Cherokee County Board of Commissioners
Minutes of Emergency Called Meeting for
Consultation with Cherokee County, N.C. GOP
December 19, 2024

**Board members present:** Dr. Dan Eichenbaum, Chairman; Cal Stiles, Vice-Chair Ben Adams, member; and Alan Bryant, member.

**Others present:** Randy Wiggins, County Manager; Maria Hass, Assistant County Manager and Clerk to Board; and, Darryl Brown, County Attorney.

**Time:** 6:00 P.M.

**Location:** Cherokee County Senior Center

Prior to commencement of the 6 PM meeting, Dallas McMillan, Chairman of the Cherokee County Republican Executive Committee announced that since the media was present that they would not be meeting. Since the Cherokee County Republican Executive Committee left prior to the start of the meeting, there was no consultation with the Board of Commissioners.

**Call to Order by Chairman Eichenbaum**

**Invocation**

**Pledge of Allegiance**

Chairman Eichenbaum called for a Motion to excuse Commissioner Randy Phillips from the meeting, due to a conflict of interest. Motion made by Commissioner Adams to approve the request, and seconded by Commissioner Stiles. Motion passed 4-0.
*Note: Commissioner Phillips was not in attendance, and had sent his notice of absence prior to the meeting.*

The Chairman asked the county attorney to explain the purpose of the meeting. Attorney Brown said the emergency meeting was called pursuant to N.C.G.S. 143-318.12 (f) for the purpose of consulting with the Cherokee County, NC GOP, pursuant to N.C.G.S 153A-27.1 (d), prior to the filling of a vacancy on the Cherokee County Board of Commissioners. Attorney Brown read N.C.G.S. 153-A-27.1 (d) which states: *If the member who vacated the seat was elected as a nominee of a political party, **the board of commissioners**, the chairman of the board, or the clerk of superior court, as the case may be, **shall** **consult the county executive committee of the appropriate political party before filling the vacancy**, and shall appoint the person recommended by the county executive committee of the political party of which the commissioner being replaced was a member, if the party makes a recommendation within 30 days of the occurrence of the vacancy.*

Attorney Brown said the statute uses the word "shall" and therefore the Board of Commissioners has a lawful duty to be here to consult with the execute committee before the vacancy is filled. He said the meeting was called at this time and place, first, to ensure the Republican Executive Committee would be present to consult with; and also, to comply with open meetings law, as it was known that a quorum of the Board of Commissioners would be present and that county business would be addressed. Attorney Brown cautioned the Board of Commissioners that no other matters of business should be addressed, other than for the stated purpose.

Chairman Eichenbaum asked Attorney Brown to state for the record that this was a lawfully called meeting. Attorney Brown said it was a lawfully called meeting and notice was sent to the media and the Sunshine list by the Clerk to the Board.

Chairman Eichenbaum read a statement saying the Board has convened because the above-refenced statute requires the Board of Commissioners to consult with the Republican Executive Committee, prior to the filling of a vacancy on the Board of Commissioners. Chairman Eichenbaum said it is the duty of the Board of Commissioners to protect the county and its citizens and that is why the Board is here today, to be a part of the process, as required by law. He said these are very unusual circumstances, referring to the Board vacancy, and said the Board is in this situation because of a poorly written law with no clear guidance of what to do in this type of situation, referring to the resignation of recently elected Justin Hyde, who did not meet the qualification of office, due to conflicts with his job as a county employee. Chairman Eichenbaum said the Board offered Mr. Hyde a variety of options, and after consideration, Mr. Hyde chose not to accept the elected position, leaving the Board of Commissioners with a vacancy. He said only two people filed appropriately for the District 2 seat, and there was a primary with only a few votes separating the two candidates. He said there are many examples of succession in the Constitution, and while this type of succession is not required by the statute he said it should be noted there are accepted practices that are not being followed by the Cherokee County Republican Executive Committee. He said, in essence, the Executive Committee has decided to hold a replacement primary, seeking applicants and interviewing the applicants for the vacant position. Chairman Eichenbaum said the problem with that process is that only seven (7) people (the Republican Executive Committee) get to vote in that primary. He said that directly eliminates the Republicans and Independent voters who could have voted in the primary, saying they do not get the opportunity to vote in the replacement primary. He said only one of the applicants actually paid to run for the position in the primary, referring to Commissioner Randy Phillips. Chairman Eichenbaum felt the recently-announced application process by the Republican Executive Committee is not ethical and does not follow the normal chain of events and what he thinks should be happening in Cherokee County. Chairman Eichenbaum said we cannot disenfranchise almost 50% of the voters in an election by holding a replacement primary.

Commissioner Stiles said the intent of the meeting was to hold the deliberations in public, because the citizens deserve to know what is going on. He said the Republican Executive Committee meetings and the process of filling the vacancy needs to be open to the public and citizens need to be able to see and hear the questions being asked of the applicants. He said he isn't trying to tell the Executive Committee what to do, but he feels like deliberations need to be open to the public. He said another concern is that while the commissioner's seat is a four (4) year term, due to the vacancy created in the office, the selected individual will have to run for elected office in two (2) years, and the Executive Committee needs to consider the electability of

the person they select to fill the vacancy. Commissioner Stiles said he would like the Board of Commissioners to allow the County Attorney to reach out to the Chairman of the Republican Executive Committee and ask for a copy of the Committee's Plan of Organization to make sure the proper procedures are being followed for this situation. Motion made by Commissioner Stiles and seconded by Commissioner Eichenbaum to instruct the County Attorney to request a copy of the Cherokee County Republic Executive Committee's Plan of Organization.

Commissioner Adams said he did not agree with the statute that disqualified Justin Hyde and that the Board can't follow one general statute and ignore the other, saying the statute requires the Executive Committee to choose the replacement. He said he is against asking for a Plan of Organization because it would take time for the Board of Commissioners to review it and the 30-day window for the Executive Committee' recommendation would have passed and the appointment would then be made by the Board of Commissioners, which he feels is unethical. He said the statute puts the process in the hands of the Republican party. He said the will of the people and will of the state is to have it picked by the Republican party.

Commissioner Bryant said he can see both sides of the argument. He said the people of Cherokee County are owed the right to an open and honest book. He said he has reviewed the statutes and understands what the law states about the process, but feels the process is flawed. He said through this process the people of Cherokee County do not have a voice in choosing the replacement. He thinks the discussions and deliberation should be open to the public. He said he also understands the hard work that goes into running for an elected position and does not agree with someone being handed a position, without putting in the work and going through the extensive election process. He said he wants to make it clear that he is not against anyone that has applied, and he hopes and prays the Board gets the right person for the job.

Chairman Eichenbaum said the interest of Cherokee County voters are not being protected when seven (7) people can determine the results of an election. Commissioner Stiles read the election results, saying 2.932 people voted for Justin Hyde and 2,619 people voted for Randy Phillips. Chairman Eichenbaum asked how can seven (7) peoples votes be equivalent to thousands of peoples votes. He said it just doesn't make since to him.

After discussion, the Motion to request the Plan of Organization passed 3-1. Voting in favor of the Motion was Commissioners Stiles, Eichenbaum and Bryant. Voting against the Motion was Commissioner Adams. Motion passed 3-1.

**Adjourn**
Motion made by Commissioner Bryant and seconded by Commissioner Adams to adjourn. Motion passed 4-0.

**THESE MINUTES WERE APPROVED AT A REGULAR MEETING OF THE CHEROKEE COUTNY BOARD OF COMMISSIONERS ON FEBRUARY 17, 2025.**