

**MITCHELL COUNTY BOARD OF COMMISSIONERS**

**SPECIAL SESSION**

**MINUTES**

**FEBRUARY 11, 2005**

**NORTH CAROLINA**

**MITCHELL COUNTY**

The Mitchell County Board of Commissioners met in Special Session on February 11, 2005 at 6:00 p.m. in the Commissioners' Conference Room, Administration Building, Bakersville, NC. Those present for the meeting were Keith Masters, Chairman; Ken Hollifield, Vice-Chairman; Phil Byrd, Member; Mike Hensley, Member; Jim Saylor, Member; and Kathy Young, CMC to the Board. Also present were Mavis Parsley, Finance Officer; Lloyd Hise, County Attorney; Shirley Hise, Mitchell County Chamber of Commerce; Nathan Hall, Reporter with the Mitchell-News Journal; Steve Murphy, Reporter with WTOE/WKYK; Brian Garland, Tax Collector; Ted McKinney, Clerk of Court; Sharon Hollifield, Phil Castro, Ed & Jana Reid, Hazel Yelton, Carl Braswell, Jean Saylor, Mike Young, Fleet Hensley, Lisa Byrd, Lori Pitman, Fred Hilemon, Harper Wilson, David Carpenter, Ruthie Styles, Terry Jones, Vinny Bonaminio, Kathleen Byrd, Pat Wilson and Roger Wilson.

1. **CALL TO ORDER** – Chairman Masters called the meeting to order at 6:00 p.m.
2. **INVOCATION** – Commissioner Hollifield gave the invocation.
3. **ADDITIONS/CHANGES TO THE AGENDA** - None
4. **APPROVAL OF MINUTES** - None
5. **ITEMS FOR DISCUSSION/DECISION**
  - A. **Terms of Employment for Temporary County Manager** – Commissioner Byrd called point of order and informed Chairman Masters that the Board was out of order. He respectfully made a point of order that at the regular meeting of the Mitchell County Board of Commissioners that was held on Monday, February 7, 2005 that the action taken to hire Mr. Philip Castro as temporary county Manager be declared invalid, because the Board acted without proper authority and that any further action taken on this matter be declared invalid.

Chairman Masters asked Commissioner Byrd what this was based on.

Commissioner Byrd stated the agenda was adjusted to start discussion of the probability or possibility of naming or looking for a temporary county manager. He said it was never amended to take any action upon hiring anyone.

County Attorney Hise told the Board that in a regular meeting, not a specially called meeting, the Board could discuss any item whether it is on the agenda or not.

Commissioner Byrd called point of order and submitted it to the members of the Board. He asked if Chairman Masters would like to hear the motion. Commissioner Byrd stated he had made the motion upon Chairman Masters's recommendation.

County Attorney Hise explained to the Board that Commissioner Byrd had called a point of order and the Chairman had to rule on the point of order, whether the point of order is in order or the point of order is rejected.

Chairman Masters asked County Attorney Hise if the manner the Board handled this issue was incorrect. County Attorney Hise stated that in his opinion that in a regular meeting the Board can discuss any matter that comes before it and take action on it. He stated that Chairman Masters had to rule on the point of order as being valid or invalid.

Chairman Masters told Commissioner Byrd that the point of order was invalid, based upon what council has told the Board they can legally do.

Commissioner Byrd appealed Chairman Masters ruling to the other Board members.

County Attorney Hise told the Board they would have to vote on the ruling of the Chair.

Commissioner Byrd told the Board members that when the board moved to amend the agenda, the intent of that was to discuss hiring somebody. Commissioner Byrd informed Mr. Castro that this was not anything personal to him, because he had never met him before. He said he felt the motions of the Board were wrong and did not know the intent, but he felt the citizens were short-changed because two members of the Board were not consulted and did not have the chance to meet the gentlemen who is going to be taking care of the peoples business. Commissioner Byrd asked to have the reconsideration of the Board and have the opportunity to meet Mr. Castro.

County Attorney Hise told the Board that Commissioner Byrd had made a point of order that the business conducted on Monday night was out of order. The Chair ruled that it was not out of order and Commissioner Byrd has appealed that ruling to the Board. The Board has to vote on whether the Chair is correct on its ruling.

Commissioner Hollified asked County Attorney Hise if the Board could discuss anything they want to discuss at a regular meeting. County Attorney Hise told the Board that at a regular meeting they were not limited to the agenda.

County Attorney Hise told the Board they would be voting to determine if the ruling of the Chair is to be sustained or overturned. A yes vote would sustain the ruling and a no vote would overturn the ruling of the Chair.

Commissioner Hensley stated based on County Attorney Hise's opinion the Board at a regular meeting can discuss and take action on it, the Board was within its rights to do so.

Commissioner Byrd stated that in a matter of this magnitude that every person on this Board needs the opportunity to make an educated decision. When he did not have the information or the ability to do that, he felt this

was shortchanging the people of Mitchell County. He stated that he did represent the people also on whatever the issue is. Commissioner Byrd said that this Board at this point has the opportunity to look at this and determine if the correct thing to do was to backup and look at this when all the Board has the information and knowledge that some of the Board has. He said to make it fair and right with the people.

Commissioner Hollifield stated that he met Mr. Castro about 20 minutes ago for the first time. He agreed somewhat with Commissioner Byrd about not having the opportunity to meet him prior to the decision to hire him. Commissioner Hollifield said that when the Board started the hiring process after Justin Hembree left and the Board hired Ryan Whitson, the Board on the advise of County Attorney Hise set a policy in place to advertise for this position so they would not be discriminating against anyone. The Board has discriminated against some people in the County, because he felt like there were other people that were just as qualified as Mr. Castro. Commissioner Hollifield stated that he felt the position should have been advertised to be completely fair on it. He said he did not feel that it was up to the Board to take it upon themselves bypassing the citizens of the county on somebody's recommendation to go out and hire somebody to fill a slot that is as important as the county manager. Commissioner Hollifield stated that it was his duty to the citizens of the county, when he didn't know Mr. Castro, nothing about him and how he would lead this Board, to vote against the motion to hire him. He felt the position should have been advertised. Commissioner Hollifield said he felt left out didn't know the man and it was like putting a fox in a hen house.

Commissioner Saylor said that he did not have any further discussion. The Board acted in a legal manner and within it rights and had made a wise decision.

Chairman Masters asked the Board to vote on the ruling of the Chair. All members of the Board voted yes to sustain the ruling of the Chair. Commissioner Hollifield voted yes based on the information provided by County Attorney Hise. Commissioner Byrd voted yes based on council's advice, but he felt it was out of order.

Chairman Masters read a letter from County Manager Whitson (a copy is hereby attached and becomes a part of the minutes) concerning his request for compensation during his military leave.

County Attorney Hise asked the Chairman to change the position from temporary county manager to acting county manager.

Each Board member was given the opportunity to ask Mr. Castro any questions they might have and to discuss the number of hours and rate of pay he expected to receive.

Mr. Castro stated he was retired from Baxter's' and was not looking for a full-time job. He would like to have the flexibility to work the hours necessary to do the job. Mr. Castro stated he was looking at about 20 hours per week but that was negotiable.

Commissioner Saylor moved to pay Mr. Castro at a rate of \$20 per hour with flexible time not to exceed 39 hours per week. Commissioner Byrd seconded the motion and it carried unanimously.

**6. PUBLIC HEARINGS/MEETINGS - None**

**7. RESOLUTIONS/PROCLAMATIONS/ORDINANCES - None**

8. **REPORTS/PRESENTATIONS** - None
9. **APPOINTMENTS** - None
10. **RELEASES/REFUNDS**
  - A. **Releases/Refunds for Board Approval**
  - B. **Release/Refunds for County Manager Approval**
11. **COUNTY MANAGER'S REPORT** - None
12. **BOARD COMMENTS** - None
13. **CLOSED SESSION** - None
14. **CITIZEN & AUDIENCE COMMENTS**
  - A. **Matters on the Printed Agenda** – Ed Reid stated that he didn't feel shortchanged in the decisions that the Board has made and if he did he would be the first to say so. He said that he did not feel it was the intention of the Board to shortchange anybody. Mr. Reid said that he had met with Mr. Castro and agreed that he was a good choice. He said he felt the Board was doing a good job and did represent all the people of this county.
  - B. **Matters not on the Printed Agenda**
15. **ADJOURNMENT** – Commissioner Hollifield moved to adjourn the meeting. Commissioner Hensley seconded the motion and it carried unanimously.

The meeting adjourned at 5:50 p.m.

MITCHELL COUNTY BOARD OF COMMISSIONERS

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Keith Masters, Chairman

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Ken Hollifield, Vice-Chairman

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Phil Byrd, Member

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Mike Hensley, Member

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Jim Saylor, Member

ATTEST:

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Kathy Young, Clerk to the Board

