

COUNTY PERSONNEL COMMITTEE MEETING
WEDNESDAY, JANUARY 12, 1994

PRESENT: Tom Bacote
Johnnie Evans
Cliff Strassenburg, County Manager
Major James Bowser, Sheriff's Department
Doug Candlers, Trial Attorney
Danny Higgins, Deputy County Attorney
Pat Jones, Personnel Director
John Nalepa, Finance Director
Rhonda R. Davis, Deputy Clerk

ABSENT: Juanita Gonzalez

Meeting began at 8:25 A.M.

AGENDA ITEMS

1. Election of Chairman

Commissioner Bacote nominated Johnnie Evans for the position of Chairman of the committee.

Commissioner Evans stated he felt all of the committee members should be present in order to elect a chairman.

2. Selection of Regular Meeting Date.

Both Commissioners Bacote and Evans expressed they had conflicts with the current meeting date and time.

3. Discussion of Eligibility of Jailers for Enrollment in Law Enforcement Retirement System.

Cliff Strassenburg advised there is a clear understanding among everyone involved that any jailer who is not a sworn law enforcement officer needs to be removed from the LEO retirement system. The Sheriff confers with this. This is also a ruling from the state and everyone is of the consensus that these officers should be removed. This will affect approximately forty (40) jailers. This leaves approximately twenty (20) jailers who are sworn officers. There are two tests in order to be enrolled in the LEO retirement plan. One is that the deputy be a sworn law enforcement officer and second, the officer's primary duty must be that of enforcing the law. The county is in the process of trying to obtain in writing what the state defines as a law enforcement officer's primary duties, but they have been unsuccessful to date in obtaining this information. The state is giving the information verbally, but have submitted nothing in writing to date.

Doug Candlers advised the state is saying unless the officer is performing arrests and patrol duty, he or she will not meet the criteria.

Mr. Strassenburg stated they are trying to force the state to put their stand in writing, but it has been very slow getting this done. The people who are coming out of the system are not the issue. They have sent a letter of questions to the Retirement System, the Attorney General and to BB&T. BB&T manages the system. They have received a response from Andrew P. McNeill, Sr. Vice President of BB&T. A copy of the response was presented to the committee members, (Exhibit "A"). The issue is about contributions made for people who were not supposed to be in the system in the first place. The response was that the employee nor the county could recover the contributions made in error. That is what the board has been advised of to date. The full board then asked the personnel committee to review this situation and come up with a resolution.

Commissioner Evans stated he had spoken with the Sheriff and he advised one thing that could be done would be to certify all of the officers in the jail.

Mr. Canders and Mr. Strassenburg advised that is not the problem now. The question is about the primary duties of the position. The state says the primary duties must be serving of papers, enforcing the law, etc., but the state will not put this in writing.

Mr. Strassenburg advised if the state would put this information in writing, the county could work to correct the situation.

Commissioner Evans also stated it is his understanding that it will be difficult to get the legislature to change the definition of a law enforcement officer to include jailers because of the cost involved. He understands that jailers in our state prisons do not qualify to be in this retirement system. The cost to the state would be great if the definition in the law was changed.

Major Bowser stated he feels everyone is saying a line officer is the only one who is a law enforcement officer. Even the supervisor of a road patrol may not meet the criteria specified by the state. If a jailer has the power of arrest, he or she should be included in the system. This issue is two fold. In the latest lawsuit against the Sheriff's Department, a ruling was made stating law enforcement officers are not county employees, which would mean they are not subject to county classification. He contends they are not speaking of county employees, but Sheriff's Department employees. They are not bound by county procedures, they are bound by Sheriff's Department procedures. During Otis Jones' term as Sheriff, he committed funds for these employees for this purpose. This was approved and funded by the board of commissioners for a number of years. The questions is now whether the county can come

in and say it was an error that they enrolled these employees. They feel the Sheriff made a commitment to these employees and that it should be held up.

Commissioner Bacote asked if he meant these officers are not county employees.

Major Bowers stated these officers are bound by the Sheriff's policies and procedures.

John Nalepa advised the 401K program came about in 1986. The only thing the county was paying for law enforcement officers was what they were paying for regular county employees.

Major Bowser stated there is an agreement with the employees of the Sheriff's Department and the Sheriff that they will receive this amount for their retirement. This has been budgeted and approved by the board.

John Nalepa stated years ago when Otis Jones was Sheriff, a person could be in the Law Enforcement Officers retirement system or they could be in the local government employees retirement system. Sheriff Jones discovered that law enforcement officers were accumulating money which was put into a fund for them by the court system. Sheriff Jones asked him to check with the retirement system and enroll the law enforcement officers and asked the county to put in the money for them. The Board approved an up front payment of approximately \$300,000. The law then changed and the county started to pay 5% of the employees salary into this system. People who were not sworn officers were enrolled into the system.

Major Bowser stated the Sheriff has questions about whether or not an employee can get their money back if they are pulled out of the system.

It was asked that the Clerk to the Board provide a copy of the minutes when the board placed the money into the state system for law enforcement officers in 1981.

4. Discussion of Amendment to Article V, Chapter 10 of the Cumberland County Code regarding personnel.

Cliff Strassenburg advised the committee members that, as per the request of the board, he has prepared a cost projection of what it would cost the county to allow employees with school age children four hours of paid leave per year to participate in their children's school activities (Exhibit "B"). They estimate approximately 35% of county employees have school age children.

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Commissioners Bacote and Evans stated they are in favor of allowing the employees to have this leave with pay, if it is documented they are spending this time participating in their child's school.

Commissioner Evans stated he feels in the long run, this action will benefit the county.

It was the consensus of the committee members to recommend to the full board the granting of four hours of paid leave per year to employees with school age children so they may participate in the school's activities.

Mr. Strassenburg stated he will research the minutes and ask the state if Law Enforcement Officers are county employees. Either way, the question of primary duties is still there.

Doug Canders stated he has already been told by someone at the state level that if there is someone in the jail whose primary duties is serving papers, he or she is considered a law enforcement officer.

Major Bowser stated he feels some of the letters sent by the county in which questions were asked are deceptive and confusing. Some of the letters say Law Enforcement Retirement System and some letters say Local Government Retirement System.

Mr. Strassenburg stated they will clarify that area. They will resolve the questions as to whether or not Sheriff's Department employees are county employees by asking the state. They will let the Sheriff's Department phrase the questions they would like to have answered and have them forward the questions to him and he will confer with the legal department to make sure everyone understands the questions.

Commissioner Bacote left the meeting.

John Nalepa stated he has a group of employees who are not sworn and were enrolled in error. He is convinced all the county will recover will be the prior twelve month's contributions. He would like to forward a letter to the director of the system with a withdrawal request. They can then forward these funds to BB&T and they will get a ruling from the 401K trustees as to whether or not the people involved are entitled to this money. Currently, as instructed by the board, he is not making any contributions for any jailers into the system. If it is determined that the twenty jailers who are certified should be in the LEO retirement system, he can make the payment retroactive.

Mr. Strassenburg stated if an employee puts their own money into the system, it is not affected. Mr. Nalepa will request that the

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money the law will allow us to receive be returned to the county, and if a different ruling is obtained, we can always send the money back.

Mr. Strassenburg then stated since Commissioners Evans and Bacote indicated the current meeting time and date is difficult to attend, he will contact each committee member and decide on a mutually good time to meet. He will contact them as soon as he receives the information he has requested from the state. At that meeting a regular meeting date can be set.

Meeting adjourned at 9:08 AM.