

VIRGINIA: AT A RECESSED MEETING OF THE TAZEWELL COUNTY BOARD OF SUPERVISORS HELD SEPTEMBER 10, 2009 AT 6:00 P.M. IN THE TAZEWELL COUNTY ADMINISTRATION BUILDING, 108 EAST MAIN STREET, TAZEWELL, VIRGINIA 24651

PRESENT: DAVE R. ANDERSON, CHAIRMAN
BILL WIMMER, VICE-CHAIRMAN
D. MICHEAL HYMES, MEMBER (PARTICIPATED IN THE MEETING, VIA TELEPHONE CONFERENCE, PURSUANT TO VA CODE SECTION 2.2-3708.1)
SETH R. WHITE, MEMBER
THOMAS M. BREWSTER, MEMBER
C. ERIC YOUNG, COUNTY ATTORNEY
JAMES H. SPENCER, III – COUNTY ADMINISTRATOR
RUTH GROSECLOSE, ADMINISTRATIVE ASSISTANT

ABSENT: PATRICIA GREEN, ASSISTANT COUNTY ADMINISTRATOR

OTHERS

PRESENT: MEMBERS OF THE PRESS

- JIM TALBERT, CVN/RNP
- TAMMY WOLFORD, THE VOICE/CEDAR BLUFF REVIEW
- CHARLES OSBORNE, TAZEWELL COUNTY FREE PRESS

The Chairman of the Board of Supervisors called the recessed meeting to order and presided.

Pursuant to Code of Virginia, Section 2.2-3708.1, the Chairman of the Board of Supervisors reported that Supervisor Hymes notified him this date that he could not attend the meeting as scheduled because his work schedule required him to be more than 60 miles from the meeting location. Supervisor Hymes informed the Chairman that he was working in Lexington, Kentucky and requested that the Board of Supervisors allow him to attend the meeting, via remote participation.

Now, upon motion of Supervisor White, seconded by Supervisor Brewster and adopted by a vote of 4 to 0, the Tazewell County Board of Supervisors hereby grants Supervisor Mike Hymes permission to attend the recessed meeting, via remote communication, pursuant to VA Code Section 2.2-3708.1(A)(1).

INVOCATION AND PLEDGE

Supervisor White then gave the invocation with Supervisor Brewster leading those present in the pledge of allegiance to the United States Flag.

AGENDA APPROVED

Upon motion of Supervisor Wimmer, seconded by Supervisor White and adopted by a vote of 5 to 0, the Tazewell County Board of Supervisors hereby approves the September 10, 2009 agenda format as written.

EXECUTIVE/CLOSED SESSION

Upon motion of Supervisor Wimmer, seconded by Supervisor White and adopted by a vote of 5 to 0, the Tazewell County Board of Supervisors hereby enters into an Executive/Closed Meeting pursuant to 2.2-3711 A-7 Legal Matter involving sales tax recoupment.

Now, upon motion of Supervisor Wimmer, seconded by Supervisor Brewster and adopted by a vote of 5 to 0, the Tazewell County Board of Supervisors hereby returns from the Executive/Closed Meeting.

CERTIFICATION OF EXECUTIVE/CLOSED MEETING

RESOLUTION

WHEREAS, the Tazewell County Board of Supervisors has convened an executive/closed meeting on this date pursuant to an affirmative vote and in accordance with The Virginia Freedom of Information Act; and

WHEREAS, 2.2-3712 of the Code of Virginia requires a certification by the Tazewell County Board of Supervisors that such executive/closed meeting was conducted in conformity with Virginia law; and

NOW, THEREFORE, BE IT RESOVLED, that the Tazewell County Board of Supervisors hereby certifies that, to the best of each member's knowledge, (i) that only public business matters lawfully exempted from open meeting requirements by Virginia law were discussed in the executive/closed meeting to which this certification resolution applies, and (ii) only such public business matters as were identified in the motion convening the closed meeting were heard, discussed or considered by the Tazewell County Board of Supervisors.

AYES: Supervisor White, Brewster, Wimmer, Anderson and Hymes

NAYS: None

ABSENT: None

ABSENT DURING VOTE: None

There was no action to report as a result of the Executive/Closed Meeting.

REQUEST FOR EMERGENCY MEDICAL SERVICE IN CEDAR BLUFF, VA

The Board of Supervisors heard from Steve Nidiffer, Deputy Fire Chief, Town of Cedar Bluff, on behalf of the Cedar Bluff Town Council, requesting that the Tazewell County Board of Supervisors endorse and support the Town of Cedar Bluff's request to create a Cedar Bluff Fire and EMS Department to serve the Town of Cedar Bluff.

The County Attorney, Eric Young requested that Mr. Nidiffer respond to several questions concerning the request. Mr. Nidiffer responded to the following questions as raised by the County Attorney:

County Attorney: Mr. Nidiffer, is your department in Cedar Bluff a government entity?

Mr. Nidiffer: Yes, a municipality.

County Attorney: I have a resolution from the Town of Cedar Bluff that you provided to me. Is that correct? Is this what you gave me?

Mr. Nidiffer: Yes it is.

Mr. Young: Mr. Young read the resolution adopted by the Cedar Bluff Town Council establishing the Cedar Bluff Fire & EMS Department to serve the Cedar Bluff area and authorizing the Town Manager to oversee the establishment of the new Fire & EMS department. A copy of which is attached hereto and incorporated herein by reference.

Mr. Young: Will the vehicles & equipment used to operate the EMS department be owned by the Town of Cedar Bluff?

Mr. Nidiffer: Yes, they will.

Mr. Young: Will be the building to operate the EMS Department be owned by the Town of Cedar Bluff?

Mr. Nidiffer: The building is in the process of being purchased through the Town.

Mr. Young: Will you be a paid employee of the Town or paid by the Town? Or will the Chief be paid by the Town?

Mr. Nidiffer: We have administrative funding, it is a paid position. The Chief has declined the salary. I'm not sure who it will go to or how it will be divided at this point. But yes, there is money involved.

Mr. Young: The reason I question this is the Code of VA contemplates two (2) different types of these organizations. One is part of town government and one is a volunteer organization.

Mr. Nidiffer: It is not a volunteer organization. It is a department of the Town.

Mr. Young: And you are asking for a Certificate of Need to operate solely within the town jurisdictions?

Mr. Nidiffer: Yes sir, within the Town limits.

The County Attorney, Eric Young, then recited a section of the Code of Virginia, Sec. 27-6.1 regarding establishment of fire/EMS department, chief, officers and employees by Towns. The County Attorney stated that it was his opinion that the Board of Supervisors could not prohibit the Town of Cedar Bluff from establishing a fire department as a department of government to operate solely within the corporate limits of Cedar Bluff.

Supervisor White requested that the County Attorney reiterate his recent conversation with Chairman Griffith of the Emergency Services Committee informing him that the Board of Supervisors had no authority over the Town of Cedar Bluff with regard to operating an EMS department solely in the Town of Cedar Bluff. The County Attorney stated that he did discuss this issue with Mr. Griffith, Chairman of the ESC Committee. Mr. White apologized to members of the ESC Committee for not being notified with regard to the County Attorney's opinion and said the ESC Committee played an important role in helping the Board of Supervisors make decisions with regard to emergency services issues, with Supervisor Anderson stating that the Board of Supervisors had to do what was legally right.

Supervisor Wimmer, a member of the Emergency Services Committee as well, stated that this information was not conveyed to the EMS Committee, and if the Committee had been notified accordingly the vote by the EMS Committee would have probably been different. The vote during the Sept. 9, 2009 EMS meeting resulted in a failed vote of 6 to 1 – the ESC felt a “need” did not exist.

Mr. Nidiffer said he made it perfectly clear at the Sept. 9 ESC meeting that the proposed EMS department was solely for the Town of Cedar Bluff, not for the Baptist Valley, Raven area, etc. ...however, if other EMS departments in the County ever needed back-up assistance the Town of Cedar Bluff would do anything in their power to assist. The subject of a mutual aid agreement was then discussed with regard to emergencies outside of the Cedar Bluff boundaries. Mr. Nidiffer explained the different types of mutual aid agreements for various situations; stating that not every need is the same.

Supervisor Hymes questioned the 4-for Life monies allocated each year to each County emergency unit. The County Administrator stated that a lot of active budget issues were taking place in Richmond at this time and based on information received today, the 4-for Life monies might be dipped into. He said the County has no idea what the State would do with regard to the funding.

Now, upon motion of Supervisor Brewster, seconded by Supervisor White and adopted by a vote of 5 to 0, the Tazewell County Board of Supervisors hereby approves a Certificate of Need for the Town of Cedar Bluff to operate an Emergency Medical Services Department in the of Town of Cedar Bluff, Virginia, subject to legal review and approval and that the following resolution adopted by the Cedar Bluff Town Council be incorporated herein and attached hereto these minutes as set forth below:

RESOLUTION

CEDAR BLUFF FIRE & EMS DEPARTMENT

WHEREAS, the residents of the Town of Cedar Bluff have traditionally been provided Fire Protection Services by Tazewell County as a benefit to County taxes paid by the residents and property owners of Cedar Bluff, VA and;

WHEREAS, in June 2007, the Tazewell County Board of Supervisors signed an amended fire and EMS Services agreement which excluded Cedar Bluff from Fire and EMS Services, and;

WHEREAS, the Cedar Bluff Town Council has determined that the Town of Cedar Bluff must now provide Fire Protection and EMS services for the residents and property owners of Cedar Bluff; and

THEREFORE, BE IT RESOLVED, that the Cedar Bluff Town Council hereby establishes the Cedar Bluff Fire & EMS Department to serve the Cedar Bluff area and hereby authorizes the Town Manager to oversee the establishment of the new Fire & EMS Department, and to execute the required documents for the new department.

STRUCTURE FIRE RESPONSE STANDARD OPERATING GUIDELINES

Supervisor Anderson explained the purpose of the proposed Structure Fire Response Standard Operating Guidelines. He said the proposed guidelines originated from residents living in rural areas who have been or are presently having difficulty obtaining or keeping their homeowners insurance policies as well as paying outrageous insurance rates with regard to fire protection.

Supervisor Wimmer briefed the board on the ESC recommendations on this subject at the September 10 ESC meeting. He outlined the guidelines proposed as well as the revisions by the County Attorney.

Now, upon motion of Supervisor Wimmer, seconded by Supervisor Brewster and adopted by a vote of 5 to 0, the Tazewell County Board of Supervisors hereby adopts the STRUCTURE FIRE RESPONSE GUIDELINES as set forth below, subject to legal review by the County Attorney as well as review and approval by the various town attorney's.

STANDARD FIRE RESPONSE STANDARD OPERATING GUIDELINES APPROVED

Fire Departments located in Tazewell County, Virginia and receiving funds from the County are requested to follow these guidelines for automatic aid when responding to a structure fire:

1. When the 9-1-1 Center receives a call reporting a structure fire, the 9-1-1 Center will check the fire boundary map and dispatch the Fire Department for that location and the next closest department simultaneously.
2. For the towns of Bluefield and Tazewell Dispatch directly, for Richlands contact the Richlands Police Department. These town departments do not require second department dispatch to locations within the town's corporate limits unless they request mutual aid.
3. The responding Fire Department will sign on with 9-1-1 Dispatch and check to see if a second department has been dispatched. The fire department who is the primary responder will be the on-scene commander.
4. The appropriate EMS agency for the location of the fire will be dispatched and law enforcement if needed.
5. Dispatch will handle all radio traffic and times pertinent to the incident logging for the responding units
6. Automatic aid will be provided 24 days a day, 365 days a year

Note: Failure to follow these guidelines result in loss of county funding.

AN ORDINANCE REALLOCATING FEES PREVIOUSLY ESTABLISHED FROM THE LAW LIBRARY FUND TO THE COURTHOUSE MAINTENANCE FUND ADOPTED

Following a public hearing duly held on September 1, 2009 by the Tazewell County Board of Supervisors and as advertised according to law in a newspaper having general circulation throughout Tazewell County, and upon motion of Brewster, seconded by Supervisor White and adopted by a vote of 5 to 0, the Tazewell County Board of Supervisors hereby adopts "AN ORDINANCE REALLOCATING FEES PREVIOUSLY ESTABLISHED FROM THE LAW LIBRARY FUND TO THE COURTHOUSE MAINTENANCE FEE." A copy of the complete

ordinance in a form as hereby adopted is on file in the office of the County Administrator, 108 East Main Street, Tazewell, Virginia.

QUIT CLAIM RT. 747 – COAL TO HISTORIC POCAHONTAS

Upon motion of Supervisor Brewster, seconded by Supervisor Wimmer and adopted by a vote of 5 to 0, the Tazewell County Board of Supervisors hereby approves a Quits Claim to the Town of Pocahontas, Virginia for all the coal removed on VDOT's Route 747 project for Historic Pocahontas. The coal will allow Historic Pocahontas to produce its own coal souvenirs and to heat the building known at the Pocahontas Opera House. A copy of the Quit Claim Deed once executed by all parties will be on file in the office of the County Administrator, 108 East Main Street, Tazewell, Virginia 24651.

MIDDLE CREEK WATER PROJECT- PSA

The County Administrator, Jim Spencer, reported that due to a small hurdle in funding for the Middle Creek Water Project the project might be short on subsidies. He said the Department of Housing and Community Development has reduced funding in certain areas of their budget. There is money for land acquisition on the project, however if the PSA has to pay for a pump station, funding will be short approximately \$25,000.00. He said the PSA would approach the landowners for a pump site- land donation, and so forth. The Supervisors felt that the project was too important to delay and the County would find money if needed to proceed with the Middle Creek Water project.

**\$5,000.00 – NORTHERN DISTRICT FUNDS
TO AMERICAN LEGION POST 14 – POCAHONTAS, VA**

Upon motion of Supervisor Brewster, seconded by Supervisor Anderson and adopted by a vote of 5 to 0, the Tazewell County Board of Supervisors hereby approves the amount of \$5,000.00 from the Northern District Funds, payable to American Legion Post No. 14, Box 626, Pocahontas, VA 24635. This is matching funds for a Shott Foundation Grant to assist with the placement of a roof on the American Legion Post 14 building in Pocahontas, Virginia. The County Administrator is hereby authorized and directed to issue said warrant in accordance with this action and which said warrant will be converted to negotiable check by the Treasurer of Tazewell County, Virginia.

**NORTHWESTERN DISTRICT GARBAGE COLLECTION – PUBLIC MEETINGS
SLATED**

Supervisor White announced that a public meeting with regard to the Northwestern District Garbage Collection project would be held in the Jewell Ridge Camp at the Presbyterian Church on September 24 @ 6:00 p.m. An additional meeting will be held in the Raven area once meeting arrangements are complete

Supervisor Wimmer confirmed the allocation from district funding for the upcoming Fire & Rescue Appreciation Dinner. The Board stated that the funds were allocated for the event at the September 1, 2009 regular meeting.

ADJOURN

Now, there being no further business to be transacted and upon motion of Supervisor White seconded by Supervisor Hymes and adopted, the meeting is hereby adjourned.

The next regular meeting of the Board of Supervisors is scheduled for October 6, 2009 at 6:00 p.m.

David R. Anderson, Chairman

By: Rg

6:15 p.m.