

Webster County Board of Education Holds Open Session vote on Nickel Tax Lawsuit

Dennis Beard

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School Board

WEBSTER COUNTY, KY (1/11/12) – Following a roughly hour-long closed session of the Webster County Board of Education during its meeting on Monday, Jan. 9, board member E Carolyn Tucker read a prepared statement as she made a motion to adopt the statement as an order of action for the school board.

The motion in regards to an ongoing lawsuit between the school board and Webster County Clerk Valerie Franklin Newell, stated the action to seek legal action was a Board of Education directive and instructed the board's attorney, Amelia Zachary, and Webster County School District James Kemp to proceed with the action.

The vote was taken after Newell and her representative, Webster County Attorney Clint Prow, challenged whether the lawsuit was legal due to the fact that the board's minutes from the meeting where the directive to file the lawsuit was made didn't reflect a motion or a vote by the entire board in open session to approve pursuing the filing of the civil suit.

At issue is whether a six-cent tax approved by the board last summer for the purpose of new construction was successfully recalled. The lawsuit filed alleges several violations that could invalidate the petition, thus preventing it from being recalled. A hearing on the suit is scheduled for early February.

As read, the motion made by E Carolyn Tucker was intended “to clarify the board’s action reflected in the minutes of the November 3, 2011, board meeting regarding its authorization to pursue the challenge of the ‘Affidavit of Petition Committee’ filed on or about October 3, 2011, and proceedings thereon with respect to a tax levy made by the board on August 29, 2011. The board, having discussed the matter in closed session on November 3, 2011, reached a consensus that the board’s attorney should be authorized and directed to pursue a legal challenge to the ‘Affidavit of Petition Committee’ and proceedings thereon, which was done in Board of Education of Webster County, Kentucky, v. Valerie Franklin, Civil Action No. 11-CI-000344, presently pending in the Webster (County) Circuit Court. The consensus of the board is reflected in the board’s minutes of November 3, 2011, wherein the board, in open session, authorized and directed the board’s attorney to file such a challenge. Such was the intention and direction of the board on that date,” Tucker read from the statement as copies were presented to the media.

Tucker continued. “And/or to the extent necessary: To ratify the action of the board’s attorney in filing a petition in the Webster Circuit Court pursuant to KRS 132.017(2)(h) to challenge the county clerk’s determination that a recall petition filed on or about October 3, 2011, with respect to a tax levy made by the board on August 29, 2011, is sufficient.

“And/or in the alternative and in addition to the above: To enter this as a ‘Nunc Pro Tunc Order’ which authorized the board’s attorney to file a petition in the Webster Circuit Court pursuant to KRS 132.017(2)(h) to challenge the county clerk’s determination that an ‘Affidavit of Petition Committee’ filed on or about October 3, 2011, and proceedings thereon with respect to a tax levy made by the board on August 29, 2011, is sufficient. This order is made nunc pro tunc to November 3, 2011.”

After reading the motion, board members Tim McCormick and Steve Henry both said they had opposed the initial decision to pursue a legal challenge, but voted in support of the motion Tucker read Monday night. The motion passed with a unanimous 5-0 vote.

Board members then approved a motion to hire co-counsel to work with Zachary on the civil suit.

During its closed session, the board also discussed two other legal cases, one involving a suit brought by former employee Polly Dunbar, and the other brought by a former student against the school district, but the board didn’t take any action during the meeting on either of those discussions.

Next on the agenda was the setting of board meeting dates for the first half of 2012. The dates for meetings selected were Jan. 30 (Dixon Elementary), Feb. 9 (Sebree Elementary), Feb. 27 (tentative), March 5 (Providence Elementary), March 26 (Slaughters Elementary), April 30 (Webster County High School), May 10, May 29, and June 18. Unless otherwise noted, all meetings take place at the Webster County Board of Education conference room in Dixon. (The first five scheduled meetings will be held at a school within the district as noted above.)

Board members then discussed a variety of items included in the superintendent’s report, starting with an emergency need for a Health Sciences instructor at the Webster County Area Technology Center. Kemp told the board the teacher for the class had resigned effective Friday, and that the state agency responsible for funding her replacement decided against doing so due to mid-year budget cuts. Without a teacher in place, the program was in jeopardy and the students who have been in the program this year risked losing the work they have put toward earning a dual-credit through the class. The board approved spending \$9,300 to hire a substitute teacher who will supervise the students for the remainder of the year so they can complete the program. However, Kemp also warned of long-term implications for the Area Technology Center now that one of its teacher positions is effectively vacant.

He said the state technology agency that oversees the operation of such tech centers has been known to eliminate those with fewer than five programs.

"It makes it an easy excuse to get rid of the entire school and program," Kemp said of the health sciences class issue.

Henry blasted the state department employees that made the decision to leave the position vacant.

"The words that come to mind are not very nice," Henry said. "In the middle of a school year, how can any school... throw these kids to wherever they may go? I'd be ashamed to verbally slap Webster County students in the face the way they've been doing this week."

Nance said that as a former employee of the state technology program, he had seen this sort of thing happen before, and Kemp noted that other centers also faced similar challenges as the result of budget cut decisions.

"I would not want to be those guys making those decisions," Nance said, but Henry and Tucker quickly interjected.

"You are making those decisions tonight," Henry said, referring to the motion to pay for a substitute teacher to run the program.

Tucker agreed.

"You're covering for those people," she said.

The board also approved a motion to renew its contract with auditor Mike Overby for one year, with the right to renew annually each year for the next two years. The amount of the contract renewal wasn't stated during the meeting.

The board then tabled a request for financial assistance from a student who had been accepted into a student ambassador program. Previously, a student accepted into the same program asked for the board's help, and members approved a \$1,000 donation to the student. On Monday night, however, Henry cautioned the board about the practice out of concern that the board wouldn't be able to fund every student who made such a request. Discussion of the idea came to a halt when a media representative asked if it was legal for the board to spend public dollars on private programs. The board tabled the item until it could discuss the issue with Zachary, who had already left the meeting.

Earlier in the meeting, Overby presented the district's annual audit report for the 2010-2011 fiscal year. Overby told the board the district has managed its finances well, despite the current poor economic conditions.

"You're still keeping your head above water," Overby said.

In his report, Overby stated he didn't find any "significant deficiencies in internal control," and answered questions from Tucker during the meeting about past concerns regarding the district's bookkeeping of fixed assets. Overby said the administration uses software that tracks some things his doesn't, and that he had discussed the differences in those programs with Webster County School District Assistant Superintendent Riley Ramsey, who also oversees the district's technology issues. He said the two of them were working to adjust for the additional items to get a more accurate determination of the district's net assets value.

Before adjourning, board members approved a pair of pay requests for completed work to restore and repair roofs at Providence and Clay Elementary schools, tabled a request from the city of Providence seeking a waiver on taxes for properties where the city had performed demolition work, approved a series of “consent agenda” items including a field trip request, an early graduation request, out-of-district contracts, and various monthly reports, and reviewed a personnel list. The list included the employment of Leah Blanford, Clay Elementary teacher; Lindsey McCully, WCHS girls freshman basketball coach; Clay Thornberry, WCHS first assistant baseball coach; and Shon Wright, WCHS second assistant baseball coach; the retirement of Carolyn Farmer, Slaughters Elementary head custodian; and the resignation of Bradley Brown, WCHS tennis coach; Caitlin Owen, WCHS girls freshman basketball coach; and Mark Spainhoward, WCHS second assistant track coach.

“There’s no way to do that,” Martin said.

In other business, the commission reviewed a list of appointment proposals with Frederick before adjourning. Committee appointments included:

- Mayor Pro-Tem—John Ramsey;
- Interim Mayor—Anthony Powell;
- Water Committee—John Ramsey and Terry Webb;
- Streets/Sidewalks Committee—Anthony Powell and Jennifer Stone;
- Administrative Department—Linda Frederick and John Ramsey;
- Parks Committee—Linda Frederick and Jennifer Stone. Frederick said she planned to attend park board meetings with Stone but that she wouldn’t vote on any discussions. The names of the park board were then read aloud. They include Gina Townsend, Tonya Franklin, Melanie Payne, John Roy, Paul O’Nan, and Donna Matheny.

Earlier in the meeting, the commission tabled two other ordinance revisions, one regarding how to handle water leak adjustment requests and the other pertaining to a city ethics committee. David Frasier addressed the commission over Frederick’s initial objections as he raised questions regarding the list of candidates being considered for appointment to that committee. He pointed out that one member works for the county, and asked the commission to look into whether that person’s appointment is legal. The list of candidates for the ethics committee includes Paul Lashbrooke, Jimmy Davis Melton, and Junior Little. The commission said they would direct Dixon City Attorney Ben Leonard to check the legalities of the proposed appointments.

Frasier also asked if others would have the chance to apply for appointment on the committee saying that the effort to fill posts on the committee hadn’t been made public, but Frederick said the city had been working for nearly a year to come up with a list of people to serve on the committee.

Included in the agenda was a list of information items regarding ongoing city work, such as the demolition of a house on Lydia St., cleaning up and seeding of two other lots on Lydia St. as well as a corner lot on Ky. Hwy. 132, completion of work at Bourland Ave., purchase and installation of a new computer in the city building, and set up of “Children At Play” signs on Lakeview Drive.

The commission’s next regular meeting is set for Monday, Feb. 13, but commissioners and Frederick indicated during the meeting that they are planning to schedule a special called meeting before then.

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