

MINUTES OCONEE COUNTY COUNCIL MEETING MARCH 6, 1979

The regular meeting of County Council was opened by Chairman Phinney with the invocation by Mr. Crain. Mr. Frady was the only Member absent.

Motion by Mr. Ables second by Dr. Earle and carried to approve minutes of the February 23rd meeting as furnished.

Chairman Phinney announced that Mr. Ables would have to leave at 8 P.M. for a prior commitment.

OCEA President, Harold Waters again requested Council's approval for funds to support a teacher pay raise.

Dr. Earle expressed thanks to Mr. Waters for his participation and welcomed the teachers. He assured them that County Council is committed to solve this problem, as it is not only a County Council and School Board problem but also an Oconee County problem. He stated he hopes it can be resolved soon as he feels it is critical. He further stated he would be no part of anything that would disrupt the education of Oconee County children, as they will be the losers if this problem is not solved satisfactorily.

Mrs. Jennings told teachers they are professionals-not baby sitters and their main purpose is to educate the children. She further stated this is a give and take situation and the children are sure to be the losers. She requested teachers to look at their leadership.

Motion by Mr. Ables second by Mrs. Jennings to adopt " Oconee County Sewer Ordinance 79-4 " on First reading - the vote 4 For and 0 Against. It was pointed out the municipalities would adopt a like Ordinance.

Tax Collector, John Fowler gave an update on delinquent tax collections stating he hoped to double his collection over last year. Mr. Fowler stated the Sheriff's Dept. was assisting him with collections and the recent update has been very helpful to him. Mr. Ables announced that a meeting of council would be held at an early date to review the list.

The County Attorney provided a copy of a letter to each member of Council that he had received from the Office of the Attorney General with regard to the powers of the Council and the Oconee County School System. The letter rendered an opinion concerning the transfer of general County tax funds to the School Board, the use of Revenue Sharing for School purposes, and deficient financing. A copy of subject letter is attached hereto and made a part of these minutes.

Mrs. Jennings reported she has met with several of Department Heads for budget discussion.

The Road Committee has met to discuss the road priority list update. This list was made in 1975 by Mr. Hershel Barnett and he has agreed to work part time for about 30 days to update it according to Mr. Crain who also announced the Committee has agreed to receive bids on the old rock crusher. As Vice Chairman of the Buildings and Grounds Committee, Mr. Crain moved to approve the installation of two telephones at the Walhalla Library at an installation cost of \$172.72 and a monthly charge of \$79.69 second by Mrs. Jennings, motion unanimously carried. Mr. Crain pointed out that the city of Westminster will pay for telephones at the Westminster Library.

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Chairman Phinney announced on behalf of the Pilot Club of Walhalla an invitation for County Council Members and Wives/Husbands to attend their Civic Night, March 16th at the Holiday Inn in Clemson.

Mr. Ables moved, Mr. Crain seconded and it was agreed to go into executive session to discuss legal matters.

The State of South Carolina



Office of the Attorney General

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DANIEL R. WALSH
ATTORNEY GENERAL

March 6, 1979

W. Jerry Fedder, Esquire
Orange County Attorney
Post Office Box 791
Seneca, South Carolina 29678

Dear Mr. Fedder:

You have requested opinions from this Office concerning the powers of the Orange County Council (Council) with regard to various school matters in Orange County. I shall respond to them in the order in which you have posed them:

1. In response to your inquiry as to whether or not the Council is authorized to transfer general county tax funds (not school tax funds) to the Orange County School Board to the latter's use for school purposes during a given fiscal year but after the school taxes levied for that year have been expended, my opinion is that it is not so authorized. Heretofore, the South Carolina Supreme Court has approved the imposition of a county tax and the county's appropriation of that tax to another political entity in furtherance of a public purpose. See, e.g., Allen v. Adams, 56 S.C. 324, 41 S.E. 228 (Town of Edgefield levied bonds to help support operation of the Town of Edgefield build a school building); Smith v. Robertson, 410 S.C. 49, 41 S.C. 24 531 (Charleston County levied bonds to buy site for national college); Clinton v. Railway, 411 S.C. 187, 43 S.E. 22 356 (Spartanburg County and City of Spartanburg jointly build and operate); Stanton v. State, 151 S.C. 95, 145 S.E. 726 (Orange County levied

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bonds for school purposes): Gray v. Fairbank, 243 S.C. 604, 135 S.E.2d 239 (Spartan County issued bonds for school district); Stuckhouse v. Floyd, 148 S.C. 181, 149 S.E.2d 437 (Dillon County issued bonds for school district); Gilbert v. Mack, 257 S.C. 171, 227 S.E.2d 177 (Florence County bonded \$1,000,000 to the Sea Regional Health Service District to build hospital). Those cases were decided before the enactment of new Article X of the South Carolina Constitution. However, and, in my opinion, certain provisions of new Article X may no longer allow this practice. Section 5 of Article X provides in part that "In any tax which shall be levied shall distinctly state the public purpose to which the proceeds of the tax shall be applied." See, State v. Osborne, 193 S.C. 138, 7 S.E.2d 526. Section 14(4) of Article X provides in part that any political subdivision of this state, including a county, which incurs general obligation debt can do so "only for a purpose which is a public purpose and which is a corporate purpose of the applicable political subdivision" (emphasis added). While education undoubtedly serves a public purpose, it may no longer be a corporate purpose of a county. See, S.E. 1-9-30(9), CODE OF LAWS OF SOUTH CAROLINA, 1976; Off. former art. X, 16 S.C. CONST.; see also, Moss v. Cuckner, 265 S.C. 140, 217 S.E.2d 36. Consequently, a county may no longer be authorized to use general county tax funds for educational purposes but, instead, may be limited, insofar as the funding of educational purposes is concerned, to the levying and appropriation of school taxes only. This conclusion is corroborated by other provisions of new Article X of the State Constitution which empower all political subdivisions, including school districts, to incur bonded indebtedness without limitation so long as an approving referendum is first held. See, S.E., S.C. CONST. art. X, § 15(3). The intent of the General Assembly, in authorizing all political subdivisions to incur bonded debt without limitation pursuant to an election, was, in part, to make them self-sufficient and to do away with any necessity for one political subdivision to assist in financing the activities of another because of the latter's inability to do so.

This opinion is not free from doubt, however, inasmuch as the South Carolina Supreme Court has in the

U. S. DEPARTMENT OF JUSTICE
WASHINGTON, D. C.
MAY 10, 1950

THE FOLLOWING IS A SUMMARY OF THE INFORMATION RECEIVED FROM THE
OFFICE OF THE ATTORNEY GENERAL, WASHINGTON, D. C., ON MAY 10, 1950,
RE: THE ALLEGED ACTIVITIES OF THE "COMMUNIST PARTY, U. S. A." IN
CONNECTION WITH THE OPERATION OF THE "COMMUNIST PARTY, U. S. A." IN
THE STATE OF CALIFORNIA. THE INFORMATION WAS OBTAINED FROM A
MEMORANDUM DATED MAY 10, 1950, AND IS SUBJECT TO THE
RESTRICTIONS OF THE FOIA. THE INFORMATION IS BEING FURNISHED
TO YOU FOR YOUR INFORMATION AND IS NOT TO BE DISCLOSED TO ANY
OTHER PERSON OR ORGANIZATION WITHOUT THE WRITTEN CONSENT OF THE
ATTORNEY GENERAL.

2. IT IS REQUESTED THAT YOU ADVISE THE BUREAU OF THE RESULTS OF
YOUR INVESTIGATION OF THE ALLEGED ACTIVITIES OF THE "COMMUNIST PARTY,
U. S. A." IN THE STATE OF CALIFORNIA. THE INFORMATION SHOULD BE
FURNISHED TO THE BUREAU IN THE FORM OF A MEMORANDUM, AND SHOULD
INCLUDE A SUMMARY OF THE INFORMATION RECEIVED, THE NAMES OF THE
PERSONS WHOSE NAMES ARE MENTIONED IN THE INFORMATION, AND THE
RESULTS OF YOUR INVESTIGATION. THE INFORMATION SHOULD BE
FURNISHED TO THE BUREAU BY THE EARLIEST PRACTICABLE DATE,
AND SHOULD BE FURNISHED TO THE BUREAU BY THE EARLIEST PRACTICABLE
DATE.

3. THE INFORMATION RECEIVED FROM THE OFFICE OF THE ATTORNEY GENERAL
ON MAY 10, 1950, IS SUBJECT TO THE RESTRICTIONS OF THE FOIA. THE
INFORMATION IS BEING FURNISHED TO YOU FOR YOUR INFORMATION AND IS
NOT TO BE DISCLOSED TO ANY OTHER PERSON OR ORGANIZATION WITHOUT
THE WRITTEN CONSENT OF THE ATTORNEY GENERAL. THE INFORMATION IS
BEING FURNISHED TO YOU FOR YOUR INFORMATION AND IS NOT TO BE
DISCLOSED TO ANY OTHER PERSON OR ORGANIZATION WITHOUT THE WRITTEN
CONSENT OF THE ATTORNEY GENERAL.

Very truly yours,
Karen Schaff Henderson

KAREN SCHAFF HENDERSON
SPECIAL ASSISTANT ATTORNEY GENERAL

KLR/jvh