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SPECIAL CALLED MEETING

September 15, 2014

7:00 p.m.

The Perquimans County Board of Commissioners met in a Special Called Meeting on Monday, September 15, 2014, at 7:00 p.m. in the Commissioners' Room located on the first floor of the Perquimans County Courthouse Annex.

MEMBERS PRESENT: Janice McKenzie Cole, Chair Edward R. Muzzulin, Vice Chair  
Benjamin Hobbs Kyle Jones  
Tammy Miller-White Matthew Peeler

MEMBERS ABSENT: None

OTHERS PRESENT: Frank Heath, County Manager Mary Hunnicutt, Clerk to the Board  
Hackney High, County Attorney

After the Chair called the meeting to order, Commissioner Peeler gave the invocation and the Chair led the Pledge of Allegiance.

SCHOOL RESOLUTION

Chair Cole stated that the first item of business was the School Resolution that we presented at the September 2, 2014 meeting. She stated that there was some conflict in the two General Statutes cited in the Resolution which are 115C-528 (G.S. 115C-528) and 115C-441 (G.S. 115C-441). County Attorney High provided the following explanation:

Within G.S. 115C, there are two statutes that are applicable to this situation that we are having a hard time reconciling. As he has mentioned to Chair Cole and County Manager Heath, this is not the first time that Legislature has passed laws that are inconsistent or irreconcilable between one another. G.S. 115C is the chapter that governs the governance & business of our local Boards of Education. G.S. 115C-441(c1c) states that under lease/purchase agreements such as this that extends beyond one fiscal year that the County Commission has to enter into a Resolution appropriating the funds for the life of that lease/purchase agreement. That Resolution and that language of the General Statute would appear to bind us for future years. G.S. 115C-528 then gives us some protective language that may give the County Commission a way out. He further stated that he may not be able to reconcile the two General Statutes but he felt that he would be able to find some potential ways out for the Commission. He knows that the Commission, Janice, and Frank would feel much more comfortable if we would find some language or if he could find some ways out of the Resolution. If the Board of Education would back out of the Agreement or if Golden Leaf Foundation would no longer fund years two and three, then G.S. 115C-528 would give us some language that would protect the Commission. He further pointed out that he feels that he could put forth a fairly good argument with Apple that we, as a Board of Commissioners, would not owe them anything because we did not enter into this agreement with them and did not owe them anything contractually.

Chair Cole asked if there were any questions for County Attorney High or for the Board of Education. The following questions were asked:

- **Commissioner Peeler:** Based on the way you (County Attorney High) are describing it now, does G.S. 115C-528(e) imply or say that the Commission will be required to continue paying on years beyond the three years. Mr. High said that it is governed by its terms and if the agreement is for three years it ends at the end of the three years.
- **Commissioner Miller-White:** Based on what Mr. High is saying and on the way the Statutes are worded, if the Board signs this Resolution, this should not be an issue. Mr. High said that he thought so. The first problem that could arise is if Golden Leaf withdrew the funds which we really do not think will happen. Mr. High still feels that we should be okay in that situation.
- **Commissioner Miller-White:** Part of the reason why they are going with the lease/purchase agreement is because of these safety triggers in place as we go through each year. Being that we have had many grants with the School System, we have had a good track record with them. Mr. High said that we should be okay.
- **Commissioner Peeler:** Based on the language that we have been hearing tonight, in our budgetary process, do we have to allocate \$231,000 next fiscal year to cover this agreement until Golden Leaf pays their funds which, at that point, we will release the \$231,000. Mr. High said that he thought so but he would defer to Frank Heath or Sharon Ward to see how that will work. Mr. Heath said that it is not our grant and he feels that we would not list it in our budgetary funds because there are various legalities that we could use to withdraw from this agreement. Also, if the Board chooses to continue with the agreement, he would appropriate fund balance and budget it at that time. He further stated that it is not necessary to budget the funds until the event is triggered. Mr. Peeler further asked that, if Apple needed their funds in December but Golden Leaf would not pay until January, will the County have to use their money until Golden Leaf pays their funds. Mr. Heath said that, at that point, he would have to have a talk with Dr. Stallings to discuss their Capital Reserves. Dr. Stallings had discussed this before but he was hoping that this would not happen.
- **Commissioner Peeler:** G.S. 115C-528 references G.S. 115C-102.6A which refers to the N.C. Instructional Technology Plan. In most of the questions that he forwarded to the Board of Education, he asked if they have a plan and could they provide a copy of that plan to the Commissioners. Since he has not received any information on this plan from the Board of Education, he does not feel comfortable moving forward with this program.

Tammy Miller-White made a motion to adopt the following Resolution. The motion was seconded by Kyle Jones and passed by a vote of five (5) to one (1) with Commissioner Peeler voting against the motion:

RESOLUTION

PERQUIMANS COUNTY BOARD OF COMMISSIONERS

**WHEREAS**, the Perquimans County Board of Education wishes to enter into a continuing contract for capital outlay under N.C. Gen. Stat. §115C-528 with Apple, Inc. for the purchase of certain computer hardware, software, and/or related equipment to be used for public school purposes; and

**WHEREAS**, the contract will require the Perquimans County Board of Education to pay Apple, Inc., a total of Six Hundred Ninety-Five Thousand Six Hundred Seventy-Five Dollars and Twenty-Two cents (\$695,675.22) over the 2014-15, 2015-16, 2016-17 fiscal years, as reflected in more detail on the attached Schedule in Exhibit A; and

**WHEREAS**, the contract may be a continuing contract for capital outlay subject to the provisions of N.C. General Stat. §115C-441(c1) and 115C-528; and

**WHEREAS**, the Perquimans County Board of Education has received funding for the project from the Golden Leaf Foundation, and intends to fund the project with these monies.

**NOW, THEREFORE, BE IT RESOLVED**, that, in the case of the withdrawal of funds by Golden Leaf, the Perquimans County Board of Commissioners agrees to appropriate sufficient funds to the Perquimans County Board of Education in ensuing fiscal years to meet the Apple, Inc. contract obligations, so long as the amount the Perquimans County Board of Education shall be obligated to pay under the contract shall not exceed the amounts recited above.

Resolved, this 15<sup>th</sup> day of September, 2014, by the Perquimans County Board of Commissioners.

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 Janice McKenzie Cole, Chair  
 Perquimans County Board of Commissioners

Attest:

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 Mary P. Hunnicutt, Clerk to the Board

Dr. Stallings said that he did receive Commissioner Peeler's questions which were addressed to the Board of Education. They are having retreat this weekend and will discuss those questions during that retreat and let him know.

**AMENDED AUDIT CONTRACT & BUDGET AMENDMENT NO. 7 – TDA AUDIT**

County Manager Heath asked Commissioner Muzzulin, Chairman of the Tourism Development Authority Board (TDA), if he would like to talk about this. Mr. Muzzulin said that he passes to Mr. Heath or Ms. Ward. Mr. Heath explained that the Local Government Commission (LGC) had contacted the County and explained that Tourism Development Authorities were like their own little administrative entities and should be treated as such. Therefore, they should have been providing their own audits where, in the past, were included under our audit. They did give us the option that they could piggyback onto our audit with a separate document provided to LGC. The advantage to this would be that it would save TDA about \$2,000 a year. Therefore, they are providing an amended Audit Contract with Douglas Hollowell to provide a separate audit for TDA under our current audit providing LGC with separate documentation. Mr. Heath asked if Ms. Ward had anything to add. Ms. Ward said that the only thing she wished to add was that, back in 2008 when we did the Occupancy Tax, we were not told that the TDA was required to have a separate audit. She further stated that this year they have cracked down on this and that there are several counties that were not providing the separate audit. On motion made by Tammy Miller-White, seconded by Edward R. Muzzulin, the amended contract with Douglas Hollowell and the following Budget Amendment No. 7 were unanimously approved by the Board:

**BUDGET AMENDMENT NO. 7  
 TOURISM DEVELOPMENT FUND**

CODE NUMBER	DESCRIPTION OF CODE	AMOUNT	
		INCREASE	DECREASE
45-399-000	Fund Balance Appropriated	2,000	
45-682-040	Professional Services	2,000	
<b>EXPLANATION:</b> To budget funds for audit contract and finance bond as required by LGC.			

**ADJOURNMENT**

There being no further comments or business to discuss, the Special Called Meeting was adjourned at 7:30 p.m. and the Regular Work Session began on motion made by Edward R. Muzzulin, seconded by Matthew Peeler.

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 Janice McKenzie Cole, Chair

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 Clerk to the Board

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