

**SHELBY COUNTY BOARD OF COMMISSIONERS
MINUTE BOOK NO. 165**

1881

SPECIAL

CALLED

MEETING

JULY 27, 2016

The Board of County Commissioners met pursuant to adjournment at 12:00 p. m., July 27, 2016, in the Shelby County Commission's Chamber, 160 North Main Street, Memphis, Tennessee, with Chairman Terry Roland present and presiding; also present the following Associate County Commissioners, to wit: Van D. Turner, Jr., Mark Billingsley, David Reaves, George B. Chism, Sr., Heidi Shafer, Willie F. Brooks, Jr., Melvin Burgess, Walter L. Bailey, Jr., Reginald Milton, Eddie S. Jones, Jr., Justin J. Ford and Steve Basar. Present, thirteen; Absent, none.

Mrs. Rosalind Nichols, Clerk of the County Commission, was also present.

Mr. Jack Turner, Assistant County Attorney, Assistant County Attorney and Parliamentarian, was also present.

Deputy Sheriff Sammie Jones opened the meeting in due form of law when the following proceedings were had, to wit:

Chairman Roland recognized Deputy Sheriff Sammie Jones, who gave the opening prayer, followed by the Pledge of Allegiance.

REGULAR AGENDA

ORDINANCES

ITEM 1 (THIRD READING) (ADOPTED)

Mr. Turner, Assistant County Attorney, announced Item 1, Ordinance Third Reading, which is as follows:

ORDINANCE NO. 465

ORDINANCE FIXING THE TAX RATE FOR SHELBY COUNTY FOR THE TAX YEAR 2016. SPONSORED BY COMMISSIONER VAN D. TURNER, JR.

"WHEREAS, Tennessee Code Annotated, Section 67-1-601, authorizes counties in Tennessee to impose taxes for county purposes, and to fix the rates thereof; and

WHEREAS, Pursuant to Tennessee Code Annotated, Section 67-5-510, and the legislative authority set forth in Article II, Section 2.01, of the Shelby County Charter, it is the duty of the Shelby County Board of Commissioners to set a Tax Rate for the Tax Year 2016 at this time.

SHELBY COUNTY BOARD OF COMMISSIONERS
MINUTE BOOK NO. 165

SPECIAL

CALLED

MEETING

JULY 27, 2016

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF SHELBY COUNTY, TENNESSEE, That the TAX RATE FOR SHELBY COUNTY for the Tax Year 2016 be and the same is hereby fixed at \$4.37 for each One Hundred Dollars (\$100.00) of taxable real and personal property in the County.

BE IT FURTHER RESOLVED, That said sum be allocated and apportioned to the various departments and functions of the County Government as follows:

COUNTY GENERAL FUND	\$ 1.45
SCHOOLS	\$ 2.14
DEBT SERVICE FUND	<u>\$.78</u>
TOTAL	<u>\$ 4.37</u>

BE IT FURTHER RESOLVED, That should the amount collected for schools exceed the amount appropriated for Fiscal Year 2017, the excess of collections over the amount appropriated shall be held in the Education Fund and be applied to the appropriation for Fiscal Year 2018.

BE IT FUTHER RESOLVED, That this Ordinance and the Tax Rate set forth herein shall not take effect until and unless the Board of County Commissioners adopts, by appropriate Resolution, a County Budget for Fiscal Year 2017, but, in no event, shall the Tax Rate become effective before the fifteenth day after the passage of this Ordinance in accordance with Section 2.06(C)(4) of the Shelby County Charter.

BE IT FURTHER RESOLVED, That the various sections of this Ordinance are severable, and that any portion declared unlawful shall not affect the remaining portions.”

/s/ Mark H. Luttrell, Jr.
County Mayor

Date: August 1, 2016
ATTEST:

/s/ Rosalind Nichols
Clerk of County Commission

FIRST READING: June 6, 2016

SECOND READING: June 29, 2016

ADOPTED
THIRD READING: July 27, 2016

Whereupon, passage of the Resolution was moved by Commissioner Brooks; duly seconded by Commissioner Turner.

**SHELBY COUNTY BOARD OF COMMISSIONERS
MINUTE BOOK NO. 165**

1883

SPECIAL

CALLED

MEETING

JULY 27, 2016

Chairman Roland recognized Commissioner Shafer, who stated: "We've worked very hard this year to – you know through the budget process, I will – I'm not going to vote against this, but I'm going to abstain, because I still believe that we absolutely must move in the direction of tax cuts in order to put us in a competitive – you know a competitive situation with other folks, particularly Nashville – Nash Vegas. So I'm going to be abstaining, but I'm not going to vote against it because I truly, truly appreciate all of the hard work that it took the Commission and the Administration to get to the point that we're from – that we are."

Chairman Roland recognized Commissioner Jones, who stated: "In looking at – if we make any changes to it, then that would have to be another reading of it, correct? And I guess the only thing for me, when we went through this – when we get to the BE IT FURTHER RESOLVED CLAUSE, that should the amount collected for schools exceed the appropriate for fiscal year 2017, the excess of collections over the amount appropriated should be held in the education fund and be applied to the appropriation for fiscal year 2018. I would love for it to say, and to be determined by the Shelby County Board of Commissioners. I think leaving it that vague, you can put it in there and appropriate it any other way you want to appropriate it."

Chairman Roland recognized Mr. Kim Koratsky, Assistant County Attorney, who stated: "This is the Third Reading, if this is amended during the Third Reading then it would go back to being the Second Reading as of today and you have to read it one more time before you could pass it."

Chairman Roland recognized Mr. Harvey Kennedy, Chief Administrative Officer, who stated: "What it does, Mr. Chairman, it delays being able to send out the tax bills. We've got to have the approved Tax Rate Ordinance with the final reading and then they can start processing and preparing the tax bills. It would just slow down the collections of taxes and maybe put us into a negative cash flow situation at some point...there a number of taxpayers that do pay upon the receipt of the bill, of course the big influx in December and then again in February for the commercial comes from the mortgage companies, but the homeowners that pay their taxes direct, many of them do it as soon as they get the bill. So it accelerates the cash receipt process for the County to go ahead and do it today."

Chairman Roland recognized Commissioner Jones, who stated: "Okay, so we could pass this today, we can come back and amend it...can we come back and amend it just to add that language or no?"

SPECIAL

CALLED

MEETING

JULY 27, 2016

Chairman Roland recognized Mr. Koratsky, who stated: "Honestly, Chairman, we would have to take a look at that and let you know. I mean my understanding is if it's amended today that it becomes the Second Reading."

Chairman Roland stated: "Alright, well let me ask you this, if we amended it and put those few words in it, could today be the Second Reading and have a Third Reading Monday?"

Chairman Roland recognized Mr. Koratsky, who stated: "Well that's what would happen is it would have to be read again at the next Commission Meeting so that you'd have your Third Reading."

Chairman Roland recognized Commissioner Bailey, who stated: "I am somewhat disappointed at the Tax Rate and the reason being is the that the Tax Rate of course supports the budget, the budget that we've approved and I've got an enormous problem and difficulty with the budget. I mean the budget in my judgement doesn't – we've got – let me back up – we've got enormous problems in the city, which is where the majority of the taxpayers are, majority of the taxpayers come from within the corporate limits of Memphis. And we've got high poverty in Memphis, we've got high crime rate, homicides off the chart and we've got a shrinking middle income class of people who are really feeling the pinch of shrinking industries and commerce in this town and it seems to me that the budget is just like the budgets we've always had, nothing is different about this budget, even though we've got different challenges, you know and it's – that's why I just can't in good conscious – I've got to at least be one person who speaks out and say that this budget is inadequate and since the budget is inadequate and is supported by the Tax Rate, then I can't live with the Tax Rate. I don't know what the problem is, why we don't have initiatives, why don't we have programs and projects – fresh programs and projects to address the issues that are challenges in this community. It seems as if we are sleep or if we've just apathetic about them, that we have no concern as if we don't – as if they don't affect us. As if we just are to be good store keepers and being good store keepers just keep business going as usual. I felt constrained to say that, to make those remarks and explain why I can't support the Tax Rate."

Chairman Roland recognized Commissioner Reaves, who stated: "Well to be the ying to the yang, I believe the budget is overly adequate and I'm with Commissioner Shafer, I think that we need to be cutting the Tax Rate. However, I believe that we need to go ahead and set the Tax Rate, I think we need to do it today. So I'm inclined to support it today. We

**SHELBY COUNTY BOARD OF COMMISSIONERS
MINUTE BOOK NO. 165**

1885

SPECIAL

CALLED

MEETING

JULY 27, 2016

can nick pick this Ordinance to death, but the net effect of it still requires at the end of the day for us to have to re-appropriate money, this body would have to take money – that whatever's left over and we would have to budget it to whatever, right. So we still have to do that. So I would say that I will support the Tax Rate today if we would just go ahead and approve it. I think we need to get it done, even though I've only wished we'd be cutting the Tax Rate, I know there's not the votes to do that, alright. But we need to get it approved, the taxpayers want us to approve it, we need to get it done, so I do support it."

Chairman Roland stated: "And let me – for my knowledge as Chairman. What Commissioner Jones is asking for and after listening to Commissioner Reaves, that's already built in to this Resolution, am I right? So you all would have to come back to us before you used any of that money?"

Chairman Roland recognized Mr. Kennedy, who stated: "Chairman, the Resolution as it's written as the long standing – at least the way we understand the requirement for education funding is that monies collected from the Tax Rate portion dedicated to education must be used for education, because that's what you collected from the citizens for, therefore if it goes over the budgeted amount then it's held into escrow and then this body has that money to budget moving forward, but toward the education budget. I don't – I'm not sure about the statute requirement, but our understanding is that funds collected that are generated from the education portion of the Tax Rate must be used for education, but it can be carried over to use for education next year. Then again you would have to appropriate that."

Chairman Roland stated: "Commissioner Jones, does that answer your question?"

Chairman Roland recognized Commissioner Jones, who stated: "Sort of, kind of, but I guess I was looking at, you know we had a surplus from the previous year and I didn't see where that surplus or what happened with it. Only thing I wanted to be sure about is moving forward, moving forward that we – if we end up with a surplus that it comes back before this body."

Chairman Roland stated: "Let me ask you this, if we go ahead and pass this today and we get – I'll let you get with the County Attorney, and we could maybe bring back an amendment to change that part of it, am I right? Which will allow us to accomplish two things, accomplish Commissioner Jones' getting what he needs and it will also get this passed today."

SPECIAL

CALLED

MEETING

JULY 27, 2016

Chairman Roland recognized Ms. Marcy Ingram, Interim County Attorney, who stated: "The fastest way for you all to do that would be to amend it today then since you have a meeting already set for Monday, you could have a Special Call Committee Meeting to do the Third Reading again and then hear it on Monday as well, otherwise if you make any more amendments it's going to be three readings each time that you're doing it...you can come back and amend it, but it still will be for three readings."

Chairman Roland recognized Commissioner Basar, who stated: "I want to reiterate what Commissioner Reaves said, you know I think -- and Commissioner Shafer, we really do need to try to reduce taxes, but I will support this today. I came here to do this today, quite frankly I don't think we even -- we have some idea of wording that we want to revise this to, but I don't know if it's going to solve any problems. And I'm here to vote on this today. I'd like to resolve this today...so I'm here today to do this today and I would implore the rest of the Commissioners to do this today."

Chairman Roland recognized Commissioner Milton, who stated: "I think Commissioner Jones brought up a good point, I'm still not clear. I think that's a -- that's not just change, that's a clear point that is being requested here, it's not just a slight little alteration, I mean it's a clear point and I think we need clarity on that. By Commissioner Jones' statement anything that those dollars -- this would still have to come before the County Commission to make a final decision on how they're to be expended or would that be handled within already the process we have within our contract already. I'm not making this clear, but the point is I'm just having concern that after we've done this those dollars fall out of our hands and we don't have any control over how they're being expended...I know the education fund, but how within the educational fund is my question."

Chairman Roland stated: "Whether it's capital improvements or O and M."

Chairman Roland recognized Commissioner Jones, who stated: "Capital improvement, debt, all of that -- and operations."

Chairman Roland recognized Commissioner Milton, who stated: "You can -- there's a lot of playing that could occur within that and I think that this body should have some say in it and my question is does the body have a say in it? I mean if I could have some clarity on that I could easily decide where to go with this."

**SHELBY COUNTY BOARD OF COMMISSIONERS
MINUTE BOOK NO. 165**

1887

SPECIAL

CALLED

MEETING

JULY 27, 2016

Chairman Roland recognized Ms. Ingram, who stated: "Mr. Chairman, if you wanted to have a Resolution, you could do that by Resolution to make that real explicit how you – you are the appropriating body, you don't have to do that in the Tax Ordinance."

Chairman Roland stated: "So we can pass this today like this and then come back – could I come back with an add-on Monday?"

Chairman Roland recognized Ms. Ingram, who stated: "Yes sir."

Chairman Roland recognized Commissioner Shafer, who stated: "Mr. Chairman, could – I think I've got something to the point if I might. Ms. Ingram, do you remember the Resolution that I talked to you about earlier that I've withdrawn from -- because we were running late? Would that cure any of this when we're talking about the percentages of distributions, would that cure any of this or could we inside that Resolution which is already pretty well drafted, could we adopt this language, because it's really not a question in my view of whether we've got the authority, we certainly do, but whether we have the knowledge and the transparency, whether it's made clear to us exactly where the monies are moving from and to, is the critical issue, because we saw that happening with the Wheel Tax money, remember when we thought that we were giving money for increase for schools but it was just going for debt and so yes it was going for schools but it wasn't in the way we wanted it to. We saw it with the refinancing of the bonds, so it's a matter of the clarity that's made clear to us – we're part-time Commissioners and very few of us are financial wizards or do this for a living. So for me it's not at all part about whether we have the authority, it's about how clear it's being made to us. So Ms. Ingram does the Resolution that you and I drafted together, would that cure it in any way or could there be something put into it where we could put that cure?"

Chairman Roland recognized Ms. Ingram, who stated: "We can make sure it's clear in that Resolution."

Chairman Roland recognized Commissioner Shafer, who stated: "So Mr. Chairman, I'd be willing to offer that Monday as the add-on if you'd like to look at it."

Chairman Roland stated: "Alright I'll tell you what we'll do. You get with Attorney Ingram and get with Commissioner Jones and Commissioner Milton, run it by him and if that satisfies everybody, we can go ahead and have our reading today and then we can have that add-on Resolution for Monday and take care of business that way; is that without objection? So be it."

SPECIAL

CALLED

MEETING

JULY 27, 2016

The Clerk called the roll for casting of the vote with the following results:

AYES: Reaves, Brooks, Billingsley, Milton, Basar, Jones, Chism, Turner and

Roland.

NAYS: Bailey

ABSTENTIONS: Shafer and Burgess

ABSENT: None

AYES, nine; NAYS, one; ABSTENTION, two; ABSENT, none (Ford absent during roll call).

Chairman Roland declared the MOTION ON THIRD READING CARRIED.

REPORTS AND/OR RESOLUTIONS FOR STANDING COMMITTEES

ANNOUNCEMENTS AND STATEMENTS

ADJOURNMENT

ITEM 2

Mr. Turner, Assistant County Attorney, announced Item 2, Adjournment to Monday, August 1, 2016.

Chairman Roland stated that, without objection, the Commission meeting of Wednesday, July 27, 2016, was adjourned until Monday, August 1, 2016.

**SHELBY COUNTY BOARD OF COMMISSIONERS
MINUTE BOOK NO. 165**

1889

SPECIAL

CALLED

MEETING

JULY 27, 2016

(COMPLETE DIGITAL RECORDING ON FILE IN OFFICE OF
CLERK OF COUNTY COMMISSION)

COMPILED AND EDITED:

ROSALIND NICHOLS
CLERK OF COUNTY COMMISSION

(THIS PAGE LEFT BLANK INTENTIONALLY.)