

MACON COUNTY BOARD OF COMMISSIONERS  
SPECIAL MEETING  
FEBRUARY 3, 2006  
MINUTES

Chairman Bryson convened the special meeting at 4 p.m. as posted and explained the purpose of the meeting was to consider potential litigation which is usually a closed session matter but would be discussed in open session at this meeting.

All Board members with the exception of Commissioner Davis, who was out of town, the County Manager, Staff Attorney, Deputy Clerk, members of the news media and interested citizens were present. Commissioner Shepherd gave the invocation.

Chairman Bryson announced that the County Staff Attorney and the Highlands Town Attorney would be allowed to speak on the subject matter. Staff Attorney Rick Moorefield presented a draft complaint against the Town of Highlands, which he had proposed filing as a declaratory judgment action for the Court to declare the number of members to which the County and the Town of Highlands were entitled to appoint to the Town's Planning Board and Zoning Board of Adjustment to establish the proportional representation of ETJ residents required by statute.

The Staff Attorney stated that the complaint named the County, each of the County Commissioners in his official capacity, and Chairman Bryson in his individual capacity as a resident of the ETJ as Plaintiffs in order to address legal issues related to standing. The Staff Attorney stated that the basis for this action was his opinion that the Town had not properly calculated the population in the Town or in the ETJ to establish the two seats that the County Commissioners had already appointed. The Staff Attorney stated that his attention was brought to this issue because of the substantial discrepancy between population figures calculated by the Town and as determined by all other official sources. The Staff Attorney stated that it was necessary to consider this matter in this special meeting because the statute of limitations was only two months and ran before the next regular Board meeting. The Staff Attorney then reported that he and Chairman Bryson had met with the Town Attorney before the meeting and as a result of that meeting he recommended that the Board accept the offer of the Town to waive the statute of limitations for thirty days to give Town and County officials an opportunity to resolve this issue. The Staff Attorney stated that the Town Attorney would address the terms of that offer.

Highlands Town Attorney Bill Coward reported that the Town did wish to waive the statute of limitations for thirty days in order to attempt a mediated resolution of this issue with the County. The Town Attorney stated that the Town was willing to do this if the County would waive any potential claims with regard to the Town's failure to amend the ordinance establishing the Town's Planning Board.

The Staff Attorney stated that this had not been brought up in the prior discussions among the Town Attorney, the Staff Attorney and Chairman Bryson, and he advised the Board not to waive any potential claims.

In response to questions from Vice-Chairman Leatherman, the Staff Attorney stated that any potential claim arising out of deficiencies in the process used by the Town would be resolved with resolution of the larger issue of proportional representation.

The Town Attorney requested the Board to consider the offer of the Town to waive the statute of limitations for thirty days with each party appointing a committee consisting of two of its Board members and its attorney for the purpose of attempting resolution of this issue.

The Staff Attorney stated that this would be acceptable upon each party

signing a written agreement as to the terms which he would prepare the next day.

Vice-Chairman Leatherman made a motion to accept the Town's offer to waive the statute of limitations for thirty days, forego filing the proposed complaint during this time period, and appoint two Commissioners to serve on a committee with the Staff Attorney to attempt resolution of the issues identified in the proposed complaint with representatives of the Town. The motion was seconded by Commissioner Shepherd and all favored.

By consensus the Board determined that Chairman Bryson and Commissioner Simpson would serve on the committee with the Staff Attorney.

Upon motion by Commissioner Leatherman the meeting was adjourned.

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Sam K. Greenwood, County Manager  
Clerk to the Board

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Daniel A. Bryson  
Board Chairman

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