

Chairperson Cox reconvened the Board of Education.

PLEDGE OF ALLEGIANCE

Chairman Jones invited those in attendance to join the Boards in the Pledge of Allegiance.

Discussion of 2016-2019 Wide Area Network (WAN) Bids for E-Rate Reimbursement

Chairperson Cox opened the meeting with the following comments:

- This joint meeting is being held so that the two Boards could discuss the school system's wide area network bids
- The Board of Education will be glad to answer any questions the commissioners might have

Chairperson Cox turned the meeting over to Chairman Jones – Board of Commissioners.

Chairman Jones turned the meeting over to County Manager Rick Morris for his presentation.

County Manager Morris commented:

- Hope this presentation will get everyone on the same page and provide information for both boards to be better able to analyze the situation to work together
- The two Boards are all basically after the same objective when it comes to internet connectivity
- The school system is getting ready to do a wide area network and the question is "how wide do you want that network to be?"
- If an internet expansion happens in the County, the first and most important beneficiaries of any internet expansion are your students
- Want to clarify one thing - the Board of County Commissioners and myself do not have any criticisms whatsoever of what has been done so far with the Board of Education's Request For Proposal (RFP) process
- The focus is on how to proceed given where we are at now
- Will be glad to answer any questions during the presentation

County Manager Rick Morris presented the following information:

Board of County Commissioners (BOCC) Perspective on WAN Solicitation

- For clarification purposes, the BOCC and county manager are not advocates for RiverStreet Networks, we are advocates for expanded broadband connectivity to Stokes County students, businesses and other residents of the county.
 - Currently, RiverStreet Networks is the only provider that has provided a detailed proposal and commitment to expand broadband coverage within Stokes County at RiverStreet's expense with \$3 Million of the \$11 Million project cost already expended for the 3 to 5 year initial three phases of the project

- They have demonstrated that commitment by designing the system, marking the ground, and have done a significant amount of horizontal boring to be followed with a lot of cable installation
- The County Government would also support any other provider equally that would commit to broadband expansion, but none of the current providers have expressed interest or committed to expansion
 - Have worked years trying to get interest from other providers without any success
 - In fact their behavior demonstrates just the opposite as evidenced by the large dollar amounts quoted to individual customers for connection to the providers' current networks, even when the new connection is in very close proximity to existing service

Background

- RiverStreet Networks has proposed to expand broadband with all new fiber optic infrastructure to unserved and underserved customers over the next 3 to 5 years; future expansion beyond the first three phases is also anticipated similar to the project in Wilkes County that will eventually cover the entire County of Wilkes (provided a map for the Boards to see RiverStreet's commitment over the next 3 to 5 years)
- RiverStreet Networks' business model depends on anchor institutions (such as school systems, government entities and businesses) taking their services to fund the expansion to rural unserved and underserved customers
- The business models of large providers do not support expansion to unserved and underserved customers in low population density areas
- Broadband connectivity is perhaps the largest issue facing rural areas because of its growing impact on education, economic development and overall quality of life for rural residents of Stokes County
- The past and present WAN Requests for Proposal (RFP) for the Stokes County School System have not included anything specifically on expanding broadband services beyond the actual school facilities, though the current RFP did include a non-specific evaluation criteria that would allow a vendor to propose such expansion if they desired to do so

General Questions /Considerations for Board of Education (BOE), as the two boards discuss this topic

- Is the Time Warner Cable (TWC) proposal responsive to the RFP or not?
 - Consider the Time Warner Cable proposal totally non-responsive to the RFP regarding taxes and fees
- Did information received in the RFP responses provide information from the bidders that might cause the BOE to reconsider what the WAN requirements and evaluation criteria should be?
 - Only one of the three proposals included information regarding expansion to unserved and underserved
- With this WAN solicitation, what is the best value for the School System and the County at large factoring in students, businesses, and other residents?
- Is this solicitation a "best value" or "lowest cost" solicitation?
 - In section 4.5 of the current RFP it states "Stokes County Schools reserves the right to select the proposal(s) which in its sole judgment best meets the needs, services and costs of Stokes County School System."

- Section 4.5 clearly gives the BOE the option to make a “best value” judgment
- Though RiverStreet’s cost was higher than TWC, it was 25% less than the current annual charges of TWC which are \$460,476.60. The RiverStreet bid was also comparable with the third bid received from BroadPlex. Would E-Rate have a problem with paying 25% less to the lowest responsive bidder or to a bidder determined by the BOE to be the best value for the county?
 - RiverStreet’s bid proposal was 25% less than Time Warner’s current charges
 - BoardPlex’s bid proposal was almost 25% less than Time Warner’s current charges
 - Feel like it can easily be explained to E-Rate if questioned
- How important is it to the BOE to expand the current wide area network? How wide should the network be to provide coverage to students who do not have adequate connectivity for current and evolving internet requirements for education?

Current WAN Solicitation

- As stated in a previous slide, one of the key anchor institutions in the RiverStreet Network’s business model is the public school system
- RiverStreet Network’s submitted a bid for the Stokes County Schools WAN business and was not the lowest bidder on cost; however, they did commit to a significant expansion of broadband availability beyond the RFP requirement, which was to only provide WAN services to the school facilities
 - The RiverStreet Networks cost proposal was 25% less than the current charges being paid for WAN services to Time Warner Cable (TWC) by the School System which has been as high as \$477,000 per year
- RiverStreet Networks also met the RFP requirement along with another bidder to provide all taxes and fees in their proposal, TWC clearly did not meet that requirement of the RFP
 - Feel allowing TWC to modify their bill, as suggested by Board of Education Attorney Fred Johnson, gives TWC an advantage
- If the RFP requirements are strictly enforced, RiverStreet Networks was the lowest responsive bidder
 - A contract award to the lowest responsive bidder would not likely be challenged by the other bidders or other stakeholders in the process such as the Universal Service Administrative Company (USAC), the provider of the E-Rate reimbursement
 - In my opinion, RiverStreet was the lowest responsive bidder
- If the contract is awarded to either of the other two bidders, it would certainly be subject to protest by RiverStreet if RFP requirements were not strictly enforced.
 - The case for protest would be strengthened if any bidder was allowed to modify their bid after bid opening
 - On the TWC proposal, the fees are certainly an issue given their current and past practices of charging multiple fees in addition to sales taxes
- Re-advertising would be an option, if the BOE would like to ensure a clean solicitation; It would also allow the BOE to better define, clarify, and expand its requirements for broadband expansion as part of their WAN proposal

County Manager Morris concluded:

- Recommend the bid be awarded to RiverStreet or re-advertised
- Either option would be an appropriate decision by the Board of Education

- Would be very dangerous to award the bid to Time Warner Cable because they did not include tax information in their original proposal

Conclusions

- This should not be considered a “business as usual” WAN solicitation; circumstances have made it something much larger
- The need for high speed broadband connectivity for students and other users is becoming more and more critically important; for example House Bill 44 transitions funding from textbooks to digital learning, which will include digital textbooks plus many additional virtual materials
- The current solicitation could be perceived as unfair by other bidders if TWC is allowed to modify its original bid; omission of taxes and fees is a major issue with TWC’s original bid given their current practice of charging multiple fees in addition to sales tax
- If the contract is not awarded to RiverStreet Networks, re-advertising the solicitation should be strongly considered to ensure a fair solicitation both technically with respect to RFP requirements, plus perception wise
- E-Rate reimbursement should not be an issue if sound practices are followed in the RFP process, where “best value” solicitations are often used if the situation dictates instead of “lowest bidder”

Options at this Point in the Solicitation Process

- Award contract to the lowest responsive bidder, RiverStreet Networks
- Award contract to TWC and risk a protest by one of the other bidders because TWC was non-responsive on both taxes and fees
- Reject all bids and re-advertise the solicitation

Considerations if solicitation is re-advertised

- Include a RFP requirement for bidders to provide their current and future plans for expanding broadband coverage to unserved and underserved students, plus any other residents and businesses in Stokes County
- Recognize the value of broadband expansion by adding it to the evaluation criteria in the next RFP
 - Assign a weight to this specific evaluation criteria that appropriately reflects the value the two boards determine should be placed on expanded broadband for students and others
 - Consider making it second in weight / importance behind cost, which is required to receive the highest weight
- Include a RFP requirement that bidders’ proposals include a price for 1, 2 and 3 year contracts; this requirement would give additional flexibility to the BOE in its contract award decision

County Manager Rick Morris turned the meeting over to the Board of Education and

Board of Commissioners for further discussions.

Chairperson Cox extended appreciation to Manager Morris for the detailed presentation.

Chairperson Cox turned the meeting over to Board of Education Attorney Fred Johnson.

Board of Education Attorney Fred Johnson commented:

- Introduced Jeannene Hurley, E-Rate Consultant with the Department of Public Instruction (DPI) who is extremely knowledgeable about the Federal Communications Commission (FCC) regulations regarding E-Rate and broadband and who could help out in working through this process
- Have had an opportunity to discuss the E-Rate process with Ms. Hurley this afternoon
- Would like to address from my perspective about the issue of the responsiveness of the bids
- The issue of responsiveness of the bids was very important
- The Court decisions that he had read all seemed to emphasize the fact that neither bid specifications nor bids are perfect
- Most bid specifications include the provision for a public body to reject any and all bids, but to also waive irregularities
- I have gone through all the bids submitted
- Time Warner's bid does address taxes on page 46 of 68; it states all applicable state, federal, and local taxes and fees will apply to the bid (entire page relates to fees and taxes)
- Taxes are also addressed in the bid by BroadPlex
- Because there seems to be some misunderstanding about taxes, the tax expert at Dixon Hughes, the independent auditing firm for Stokes County Schools, was contacted for guidance
- Both RiverStreet and Time Warner were contacted to determine the tax rates utilized in their bid proposals
- During the conversation with RiverStreet, they discovered they made a mistake in their bid by quoting the wrong tax rate
- An amended email was received from RiverStreet today
- RiverStreet originally quoted a tax rate of 8.32% in their proposal and the correct tax rate should have been 6.75%
- RiverStreet is also asking to amend its bid to change its tax rate from 8.32% to 6.75%
- The tax rate of 6.75% was verified as being correct by the Department of Revenue
- The school system has three bids that are arguably nonresponsive on the tax issue
- That is why there is a provision in a RFP that grants the right to waive irregularities
- Some bidders would quote a 7% telecom tax rate that could apply
- The Department of Revenue said that some internet providers will consider that to be the state and local tax rate, but the Department of Revenue contends for Stokes County that 6.75% is the correct tax rate
- None of the three bidders included the 6.75% in their bids
- There was also an issue raised about inappropriate rates
- There was criticism of Time Warner imposing the Universal Service Fee which is a telecom fee that is approved by FCC and is standard to be passed along to school

districts, unless it is clear that none of the service is interstate rather than intrastate (outside the state)

- The burden of proof is on the customer
- If the customer can prove that when a search engine is used, none of their signal goes outside the state, they are not subject to the Universal Service Fee
- The bottom line is in previous years, it was appropriate charge under FCC regulations based on research with the FCC

County Manager Morris questioned if the Universal Service fee is a percentage of searches going out of the state while using a search engine.

Director of Technology Sarah Wood commented:

- My research indicates it is 10%; more than 10%, you are subjected to the Universal Service Fee

BOE Attorney Johnson continued:

- Board of Education has two options
 - Reserve the option to reject any and all bids
 - Have the option to waive irregularities
 - The RFP that the Board of Education issued did comply specifically with the USAC guidelines priced for service to the school district
 - Price has got to be the primary factor

Chairperson Cox commented:

- The Board of Education must consider what would happen if the E-Rate was lost and its financial impact on the budget and Fund Balance
- Feel Consultant Jeannene Hurley has clearly explained the E-Rate process
- If the Board of Education does not go with the TWC bid, the Board does not feel comfortable applying for the E-Rate because of the information provided by Ms. Hurley (the appeal process if denied could take years)
- Information provided to the Board of Education notes that if the Board of Education does not go with the most cost effective proposal, the E-Rate will be rejected
- If denied, the Board of Education would have to come up with the entire funding (80% E-Rate and 20% Board of Education)
- Worried that if the matrixes were altered much from the original proposal, question if TWC could come back and cause problems since the matrixes had been changed from the original RFP
- It is a roll of the dice as far as the Board of Education is concerned
- Would like to have Consultant Jeannene Hurley discuss the E-Rate

Chairperson Cox requested Consultant Jeannene Hurley, E-Rate Coordinator for North Carolina address both boards.

Consultant Jeannene Hurley commented:

- Have several experience years dealing with E-Rate
- E-Rate is a K-12 program
- There are other federal communication programs like the Connect America Fund that can help communities
- Not sure E-Rate can be all things to all people although Universal Service has four mechanisms
- Feel the E-Rate program is very generous; currently \$3.9 billion
- North Carolina in 2015 received over a \$110,000 million of the \$3.9 billion
- Stokes County has leveraged the program in the past to get a high level of connectivity to every school
- Stokes County is rural and does not have a lot of vendors
- Foundational elements of E-Rate are an open and fair competitive bidding process and cost effectiveness
- The bid has got to be cost effective
- In looking at the per megabyte cost of these two bids, Time Warner is going to come in at \$66.90 per megabyte and RiverStreet is \$99.00 per megabyte which is a cost effectiveness problem
- When Stokes County Schools file the E- Rate application, it goes to New Jersey and is reviewed
- If there is an issue due to some kind of impropriety, Stokes County Schools will go through a cost effectiveness review and probably a selective review
- Copies of all bids will be requested and a judgment will be made whether you had a cost effectiveness review
- From what I have seen, I really think it is a slam dunk
- That is what the rules are and what the process is
- The process is about cost effectiveness and open, fair bidding
- This is all done by federal people who contract with USAC and the people in NJ
- If it is determined that your bid was not cost effective, they will send you a denial letter and you will have 60 days to appeal that denial
- If you get denied, you have 30 days to appeal to the Federal Communications Commission (FCC) which could literally take years to get a response
- If denied, it can be very stressful during the appeal process
- If you get denied, the school district is still responsible for paying every dime of the bill until it all gets resolved

Open Discussion

Chairperson Cox commented:

- A lot of the Board of Education's questions go back to the loss of E-Rate
- The Board of Education's Fund Balance is critically low; we can't play games with that
- After talking with Ms. Hurley, we do not feel comfortable even applying for E-Rate if we do not go with Time Warner

County Manager Morris commented:

- Questioned the cost per megabyte?
- The school system has been paying \$460,000 per year and now has three bids way lower than that
- Questioned if that wouldn't be taken into consideration?

Ms. Hurley responded:

- What has been paid is in the past
- It is today and going forward
- Cost effectiveness is the rule and price is the primary factor

County Manager Morris continued:

- Cost effectiveness could be defined many different ways, when you factor expansion of the wide area network into it
- There are K-12 kids all over the county that need connectivity that will not get it if you go with Time Warner

Ms. Hurley responded:

- Understand the issue of students needing connectivity
- Every community across NC is currently having that same problem
- There are other mechanism in the UST that can be explored
- There are other options that are available
- E-Rate is an applicant driven K-12 program

Chairperson Cox commented:

- E-Rate looks at buildings and not kids

Ms. Hurley continued:

- Provided information regarding the Modernization Order that put into law the ability for schools to open up their wireless access and their networks after hours
- It also allows schools to work with dark fiber or to build it yourself
- The problem with building with fiber yourself is that you will have to maintain it
- You will have to have somebody on staff that knows how to splice fiber
- Understand the issues in rural counties
- Lee County has similar problems and is currently using a catch-in server to try to eliminate some of these issues
- E-Rate is a K-12 applicant driven program for the school district

Vice Chairman Walker commented:

- Will admit to not having a lot of experience with contracting
- Questioned if there is any clause in the RFP that prevents a vendor going with an initial low fee and then add an assortment of taxes and fees to their base bid?

Ms. Hurley responded:

- When you file an E-Rate application, you list the monthly amount being paid and E-Rate pays up to 80% of the monthly rate

Vice Chairman Walker confirmed with Ms. Hurley that if E-Rate pays 80% of the monthly charges, any additional charges would be the school system's responsibility.

Chairman Cox responded:

- Do not feel that would be something the school system would have to worry about with Time Warner based on their bids in the past

Director Wood responded:

- Those same fees would have to be paid with any vendor the bid was awarded to
- My understanding is that the school system must determine if the school system is responsible for paying those fees
- That is something that we are going to have to look at between now and the contract time

Vice Chairman Walker continued:

- It seems to me that the thing that has us handcuffed is that E-Rate only looks at cost effectiveness and nothing else

Ms. Hurley responded:

- The bidding matrix in the Board of Education's RFP was:
 - Overall cost
 - The extent to which the vendor's proposal solution fulfills the district needs
 - Vendor's stability, experience, and record past performance
 - Service level agreement
 - Option service features
 - All these were weighted with the highest weight being 35 points
 - Wilkes Communication actually received an extra 10 points for optional service

Vice Chairman Walker requested the total of each vendor's score.

Director Wood responded:

- Time Warner = 90
- Wilkes Communication = 82.5
- BroadPlex = 55

Ms. Hurley commented:

- Would like to mention one more thing about cost
- Just this year, the FCC, through the Modernization Order, made data available
- We can now see what everybody across the country is paying for this service

- Part of the reason it was made transparent is so that neighboring counties can see what their vendor is charging a similar entity
- That transparency has made a lot of vendors look at their pricing

Commissioner Booth commented:

- I am hearing that as long as you have it in the schools, you don't have to have the expansion in any underserved and unserved areas of the county
- Expanded broadband would be very important in any rural area in any rural county
- Read an article in Stokes News last week regarding North Stokes getting tablets; North Stokes is in the rural part of the county and doesn't have extended broadband
 - Was told that only 40% of the students have broadband
- Can't see why expansion would not be considered higher when students need broadband at their residence
- Have concerns regarding the bid from Time Warner – goes from approximately \$460,000 one year to a little over \$200,000 the next year
- The Board of Commissioners has tried for years to get Time Warner and CenturyLink to expand broadband in Stokes County with no luck
- We have tried to get grants
- We have an opportunity for RiverStreet to come in and provide expanded broadband for our citizens
- It has already been proven in Wilkes County what they will do in the schools
- They are willing in three phases over the next five years to spend \$11 million in infrastructure
- Their business model is to serve the un-served and the underserved
- Our schools are going more and more to broadband teaching
- Textbooks are being taken out of with everything going to technology
- This is a necessary thing and it is our opportunity
- If we miss this opportunity, we have missed the opportunity of our lifetime to expand broadband in this rural county
- They are willing to put their profits back into expanding even more than the three phases that have been mentioned
- It takes connecting up to the schools, government center, and the hospital to get started
- If it wasn't for RiverStreet coming into the County, Time Warner would have charged the school system another \$460,000
- See a great opportunity that is going to be slowed down or possibly missed – an opportunity to provide high speed broadband to the un-served and underserved
- Do you think that Time Warner's bid would have dropped so drastic if RiverStreet was not present in the County?

Chairman Jones commented:

- We have had conversations about getting our students ready for the world of work and entrepreneurship
- Entrepreneurship could totally evolve if high speed broadband was available
- We are teaching our students about entrepreneurship

- This also provides an opportunity for not only students, but for citizens who already live in the County
- We have all collectively said that we need to keep our talent here in the County
- This is an opportunity to anchor these students here
- We have lost students; our ADM is down. Why? Students have to go out and find a job somewhere else
- This is another mechanism to hold on to our youth and build up our schools once again
- Distance learning is not only done in schools, it is done in bedrooms and that is becoming more and more popular
- Students can take college classes in their bedroom before actually entering college
- It is a trickledown effect
- Wide Area Network is not just for those students K-12

BOE Member Yontz commented:

- Don't understand why we keep missing the point regarding E-Rate
- It may not be the rules we want to play by, but it is the rules on the table
- It has nothing to do with households
- Confirmed with Ms. Hurley, it is facilities
- This is out of our hands
- This is not necessarily the rules anybody at this table wants to play by, but it is the rules
- It speaks nothing to households when they are looking at comparing prices or services or anything else
- It is K-12 facilities alone

Chairman Jones and Commissioner Inman both replied that they heard that loud and clear.

Chairman Jones commented:

- We are looking at today and the future
- We know what the prices were in the past and what the bids are now

BOE Member Yontz responded:

- You can't look at the prices in the past, Time Warner was the only vendor in this area
- As a result of RiverStreet coming in Stokes County, we are going to benefit from this

Commissioner Inman responded:

- This could be our last opportunity to expand high speed broadband
- May still only have one vendor in this area

BOE Member Hart commented:

- Board of Education has been put in a no-win situation
- Commissioners have made a commitment that they want to fulfill
- There is nobody at the table that doesn't want that too, that goes without saying

- We have listened to a lot of different things tonight
- You say that the bid is non-responsive; our people say it is responsive
- We have heard the FCC doesn't like wire going over wire which is what is being done
- We have heard all these things that are negative for us and our charge is to work as the Board of Education
- As far as Time Warner having a low cost, that is capitalism and free market economy
- The jobs we lost were lost because of recession
- That is why things went down
- We won't get those kids back because they have moved
- They moved because they could not afford to be here
- It is not the internet
- My house is not on any map and isn't going to be
- In the northern part of the county, I see where it stops
- The ultimate goal of RiverStreet Networks is to provide high speed fiber optic to all Stokes County where demand and budget will allow
- When they get to my road, there is not enough people
- That is the same thing that Time Warner has done along with CenturyLink
- That is not going to go away

County Manager Morris noted it is the exact model being used in Wilkes County and they are going everywhere.

BOE Member Hart questioned Manager Morris if he could promise everyone in Stokes County that they are going to get the internet?

County Manager Morris responded:

- I can't promise that
- RiverStreet has a very low threshold for demand compared to the big carriers
- Think 20% to 30% is all you have to have to get them to come down the road
- They have a model that is going to put them at 100% of the people in Wilkes County if they want it
- That is the model that they are using in Stokes County

BOE Member Hart questioned if there was any compromise?

County Manager Morris responded:

- Attorney Johnson has given a lot of good legal analysis of options
- Questioned why you would want to take advantage of those options when this is a classic solicitation where the big guy is coming in and low-balling the little guy to stifle competition
- It could not be any clearer
- A low value has been assigned to the fact that we could get this expansion and the students are the most important ones who need the broadband

BOE Member Hart continued:

- Understand Mr. Morris' response, but Ms. Hurley has told us that if we don't take the lowest bidder, we will be investigated
- Time Warner has deep pockets, are they not going to challenge the process if they don't get the bid?

County Manager Morris asked if the bigger question was "Does E-Rate and Time Warner Cable set the requirements for what is needed in Stokes County or do we set them (these two boards)?

County Manager Morris noted that is what we are about to allow them to do – set the requirements for Stokes County.

Chairperson Cox commented:

- The Board of Education doesn't have a choice, but to play by the rules that E-Rate sets up if we have no funds to pay for the services if we lose the E-Rate

County Manager Morris responded:

- Can't believe the organization that does the E-Rate is not interested in rural connectivity as well
- Why can't we argue with those people in New Jersey as why we are doing a best value solicitation for the county?
- Have worked for the federal government for 30 years and have no hesitation going and talking to the FCC
- They are not stupid; they can understand best value procurement versus low cost
- There should have been just one evaluation criteria, if it is all going to be on cost

Vice Chairperson Messick commented:

- Board of Education was told by an authority from DPI that if we went with RiverStreet, we would not get E-Rate reimbursement
- Would like to ask each commissioner that is here today if they would guarantee to pay the \$330,000 for the Board of Education for the next three years to take RiverStreet because we won't get the E-Rate

County Manager Morris questioned how do you know for sure you would not get the E-Rate?

Vice Chairperson Messick responded:

- Have been told that by an authority from DPI

Chairman Jones commented:

- I can only speak for myself
- This is important enough not only for the students but the community and economic development that I would certainly come to the table and look at options to see what we could do together
- I can't speak for the entire board, because a decision has not been made on that and it would not be appropriate
- My personal opinion is that I would like to go that route if necessary and the E-Rate could not be obtained

Commissioner Inman questioned if the Board of Education does not take the current offering on the table, will it lose the E-Rate?

Ms. Hurley responded:

- Depending on how you file
- My personal and professional opinion is the winner of this bid is Time Warner Cable
- Any other vendor that you put in is going to cause some scrutiny and the possibility of a denial
- You will have to go through the denial process
- This looks strictly at cost effectiveness
- You awarded 35 points to cost and gave an extra 10 points for other things, which is build out
- I have been doing this for 15 years and can see the writing on the wall
- You can say what you want, but I have been involved with the FCC attorneys for a long time

Commissioner Inman commented:

- Very much value and appreciate Ms. Hurley's knowledge and expertise in this area
- Questioned Ms. Hurley, her opinion, based on Attorney Johnson's comment that the Board of Education could say all three bids were non-responsive and the Board could re-advertise, does the school system automatically lose the E-Rate?

Ms. Hurley responded:

- You can rebid because the Board of Education has the language in the RFP that says that the Board of Education can reject all bids

Commissioner Inman continued:

- Attorney Johnson stated that the Board of Education had the right to waive all irregularities
- Questioned if the Board of Education rejected all bids and re-advertised and included that the Board of Education had the right to waive all irregularities, what stance would E-Rate take?

Ms. Hurley responded:

- If you waive the irregularities, you go with what you have now
- If you are going to start over, that is a separate process
- It is hard to know what E-Rate would do
- In either case, whoever loses is going to file a Code 9 which is a whistle blower hotline
- It tells the FCC to begin an investigation that there was an impropriety
- Feel either way, there is going to be a complaint to the FCC by whoever the loser is
- If you pick Time Warner, you have got all the documentation here
- In the bids, Time Warner is most cost effective
- This is an applicant driven program for K-12, that is it
- There are other mechanisms that you can use to file for other money such as Connect America

Commissioner Inman continued:

- Believe the bids next year will be totally different

County Attorney Ty Browder questioned Director Wood if the Universal Service Fee was included in all of the current bids and if a provider has an option to absorb that fee?

Director Wood responded:

- The fee is not included in any of the bids

County Attorney Browder questioned if the provider has an option to absorb that fee or pass the fee on?

Ms. Hurley responded that there is no legislation that says how they pay that fee and in her experience, it has been a pass through cost.

County Attorney Browder continued:

- Understand that Time Warner has always passed it on
- Questioned how much was the fee from Time Warner?

Director Wood responded:

- The fee, last year, was approximately \$6,000 per month
- They all three did something different
- Time Warner did not include it at all
- RiverStreet had a line item that said taxes and fees with an amount
- BroadPlex had a monthly amount and they said that they included any applicable taxes

County Attorney Browder questioned if Time Warner received an unfair advantage when they were allowed to see that the other two bidders were not going to pass on the Universal Service Fee so they could come in and change their bid to also not include the Universal Service?

County Attorney Browder noted by not including taxes and fees in their bid that would allow them as they always have in the past to tack on the Universal Service Fee to their low bid.

Director Wood responded:

- When she received the bids, they were all listed without any taxes and fees so there would be a level playing field of what the base bid would be
- Talked to each vendor and asked them if they were going to include fees and learned that it is the school system's responsibility to determine if the school system is classified as interstate or intrastate
- Everyone knew upfront that I was asking those questions

County Attorney Browder continued:

- You have two bids that included all taxes and fees – you know what their total will be
- You have Time Warner who did not include no taxes and fees – you don't know what their total will be

Director Wood responded:

- Time Warner provided a statement that if we change our classification, we will not be responsible

BOE Member Yontz commented:

- The fee is roughly 17%
- When added to Time Warner's bill, it is still irrelevant because Time Warner is still less than RiverStreet

BOE Attorney Johnson commented:

- Did not think Time Warner knew what the other bids were
- They are public documents, but nobody ever asked to see them
- Questioned Manager Morris if the County had a contract with RiverStreet for the county wide broadband and projected timeframe for everybody to have this service?

County Manager Morris responded:

- The county wide is based strictly on their business investment model
- There is no contract with the county
- There is a contract with them to provide services to our governmental facilities starting in May 2016 and a second arrangement is the lease of land to build a new building in downtown Danbury
- There are only two agreements between Stokes County and RiverStreet

- There is no projected timeframe for everyone to have broadband
- The timeframe is for 3-5 years for the first three phases
- From that point forward, RiverStreet will be reinvesting money to extend basically out in each direction
- They have not defined a specific amount
- They have defined a \$11 million project
- RiverStreet has already spent \$3 million to do these three phases
- The schedule for the rest of it will be determined by demand

BOE Attorney Johnson re-confirmed with Manager Morris that the County has no contractual commitment with RiverStreet for the three phases.

County Manager Morris continued:

- The first phase of the three phases would be to hook up the school system and government facilities
- RiverStreet would have contracts with residents along those routes
- RiverStreet is committed to this 3-5 year program
- The commitment after that is based on what they are doing in Wilkes County to hook up rural customers
- The program in Wilkes County was a 10-year program to do 100% of the county
- RiverStreet has committed to ten years to do 100% here
- RiverStreet has committed to 3-5 years to these first three phases with \$11 million of their money to do it

Director of Finance Lanette Moore questioned County Manager Morris what would be the impact on the citizens if RiverStreet did not get the school system bid for the three year contract?

County Manager Morris responded:

- RiverStreet has not defined the restructured program that they will do if they don't get the school system
- Don't think they will just leave
- Feel RiverStreet will re-evaluate and slow down
- RiverStreet intends to stay here and keep working
- Will be a totally different program and probably not in 3-5 years

Vice Chairperson Messick questioned how the Board of Education would pay RiverStreet if they award the bid to RiverStreet?

Chairperson Cox commented:

- Board of Education is assuming that we will lose our E-Rate if we go with RiverStreet

- Director Wood doesn't even feel comfortable applying for the E-Rate if we do not take the lowest bidder
- It is Ms. Hurley's opinion that the Board of Education should not even apply for the E-Rate if we are not taking the lowest bidder
- We are getting the best professional advice that we can get
- Know we don't have enough money in Fund Balance to hardly cover one year of this should we not get E-Rate
- They don't care what we have paid in the past
- Value a company that is willing to expand into rural area of Stokes County
- Feel it is a great benefit for our students to have high speed broadband
- Think it is great benefit for our students to have it at home
- Part of me wonders how many people will understand the value of it and can afford to pay the additional cost of adding another bill to their households
- You can't say because everybody has access to it that they are going to jump on and pay the additional cost per month to their households
- That is a gamble and a risk, too
- We always have to make allowances for kids that do not have internet access at home
- While having all of our kids with internet access is a big priority for us, the Board of Education does not have \$300,000 a year to gamble with
- We are still five years out of a process of building this network as well
- It does come back to dollars for us and the gamble and the risk that we have to look at

Commissioner Lankford commented:

- Nine years ago, Stokes County residents could not get a cell phone call in Danbury
- The County developed a vision that there were two things we were going to do
- The first was to get cell towers so that everyone could have a cell phone
- The second was to discuss broadband service with every carrier
- The County went from zero towers to nine towers in Stokes County and just about everyone in the County has a cell phone
- You were saying people probably wouldn't take it, if they had the opportunity
- The probability is that most people, given the opportunity, would have broadband for their children to do their homework
- One of the things that I hear all over Stokes County is that getting broadband is one of the best things this county could do
- Hear constantly that my child can't do his/her homework because they do not have high speed internet
- We all agree that this is one of the top priorities in the County
- I know that more and more education systems are going to the internet
- I guess if we had not had the vision for cell towers, we would still be dialing up in Danbury and we could not reach anybody
- We have worked hard enough to get those towers where anyone can get out

- If we don't eventually think enough of the people in Stokes County to provide the services needed not only for school children, but for businesses and entrepreneurs, we are going to miss an opportunity that we will all probably never have again
- My recommendation is that we rebid this and that the RFP is designed specifically for a three-year term and be designed specifically for each company to bid on the same thing
- If the school system wants to get with the county and put this RFP together that will be fine
- If the school system wants to do it, that will be fine
- Would like to see the RFP before it is mailed out

Commissioner Inman commented:

- Hope this meeting does not end with everyone thinking it is the Board of Education versus the Board of County Commissioners
- Over the past six years, these two boards have worked wonderful together to do a lot of great things in Stokes County
- The Board of Education is doing a great job with the instructional program
- Nationwide and statewide, we are seeing funds cut
- Not just in NC, but everywhere
- We know what the Board of Education's budget is made up of county, state and federal funds and you can't afford to lose any federal funds
- Hope that we don't leave here thinking this was a battle of us against them or vice versus
- We are all in this together and want the best thing for our county and our citizens
- We are being held hostage not only by Time Warner, but by E-Rate and the regulations of E-Rate
- Whether this happens this year or next, I have gone on record already saying the single most important thing in this county is to expand high speed internet
- Not just for our students, but for everyone in Stokes County
- It is a travesty that there are people in this county that does not have high speed internet
- I get it loud and clear about E-Rate and the loss of these funds
- We have a carrier that wants to help
- Whatever happens here tonight will not stop this Board of County Commissioners from working as hard as they can to bring high speed internet to the citizens; we have made that commitment
- It is not going to happen from Time Warner
- There is no one sitting at this table that will see in their lifetime Time Warner expanding to the unserved
- If it came down to it, yes, I would appropriate tax dollars to make up that shortfall that the Board of Education will occur
- There is no pressure from me
- The Board of Education has to make that decision

Vice Chairman Walker commented:

- Questioned what is the timeframe for the RFP?

Director Wood commented:

- This RFP is good for 60 days
- The Board of Education has to make their decision one way or the other by the end of the month
- The school system has until the first of March for the E-Rate application
- Have time to work with the E-Rate application

Vice Chairman Walker commented:

- Encourage by the spirit of this meeting
- Do not see this as us against them
- We have got a lot done by working together
- We all want the same thing
- We all want what is good for the citizens of the county and in the Board of Education's case, the school children
- We also have a tight budget
- We all have that same goal
- It is a matter of how we reach it
- I don't want to put an excessive burden on the school system and the Board of Education
- On board with Chairman Jones and Commissioner Inman
- I will support holding the Board of Education harmless for any loss it occurs by rebidding or whatever it takes to move this process forward
- We need to meet as a board and discuss what you are willing to do and what you expect from the commissioners
- Our Board needs to then meet and come up with what we can do, where we can find funds and then get back together
- If Ms. Messick wants a response tonight, I would be willing to look at what economic development funds we can use this way
- Believe the two top issues in this county today are jobs and economic development
- The number one tool we need to work with to create jobs and economic development in our county is high speed internet
- We desperately need high speed internet access
- I am committing to work with you at whatever extent that we can to help bring some positive resolution to this issue
- I can't give you a dollar amount right now because of all the factors
- Need to work together

Vice Chairperson Messick reiterated that the Board of Education has been highly advised not to apply for the E-Rate, so the Board of Education would be responsible for the total cost.

Chairperson Cox commented:

- The most we would have had to pay out of pocket would be 20% of the lowest bid if the E-Rate were applicable.
- Just so we are clear, what you are saying is you are willing to pay us nearly \$1 million over the next three years of Stokes County taxpayers' money to take a higher bid, instead of the Board of Education using almost \$1 million dollars in free federal money

Vice Chairman Walker responded:

- Right now the number one thing that I am looking at is rebidding
- If that works, we won't need that much
- If we have put you at risk and if there is a cost, then to some extent we have created the situation that you are facing
- I see some responsibility on the part to Board even though you want high speed internet, too
- I am wondering if you will question if it is fair for the county to foot the total bill
- Will every taxpayer be excited to see their tax money used that way? No
- I am asked more today by our citizens "when am I going to get high speed internet?" than I am asked anything else about the county's operation

Commissioner Lankford commented;

- It needs to be rebid and the RFP needs to be specific to the point where you can get a fair bid from everyone

BOE Member Boles commented:

- Have sat here tonight and listened to what everybody has said tonight and the comments regarding rebidding
- Board of Education's Fund Balance is down to almost nothing
- Anything could take it
- We are looking at monies that we could be getting from the federal government
- There are so many factors involved
- What happens when we have a catastrophe?
- What would have been really great is if we could have had this meeting and done some damage control two or three months ago
- Lot of things that could have happened three months ago could have made today a lot better or easier
- Bids went out and came back and everything was done like normal
- All of a sudden, it didn't work the way somebody wanted it to and here we are
- This meeting should have been done several months ago

County Manager Morris responded:

- You could not have held the meeting three months ago since the RFP triggered this meeting

BOE Member Boles continued:

- Hearing some apprehension in some of the voices regarding the large amount of money that the commissioners would have to appropriate just over the next three years, makes me a little uncomfortable

Chairperson Cox agreed that it makes us all nervous.

BOE Member Yontz questioned Ms. Hurley what it would look like to the FCC if the Board of Education chose to go with RiverStreet which is not the lowest bid.

Ms. Hurley responded that during the application review, it will be found that RiverStreet was not the lowest bid so additional information will be requested and in my professional opinion your application will be denied.

Ms. Hurley also noted that if the Board of Education signs a contract with RiverStreet, the Board of Education will be responsible for the entire amount until the appeal process is over.

Ms. Hurley stated that in her professional opinion the denial would not be overturned due to RiverStreet not being the most cost effective bid.

BOE Member Yontz commented:

- If we went that route, there could be serious complications such as FBI investigations

BOE Member Yontz noted that if we rebid it, I assume the county commissioners would want to see the RFP if it was rewritten.

BOE Member Yontz also noted that he assumed the commissioners would want the Board of Education to put the company would provide service to households in the next RFP.

Commissioner Lankford responded that was right.

Ms. Hurley responded that it would definitely be problematic to include households in the RFP as it doesn't pertain to the E-Rate.

BOE Member Yontz continued:

- If we included households in the RFP, besides being issues with the E-Rate, is it not going to look like we have tried to swing the table for a different vendor?

- If we put in criteria that requires the vendor to run high speed internet to a certain percentage of the households in Stokes County, we have taken certain vendors out of the picture, correct?

Commissioner Lankford commented:

- If you rebid, make your RFP specific, you pick the lowest, the problem is solved

County Manager Morris commented:

- Don't think you should accept the current bids for the reasons noted by the County Attorney Browder
- Feel currently you have tainted bids regarding the irregularities and letting Time Warner adjust their bids
- With re-solicitation, you will probably get a lower set of bids than you have now
- The lower the bids, the less E-Rate matters
- You could weigh the criteria you have differently
- If you don't change the weight the criteria, you will most likely still get a lower bid
- You will have a clean solicitation
- In my opinion, the current one was not clean and I have done a lot of these – more than anybody in this room added together

Vice Chairperson Messick stated that BOE Attorney Johnson says we have a clean solicitation.

BOE Member Yontz commented:

- If we change the weight of the criteria, it looks like we are favoring one particular vendor

County Manager Morris responded:

- You are simply setting your requirement
- You are the ones who decide if wide area network connectivity is important
- You weigh the criteria on what you think the requirement needs

BOE Member Yontz commented:

- Someone had stated earlier that he had read in the paper there was only 40% of the students at North Stokes with connectivity
- The correct percentage of students surveyed at North Stokes showed 88% had connectivity

BOE Member Hart noted that he believed that not all the students were surveyed.

Chairperson Cox commented:

- We are going to have to go back and discuss this as a board
- We have a little more time to decide before these bids expire at the end of the month
- We do appreciate the county commissioners meeting with us to discuss it further

- We are on the same page, as far as, wanting to provide broadband to as much of the county as we can given our financial restraints

Vice Chairman Walker commented:

- Would like to see the RFP structured so it is fair, either the taxes are included or they are not
- All three providers should have the same basis for structuring their bids
- Not stacking it so it is in anybody's favor, but just having it fair, equal and consistent among the bidders where anybody knows what they need to include

County Manager Morris concluded:

- See no downside to rebidding
- Rebid and there is less opportunity for anybody to challenge what you are doing

Adjournment

There being no further business to come before the Board, Chairman Jones entertained a motion to adjourn the special joint meeting.

Commissioner Lankford moved to adjourn the meeting. Commissioner Inman seconded and the motion carried unanimously.

Darlene M. Bullins
Clerk to the Board

Ronda Jones
Chairman