

January 31, 2011

The Board of Commissioners of Franklin County, North Carolina, met for an emergency meeting at 7:00 P.M. in the Commissioner's Conference Room located in the County Administration Building with the following Commissioners present: Chair Sidney E. Dunston, Vice-Chairman E. Shane Mitchell, Harry L. Foy, Jr., David T. Bunn, Robert L. Swanson, Donald C. Lancaster and Penny McGhee.

Chairman Dunston called the meeting to order and asked the Board to consider entering into closed session regarding NCGS 143-318.11 (a)(3) to consult with an attorney employed or retained by the public body in order to preserve the attorney-client privilege between the attorney and the public body, which privilege is hereby acknowledged.

At 7:00 P.M. Commissioner Mitchell made a motion to enter into closed session, pursuant to NCGS 143-318.11 (a)(3), seconded by Commissioner McGhee. The motion carried 6 to 1, with Commissioner Foy voting "NO."

At approximately 8:47 P.M., Commissioner Swanson made a motion to enter back into open session, seconded by Commissioner McGhee. The motion duly carried with all present voting "AYE."

Following the closed session, Chairman Dunston stated the State Bureau of Investigation is beginning an investigation relative to the Sheriff's Department and stated the Board has no desire to compromise the investigation by making any public statements at this time. Chairman Dunston then stated Elliott Pinnell would serve as Sheriff on an interim basis pursuant to North Carolina General Statute 162-5.

Commissioner McGhee then asked County Attorney Darnell Batton if the Board could call for a special election for the office of Sheriff. Mr. Batton stated according to the statute the Chief Deputy is to act as Sheriff until the time a new Sheriff is named by the Board of Commissioners. He said the statute does not allow for or call for a special election. He said the Board has the legal responsibility to make that appointment which will last for the remainder of the Sheriff's term which in this case is nearly four complete years. Mr. Batton stated if the Board were able to obtain a local bill by the North Carolina General Assembly to change the law, it might affect future similar circumstances but was uncertain if the local bill would affect this appointment. He said if the Board is unhappy with the way the law is, the Board could certainly approach the General Assembly and promote contrary law, but by current law the Board must appoint a permanent Sheriff to fill the remainder of Sheriff Pat Green's term. He said that appointment could be the acting Chief Deputy or someone inside or outside of the Sheriff's Department to serve the remainder of the term.

Commissioner McGhee stated she did not want to make an appointment until the investigation is complete. Taking her statement into consideration, Mr. Batton stated his advice would be to allow the interim position to remain in place until such time the investigation relative to the Sheriff's Department is successfully complete and the Board feels it appropriate to make an appointment.

Commissioner Mitchell asked if the Board was required to make an appointment within a certain timeframe. Mr. Batton stated the law suggests the appointment be made by the next Board meeting of the County Commissioners, but said the law does not contemplate an investigation of the Sheriff's Department. He also said there is subsequent language in the law that talks about what would take place in the interim of

such appointment. He stated the acting Sheriff has full powers as a Sheriff and said all sworn deputies have full power as sworn deputies. He said the appointed Sheriff would have the right to appoint new staff or to keep old staff in place, but with the investigation pending of the Sheriff's Department he said now may not be the best time to make those decisions.

Commissioner Swanson made a motion to adjourn, seconded by Commissioner Bunn. The motion duly carried with all present voting "AYE" and the meeting adjourned at 8:51 P.M.

Sidney E. Dunston, Chair

Kristen G. King, Clerk to the Board