BRADLEY COUNTY BOARD OF EDUCATION
Called Meeting - Minutes
December 5, 2012

Members Present	Members Absent
Vicki Beaty, 2nd District	Charlie Rose, Chair, 7th District
Christy Critchfield, 6th District	
Rodney Dillard, 5th District	
Nicholas Lillios, 3rd District	
Chris Turner, 1st District	
Troy Weathers, 4th District	

The Bradley County Board of Education held a called meeting on Wednesday, December 5, 2012, at 5:30 p.m. in the William R. Walker Board Room of the Administrative Office Building in Cleveland, Tennessee. Vice Chair Beaty called the meeting to order and announced that the purpose of the called meeting was to consider the adoption of a resolution in regards to the repayment of sales tax to the City of Cleveland.

Attorney James Logan represented Bradley County Government in the sales tax lawsuit between the City of Cleveland and Bradley County. Mr. Logan shared a Resolution from the Bradley County Commission which requested the Bradley County Board of Education adopt and approve settlement payment terms with the City of Cleveland. The Bradley County Commission agreed to settle the litigation by having Bradley County Schools repay additional sales tax received as a result of a sales tax increase in May, 2009 for taxes collected in the corporate city limits only. Collection of the additional one-quarter percent sales tax did not begin outside the city limits until July, 2009. The county's resolution requested the city of Cleveland allow for repayment by the school system over a term of thirty months.

As a means of background, Mr. Logan referenced a letter from the Tennessee Department of Revenue which explained that the City of Cleveland was due the entire increase in sales tax from May through June 30, 2009. For taxes collected beginning July 1, 2009, the first half of the local tax should be distributed in the same manner as the county property tax for school purposes. The Department of Revenue advised that beginning July 1, 2009, the additional half of taxes collected would be earmarked to the city or town where the privilege is exercised, unless a special contract exists between the county and cities that provides for other distribution not allocated for school purposes. Thus, Bradley County Government relied on the Sales Tax Agreement of 1967 for distribution based upon student population in each school system.

The 1967 Agreement was challenged by the City of Cleveland in a lawsuit which resulted in the Court of Appeals rendering a judgment which found that the City of Cleveland was ("contrary to the direction from the Department of Revenue) entitled to the first one half of the local tax based upon the place of sale for the fiscal year 2009-2010. Monies received for the county due to the sales tax increase from May through June, 2009, had been held by the County Trustee anticipating repayment to the city. Sales tax monies received for the 2009-2010 fiscal year had already been disbursed to Bradley County Schools based upon the direction from the Department of Revenue in a letter dated July 13, 2009. Therefore, Bradley County Schools is required to make repayment to the City of Cleveland.

Mr. Logan presented a drafted resolution for Board approval by which the Board agreed to pay over the additional sales tax money. The resolution also requested the city to accept payment in thirty equal monthly installments beginning July 15, 2013. The acceptance of these terms would allow the school system to distribute the repayment over three budget years. Mr. Logan acknowledged that no one had done anything wrong; however, "under law, money received to which one is not entitled must be repaid. Adoption of the resolution, hopefully, will put an end to the sales tax litigation between the City of Cleveland and Bradley County."

Mr. Lillios asked if the county commission had any plans to assist the school system with repayment of the taxes. There was no indication that any increase would be made in the school system's budget to assist with repayment. Repayment is approximately $50,000 per month for 30 months. Mr. Weathers commented, "At our level of funding, repayment of this amount is significant." Mr. Lillios asked if the board could halt capital outlay projects in progress and repay the entire amount in one lump sum payment. Mr. McDaniel responded that the board had already voted on the capital outlay budget with bids already awarded in some cases. This would require legal advice. Ms. Critchfield stated she preferred to repay out of the fund balance. State law does require a 3% fund balance and the county government requires 5% in a fund balance.

Mr. McDaniel wanted the public to understand that if revenue is decreased and projected sales tax collection decreases, he would have to look at personnel to make up the loss in the budget. Mr. McDaniel explained that it would be less painful for the system to repay over three years.

Mr. Weathers questioned if the repayment was made directly to the City of Cleveland. Mr. Logan stated that the resolution does not decide which entity (school system or county government) pays the city. The judgment is against the county. The resolution asks that Bradley County Schools be allowed to fulfill the obligation. Vice Chair Beaty stated that Chairman Rose had voiced his support to passage of the resolution.

5163 Upon motion duly made by Mr. Weathers and seconded by Mr. Turner, it was unanimously **RESOLVED** by roll call vote to adopt a Resolution to the City of Cleveland agreeing to repay to the City of Cleveland a portion of the sales tax increase collected in fiscal year 2009-2010 as determined by the Tennessee Court of Appeals with a request to repay over the term of thirty months as full and final satisfaction of all disputes existing between the City of Cleveland and Bradley County, Tennessee regarding the collection and distribution of Local Option Sales Tax revenues with additional funds payable to the City of Cleveland by the Bradley County Trustee under the original judgment of the Bradley County Chancery Court.

Beaty	yes	Dillard	yes
Lillios	yes	Critchfield	yes
Rose	absent	Turner	yes
Weathers	yes		

The Resolution will be presented to the City Council at its next meeting.

The meeting was adjourned at 6:15 p.m.

______________________________	______________________________
Vicki Beaty, Board Vice Chair	Johnny McDaniel, Director of Schools