

VIRGINIA: At a Special called meeting of the Tazewell County Board of Supervisors held May 8, 2008 at 7:00 p.m. in the Tazewell County Administration Building, Tazewell, Virginia 24651.

PRESENT: Bill Wimmer, Vice-Chairman
Dave Anderson, Member
D. Michael Hymes, Member
Seth R. White, Member
James H. Spencer, III - County Administrator
Eric Young, County Attorney
Patricia Green, Assistant County Administrator
Ruth Groseclose, Administrative Assistant
Members of the Press: Jim Talbert, Clinch Valley
News/Richlands News Press; Greg Jordon, Bluefield Daily
Telegraph; William Payne, Adventure Radio; Earl Cole,
The Voice

ABSENT: William B. Rasnick, Chairman

In the absence of the Chairman, Vice Chairman Bill Wimmer called the Special meeting to order and presided.

Supervisor White gave the invocation which was followed by the Pledge of Allegiance to the U.S. Flag.

The Special Called meeting was held pursuant to Virginia Code Sections 15.2-1417 & 15.2-1418 and 2.2-3707 paragraphs, A, C, D & E to consider and possibly act upon the following:

“Approval of, or amendments to, the requested ballot language for the meals tax referendum requested by the Board by resolution on April 1, 2008, pursuant to Section 58.1-3833 of the Code of Virginia.”

All those persons required to be notified of the Special called meeting in accordance with The Virginia Freedom of Information Act were so informed, in accordance with Virginia Code Section 15.2-1417 & 1418, pursuant to a request for the Special called meeting and waiver of said notice, as hereinafter incorporated. A copy of the waiver of the notice and a copy of the written request for the Special meeting, as required by the Code of Virginia is attached hereto and incorporated herein by reference thereto. Due to the absence of the Chairman, only those matters specified in the notice of the Special Called meeting would be addressed and no public comments would be heard during the Special Called meeting, because public comment was not listed in the Call of Notice for the Special Meeting.

Shea Cook, Attorney, stated that it was a violation of the Virginia Constitution to not allow people to speak, and voiced his objection. He stated that the people have a right to speak, because it was their money and their business.

The County Attorney, Eric Young recited Virginia Code relating to Special Meetings and stated that only matters specified in the notice may be considered in a special meeting unless all members of the board of supervisors are in attendance, because the Call and Notice for the Meeting did not include public comment and not all members were present the agenda could not include public comment.

CLARIFICATION OF APRIL 1, 2008 MOTION
REGARDING A MEALS TAX

Supervisor Hymes moved that the Tazewell County Board of Supervisors hold a referendum, pursuant to Section 58.1-3833 of the Code of Virginia, to enable this Board to levy a Food & Beverage Tax, the percentage of which may be determined at a later date by ordinance; that the question presented in the referendum be as follows:

“Should the Tazewell County Board of Supervisors have authority to levy a tax, on food and beverages sold for human consumption, by a restaurant, on the condition that all revenues for such tax are spent only for operating Pocahontas High School for two years, or for increasing teachers’ pay, or for planned school renovations?” Or such other language or wording as the Court, in its discretion, may deem appropriate to carry out the intent of this Resolution;

That we direct the County Attorney to petition the Circuit Court to order a Special Election as soon as practicable to answer the referendum question; That we authorize the County Attorney to request any necessary amendments, consistent with the intent of this resolution, to the foregoing referendum question language to comply with the requirements of Virginia law or Orders of the Circuit Court.”

Vice Chairman Wimmer seconded the motion for discussion.

For record, Attorney Shea Cook stated that a Chairman could not second a motion.

The County Attorney, Eric stated that the Roberts Rules of Order was the official procedure for conducting meetings of the Tazewell County Board of Supervisors and accordingly, the Chairman could second a motion because the Board is deemed a small body by Robert’s Rules of Order.

Each member present voiced their concerns with regard to the motion on the floor.

Supervisor Anderson read letters from the Tazewell County School Board and the Teachers Education Association with the School Board indicating that Pocahontas High School would close at the end of the school year and the TEA indicating that they would not take a position with regard to the proposed meals tax referendum. A copy of the letters as read by Supervisor Anderson are attached hereto and incorporated herein by reference.

Supervisor White once again requested that the Board drop the request for a Special election, expressing that it would be a waste of county funding. He said that the county needed to look at other areas of funding.

Supervisor Hymes reiterated the need for additional revenues and the county’s lack of funding in the upcoming budget. He said that the meals tax would be a good source of additional funding. He further said that he was apprehensive about putting off the referendum until the November election as previously suggested. He said that it might lessen the chance of getting the tax.

Supervisor Wimmer stated that he had fought a good fight for the citizens of Pocahontas, and he was truly sorry to report, but he felt that the school would be closed. He said that the meals tax would be a good source of revenue to subsidize education as well as additional funding for other needs such as the Sheriff’s department and roads. He further stated that he would not vote to raise the county’s tax rate. Supervisor Wimmer again reiterated his feelings with regard to the meals tax being a choice for citizens, instead of an obligation.

Supervisor Anderson said that he felt the Board needed more time to study the meals tax and do it right. He requested time-lines, percentages and planning with the school system and further said that he would not vote for the motion on the floor.

Now, Vice Chairman Wimmer called for a roll call vote to clarify the April 1, 2008 resolution requesting a meals tax by referendum. The following roll call vote was recorded as set forth below and which motion failed by a vote of 1 to 3:

Supervisor White - Nay

Supervisor Hymes - Aye

Supervisor Anderson - Nay

Supervisor Wimmer - Nay

Supervisor White then moved that a citizen comment period be held. The motion died for a lack of a second. The County Attorney again stated that other business could not be addressed because of the absence of Supervisor Rasnick.

Supervisor White next moved that the language in the April 1, 2008 resolution requesting a 5% meals tax be deleted. Supervisor Anderson seconded the motion and which motion passed by a roll call vote of 3 to 1, and which said vote is hereby recorded as set forth below:

Supervisor White - Aye

Supervisor Hymes - Nay

Supervisor Anderson - Aye

Supervisor Wimmer - Aye

ADJOURN

Now, upon motion of Supervisor Anderson, seconded by Supervisor Wimmer and adopted by a vote of 4 to 0, with all members present voting in favor thereof and no one against the same, this special called meeting is hereby adjourned.

Vice Chairman, Bill Wimmer

/rg

Recess time: 8:30 p.m.