

Special Meeting – May 11, 2020

The Graham County Board of Commissioners met Monday, May 11, 2020 at 5:30 p.m. jointly with the Graham County School Board by teleconference in Robbinsville, NC for a special meeting concerning State funding for the school. All board was present with Manager Becky Garland and Clerk Kim Crisp. All school board was present with Attorney Ellen Davis, Superintendent Angela Knight, Assistant Superintendent Robert Moody, Finance Officer Lester Greene and Clerk Susie Beasley. Also, present Graham Star Editor Kevin Hensley.

1. Chairman Wiggins called the meeting to order.
2. Chairman Wiggins asks for approval of the agenda. Commissioner Eller made the motion to approve the agenda. Commissioner Cody seconded this motion. Vote unanimous.
3. Chairman Wiggins asks Manager Garland to proceed with the discussion. Manager Garland stated that she and Lester Greene, Finance Officer for the schools, would be tag teaming this discussion and they presented the boards with a spreadsheet to review on Low Wealth Funding. Manager Garland stated that in order for Graham County to continue to receive Low Wealth Supplemental Funding the county's current expense appropriation per student must be at least 95 percent of the average of the local current expense appropriations per student for the three prior fiscal years, per HB200 Section 7.4.(g). Manager Garland stated that based on this formula, the State is saying that Graham's local current expense appropriation per student for fiscal year ended June 30, 2017 was required to be at least \$587.66 per student and the State's analysis indicates that Graham's local current expense appropriation for fiscal year ended June 30, 2017 was \$514.87 per student leaving Graham County Schools with a shortfall of \$86,734.00. Manager Garland and Lester Greene discussed the spreadsheet at length with the board and stated that the State says as a result of the formula Graham County has been found to have used these funds to supplant local current expense funds and will not receive an allotment for Low Wealth Supplemental Funding in the 2020-2021 fiscal year unless Graham County can show (1) that it has remedied the deficiency in funding, by appropriating \$86,734.00 to the public schools of Graham County to replace the deficiency in 2016-2017 or (2) that extraordinary circumstances caused the county to supplant local current expense funds with funds allocated for Low Wealth Supplemental Funding. Manager Garland stated that Mr. Greene has been appealing the decision since February 2020 when he was notified by letter from the Department of Public Instruction. Manager Garland stated that the North Carolina Department of Public Instruction are not willing to change the formula. Mr. Greene stated that if the county rectifies the \$86,734.00 they would calculate our Low Wealth allotment for the upcoming year but if not they will not calculate until local appropriation information is received from the county. Manager Garland stated that this would make an impact on our schools if they lose this funding but her overall concern is the flawed formula. Mr. Greene stated that the State keeps a formula running on a three-year average and three years from now the county will have to supplant again due to the flawed formula. Mr. Greene stated that timber receipts are a big part of the appropriations but this is being held against us as well in the formula.
4. Manager Garland gave a slide presentation to the boards on what is low wealth funding. Manager Garland stated that this was created after the benchmark Leandro case, all children in NC have a constitutional right to an equitable education and the case was litigated by (5) small counties who could not raise enough local property tax due to lower property tax wealth. Manager Garland stated that the low wealth funding is supposed to make up the difference in funding disparities between what a county can provide via property tax and calculated state average but there is a flaw in the formula because the finding looks at the state average per pupil contribution and not the median contribution. Manager Garland stated that counties with low population and low property tax wealth are cheated due to the average calculation.
5. Manager Garland stated that there are four factors in how low wealth funding is calculated and those are:
 - a. What the County can generate in property tax (Revenue per Student) (40%)
 - b. Taxable property per mile (Density) (10%)
 - c. Per Capita Income (50%)
 - d. Effort of County spending against State Average

Manager Garland stated that the first three factors weighted average equal a percentage of allocation appropriated for what our county is funded. Manager Garland stated that one flaw to

this allocation is that the State averages on population and not median so counties with low population and low tax wealth are cheated.

6. Manager Garland stated that you must meet one of two criteria to ensure 100% of calculated funding:
 - a. Effective tax rate equal or above the State average
 - i. Graham County's tax rate of .65 cents per mil is close to but not equal to the Statewide average of .66.2 cents on the mil (98.19% of state average)
 - OR
 - b. Local contributions equal or exceed what the formula calculates the county could contribute (this is the magic number she could not originally figure out)
7. Manager Garland stated that Graham County did not receive Secure Rural School funding in 2016-2017 and this dropped our per pupil student cost down making it look like that the county was not making the effort as required by the formula. Manager Garland stated that SRS / Timber funding is added to our Current Expense Appropriation and counts toward our effort when it is funded. Manager Garland stated that if you get no SRS funding in a year and the appropriation does not cover the "effort calculation" the Department of Public Instruction considers that we are over-relying on state funding to cover county obligation and the county must cover the under appropriation or the school system loses not only the low wealth funding but small schools funding and other allotments and keep in mind that the State does a three-year look back.
8. Commissioner Orr stated that we need to speak with Representative Kevin Corbin on this flaw in the formula.
9. Manager Garland stated that the intent of Leandro did not occur because the low wealth funding is spread between (68) counties when (25) counties really have deficits in the amount that they can tax so the formula for a "low wealth county" needs to be revisited. Manager Garland stated that the poorest counties still have less to work with in all combined sources of funds in per student spending and the State cuts to education in the past ten years magnify the disparities. Manager Garland stated that the poorer counties have to tax at higher rates but generate substantially less revenue for education. Manager Garland stated that the lowest (10) counties double the tax rate of the (10) wealthiest counties and we still cannot generate enough to fund per pupil spending to meet the wealthiest counties. Manager Garland stated that low wealth funding depends on a higher property tax rate; timber funding is uncertain and leaves us in a precarious position when the federal government does not do its part and then the State penalizes the county. Manager Garland stated that there is no way to project what the federal government is going to do and this will be a strong argument when Graham County is working with NACO on PILT Funding.
10. Manager Garland stated that the 2020 School Finance Study points out these disparities, however, there is a flaw in their study in that they place Graham County in the top quartile for tax base against the Average Daily Membership and makes it look like our effort is subpar. Manager Garland stated that the flaw is based on simple averages; smaller in population makes a higher perceived tax base per pupil. Manager Garland stated that the State needs to revise how it looks at effort.
11. Manager Garland stated that the study does rankings of quartiles and Graham County is in the top quartile but counties such as Johnston are in the fourth quartile. Manager Garland stated that Swain County is messed up as well because they like us do not get all of our square miles factored into our tax base because we are owned 70% by the federal government. Manager Garland stated that put Graham County at 96 for the effort rank as if we are not meeting our obligation to our schools. Mr. Greene stated that he was shocked to see how many wealthy counties get more than we do in "Low Wealth Funding". Mr. Greene stated that Pitt County, which has East Carolina University, gets \$7.4 million on low wealth funding, Graham County's projected low wealth for next fiscal year is \$93,000.00, and Swain County's is \$135,000.00.
12. Manager Garland stated that it has taken her (11) years to figure this out. Commissioner Orr stated that we needed to present this to legislation and something that was done in 1992 needed to be revisited. Manager Garland stated that counties with low student population and low taxable property looks as if they are wealthy and this is wrong.
13. Commissioner Orr stated that legislation needed to be made aware of this now because in 2024, Graham County will have to give more money once again because of the flawed formula and this leaves us in a bad position.

14. Mr. Greene stated that there are two things that affect the funding. One is an increased mil rate, which will be a positive impact, but the problem we have is the fluctuating timber receipts and this is causing our issues because they began including this in the formula in 2009 and this needed to be thrown out of the formula. Manager Garland stated that our per pupil is below because of overinflated wealth and even if the timber part gets fixed we would still lose money on this formula. Commissioner Nelms asks if the formula is taxing our entire county, not the percentage that is eligible to be taxed which is only 30%, and if we cut our tax rate, they say we are not meeting our part so this is a big disparity. Manager Garland stated that the formula set up because of Leandro did not achieve what it was intended to do. Commissioner Orr stated that we needed to talk to Representative Kevin Corbin, our Governor's office and the Department of Public Instruction and show them where the formula is messed up. Mr. Greene stated that he did ask the DOI for a waiver and they would not provide one. Commissioner Orr stated that we would have to find people that will listen and get this formula to a fair formula for all counties where the federal government owns the majority of land mass because looking at student population is wrong. Commissioner Orr stated that she is passionate on the timber receipts but it does fluctuate and we are not getting the funding that we should get.
15. Manager Garland stated that Johnston County who once was a very poor farming county has exploded with population and now they have all kinds of tax base to support their funding for county and school. Mr. Greene stated that the formula is upside down and counties that cannot generate effort is not getting the money but are being penalized. Commissioner Orr stated that this was not as noticeable when Graham County was receiving timber receipts but now it has been exposed. Manager Garland stated that she is trying to figure out the impacts. Mr. Greene stated that this was correct that when the timber receipts lowered it became known how this formula was not working and the State is well aware that we have zero influence on timber receipts. Manager Garland stated that the State says we made an election in 1993 and it has always been this way but at that time, we had large timber receipts where now we have little to none.
16. Commissioner Orr thanked Manager Garland for her work in figuring out this formula and asks where we go from here. Manager Garland stated that she would write a letter by May 15 of intention to fund the school the shortfall and then she and Mr. Greene can hammer on all levels of government with letters of explanation for why the formula is flawed. Chairman Wiggins stated that we need to go back to when the low wealth funding began to the lawsuit and see how much money the school has lost but the one problem will be that the counties receiving their allotments of money will not want to give that up and it will be debated in legislation. Chairman Wiggins stated that this is a very complex problem and they need a coalition of counties to threaten the State with a lawsuit if this formula is not fixed and further asks that we contact Judge Lee who is the sitting Judge on the Leandro case and request an audience with him. Manager Garland stated that Judge Lee has analyzed the 2020 school funding study but you can clearly see that the results of the lawsuit have not been used as they were intended.
17. Commissioner Orr stated that Representative Kevin Corbin needed to be notified. Chairman Wiggins stated that we needed to go back to the lawsuit and look at the parameters to understand what needs to be done going forward.
18. Attorney Ellen Davis stated that Manager Garland talked about the lawsuit but the original Judge is retired and the sitting Judge is David Lee and he signed a new order based on the facts of the finding of fact study but neither the Judge nor Westend understand the formula as well as Manager Garland and Mr. Greene and the Judge needs to be contacted to show him these findings of fact so that he can fully understand how the formula is being used and further giving Westend to amend their report. Attorney Davis stated that the Judge is awaiting additional information and this will give him a chance to amend the report. Manager Garland stated that she would be glad to meet with him. Commissioner Orr stated that we needed a plan paving the way forward to explaining the formula to the Judge and how do we go about this. Manager Garland stated that according to the formula now we would have to tax our people over one dollar on the mil and this would not work for our residents whom a majority live on fixed incomes themselves. Commissioner Orr stated that we needed to show him how the formula is being worked. Commissioner Orr stated that taking our total square miles of land into our tax base is not right due to the federal government owning 70% of our land and if the Judge can understand and see the flaw this will help all of our small counties. Commissioner Nelms stated that he agrees to take them to court if we need to and we need to get a coalition of counties together, which we can determine by using the spreadsheet and pulling in the counties that are

not receiving the correct funding. Attorney Davis stated that Judge Lee is doing the follow up on the Leandro case and this is the time to take this to him. Attorney Davis stated that the counties in the original lawsuit came out pretty well and we could file as an intervener. Attorney Davis stated that the county would have to define the lawsuit subsequent and appeal to the courts to allow the county to be an intervener. Mr. Greene stated that we needed to include Swain County as well. Attorney Davis stated that there are two major things in play, one that 70% or more of our property is not taxable and two there is a huge flaw in the formula. Manager Garland stated that she could never decipher this formula but now that she has, she understands it perfectly and the smaller counties are being punished and asks what the process will be for intervening. Attorney Davis stated that you apply to the court, state your basis to become an intervener and request a hearing. Attorney Davis stated that the plaintiffs of the original suit must agree, then the judge decides, then you can file a motion to intervene and generally, if anyone is opposed or is in support they will still make an order. Attorney Davis stated that Graham County has to do something and as soon as possible. Both boards agreed unanimously and asks that Manager Garland and Finance Officer Lester Greene drive this train. Commissioner Cody asks that we reach out to Swain County and see if they want to be onboard as well because most of what Manager Garland has found applies to them as well.

19. Chairman Wiggins asks for a motion to give Graham County Schools \$86,734.00 as required by the Department of Public Instruction. Commissioner Orr made the motion to give the money as stated. Commissioner Eller seconded this motion. Vote unanimous.
20. Chairman Wiggins asks for a motion to become an intervener in the Leandro Case and work with Graham County Schools as an intervener to get the Low Wealth Funding formula changed. Commissioner Orr made the motion to begin the process as stated. Commissioner Eller seconded this motion. Vote unanimous. Attorney Davis stated that the School would need to make the same motion which they did as will be noted in their minutes this date.
21. Manager Garland stated that she needed approval for the JCPC Funding for Fiscal Year 2020/2021 for a county match of \$4928.00. Commissioner Cody made the motion to accept the county match for JCPC funding as stated. Commissioner Orr seconded this motion. Vote unanimous.
22. Superintendent Knight thanked the boards for their efforts in helping the school system.
23. Commissioner Orr made the motion to adjourn. Commissioner Nelms seconded this motion. Vote unanimous.

Dale Wiggins, Chairman

Lynn Cody, Vice-Chairman

Keith Eller, Member

Jacob Nelms, Member

Connie Orr, Member

ATTEST: _____
Kim Crisp, Clerk to the Board