

STEERING, LEGISLATIVE & GOVERNMENTAL COMMITTEE

May 30, 2012

6:00 p.m.

Courthouse

MINUTES:

MEMBERS PRESENT:

Commissioner Jack Black  
Commissioner Gary Farley  
Commissioner Trey Gooch  
Commissioner Jeff Jordan  
Commissioner Steve Sandlin  
Commissioner Robert Stevens  
Commissioner Adam Coggin, C

OTHERS PRESENT:

Ernest Burgess  
Sonya Stephenson  
Richard Garvin  
Rita Shacklett  
Brad Turner  
Keith Bratcher  
Joe F. Jernigan  
Lisa Nolen  
Laura Bohling  
Joyce Ealy  
Will Jordan  
Suma Clark  
Susan Allen  
Robert Arnold

Robert Peay, Jeff Phillips, Charlie Baum, Chantho Sourinho, Matt Young, Tiffany Phillips, Edward Phillips, James C. Cope, Coy Young, Steve Schroeder, Jim Stubblefield, Jim Daniel, Becky Shelton

Chairman Coggin presided and called the meeting to order at 6:03 p.m. with all members being present at that time.

MINUTES:

"Commissioner Gooch moved, seconded by Commissioner Farley, to approve the minutes of the last meeting as mailed. This motion passed unanimously by acclamation."

ANNOUNCE TWO VACANCIES ON COMMUNITY CARE BOARD:

Chairman Coggin advised the positions of Greg Lyles and Gene Patterson on the Community Care Board were expiring and accordingly being announced.

FILL TWO VACANCIES ON LINEBAUGH LIBRARY BOARD:

Chairman Coggin advised applications for appointment to the Linebaugh Library Board had been received from Suma M. Clark and Richard Garvin, Jr. A letter of recommendation for Ms. Clark and Mr. Garvin has been received from the Library Director advising the Board voted to endorse these applicants. Following discussion,

"Commissioner Farley moved, seconded by Commissioner Sandlin, to accept the recommendation of the Linebaugh Library Board and recommend appointment of Suma M. Clark and Richard Garvin, Jr. for appointment to the Linebaugh Library Board. This motion passed unanimously by acclamation."

FILL VACANCIES ON ROAD BOARD AND SCHOOL BOARD ZONES COMMITTEE:

Chairman Coggin advised per the Resolution passed by the Commission, the Road Board and School Board Zones Committee was to be comprised of a Road Board, School Board and County Commission member, appointees of the Mayors of LaVergne, Eagleville, Smyrna and Murfreesboro and two citizens who reside in the unincorporated areas of Rutherford County.

Chairman Coggin advised an application had been received from Keith Bratcher representing the Road Board.

"Commissioner Gooch moved, seconded by Commissioner Sandlin, to recommend appointment of Keith Bratcher as the Road Board representative on the Road Board and School Board Zones Committee. This motion passed unanimously by acclamation."

Chairman Coggin advised an application had been received from Aaron Holladay representing the School Board.

"Commissioner Sandlin moved, seconded by Commissioner Gooch, to recommend appointment of Aaron Holladay as the School Board

representative on the Road Board and School Board Zones Committee. This motion passed unanimously by acclamation."

Chairman Coggin advised an application had been received from Jeff Phillips representing the County Commission.

"Commissioner Farley moved, seconded by Commissioner J. Jordan, to recommend appointment of Jeff Phillips as the County Commission representative on the Road Board and School Board Zones Committee. This motion passed unanimously by acclamation."

Chairman Coggin advised an application had been received from Tonya Knell as the representative of LaVergne with a letter of recommendation from Mayor Senna Mosley.

"Commissioner Black moved, seconded by Commissioner Sandlin, to confirm appointment of Tonya Knell as the LaVergne representative on the Road Board and School Board Zones Committee. This motion passed unanimously by acclamation."

Chairman Coggin advised a letter had been received from the Murfreesboro Mayor recommending Jim Stubblefield as the City representative.

"Commissioner Farley moved, seconded by Commissioner Sandlin, to confirm appointment of Jim Stubblefield as the Murfreesboro representative on the Road Board and School Board Zones Committee. This motion passed unanimously by acclamation."

The Committee was advised there were no recommendations from the cities of Eagleville or Smyrna. Commissioner Stevens advised he had been told they would be submitting a recommendation but they did not get notice of the request. Commissioner Farley advised the Committee was established to have representatives from the different parties and if not whole then the Committee should not happen. Chairman Coggin advised on the application it says any unfilled or unapplied for position rolls to the next month. The Resolution asks the Mayors to recommend the representative so if received prior to the Commission this can go on. The Resolution does not say these positions are required to fill out applications for Steering to recommend.

Commissioner Gooch advised the County Clerk had assured that everyone would be notified. Commissioner Sandlin advised someone needed to check into that.

Chairman Coggin advised applications had been received from Katherine G. Hudgins, Coy Young and Edward M. Phillips, Jr. for the two citizen positions. Mr. Young and Mr. Phillips addressed the Committee. Mr. Young advised he was currently running for the School Board. Commissioner Stevens questioned if this was a conflict since a School Board representative is already on the Committee. It was discussed Mr. Young was applying as a citizen in an unincorporated area. Following discussion,

"Commissioner Sandlin moved, seconded by Commissioner J. Jordan, to recommend Edward M. Phillips, Jr. and Coy Young as representatives from the unincorporated area of Rutherford County on the Road Board and School Board Zones Committee. This motion passed by acclamation with Commissioner Stevens voting "no"."

Chairman Coggin advised if recommendations are not received from the Eagleville and Smyrna Mayors prior to the Commission then these positions will be announced again and will come back to Steering Committee. Commissioner J. Jordan advised someone needed to call the respective Mayors and explain the situation. Chairman Coggin advised he would contact the Mayors.

The Committee discussed how the first meeting should be set. Mayor Burgess advised the date needed to be coordinated so the room would be available and offered to have Ms. Taylor poll the group

for their availability.

"Commissioner Stevens moved, seconded by Commissioner Sandlin, to ask the County Mayor to establish the first meeting for the Road Board and School Board Zones Committee after the full Committee is established. This motion passed unanimously by acclamation."

**CIRCUIT COURT CASE MANAGEMENT SYSTEM:**

Circuit Court Clerk Laura Bohling addressed the Committee to advise of progress on the case management upgrade project providing information on the history, current state and timeline projections advising time will be of the essence as there are seven contracts with the current vendor with different end dates, different terms and different termination requirements. Ms. Bohling will update the Committee again in August.

**COUNTY ATTORNEY LEGAL SERVICES AGREEMENT:**

The Committee was reminded last month a motion was passed for the County Mayor to proceed to the Budget Committee to establish an in-house County Attorney's office. There has been much discussion and the matter was brought up at the Commission with Commissioner Baum presenting a Resolution to continue with the Cope firm. A motion was made to send the matter back to Steering Committee for discussion.

Mayor Burgess reviewed the history of discussions and actions regarding an in-house attorney's office occurring since 2007 providing copies of the Private Act of 1957 establishing the County Attorney. Section 5 sets forth the functions and duties to render all legal services to the County and/or any of its officials, departments, offices, branches and boards and to prosecute and defend all suits instituted by or against the County. Also provided were copies of the September 5, 2007, September 9, 2009, September 30, 2009, November 2, 2009, December 7, 2009, January 4, 2010 and February 1, 2010 Steering Committee minutes showing discussions regarding the office. The Private Act of 2010 modifying the County Attorney's office was also provided. The guidelines for the County Attorney adopted September 14, 1987 by the Commission were provided which required attendance of meetings upon request and providing for a secretary. Mayor Burgess advised there is likely a document regarding litigation being paid separately but it has not been located. Mayor Burgess advised prior to the September 9, 2009 Steering meeting then Commissioner John Rodgers sent an e-mail regarding an agreement for the gradual transition to in-house and established the two year period currently ending with two more years for the Cope firm to handle litigation. Mr. Cope prepared the agreement. Mayor Burgess advised he believed the two year term was intended to transition to in-house counsel and he had not thought a budget meeting was necessary with Mr. Cope.

Mayor Burgess next advised of advantages to an in-house attorney's office including earlier intervention in problematic situations, greater risk avoidance opportunity, creating a stronger development of synergy between departments, cohesively working together, a source of active daily advice and consultation, more availability to do research of routine issues. broader availability to all departments, available for State legislative research, liaison and intervention as needed with State representatives, etc.

Mr. Cope advised he was happy to do whatever the Commission wanted to do but the criteria for the office is quality of services, what can you get and cost effectiveness. Mr. Cope advised he felt his office had been responsive to the needs of the various department heads and employees. It was suggested a survey of department heads may be helpful.

Commissioner Sandlin advised this was not a surprise as it has come up during the tenure of John Mankin, Nancy Allen and now Mayor Burgess but should have already been put out there and hired. Commissioner Sandlin inquired if Mr. Cope would continue until the

County could get someone in place.

Mr. Cope advised he had heard nothing from the Mayor or Finance Director on any issues and his surprise was due to not getting invited to review his budget. Mr. Cope advised he would have hoped to start the process six months ago and he has had no discussions with the Mayor or anyone to date.

Chairman Coggin advised Susan Allen with Rutherford Neighborhood Alliance had ask to address the Committee and asked if the Committee wanted to suspend the rules. Commissioner Farley advised he wanted the numbers including information on delinquent tax.

"Commissioner Gooch moved, seconded by Commissioner J. Jordan, to suspend the rules to allow Susan Allen representing RNA to address the Committee. This motion passed unanimously by acclamation."

Ms. Allen addressed the Committee reading from a prepared statement and advising RNA advocated the establishment of a County Legal Department, headed by an attorney who reported to the Board of Commissioners and serves only them, the County Mayor and staff and employees of the various County Departments and Agencies.

Chairman Coggin advised the Committee previously passed a motion to proceed with in-house counsel and now have 31 days to establish the same. The Commission can try to overcome the time frame or evaluate the numbers. The Commission may want to continue the Legal Services Agreement to have time to establish the in-house office. If no action is taken by the Committee or Commission in June then the County is proceeding with an in-house attorney.

Commissioner J. Jordan inquired how the attorney would be selected. Commissioner Farley advised applications needed to be taken with the Mayor to interview and make a recommendation. Mayor Burgess advised he thought Steering Committee should appoint a sub-committee to narrow down the applicants to three or four and then let the Steering Committee interview and make a recommendation. The decision should be by the Steering Committee and Commission per the Private Act.

Commissioner Baum provided pages from prior budgets reflecting where he got the numbers for his Resolution. Commissioner Baum advised the Mayor's budget is \$338,560 for personnel and expenses while Commissioner Baum's recommendation is \$259,047 as a flat fee for legal services. Litigation costs are not included.

Finance Director Nolen next provided a summary of the legal fees paid since 04/05 advising the delinquent tax would become a new revenue source for the County. An evaluation of the two proposals was presented and it appeared the true cost of the Mayor's recommendation was \$178,560 and Commissioner Baum's was \$419,000. There appears to be a projected savings of \$240,440 with the Mayor's recommendation.

Commissioner Baum advised a concern is that an in-house attorney cannot handle all the work required and file the same number of delinquent tax suits as Mr. Hudson currently does. 450 suits were filed last year.

Commissioner Jeff Phillips ask if Commissioner Baum's Resolution included the administrative assistant that handled the delinquent tax work. Commissioner Baum advised the Resolution only shows the salary of \$72,000 not including benefits and general legal services.

Commissioner Baum advised his Resolution was based on the 09/10 budget. The Committee was advised the 09/10 budget included three salaries.

Ms. Nolen advised she had spoken with Joanna Riggs of Chancery Court on the process for handling and filing delinquent tax

suits and presented written information on the process and how much is handled by the administrative assistant. The assistant's goal is to file ten suits per week. The Committee was advised the Cope law firm does pay 75% of the base salary of this administrative assistant.

Mr. Cope advised delinquent tax is a complicated and complex process and ultimately the attorney is responsible to make sure it is done correctly. The Committee was advised Mr. Hudson does not keep up with his time dedicated to delinquent tax but does work hard.

Mr. Cope advised for years the County had insurance coverage to cover litigation costs but the County is now self-insured with the first \$350,000 of any claim coming out of the County's pocket. Under the Governmental Tort Act claims are capped at \$300,000 so essentially the County pays all claims. The County can either pay big insurance premiums or pay attorneys to handle the litigation and this is the reason the litigation costs have increased so much. Additionally, civil rights matters are not capped.

Mayor Burgess advised there is reason to believe one attorney could handle the non-litigation and delinquent tax work.

Commissioner Stevens advised he trusted the Cope advice and documents.

Commissioner Sandlin advised this is not new news and the Mayor acted upon the direction of the full Commission. He would have preferred better communication and already had applications in hand. Options were to ask the Cope law firm to continue for six months to two years or proceed with in-house counsel.

"Commissioner Sandlin moved, seconded by Commissioner Gooch, to approve and proceed with the County Mayor's recommendation as to establishing an in-house County Attorney's office."

Commissioner Farley advised if the motion passes then time will be needed to implement and it cannot be done by June 30. Commissioner Sandlin advised he does not want to be rushed but knew two years was 2012 and this has been discussed for years.

Commissioner W. Jordan addressed the Committee advising he voted for a two year contract and never voted to hire in-house counsel. Additionally, a prior Commission cannot bind future Commissioners like that. The matter was supposed to be revisited. In-house counsel may work but the County does not have time now and any attorney would need to work with the Cope law firm.

Commissioner Peay addressed the Committee advising the County can extend the contract but part of the reason two more years was given was to get Mr. Cope to his thirty years for retirement and he thought the County could hire a temporary attorney to help in the transition if the Cope law firm did not want to help even after the thirty year relationship.

Commissioner Young advised the new Commissioners did not vote on the agreement and not enough time was given to get in place what is needed. The County needs a plan to start in January and follow. Commissioner Turner echoed what Commissioner Young said and advised he supported Commissioner Baum's Resolution as he was concerned about making a rush hire and appreciated both positions.

Commissioner Joe Frank Jernigan advised when he voted he figured the County would have an agreement with the Cope law firm to continue on and help because one attorney cannot handle everything.

Commissioner J. Phillips advised his concerns at the Commission was the in-house counsel process started long ago and everything worked on for the last three to five years was going to be done away with. He has heard the in-house counsel can save money and he thought would help the Mayor. As big as Rutherford County is an

in-house attorney is needed. Commissioner J. Phillips further advised he agreed at some point one lawyer cannot handle everything but it has to be established and go. The matter should have been brought up a year ago for smoother transition and recommended a contract for six months to a year. Mr. Cope has made the comment he as well as his firm would help the County and the Mayor was right on moving forward. Hours of study went into this issue and Commissioner J. Phillips thought from the research in the past it would save money. Commissioner J. Phillips recommended seeing if the contract with the Cope law firm can be extended but it needed to be determined if the County was going in-house or not.

"Commissioner Farley moved, seconded by Commissioner J. Jordan, to amend the original motion to extend the contract with the Cope law firm for one year based on the \$259,000 in Commissioner Baum's Resolution to go through the hiring process and transition period. This motion failed by roll call vote with Commissioners Farley, J. Jordan and Sandlin voting "yes" and Commissioners Black, Coggin, Gooch and Stevens voting "no"."

Commissioner J. Jordan advised seven of the current Commissioners did not vote on the contract and five were attending this meeting. Mayor Burgess did what was ask of him but Commissioner J. Jordan questioned if the present County Attorney had done a good job and the answer was yes. So the next question is does the Commission want to change now and the answer is no. Commissioner J. Jordan advised he could support a different timeline.

Commissioner Gooch ask if the Cope law firm would work with the County in a transition. Mr. Cope advised he met with Commissioner Baum to discuss a two year contract at the fixed rate and he had made a moral commitment to that. Anything else he would have to talk to the other six lawyers in his firm to determine what they would do going forward and he could not answer that at this time but they would thoughtfully discuss. Mr. Cope advised they would do the two year agreement because he had committed with Commissioner Baum and anything else would have to be discussed. Mr. Cope advised they would be happy to aid and assist but he did not know now what will happen.

Commissioner Sandlin ask the County Mayor what was his thoughts on the time frame. Mayor Burgess advised he had been overly optimistic and have now lost twenty days which they may could have posted the position and brought someone forward. If the County does not get the right applicant then the Mayor recommended continuing with the Cope law firm.

Commissioner J. Jordan ask if Mr. Cope would support one year and Mr. Cope advised that decision would have to be made by the partners.

Mayor Burgess advised the litigation part continues unless terminated with 180 day notice.

"Commissioner Stevens moved, seconded by Commissioner J. Jordan, to amend the original motion to extend the contract with the Cope law firm for two years based on the \$259,000 in Commissioner Baum's Resolution. This motion passed by roll call vote with Commissioners Black, J. Jordan, Stevens and Coggin voting "yes" and Commissioners Farley, Gooch and Sandlin voting "no"."

"Commissioner Stevens moved to amend the original motion to remove the original motion and make the two year contract under Commissioner Baum's Resolution. This motion failed for lack of a second.

Chairman Coggin ask if the maker and second of the original motion would rescind the motion and Commissioner Sandlin advised he would not.

"The original motion to approve and proceed with the County Mayor's recommendation passed by roll call vote with Commissioners

Black, Farley, J. Jordan, Stevens, and Coggin voting "yes" and Commissioner Gooch and Sandlin voting "no".

DISCUSS NEXT MEETING:

Chairman Coggin advised the next meeting would tentatively be scheduled for June 21 and if no business would be cancelled.

There appearing to be no further business to come before the Committee, Chairman Coggin declared the meeting adjourned at 9:20 p.m.

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ADAM COGGIN, Chairman