



LEGAL UPDATE MEMORANDUM

To: Guilford County Board of Commissioners

From: Mark Payne

Date: March 23, 2020

Subject: *Bond referendum process*

As you consider the issuance of a bond referendum to help pay for school capital needs, it was suggested that staff prepare a quick memo setting out the steps in placing a bond on the November ballot and the requisite LGC approval. You have been given a timeline prepared by Harley Will in consultation with bond counsel, Ed Lucas (both of whom provided much of the info set out herein). While the dates on the timeline need to be adjusted, the order of events is still valid. I have included the next step for the Board of Commissioners here below.

The first step in getting a bond approval is simply a vote to direct staff to prepare necessary notices, applications, orders and resolutions required for a bond referendum. The first step for staff in this process is the publication of a Notice of Intent. The Notice is simply that -- a public notification of the Board of Commissioners' intent to have a bond referendum. However, this Notice must include the maximum anticipated amount of the bond. In other words, the County may issue bonds for less than the noticed amount but cannot do more. It is, of course, usual that the amount on the Notice is the amount on the bond referendum.

The Board of Education has now adopted its resolution requesting the bond referendum in the amount of \$1.6 billion. This request is not binding on the Board of Commissioners and you may select whatever bond amount for the first round of capital improvement as you deem appropriate. Subsequently, the Board of Commissioners will have the following tasks:

1. File the LGC application;
2. Introduce a bond order, set a public hearing and file a statement of debt; adopt a preliminary resolution described in the LGC application;
3. Publish the bond order as introduced with a notice of public hearing;
4. Hold the public hearing, adopt the bond order and set a referendum date; and
5. Publish the bond order as adopted and the notice of referendum.

Once these steps are taken it can be forwarded to Elections for placement on the ballot. You will note that there is a public hearing, but it occurs several steps later in the process. Unlike the current requirements for a sales tax referendum, the ballot language can (and must) identify that the bond proceeds will be used for capital needs of our public schools.

Staff and bond counsel already have a draft version of the required orders, resolutions and other documents at the ready and are prepared to move forward if, and when, the Board of Commissioners chooses to do so.

The process for a sales tax referendum is much simpler: The Board of Commissioners must direct the Elections director to place a sales referendum on the ballot as least 45 days before the election. Of course, in order to fully educate the public on the uses and efficacy of a sales tax, one would want to do so significantly earlier than the 45-day deadline.

Please contact me if you have any questions. Thank you.

cc:

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