph 1 above, and the waiver and release by the parties hereto of any obligation which may have heretofore existed for the Board of Education to maintain a capital reserve in the amount of \$420,000.00, or to make any ADM match payments, the Board of Education may use any funds previously appropriated for or dedicated to said reserve fund or ADM matches for use for ongoing school capital needs. Accordingly, the Board of Education agrees to appropriate from said funds the amount of \$350,000.00 for fiscal year 2005-2006 only, in order to meet pressing school capital outlay needs.
3. Effective June 30, 2005, the Commissioners shall maintain a separate, interest-bearing, cash account, available for inspection by the Board of Education, a school capital reserve fund ("capital reserve account") comprised of all Articles 40 and 42 restricted use sales tax revenue, state ADM funds, interest upon the said school capital reserve account, and any and all other funds created, enacted, or made available by the State of North Carolina for the purpose of meeting local school capital outlay needs, including without limitation, any proceeds so designated from any state lottery which may hereinafter be enacted. The parties hereto agree that the beginning balance in said capital reserve account as of June 30, 2005 shall be in the amount of \$1,900,000.00, said balance to be provided by the Commissioners using funds under their current custody and control, with the exception of the state ADM funds in the amount of \$417,599.82, to be drawn down pursuant to the accompanying

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- resolution. In agreeing that the beginning balance as of June 30, 2005 for the said capital reserve account shall be \$1,900,000.00 as set forth above, the Board of Education waives, releases, and surrenders any claim which it may have against the Commissioners for the interest upon restricted uses sales tax revenue or ADM funds for interest accruing prior to June 30, 2005. In addition, the Board of Education, in consideration of the said agreed-upon starting balance for the capital reserve fund, withdraws its demand for an external audit or further accountings of any nature with respect to the interest accruing upon restricted sales tax revenues and ADM funds prior to June 30, 2005. From July 1, 2005 forward, the Commissioners shall provide the Board of Education with semi-annual accountings of all interest earned upon the capital reserve account.
4. For fiscal year 2006-2007, with respect to the capital reserve account, after reserving funds sufficient only to pay the debt service due in fiscal year 2006-2007 and to make any required ADM match payment during the said fiscal year, the Commissioners shall appropriate all remaining excess funds in the capital reserve account for school capital outlay in fiscal year 2006-2007 pursuant to a school capital outlay request submitted by the Board of Education and consistent with North Carolina law. For purposes of this agreement, when referring to capital outlay requests "consistent with North Carolina law," the parties intend merely that said requests shall not include proposed expenditures which are clearly noncapital in nature, e.g., instructional salaries. In the same way, with respect to the capital reserve account, for each new fiscal year after fiscal year 2006-2007, after reserving only those funds necessary to satisfy the required debt service payments in the new fiscal year and to make any required ADM match payment during the new fiscal year, the Commissioners shall appropriate for school capital outlay needs all remaining or excess funds in the capital reserve account pursuant to capital outlay requests by the Board of Education consistent with North Carolina law. Accordingly, the capital reserve account shall always begin each new fiscal year with a balance at least equivalent to that fiscal year's required annual debt service payments, an amount which will decline over time as the overall school bond debt is reduced pursuant to the original debt service payment schedule. As used herein, the terms "debt service," "required debt service" and "required annual debt service payments" refer only to the debt service payments due and owing under the original debt service payment scheduled for the outstanding school bonds, and do not contemplate or allow for any accelerated or 'early' debt payments.
  5. This Joint Resolution and Settlement Agreement shall be honored by succeeding Boards of Commissioners and Boards of Education without need for additional formal resolutions acknowledging the same. The parties hereto agree that the continuing nature of this Joint Resolution and Settlement Agreement is essential to the parties' intentions and purposes of this agreement.
  6. This agreement shall be deemed effective at 4:00 PM on June 21, 2005 upon review and adoption by both parties. This agreement shall be governed by North Carolina law.

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**Joint Resolution Regarding State ADM Funds**

**WHEREAS**, the Scotland County Board of Commissioners and the Scotland County Board of Education have entered into an agreement effective June 21, 2005 regarding the funding of school bond debt service and ongoing capital outlay needs of the Scotland County schools; and

**WHEREAS**, \$417,599.82 in state ADM funds are currently available for Scotland County school capital needs, including without limitation debt service upon the outstanding school bonds; and

**WHEREAS**, pursuant to the Boards' agreement effective June 21, 2005, the said ADM funds are to be drawn down and incorporated into the capital reserve account to be maintained by the County, in accordance with the June 21, 2005 agreement; and

**WHEREAS**, the respective Boards wish to confirm their intention to cooperate with the preparation and execution of an application for the said ADM funds;

**THEREFORE, BE IT RESOLVED THAT** the Scotland County Board of Commissioners and the Scotland County Board of Education, meeting on the dates set forth below, with quorums present, and upon proper motions and seconds, and majority votes in favor thereof, state their intention to cooperate in the preparation and execution of an application for available state ADM funds in the amount of no less than \$417,500.82

Done this 19th day of July, 2005 by the Scotland County Board of Commissioners

Done this 20th day of July, 2005 by the Scotland County Board of Education

**Motion was made by Commissioner Alford and duly seconded by Commissioner Butler to adjourn. Vote: Motion unanimously approved.**

Respectfully Submitted,

Ann W. Kurtzman  
Clerk

*(Minutes compiled from notes provided by  
County Attorney Ed Johnston)*

J.D. Willis  
Chairman