

COLUMBUS COUNTY BOARD OF COMMISSIONERS
REGULAR SESSION (Resumed from May 17, 2005)
Monday, May 23, 2005
5:30 P.M.

The Honorable Columbus County Commissioners met on the above stated date and at the above stated time in the Dempsey B. Herring Courthouse Annex Building located at 112 West Smith Street, Whiteville, North Carolina, for the purpose of resuming the Regular Session Meeting held on May 17, 2005.

COMMISSIONERS PRESENT:

Sammie Jacobs, **Chairman**
 Kipling Godwin, **Vice Chairman**
 Amon E. McKenzie
 James E. Prevatte
 Bill Memory
 Lynwood Norris
 David L. Dutton, Jr.

APPOINTEES PRESENT:

Billy Joe Farmer, **County Manager**
 James E. Hill, Jr., **County Attorney**
 Darren L. Currie, **Assistant County Manager**
 Roxanne Coleman, **Finance Officer**

APPOINTEE ABSENT:

June B. Hall, **Clerk to Board**

OTHERS PRESENT:

Michael McGuinness (Attorney retained by Billy Joe Farmer)
 Dennis Worley (Attorney retained by Billy Joe Farmer)

MEETING CALLED TO ORDER:

At 5:30 P.M., Chairman Jacobs called the resumed Regular Session to order.

NOTICE OF LEGAL COMPLAINT FILED BY BILLY JOE FARMER:

James E. Hill, Jr., Columbus County Attorney, stated the following:

1. I have in front of me a copy of a Complaint and Demand for Jury Trial which was filed in Columbus County this afternoon on behalf of Billy Joe Farmer. A Temporary Restraining Order hearing was heard in front of Judge Clark in Elizabethtown, at 2:00 P.M., this afternoon; Mr. Farmer's attorneys, Mr. Dennis Worley and Mr. Michael McGuinness are both here this evening. His attorney filed a lawsuit on behalf of Billy Joe Farmer against Columbus County, North Carolina; and Sammie Jacobs; David L. Dutton, Jr.; Lynwood Norris; in their official capacities and individually; and John Doe(s); as defendants;
2. At the Temporary Restraining Order hearing before Judge Clark, which lasted one and one-half (1 ½) hours long (approximately), Judge Clark ruled, because of the allegations in the Complaint, that three (3) people should be, at this time, excluded from further consideration of Billy Joe Farmer's contract, or anything to do with his contract. Those three (3) individuals are Commissioners Sammie Jacobs, David L. Dutton, Jr., and Lynwood Norris; The Judge ruled that the Temporary Restraining Order applies to Commissioners Dutton, Jacobs and Norris only, his ruling did not apply to Columbus County;
3. After obtaining a copy of the filed documents from the Clerk of Superior Court's Office, Mr. Hill distributed a copy to each of the commissioners. Each document is a matter of public record;
4. Under North Carolina Law, prior to consideration of any more business concerning Mr. Farmer's contract, if the Board of Commissioners wants to meet on other issues they may do so. Mr. Hill advised the Board that they would need to excuse the members under N.C.G.S. §153A-44 from voting only upon questions involving Board's own financial interest or official conduct or matters of which the Board is prohibited from voting under N.C.G.S §14-234 or in this case a Court Order;
5. Since the Judge has ruled these three (3) individuals are prohibited from considering Mr.

Farmer's employment, and prohibiting them from voting, or considering the same, Mr. Hill recommended that the Board not consider anything else dealing with Mr. Farmer and the contract. He also informed the Board that on each time the Farmer issue should come up, the Board should excuse, by affirmative vote, these three (3) members from voting on the issue or any consideration of the same. This is the appropriate way, as the Board has done this many times in the past. This has always been the manner in which the Board has handled this type of situation. Considering the Judge has issued an order as to these three (3) individuals, Mr. Hill informed the Board that they should handle this in the same manner they have in the past. Mr. Hill suggested to the Chairman that since this has come up today, if there's anything else before that issue, since this is a continuation of a prior meeting, the Board can talk about anything else first. Mr. Hill suggested to the Board to consider those issues first since all seven (7) members are here and able to consider those issues.

Chairman Jacobs asked the Board members if they had any other issues that needed to be discussed or handled. Commissioner Dutton asked if the Board, as a whole, could ask for a few minutes with the County Attorney. Chairman Jacobs asked if the Board could ask for a Closed Session with the County Attorney for discussion of Personnel or Attorney-Client Privilege issues. Mr. Hill replied in the affirmative, but he would prefer that the Board did not, if it deals with Mr. Farmer's contract.

The County Attorney asked each member to take five (5) or ten (10) minutes to skim the lawsuit, because, he had only seen it for the first time at about 2:15 P.M. today as it was only filed at 1:24 P.M. Vice Chairman Godwin asked Mr. Hill if it would be permissible for the Board to have a Closed Session with the County Attorney to deal with this particular development, since it was new to the Board. The Board needs a few questions answered before proceeding, and Vice Chairman Godwin thought it would be unfair for this Board to be asked to vote on excluding three (3) members until the Board has some questions answered. Commissioner Memory stated I don't think there's any reason for a close session because we got something (lawsuit) in our hands that says that all of a sudden we're going to a Board of four (4) members instead of seven (7).

James E. Hill, Jr., Columbus County Attorney, stated that he had not been served with the Order yet, but the Judge has ruled on the issue and he has informed the Board of the result.

RECESS REGULAR SESSION and enter into CLOSED SESSION in ACCORDANCE with N.C.G.S. 143.318-11 (3):

At 5:45 P.M., Vice Chairman Godwin made a motion to recess Regular Session and enter into Closed Session in accordance with N.C.G.S. 143-318.22 (6), seconded by Commissioner Memory. The motion so carried.

No official action was taken.

ADJOURN CLOSED SESSION and resume REGULAR SESSION:

At 6:10 P.M., Commissioner Dutton made a motion to adjourn Closed Session and resume Regular Session, seconded by Commissioner Prevatte. The motion so carried.

MOTION FOR THREE (3) COLUMBUS COUNTY COMMISSIONERS TO BE EXCUSED:

Vice Chairman Kipling Godwin made a motion that, in accordance with an Order issued by Judge Clark that we excuse Commissioner Dutton, Commissioner Jacobs and Commissioner Norris from further deliberation and consideration of the matter involving the County Manager, seconded by Commissioner Prevatte. The motion so carried.

RECESS REGULAR SESSION and enter into CLOSED SESSION in ACCORDANCE with N.C.G.S. §143-318.11 (3) and (6):

At 6:15 P.M. Commissioner Memory made a motion to recess Regular Session and enter into Closed Session in accordance with N.C.G.S. §143-318.11 (3) and (6), seconded by Commissioner McKenzie. The motion so carried.

No official action was taken.

ADJOURN CLOSED SESSION and resume REGULAR SESSION:

At 7:00 P.M., Commissioner Memory made a motion to adjourn Closed Session and resume Regular Session, seconded by Commissioner McKenzie. The motion so carried.

RECESS RESUMED MEETING:

At 7:03 P.M., Commissioner Memory made a motion to recess this resumed meeting until May 26, 2005, at 8:00 A.M., seconded by Commissioner Prevatte. The motion so carried.
