

**MINUTES
BURKE COUNTY BOARD OF COMMISSIONERS
SPECIAL MEETING**

The Burke County Board of Commissioners held a special joint meeting with the Burke County Board of Education on Friday, September 8, 2023, at 11:00 a.m. at Olive Hill Resource Center - Olive Hill Room, located at 509 West Concord Street, Morganton, NC 28655. The purpose of the special meeting is to consider taking action on a joint resolution requesting the County's legislative delegation to submit a local corrective bill to un-restrict sales tax revenues in Burke County that were restricted by Session Laws 1983-273 and 1985-326. Chairman Mulwee executed the notice, and it was published on September 5, 2023. The agenda, in its entirety, was posted to the County's website, www.burkenc.org, several days prior to the meeting. Those present were:

BOARD OF COMMISSIONERS: Scott Mulwee, Chairman
Jeffrey C. Brittain, Vice Chairman
Randy Burns
Johnnie W. Carswell
Phil Smith

BOARD OF EDUCATION: Wendi Craven, Chair
Aaron Johnson, Vice Chairman
Dr. Don Hemstreet (Arrived at 11:15 a.m.)
Seth Hunt
Jane Sohovich
Leslie Taylor

BOE ABSENT: Tiana Beachler

BURKE COUNTY STAFF: Brian Epley, County Manager
Margaret Pierce, Deputy County Manager/Finance Director
J.R. Simpson, II, County Attorney
Kay Honeycutt Draughn, Clerk to the Board

BCPS STAFF: Dr. Mike Swan, Superintendent
Dr. Karan Alton, Deputy Superintendent
Keith Lawson, Finance Officer
Chris Campbell, BoE Attorney
Linda Huffman, BoE Clerk

CALL TO ORDER

At 11:03 a.m., Chairman Mulwee called the Board of Commissioners' meeting to order, and Chair Craven called the Board of Education's meeting to order.

APPROVAL OF THE AGENDA

Motion: To approve the agenda as presented.

RESULT:	APPROVED [UNANIMOUS]
MOVER:	Randy Burns, Commissioner
AYES:	Scott Mulwee, Jeffrey C. Brittain, Randy Burns, Johnnie W. Carswell, and Phil Smith

Note: The BOE unanimously approved their agenda by a vote of 5-0. Dr. Hemstreet was not present for the vote and Tiana Beachler was absent.

ITEM FOR DECISION

BOC / CM - JOINT RESOLUTION REQUESTING A LOCAL BILL CONCERNING UTILIZATION OF SALES TAX REVENUES

Information from the agenda packet:

As indicated in the following joint resolution, the County Commissioners and the Board of Education requested, through its local delegation to the General Assembly, a corrective bill that repeals the local funding modifications created by the Local Acts and returns Burke County to the school capital funding provisions available in other North Carolina counties under generally applicable law, including all statutory provisions applicable to the County of Burke's use of the Article 39, 40, and 42 sales and use tax revenues under Chapter 105 of the General Statutes of North Carolina.

Further, the resolution calls for the drafting of a multi-year funding memorandum of intent and understanding that emphasizes increasing the annual local current expense appropriation to a more competitive per pupil amount and that the agreement be completed by the end of the 2023 - 2024 fiscal year.

Furthermore, FY 2023 - 2024 will be the baseline local current expense year with a baseline of \$20,000,000 effective July 1, 2023. The agreement will also prioritize long term stability of the school capital reserve fund that considers sufficient funding strategies for outyear capital.

Chairman Mulwee expressed his excitement to be a part of history in the making and acknowledged the great relationship and trust that exists between the County Commissioners and the Board of Education. This legislation was passed 40 years prior, the times have changed, and progress has been made, he said. He then thanked the Board of Education, Brian Epley, County Manager, Senator Daniel, and Representative Blackwell for forging the path that led to this day.

Wendi Craven, BOE Chair, expressed her appreciation of Mr. Epley, Dr. Mike Swan, BCPS Superintendent, Keith Lawson, BCPS Finance Officer, and Margaret Peirce, Finance Director / Deputy County Manager. Ms. Craven stated that it was a tumultuous time when the legislation was originally passed and that she was grateful to be part of this monumental moment.

Motion: To adopt Resolution No. 2023-18.

RESULT: **ADOPTED [UNANIMOUS]**

MOVER: Randy Burns, Commissioner

AYES: Scott Mulwee, Jeffrey C. Brittain, Randy Burns, Johnnie W. Carswell, and Phil Smith

Note: By a 6-0 vote with Tiana Beachler absent, the BOE unanimously adopted the aforementioned resolution (a.k.a. the MOA and repeal of Article 39 special act).

Resolution No. 2023-18 reads as follows:

BURKE COUNTY
NORTH CAROLINA

RESOLUTION OF SUPPORT

THIS RESOLUTION OF SUPPORT is made and entered into this the 8th day of September 2023, by and between BURKE COUNTY (the "County") and the BURKE COUNTY BOARD OF EDUCATION (the "Board of Education") (collectively "the Parties").

WITNESSETH:

WHEREAS, in order to provide sufficient funding for the construction and maintenance of public-school facilities in Burke County, the General Assembly passed certain session laws, specific to articles 39, 40 & 42 sales tax revenues, to achieve specific purposes (hereafter "the Local Acts") as follows:

- a) Session Law 1983-273: reserving sales tax proceeds "for the construction, renovation, repair or maintenance of public junior high schools in Burke County";
- b) Session Law 1983-1034: clarifying that the sales tax restricted by SL 1983-273 applied only to taxes collected under Article 39;
- c) Session Law 1985-198: allowing the County to be reimbursed for funds expended for public junior high school constructions from Article 39;
- d) Session Law 1985-326: permitting the County of Burke to use its full receipts of Article 40 local sales and use tax, a portion of which is otherwise restricted for public school capital expenditures and debt payments, "for any public purpose for which Burke County is authorized by law to expend funds.";
- e) Session Law 2006-264: enacting significant changes to the distribution of Article 39 sales and use taxes by the County of Burke and allowing the County Commissioners discretion in the allocation of certain monies restricted to public school capital expenses and debt payments; and

WHEREAS, over the past 40 years, the Local Acts enabled the Burke County Board of Education and the County of Burke to provide public school children with excellent school facilities; and

WHEREAS, the Local Acts enabled the Burke County Board of Education to accumulate and retain a significant capital reserve for the continued maintenance and upkeep of school facilities; and

WHEREAS, over time, the amount lawfully restricted for public school capital expenses and debt payments has grown to a significant level thereby diminishing the need for the Local Acts; and

WHEREAS, the Burke County Board of Commissioners desires to have the flexibility to appropriate additional future revenue to the Burke County Board of Education for operational needs through annual increases to the Local Current Expense fund; and

WHEREAS, the Burke County Board of Education desires and endorses the need for additional operational funding to continue to support the school system and offset other increasing operational expenditures; and

WHEREAS, based on a new spirit of trust and collaboration between the Parties, the Parties jointly agree to their respective roles in the public education of children in accordance with North Carolina General Statute 115C; and

WHEREAS, the Parties jointly agree that corrective legislation is needed to repeal the local funding modifications created by the Local Acts and return Burke County to the school capital funding provisions available in other North Carolina counties under generally applicable law, including the statutory provisions applicable to the County of Burke's use of the Article 39, 40, and 42 sales and use tax revenues under Chapter 105 of the General Statutes of North Carolina.

NOW, THEREFORE, the Parties agree as follows:

1. The Parties, by and through their authorized representatives, shall present this Resolution of Support to the local delegation to the General Assembly and hereby request a corrective bill that repeals the local funding modifications created by the Local Acts and returns Burke County to the school capital funding provisions available in other North Carolina counties under generally applicable law, including all statutory provisions applicable to the County of Burke's use of the Article 39, 40, and 42 sales and use tax revenues under Chapter 105 of the General Statutes of North Carolina.
2. Immediately following the successful passing of the corrective bill set forth in Paragraph 1, both parties jointly agree, through authority hereby vested in the office of the County Manager and Superintendent, to draft a multi-year funding memorandum of intent and understanding that emphasizes increasing the annual local current expense appropriation to a more competitive per pupil amount. The agreement will be complete by the end of the 2023 - 2024 fiscal year. Fiscal year 2023 - 2024 will be the baseline local current expense year with a baseline of \$20,000,000 effective July 1, 2023. The agreement will also prioritize long term stability of the school capital reserve fund that considers sufficient funding strategies for outyear capital.

IN WITNESS WHEREOF, the parties hereto have executed these presents as of the day and year first above set forth.

BURKE COUNTY

By: /s/: Scott Mulwee

Chairman, Board of Commissioners

BURKE COUNTY BOARD OF EDUCATION

By: /s/: Wendi Craven

Chairperson, Board of Education

REMARKS

Seth Hunt, BOE member, emphasized that this is the best path forward to improve the education quality for the students. He commended the good fiscal stewardship of the BOE thus far and looks forward to a new relationship with Burke County. Leslie Taylor, BOE member, expressed how proud she was to play a small role in opening doors and creating new opportunities for the districts by passing this unprecedented resolution. Jane Sohovich, BOE,

expressed her appreciation of Brian Epley, County Manager, and Dr. Mike Swan, Superintendent, for their hard work in this matter. Aaron Johnson, Vice Chairman of the BOE, thanked the BOC and the BOE for all their efforts. Dr. Don Hemstreet, BOE member, expressed how excited he was to be part of this historic moment and how beautiful it was to see the BOE and BOC working in partnership with each other to achieve a unified goal.

Chairman Mulwee opened the floor for comments. Jeff Brittain, BOC Vice Chairman, and Commissioner Smith praised both Boards and their professional staff that worked on this initiative. Vice Chairman Brittain, after commenting on the difficulties this legislation caused, he also commended County Manager Epley for digging into the problem and taking action to resolve it. Commissioner Burns, a former member and Chairman of the Board of Education, expressed his personal frustrations with the challenges that stemmed from this legislation over the past eight (8) years and said he is happy to finally see a light at the end of the tunnel on this historic day. Mr. Epley was glad to be part of a team. He expressed admiration for the elected officials



BOE Chair Wendy Craven and BOC Chairman Scott Mulwee

uniting to achieve a common goal and thanked the professional staff who also played an important part in making this happen. Dr. Swan stated that it was a pleasure working with Mr. Epley.

Extract from Session Law 2023-143, ratified on October 25, 2023:

BURKE COUNTY LOCAL SALES TAX MODIFICATIONS

SECTION 11.(a) Chapter 273 of the 1983 Session Laws, as amended by Section 127 of Chapter 1034 of the 1983 Session Laws, and by Section 78 of S.L. 2006 - 264, is repealed.

SECTION 11.(b) Chapters 198 and 326 of the 1985 Session Laws are repealed.

SECTION 11.(c) This section is effective when it becomes law and applies to tax proceeds distributed on or after that date.

ADJOURN

Motion: To adjourn at 11:25 a.m.

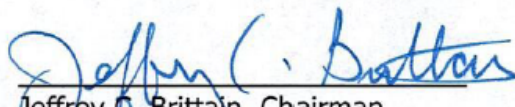
RESULT: ADOPTED [UNANIMOUS]

MOVER: Jeffrey C. Brittain

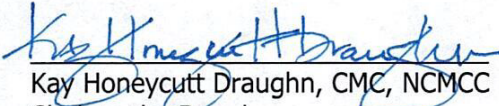
AYES: Scott Mulwee, Jeffrey C. Brittain, Randy Burns, Johnnie W. Carswell, and Phil Smith

Note: The Board of Education adjourned their meeting at 11:25 a.m. by a unanimous vote of 6-0. Tiana Beachler was absent.

Approved this 16th day of January 2024.


Jeffrey C. Brittain, Chairman
Burke Co. Board of Commissioners

Attest:


Kay Honeycutt Draughn, CMC, NCMCC
Clerk to the Board