

FORSYTH COUNTY
BOARD OF COMMISSIONERS

Additional
Item

MEETING DATE: MAY 14, 2012 AGENDA ITEM NUMBER: 18 A&B

- SUBJECT: A. AMENDMENT TO THE BUDGET ORDINANCE TO APPROPRIATE FUNDS FROM THE NORTH CAROLINA PARTNERSHIP FOR RELIGIOUS LIBERTY FOR ATTORNEYS' FEES, COSTS, DAMAGES AND RELATED EXPENSES ASSESSED AGAINST FORSYTH COUNTY IN THE CASE OF JOYNER V. FORSYTH COUNTY**
- B. RESOLUTION AUTHORIZING EXECUTION OF NECESSARY DOCUMENTS TO FINALIZE PAYMENT OF ATTORNEYS' FEES, COSTS, DAMAGES, AND RELATED EXPENSES NEGOTIATED BETWEEN THE PARTIES IN THE CASE OF JOYNER V. FORSYTH COUNTY**

COUNTY MANAGER'S RECOMMENDATION OR COMMENTS:

SUMMARY OF INFORMATION:

See attached

ATTACHMENTS: YES NO

SIGNATURE: _____ DATE: May 14, 2012
COUNTY MANAGER

**FORSYTH COUNTY, NORTH CAROLINA
AMENDMENT TO
2011-2012 BUDGET ORDINANCE**

FROM: BUDGET & MANAGEMENT

MEETING DATE: May 14, 2012

EXPLANATION:

The purpose of this amendment is to appropriate funds from the North Carolina Partnership for Religious Liberty in order pay the negotiated settlement in the case of Joyner v. Forsyth County.

Per an agreement between Forsyth County and the NC Partnership for Religious Liberty, the Partnership agreed to pay the attorneys' fees, costs, damages, and related expenses. The negotiated settlement totals \$248,000.

BE IT ORDAINED BY THE BOARD OF COMMISSIONERS OF FORSYTH COUNTY THAT THE 2011 – 2012 BUDGET ORDINANCE IS HEREBY AMENDED AS FOLLOWS:

INCREASE: SECTION 1. REVENUE.
GENERAL FUND
OTHER REVENUES – (990001-1535) \$248,000

INCREASE: SECTION 2 APPROPRIATIONS.
GENERAL FUND
NON-DEPARTMENTAL – (990001-2904) \$248,000

NATURE OF TRANSACTION:
 Additional Revenue Available
 Transfer within Accounts of
Same fund
 Other:

**APPROVED BY BOARD OF COUNTY
COMMISSIONERS AND ENTERED ON
MINUTES DATED _____
AGENDA ITEM NUMBER _____**

**RESOLUTION AUTHORIZING EXECUTION OF
NECESSARY DOCUMENTS TO FINALIZE PAYMENT OF
ATTORNEYS' FEES, COSTS, DAMAGES, AND RELATED EXPENSES
NEGOTIATED BETWEEN THE PARTIES IN THE CASE OF
JOYNER V. FORSYTH COUNTY**

WHEREAS, attorneys with the Alliance Defense Fund, representing Forsyth County, and the American Civil Liberties Union (ACLU) representing plaintiffs in the case of Joyner v. Forsyth County have negotiated a settlement for a reduced amount of attorneys' fees, costs, damages, and related expenses in a total amount of \$248,000.00 to be paid by Forsyth County in the case of Joyner v. Forsyth County; and

WHEREAS, pursuant to the provisions of an Agreement To Guarantee Funds with Forsyth County, North Carolina Partnership For Religious Liberty has submitted payment to Forsyth County in the amount of \$248,000.00 to cover the negotiated amount of attorneys' fees, costs, damages, and related expenses.

NOW, THEREFORE, BE IT RESOLVED that the Forsyth County Board of Commissioners hereby authorizes the County Manager, Chief Financial Officer, the attorney representing the County, and Clerk to the Board to execute the necessary documents, on behalf of Forsyth County, and to make payment to the American Civil Liberties Union (ACLU) of the negotiated amount of Attorneys' fees, Costs, Damages, and Related Expenses in the total amount of \$248,000, collected by Forsyth County from the North Carolina Partnership For Religious Liberty pursuant to the Agreement To Guarantee Funds for the case of Joyner v. Forsyth County, subject to a pre-audit certificate thereon by the Chief Financial Officer and approval as to form and legality by the County Attorney.

Adopted this the 14th day of May 2012.

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA
CASE NO. 1:07cv00243

JANET JOYNER and)
CONSTANCE LYNN BLACKMON,)
)
Plaintiffs,)
)
v.)
)
FORSYTH COUNTY,)
NORTH CAROLINA,)
)
Defendant.)
_____)

**SETTLEMENT AGREEMENT ON COSTS,
ATTORNEYS' FEES AND RELATED EXPENSES
AND FINAL RESOLUTION OF CASE**

The parties hereto, Plaintiffs, JANET JOYNER and CONSTANCE LYNN BLACKMON, and Defendant, FORSYTH COUNTY, NORTH CAROLINA, by and through undersigned counsel, jointly enter into this agreement to bring full and final resolution to the above captioned litigation and to resolve all remaining claims of Plaintiffs for their costs, attorneys' fees and related expenses as prevailing parties in the litigation.

Plaintiffs are deemed the prevailing parties for purposes of an award of attorneys' fees and expenses under 42 U.S.C. § 1988 and statutory costs pursuant to Fed. R. Civ. P. 54 and Fed. R. App P. 39, following the denial by the United States Supreme Court of Defendant's Petition for Writ of Certiorari on January 17, 2012. Said denial left intact the judgment in favor of Plaintiffs rendered July 29, 2011, by the United States Court of Appeals for the Fourth Circuit,

upholding the original judgment in favor of Plaintiffs rendered by the United States District Court for the Middle District of North Carolina (District Court) on January 28, 2010.

On March 23, 2012, Plaintiffs' attorneys filed with the District Court herein a Motion for Fees, Costs and Related Expenses and Motion to Supplement, requesting a total award of \$267,239.57. However, by mutual agreement and to bring full and final resolution to this litigation without the necessity of further time, expense and court action, Plaintiffs hereby agree to accept from Defendant the lesser amount of Two Hundred Forty-Eight Thousand Dollars (\$248,000.00), as full and final resolution of any and all remaining claims they may have, or may be entitled to herein, against Defendant.

With the exception of the declaratory judgment and injunction issued by this Court on January 28, 2010 [Docs. 99 & 100], Plaintiffs further agree as part of this settlement agreement to release and unconditionally discharge Defendant and its respective officers and officials, in their individual and official capacities, from all actions, causes of action, suits, rights, liens, obligations, costs, expenses, attorneys' fees, debts, dues, sums of money, accounts, reckonings, bonds, bills, specialties, covenants, contracts, controversies, agreements, promises, variances, trespasses, damages, judgments, extents, executions, claims, orders and demands whatsoever, in law, equity, or otherwise, whether now known or unknown, suspected or unsuspected, and whether or not concealed or hidden, which Plaintiffs may have for, upon, arising out of or from the matters at issue in this litigation.

As set forth above, this Agreement does not release or unconditionally discharge Defendant and its respective officers and officials, in their individual and official capacities, from the declaratory judgment and injunction entered by this Court on January 28, 2010.

Nothing should be construed or otherwise intended to negate the ongoing validity of that declaratory judgment and/or injunction.

Defendant, by and through its duly elected and authorized Forsyth County Board of Commissioners, hereby agrees to the terms of this settlement agreement and this stipulated final resolution of the litigation.

It is further hereby agreed and stipulated among the parties hereto that all parties are of the full age of majority and fully competent to agree and subscribe hereto, and no person not a party hereto is known or believed to have an interest in the subject matter of this action. Each of the attorneys executing this document on behalf of their respective clients further warrants and represents that they have full and binding authority to enter into this agreement and to all terms set forth herein.

Defendant hereby agrees to pay and disburse to Plaintiffs' lead trial counsel the total sum of Two Hundred Forty-Eight Thousand Dollars (\$248,000.00), no later than twenty (20) days after the parties' full execution of this agreement, as the full, final and total settlement of this action.

The parties further agree that this Court shall retain jurisdiction of this case in order to enforce this agreement in the event of non-payment of the full sum within the specified time period.

Dated: May 15, 2012

Signatures:

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