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VIRGINIA: AT THE SPECIAL MEETING OF THE DINWIDDIE COUNTY BOARD OF SUPERVISORS HELD IN THE MULTI-PURPOSE ROOM OF THE PAMPLIN ADMINISTRATION BUILDING IN DINWIDDIE COUNTY, VIRGINIA, AT 4:16 P.M. ON THE 5<sup>TH</sup> DAY OF AUGUST 2014.

**SUPERVISORS**

PRESENT:	WILLIAM D. CHAVIS – CHAIRMAN	ELECTION DISTRICT 3
	DANIEL D. LEE – VICE CHAIRMAN	ELECTION DISTRICT 4
	BRENDA K. EBRON-BONNER	ELECTION DISTRICT 5
	HARRISON A. MOODY	ELECTION DISTRICT 1
	DR. MARK E. MOORE	ELECTION DISTRICT 2

**ADMINISTRATION**

PRESENT: W. KEVIN MASSENGILL, COUNTY ADMINISTRATOR  
ANNE HOWERTON, DIVISION CHIEF OF FINANCE & GENERAL SERVICES  
TYLER C. SOUTHALL, COUNTY ATTORNEY

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The Chair called the meeting to order at 4:16 p.m. He apologized that the Board was late in starting the meeting. He apologized for the delay in getting started. The Board had met with four other jurisdictions who had gathered to meet Senator Warner previous to this meeting and were delayed in their arrival to this meeting.

**1. ROLL CALL**

**PRESENT:**

Dr. Moore  
Mr. Lee  
Mr. Chavis

Ms. Ebron-Bonner – arrived at 4:17 p.m.  
Mr. Moody – arrived at 4:21 p.m.

**2. AMENDMENTS TO AGENDA**

There were no amendments to the agenda.

**3.A. MEALS TAX ORDINANCE REVISION**

Jennifer C. Perkins, County Treasurer, and Tyler C. Southall, County Attorney, presented the information below.

**I. Background**

The Treasurer approached the County Attorney's Office and asked that the Meals Tax Ordinance in the County Code be revised so that calculations of late fees and penalties could be calculated by the current computer software system, rather than manually. As part of the review conducted by the County Attorney's Office, further revisions to the Meals Tax Ordinance, Sections 19-132 and 19-134, were suggested to update the Meals Tax Ordinance for new language in the Code of Virginia.

**II. Overview of Sections 19-132 and 19-134 of the County Code**

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**a. Section 19-132**

Section 19-132 sets forth exemptions to the meals tax imposed by the Dinwiddie County Code. Several new exemptions are being suggested to match the language in Section 19-132 with the language for required exemptions in Virginia Code Section 58.1-3833:

1. The two existing exemptions for certain non-profits (Sections 19-132(1) and (5)) are being merged into a new exemption, which provides that certain fundraising conducted by such non-profit entities are tax exempt for three times and then an additional \$100,000 of gross receipts is exempt. This exemption is generally larger than the two previous exemptions and matches state code.
2. Sales of food to students and staff at day care centers and private schools would be exempt under the new ordinance in addition to the public school exemption allowed for in the current ordinance.
3. Food furnished by restaurants to their employees as part of their compensation when no charge is made to the employee would be exempt under the new ordinance.
4. Food sold by hospitals, medical clinics, convalescent homes, nursing homes, or other extended care facilities to patients or residents thereof would be exempt under the new ordinance.
5. Certain food provided by the government or private charitable non-profits would be exempt under the new ordinance.

**b. Section 19-134**

The Treasurer originally asked for the change in the ordinance so that amounts owed could be accurately calculated with her office's software. The meals tax ordinance has not been revised since 1994, and the Treasurer's Office has informed me that it cannot be managed in the current computer software system. The Treasurer has confirmed that her office's software will be able to compute the taxes and penalties under the new ordinance.

In the new ordinance, the calculation of late penalties is changed to match Code of Virginia Section 58.1-3916.

**III. Further Discussion of Meals Tax Ordinance –**

As penalties and interest cannot be calculated with the County's current software, the amounts for penalty and interest must be calculated manually, which is a burden on the Treasurer's Office. I have been informed by the Treasurer's Office that the Ordinance changes have been reviewed by the software vendor to determine that they can be accommodated in the current system without modification. Furthermore, the new ordinance would bring the language in the Meals Tax Ordinance up to date with the current language in the Code of Virginia, both with respect to the calculation of late penalties and interest and exemptions from the Meals Tax.

With the Board of Supervisors' approval, the new ordinance can be advertised for consideration at the regular September meeting. If approved, the new ordinance would take effect on January 1, 2015.

**DRAFT ORDINANCE TO BE CONSIDERED FOR PUBLIC HEARING:**

**AN ORDINANCE TO AMEND  
THE CODE OF THE COUNTY OF DINWIDDIE, 1985, AS AMENDED**

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**BY AMENDING SECTIONS 19-132. EXEMPTIONS AND 19-134. PAYMENT AND  
COLLECTION OF TAX  
CHAPTER 19, TAXATION  
ARTICLE XII. MEALS TAX**

BE IT ORDAINED by the Board of Supervisors of Dinwiddie County, Virginia:

*(1) That the Code of the County of Dinwiddie, 1985, as amended, is amended and re-enacted by inserting the following language shown underlined and deleting the following language shown in strikethrough:*

**Sec. 19-132. Exemptions.**

The following purchases of food shall not be subject to tax under this article:

- (1) ~~Food sold by nonprofit educational, charitable or benevolent organizations or by a church or religious body on an occasional basis as a fund-raising activity.~~
- (1) Food sold by volunteer fire departments and rescue squads; nonprofit churches or other religious bodies; or educational, charitable, fraternal, or benevolent organizations the first three times per calendar year and, beginning with the fourth time, on the first \$100,000 of gross receipts per beginning with the fourth time, on the first \$100,000 of gross receipts per calendar year from sales of food and beverages (excluding gross receipts from the first three times), as a fundraising activity, the gross proceeds of which are to be used by such church, religious body or organization exclusively for nonprofit educational, charitable, benevolent, or religious purposes.
- (2) Food furnished or sold by boardinghouses that do not accommodate transients.
- (3) Food sold by cafeterias operated by industrial plants for employees only.
- (4) ~~Food sold by nonprofit cafeterias in public schools, nursing homes and hospitals day care centers, public or private elementary, secondary schools, colleges or universities to their students or employees.~~
- (5) Food furnished by restaurants to their employees as part of their compensation when no charge is made to the employee.

- ~~(6) Food furnished by a hospital, medical clinic, convalescent home, nursing home, home for the aged, infirm, handicapped, battered women, narcotic addicts, or alcoholics to patients or residents thereof.~~
- ~~(7) Food sold by age-restricted apartment complexes or residences with restaurants, not open to the public, where meals are served and fees are charged for such food and beverages and are included in rental fees.~~
- ~~(5) Food sold by churches or religious bodies, fraternal and social organizations and volunteer fire departments and rescue squads at occasional dinners and bazaars of one or two days' duration at which food prepared in the homes of members or in the kitchen of the organization is offered for sale to the public.~~
- (86) Food furnished by churches which serve meals for their members as a regular part of their religious observances.
- (97) Food and beverages sold through vending machines.
- ~~(10) Food (i) when used or consumed and paid for by the Commonwealth of Virginia, any political subdivision of the Commonwealth of Virginia, or the United States; or (ii) provided by a public or private nonprofit charitable organization or establishment to elderly, infirm, blind, handicapped, or needy persons in their homes, or at central locations; or (iii) provided by private establishments that contract with the appropriate agency of the Commonwealth to offer food, food products, or beverages for immediate consumption at concession prices to elderly, infirm, blind, handicapped, or needy persons in their homes or at central locations.~~
- (118) Food sold by grocery stores and convenience stores except for prepared sandwiches and single-meal platters and prepared food ready for human consumption sold at a delicatessen counter.
- (129) Any other sale of food which is exempt from taxation under the Virginia Retail Sale and Use Tax Act, or administrative rules and regulations issued pursuant thereto.

*(Ord. of 10-7-92)*

**Sec. 19-134. Payment and collection of tax.**

- (a) Every seller of food with respect to which a tax is levied under this article shall collect the amount of tax imposed under this article from the purchaser on whom the same is levied at the time payment for such food becomes due and payable, whether payment is to be made in cash or on credit by means of a credit card or otherwise. The amount of tax owed by the purchaser shall be added to the cost of the food by the seller who shall pay remit the taxes collected to the county in accordance with Sec. 19-135. the same manner and at the same times as payments to the county of the county's retail sales tax are made. Taxes collected by the seller shall be held in trust by the seller for the benefit of the county until remitted to the county.

~~Except as may be otherwise expressly set forth in this article, the meals tax imposed under this article shall be administered and collected by the commissioner in the same manner as the county's retail sales tax and shall be subject to the same penalties for violations thereof, including, without limitation, the penalties provided for in §§ 58.1-635 and 58.1-636 of the Code of Virginia, 1950, as amended, except that all monetary penalties, payments and reports required to be made hereunder shall be made to the county treasurer, and not to the state tax commissioner. Taxes collected by the seller shall be held in trust by the seller for the benefit of the county until remitted to the county.~~

- (b) If any person, whose duty it is so to do, shall fail to file a report or refuse to remit the tax required to be collected and paid under this article, within the time and in the amount specified in this article, there shall be added to such tax by the commissioner of revenue a penalty in the amount of ten (10) percent, if the failure is for not more than thirty (30) days, with an additional five (5) percent for each additional thirty (30) days or fraction thereof during which the failure continues, not to exceed twenty-five (25) percent in the aggregate, with a minimum penalty of ten dollars (\$10.00), but in no event shall the penalty exceed the amount of the tax assessable. In addition, interest at the rate of ten (10) percent per annum may be computed and collected upon the taxes and penalty by the treasurer beginning from the date such taxes were due and payable.

*(Ord. of 10-7-92; Ord. of 12-7-94)*

Mr. Southall stated that if there is consent from the Board of Supervisors, it would be the recommendation of staff to go forward with advertising the new ordinance for consideration at the regular September meeting. If approved, the new ordinance would take

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effect on January 1, 2015. He said there are only a few technical changes being proposed to the ordinance that really won't make much of a real life difference.

Mr. Lee asked if the amounts owed would be affected.

Mr. Southall responded that the amounts would not be affected. He said it does bring in the language from the State Code regarding penalties. He stated that anyone who pays the meals tax on time doesn't have to worry about penalties.

Dr. Moore said there have been some issues regarding other localities about the collections of taxes similar to what is being considered.

Anne Howerton, Division Chief of Finance & General Services, interjected that she thought those were localities that had recently instituted meals tax where they had not had a meals tax previously. She said nothing is being changed on the current meals tax for Dinwiddie. All that is being changed is the way the penalties and interest are calculated.

Lori Stevens, Commissioner of the Revenue, stated that most of those who currently pay meals tax have their cash registers set up to accommodate that difference; and the tax department is very good about going in and auditing them (as well as explaining differences).

Mr. Massengill stated that Dr. Moore had brought up a good point. He said the timing of this meals tax ordinance being considered at the same time that there has been regional media coverage about other localities and meals tax, requires that the reason for requesting the consideration of this ordinance amendment be stated. He said the reason the Treasurer and the County Attorney are bringing this forward has nothing to do with anyone being taxed in a way that is not in compliance as to how they should be. He stated the issue is bringing the County's ordinance up to speed to what the State Code allows. Also, at the same time, this amendment would allow penalty and interest to be calculated in a way that dovetails nicely with the software system that is currently used by the Treasurer's Office. He stated further, that as with all ordinance amendments, if the Board consents to this amendment, staff will go forward with the draft that has been presented at this meeting and advertise for a public hearing at the September meeting.

Ms. Perkins stated that if someone comes to her office now and has penalty and interest, she is not able to tell them what those amounts will be. She has to manually calculate the amounts in a spreadsheet and get back to the citizen.

There was consensus among the Board for this item to be advertised for public hearing at the September regular meeting.

### **3.B. CODE COMPLIANCE**

Phillip Harris, Code Compliance Officer, presented the information below. He explained how Code Compliance works in Dinwiddie County. Mr. Harris stated that he had talked with several other localities in order to share how they operate. He said the main goal of code compliance is to protect the property of residents of the county.

#### **CODE COMPLIANCE**

##### **Dinwiddie County Code Violations:**

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- Tall Grass
  - If over 12" tall a letter is sent to the resident stating the individual has 10 days in which to correct the violation
  - If after that timeframe the grass has not been cut, the County will send a contractor to cut it (if that happens, a lien is placed against the property – is sent to the Treasurer's Office and goes out to the individual in their tax bill as a nuisance fee)
- Unlicensed or Inoperable Vehicles
  - Example of current practice: if property has 5 unlicensed vehicles, 30 days are given, if after that time there are 2 then it is assumed the individual is trying. If an extension is requested for 30 days, then that extension is given (Mr. Harris said he has always been told to try to work with the citizen.)
  - Non-operable vehicles must be shielded from public view by a privacy fence, vegetation, or a combination of both
- Junk & Trash
  - Letter is sent to the individual giving 10 days for cleanup. After that timeframe, if violation is not corrected the County sends a contractor to clean up the property.
- Illegal Dumping
  - Normally illegal dumping takes place back in the woods where it can't be seen. Code Compliance is normally notified by a neighbor.
  - When County has to clean up it can become very costly – normally try to work with the individual
- Manufactured Homes
  - Must have a building permit and appropriate license to have a manufactured home on property – cannot just pull onto an empty lot. If not, individual is given 30 days to remove the manufactured home. If not removed in that timeframe, a summons is delivered.
  - Most other localities have a property maintenance code and a property maintenance department that deals with manufactured homes

## Zoning Violations:

- Dogs in R-1
  - Receive complaint from citizens
  - How many dogs are allowed on property?
    - In residential zoning districts and/or residential subdivision it is unlawful to have more than the allowed number of dogs per lot as listed below:
      - 2 dogs per lot size less than 20,000 sq. ft.
      - 4 dogs per lot size between 20,001 sq. ft. & 1 acre
      - 5 dogs per lot size between 1.01 acre to 1.5 acre
      - 6 dogs per lot size greater than 1.5 acre
      - Dogs are not regulated in agricultural zoning
- Signs
  - Big signs (ex. 8'x 6' or 8' x 8' signs on the side of the road are violations – need a permit to put up signs)
  - Election signs are not a violation
- Non-permitted Use
  - Example of a non-permitted use would be a trailer placed on a piece of property that is not zoned for a trailer; or dumping items such as concrete or other items on a piece of property
- Building & Parking Setback

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- All buildings have certain set-backs – residents are made aware of the set-backs on their property when obtaining a building permit.

Mr. Harris showed various pictures of inoperable vehicles, trash on properties, vacant lots with equipment being stored on it. He also discussed how code violations are handled in surrounding localities.

### Prince George:

- Tall Grass – 15 inches
- Inoperative Vehicles – Police handle
- Manufactures Homes – Property Maintenance Code

### Petersburg:

- Tall Grass – 12 inches (post property & give 48 hrs. for grass to be cut)
- Trash & Junk – 48 hrs. to clean up
- Inoperative Vehicles – Police

### Hopewell:

- Tall Grass – 12 inches 5 days
- Junk & Trash – 5 days
- Inoperative Vehicles – Police
- Manufactured Homes – have had some removed, discourage any more coming in

Mr. Harris stated that he was desirous of hearing from the Board of Supervisors whether the Board wishes for him to be more stringent with code compliance. He said that regarding tall grass, an ordinance was adopted in 2012 that stated that one (1) letter would be sent to the offending land owner per grass cutting season. Throughout the rest of the year, no more letters would be sent out, and the County would have the grass cut. He said there are four or five that he has had cut for the second time this year (which is not an inexpensive process).

Mr. Lee asked if a lot of the cases were the same person each time who continues to create a violation, correct it, and then create another violation.

Mr. Harris responded that out of the entire county there are probably five who continue to repeat the same inoperative vehicle violation. He said that some will do just the bare minimum to get by. For example, the individual will take the inoperative vehicle and move it behind a shed so that when he goes back to the property to check, he can't see the vehicle. Later, a neighbor will call and say the person moved the vehicle behind the shed. Mr. Harris stated that he has to be able to see the violation from the driveway as he is not allowed to just walk on an individual's property. If he can't see it from the driveway, he can't do anything about it. He said that overall, tall grass is the biggest issue as far as repeat offenders due to the fact that there are people who live in places like New York or Philadelphia and have inherited the property from a deceased family member. He said a lot of those individuals don't care about the property; and that a lot of those places are also delinquent on property taxes.

Dr. Moore asked if foreclosures are an issue at this time with the economy being as it is.

Mr. Harris responded that yes they are.



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Mr. Moody asked who is in line first to receive revenue from the sale of the property in a situation where there is a foreclosure and the County has been paying to have the property mowed and/or cleaned up.

Mr. Harris responded that he had a property the previous week where the property was owned by the bank and the County cut it. The bank paid the whole amount.

Mr. Southall stated that anytime you have a tax lien or lien on parity with a tax lien, such as a lien for tall grass or to take down a derelict structure that will be superior to all other liens.

Ms. Ebron-Bonner said that there are a lot of these issues in her area. She stated that she had a concern about continuing to give chances to clean up, especially when it involves the same people all the time. She said she thought 30 days is 30 days. If you have 3 cars and you know they are out of compliance, that they should be removed (unless there is a truly good reason). She said that people who have multiple inoperative vehicles on the property already know they're out of compliance. She said she thought that 30 days was enough time to take care of what needed to be taken care of.

Mr. Massengill added the following comments. He spoke about code compliance and code enforcement. The goal of code compliance is to get people to come into compliance. With that approach, which the Code Compliance Officer has used in years past, time is given for the offender to come into compliance. He said that with enforcement, the 30 days is given; and when the code compliance officer returns if the individual is still not into compliance then it is enforced. Mr. Massengill stated that what staff would like to get from the Board at this meeting was more of an understanding of what the approach should be. He said that most of the time that is spent on compliance is spent on those violators that will not come into compliance, or will wait until the last day. At that time they come into compliance; and the very next day they will go out of compliance again (as they know that they then get another 30 days). He said the desire of staff is to see what enforcement efforts can be placed on those individuals who continue to "play the system" to make sure they are standing before the Judge, and the Judge telling them "enough is enough". Mr. Massengill said that staff believes that there are those cases in the county where staff's hands are somewhat tied. On some of those properties there is not one violation, but numerous violations. He said that in a subdivision it becomes an issue for the whole community.

Tammie J. Collins, Division Chief of Planning & Community Development, commented that as the Dinwiddie Code is currently written the County is empowered to be a little more aggressive in our process with the approach to code compliance. She said that it is not necessary for any language to be amended in the current Code. What staff is looking for from the Board at this meeting is the appreciation that Mr. Harris is working with the citizens, but it's a different season and these repeat offenders are taking up staff time and resources; and the new expectation is that 30 days means 30 days. That would mean that on day 31 the offender would be issued a summons to go to court. She said that staff is asking at this meeting if that is the approach the Board desires to be taken exactly as it is written. Further, are there mitigating circumstances in which there may be a need for an extension? She asked if so, would that mean that the Board would want that administratively approved?

Mr. Massengill stated that the overarching thought of the County in years past was to try to work with the citizens to get them into compliance. He said this Board's thoughts on that may be a little different. He said the County is working one particular case at present

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where there have been up to six or seven county departments working on this one particular violator. He said his heartburn is that when you start extending time periods, you start getting into discretion. He said what the Board may want to consider is that the Code Compliance Office does the inspection, and if the individual is in violation of the Code they are in violation of the Code.

Mr. Lee asked the difference between the Code Compliance Officer going out to the property, and the Sheriff's Deputy going out.

Mr. Massengill stated that the Code Compliance Officer is the individual who is vested to do this for the County.

Dr. Moore asked if the Code Compliance Officer had ever gone in tandem with a Sheriff's Deputy for a habitual offender.

Mr. Harris responded that when grass cutting has to be done on a property where the property owner is living on the property, he usually has a Sheriff's Deputy meet him on the property with the contractor who will be doing the mowing.

Mr. Massengill said that in Dinwiddie code compliance used to be done more on a complaint basis. The County has moved away from the complaint basis and have done sweeps (with all the enforcement folks), and have looked at different areas. He said the issue is those who will take care of the issue, and then go right out of compliance again. He stated that if it is the desire of the Board, staff would suggest that for those who are habitual offenders, after the first time having an offense, in some short time afterwards if they go back out of compliance then there would not be an extension of grace given. In that circumstance there will be a summons given to the offender.

Mr. Harris stated that he would like to treat everyone the same, and would like to take to court anyone who doesn't come into compliance after the 30 days.

It was the consensus of the Board to go forward with handling code compliance as Mr. Harris had just said – to give the offender a notice of 30 days, and if the offender does not come into compliance at the end of the 30 days, to give a summons to court.

Dr. Moore asked how the weather (for instance inclement weather during the winter) affected code compliance.

Mr. Harris responded that he very seldom has an issue due to the weather. He said the summer has more issues due to high grass.

Mr. Massengill referred to the fact that in a 30-day period there are 80+ violations that Mr. Harris is working on at one particular time (some are multiple violations). He said that one of the approaches needs to be to sit down and talk with the Judge specifically about these issues and the new approach the County will be taking to make sure the Judge is also on board with the new approach and to let the Judge know the issues that are being faced.

Mr. Southall, County Attorney, stated that one thing to keep in the back of everyone's minds is that most of these violations are Class 4 Misdemeanors. In the case of inoperative vehicles, it is a Class 1 Misdemeanor which is a fairly significant thing to be found guilty of.

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Mr. Harris interjected that he has been in the courtroom on a particular occasion regarding inoperative vehicles when the Judge gave the individual another court date to which the inoperative vehicles were to be cleaned up by. On that extended date, the Judge asked Mr. Harris if the vehicles were still there and they were. The Judge then gave the individual 10 days in jail.

**ADJOURNMENT**

Upon motion of Mr. Moody, seconded by Ms. Ebron-Bonner,

Ayes: Dr. Moore, Ms. Ebron-Bonner, Mr. Moody, Mr. Lee, Mr. Chavis

Nays: None

The meeting was adjourned at 5:16 p.m.

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William D. Chavis, Chairman

ATTEST: \_\_\_\_\_  
W. Kevin Massengill  
County Administrator  
Clerk to the Board

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