

Closed Session from Regular Meeting – July 12, 2004

At 5:30 p.m. the Board adjourned to closed session to consult with the County Attorney to consider and give instructions concerning a judicial action titled “State of North Carolina, on Relation of, County of Randolph vs Clarence Ray Jernigan individually and d/b/a Heath Amusement; Heath Cigarette and Music Service, Inc. d/b/a Heath Amusement; and James Worth Heath individually and d/b/a Heath Amusement.” Commissioners Holmes, Davis, Mason, Kemp, and Frye were present. Also present were Frank Willis, County Manager; Aimee Scotton, County Attorney; Alice Dawson, Clerk to the Board; and Litchard Hurley, Sheriff. Rodney Johnson, Alcohol and Law Enforcement (ALE) Agent, entered this closed session at 6:20 p.m.

Ms. Scotton explained that she had retained Randy Reavis of Nexsen Pruet Adams Kleemeier to represent the County for Phase One of this action, at a cost not to exceed \$5000, which consisted of the preparation of the initial pleadings and motion papers. If the Board chooses to retain this firm further, Phase Two goes through the trial. If we win, attorney fees would be determined and awarded by the Court and would come from the defendants, not the County. Phase 3 would be the attorney’s pursuit of collection of damages and forfeitures awarded. The attorney firm will receive a contingent fee equal to one-third of any such amounts recovered.

Sheriff Hurley reviewed the history of the investigation of Heath Amusements that began in January 2003. The investigation began as a result of numerous citizens complaining that they or family members had lost lots of money in video poker machines. The ALE officer working on this case is in Greensboro this afternoon in a preliminary injunction hearing on this matter. The injunction is for all 232 machines across the state.

Sheriff Hurley stated that ALE set up a fake store in Asheboro and called the top four vendors of video poker machines. Only Bucky Jernigan (Heath Amusement) responded. He told the ALE officer who was posing as an employee of the store that they (employees) should not say anything if they were caught, that he would take care of court cost and attorney fees for them.

Sheriff Hurley reported that vendors must report quarterly the money made from each machine. ALE has evidence that Heath Amusement made much more than they reported.

If the County prevails in this case, the County will receive monetary awards and can confiscate items. There could be felony charges of money laundering and racketeering against the defendants; IRS could charge them with tax evasion.

Rodney Johnson, ALE Officer, entered the meeting at 6:20 p.m. He reported on the preliminary injunction hearing he had just come from. The judge has not made a final decision on the injunction yet; he would like for us to reach a compromise. The defendants want the injunction to apply to Randolph County only so that they can continue to operate their machines in other counties. The judge will make a ruling on this Friday, July 16.

On motion of Mason, seconded by Davis, the Board voted unanimously at 6:30 p.m. to end the closed session and return to open session.

J. Harold Holmes

Darrell L. Frye

Phil Kemp

Robert B. Davis

Robert O. Mason

Alice D. Dawson, Clerk to the Board

Approved: August 2, 2004 Unsealed: June 6, 2005