

September 27, 2006

At a called meeting of the Board of Supervisors of Prince Edward County, held in the 3rd Floor Conference Room of the Court House, on Wednesday the 27th day of September, 2006; at 11:30 a.m., there were present:

William G. Fore, Jr., Chairman

Howard F. Simpson, Vice-Chairman

Pattie Cooper-Jones

Charles W. McKay

James C. Moore

Lacy B. Ward

Also present: Sarah Puckett, Assistant Administrator; Jonathan L. Pickett, Director of Planning and Community Development; and Jill C. Dickerson, County Attorney.

Absent: Supervisors Sally W. Gilfillan and Robert M. Jones; and County Administrator, Mildred B. Hampton.

Chairman Fore announced this was a special meeting called by Supervisors Ward and Cooper-Jones for the purpose of discussing access to personnel files by members of the Board of Supervisors. He then turned the floor over to Supervisor Ward.

In Re: Access to Personnel Files by Members of the Board of Supervisors

Mr. Ward advised that the genesis of the meeting related to a specific inquiry he had made of the County Administrator regarding the process used in documenting personnel actions pertaining to promotions, demotions, reassignment of positions, etc. He advised that he had not been given an answer to his question, and therefore, had asked to view several personnel files in order to research the matter himself. The Administrator refused to grant access to the files without prior approval of the Board of Supervisors.

Mr. Ward indicated he was confused regarding action that had been taken in a particular personnel matter. Initially, he was told a person was promoted. After several inquires, he was told the person was

not promoted. He then referred to Section 2.9, Access to Personnel Files, of the Personnel Policies Manual. Part D states, "Only officials and representatives of the County who have a legitimate reason to review information in a file are allowed to do so." Mr. Ward indicated that as a member of the Board of Supervisors he considered himself an official of the County, and felt he had a legitimate reason for viewing the files.

Chairman Fore concluded that three issues were being raised: 1) who had access to personnel files, 2) the criteria that goes in a personnel file, and 3) the method used to record what occurs in personnel activities. He advised that the Board could elect to develop a method for keeping personnel records if it so desired. However, since this was a special meeting he asked the Supervisors to only address the purpose for which it was called—to determine whether any Supervisor should have access to personnel files.

Prior to the meeting, the Administrator sent each Board member a copy of an e-mail from Mr. John Anzivino, the consultant from Springsted, Inc., that was hired to develop the County's Personnel Policy and Classification & Compensation Study. The e-mail was in response to a question posed by the Personnel Committee in February of 2006 with regard to who had the legal authority to access the personnel files of County employees. It read:

"The County Administrator or his/her designee shall be responsible for administration of the policies (Section 1.3). The policies make the County Administrator or his/her designee the official keeper of all personnel files (Section 2.9) not the Board. Section C of 2.9 indicates individual records shall not be disclosed or disseminated except in accordance with law and Section D indicates only officials and representatives of the County who have a legitimate reason to review information in the file are allowed to do so.

If employees want to view their files they may do so, but the Administrator or his/her designee needs to be there to prevent sections of the file from being altered, destroyed or removed by the employee.

So, in my interpretation of your policies (which are similar to my prior community's policies and were backed up by an attorney's opinion in my last locality) the following folks have access to the individual employee records: The employee for their records; the Department Director or supervisor for the employees they direct or supervise; the County Administrator and/or his/her designee for all employee records.

The pool of eyes which look at the County's personnel records is kept small due to issues of liability for the local government should inappropriate information about an employee, their performance, etc. get out.

Board members do not have a need under the policies to see individual employees' records. That is the Administrator's job and one which the Board entrusts to the Administrator via adoption of the policies. If the Board...wants to see (an employee's) personnel file, they should only do so with the blessing of the Board; not through a Board

member just wanting to see what's in there. Ideally, they should do it collectively if they need to do it, but they shouldn't do it at all.

(With regard to) the Administrator's personnel file, the Board should look at this file collectively and not on a single Board member basis unless the Board, by motion, authorizes one individual to do so. We're currently working with a County to develop an evaluation process and this is the way that they have set it up and it's the way most local governments set it up."

Supervisor Ward advised that he had not had prior access to Mr. Anzivino's correspondence, but noted that the attorney's opinion cited by Mr. Anzivino was not that of the Attorney General. Therefore, he felt it left an unsettled question with regard to who had access to the files. "If I, as a member of the Board of Supervisors, can not determine specifically that an action was taken—either to promote, demote, dismiss, or whatever; I feel my role and my responsibility has been diminished."

Mr. Fore told Mr. Ward that in his opinion, if a Board member had access to personnel files in the Administrator's office it would be setting a precedent for having access to the files in other County offices.

Mr. Ward indicated the Administrator had told the Board an individual had been made supervisor of the maintenance department. After being asked what regulations were used to promote the individual, the Board was later told the person had not been promoted and was not a supervisor. "I get disturbed when I can not get a direct, specific answer to a specific question. I'm trying to find out what really happened. And, I get more disturbed when I write a letter for clarification from a staff member and I get an answer from the Personnel Committee that didn't address my questions. It seems to me we are running interference for our top staff person rather than trying to satisfy questions."

Mr. Ward stressed that Supervisors should know if staff was taking legitimate action. "(The Board) evaluates the County Administrator. How do we evaluate a County Administrator when we don't even know whether that person is correctly documenting important personnel actions? That is part of our evaluation."

The Chairman disputed Mr. Ward's statement, indicating that a review of personnel files was not necessary in determining whether the Administrator was properly performing the duties of the position.

Mr. Ward asked that he be told what other method could be used in determining, "emphatically and specifically", the action taken with regard to the maintenance department. He then read from a letter referencing employees of the maintenance staff, their titles and duties. Although he took precaution not to

mention any employees' names, the County Attorney stopped him advising that he was coming very close to violating the law. Mrs. Dickerson suggested that if the Board wished to discuss specific jobs and job titles, it enter into closed session.

Mr. Ward stated he saw no need for going into closed session. He then proceeded by expressing concern that staff had failed to comply with Section 4.6 (Demotion) of the Personnel Policies Manual pertaining to the salary of an employee whose title had been changed. He read from Part B of the section which states, "When an employee is demoted from a class in which he/she was originally appointed, the salary shall be reduced to the step of the new range of pay that is immediately below his/her salary prior to demotion." Mr. Ward pointed out that if an employee's title was removed, yet they were allowed to continue working at the same salary, it was a direct violation of the County's Personnel Policy.

The Chairman asked if Mr. Ward wished to make a motion to allow himself access to employee files.

Supervisor Ward moved that he be granted access to the personnel files of three employees in the County's maintenance department. The motion failed:

Aye:	Pattie Cooper-Jones Lacy B. Ward	Nay:	William G. Fore, Jr. Charles W. McKay James C. Moore Howard F. Simpson
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On motion of Mr. Simpson and adopted by the following vote:

Aye:	William G. Fore, Jr. Pattie Cooper-Jones Charles W. McKay James C. Moore Howard F. Simpson Lacy B. Ward	Nay:	None
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the meeting was recessed at 11:58 a.m., and will reconvene October 5, 2006, at 4:30 p.m., for a special joint meeting with the Prince Edward County School Board.