

## WEAKLEY COUNTY LEGISLATIVE BODY MEETING

JULY 26, 2004

The Weakley County Legislative Body met in regular session on July 26, 2004 at the Weakley County Courthouse in the County Commission Room. County Mayor Ron Gifford called the meeting to order at 6:00 p.m.

Commissioner Sinclair gave the invocation.

All members present gave the Pledge to the Flag.

County Clerk, Pat Scarbrough called the Roll with 18 members present and none was absent.

County Mayor Gifford called for any corrections or additions to the June 28, 2004 minutes. Commissioner Phebus made a motion to approve the June 28, 2004 minutes and Commissioner Owens placed a second to the motion. A voice vote was taken and the ayes carried, there was none opposed, the June 28, 2004 minutes were approved.

### **SPECIAL RECOGNITION:**

There was not any special recognition and the County Mayor moved to the next item on the Agenda.

### **ELECTIONS, APPOINTMENTS AND CONFIRMATIONS:**

County Mayor Gifford called for the confirmation of the members to the Weakley County Emergency Communications Board. Each of the Commission members had before them a copy of a letter of recommendations for these positions.

Commissioner Stewart made a motion to move this part of the Agenda to after the Trustee's Relief of Taxes on the Agenda. Commissioner Phebus placed the second to the motion. County Mayor Gifford called for all those in favor of moving the appointment of members to the Weakley County Emergency Communications Board to after the Trustee's Relief of Taxes. A voice vote was taken and the ayes carried with none opposed.

### **REPORTS:**

Each of the Commission members received in their packets the Trustee's Report, General Fund Report, the Highway Department Report, the School Department Report and the Solid Waste Report. The County Mayor called for any question on these reports, there being none; the County Mayor called for any standing committee reports. Commissioner Phebus was recognized and commented on the Budget Process and on Resolutions 01, 02, and 03. Commissioner Phebus commented that each of the Commissioners should have received a Memo dated July 16, 2004 pointing out some of the items of the budget that he felt should be mentioned. If any of the Commissioners have any other questions about any of these items, he would be happy to take those questions.

Dave Bradley gave the Veterans Service Officer Report; he gave a brief report and commented that the Veterans service increased in Weakley County by 95 this year.

The Agricultural Extension Service Report was mailed out to each of the members and Jeff Lannom; Extension Agent commented that he would be happy to answer any questions the commission might have.

The Chamber of Commerce Report was included by Suzie German, Executive Director and was also before each of the Commission members and she commented that she would be happy to answer any question that the Commission might have.

The Chair entertained a motion to accept the reports, Commissioner Buckley made the motion, and Commissioner Baltz placed a second. County Clerk Scarbrough took a roll call vote with 18 for and none opposed, the Reports was accepted.

**UNFINISHED BUSINESS:**

**RESOLUTION NO. 2004-44:** Resolution to Approve a Drug Free Work Place Substance Abuse Policy for Weakley County.

This Resolution was tabled at the last meeting so that Attorney Neese could review the policy from a legal point of view. Commissioner Westbrook made a motion to adopt Resolution No. 2004-44 with the corrections all ready incorporated into the Resolution as noted in County Attorney Neese's letter. Commissioner Rich placed a second. Discussion was called and the question. County Clerk Scarbrough called the Roll with 18 for and none opposed. The Motion carried.

The County Mayor moved to the next item on the Agenda.

**NEW BUSINESS:**

**RESOLUTION NO. 2005-01:** Resolution Making Appropriations for the Various Funds, Departments, Institutions, Offices and Agencies of Weakley County, Tennessee, for the Fiscal Year Beginning July 1, 2004 and Ending June 30, 2005.

County Mayor Gifford called for the Finance Ways and Means Report from Commissioner Phebus. This Resolution passed the Finance Ways and Means Committee unanimously. Commissioner Phebus made the motion to adopt this resolution and Commissioner Stewart placed the second. Discussion was called and Commissioner Owen was recognized. Commissioner Owen thanked the Department Heads for their hard work, for the budget request coming before the Committee in good order and doing a good job. Commissioner Owen commented that revenue is down and expense is up 3.6 percent. Further discussion was called. Commissioner Salmon thanked the Finance Ways and Means for their hard work and everybody else. Henry County had a ten-cent increase and Henderson County is looking at a sixty-cent increase. Commissioner Salmon felt that this was a very reasonable budget considering some of the increases in the surrounding counties.

Commissioner Westbrook made a motion to amend Resolution No. 2005-01 to include the third fund Special Purpose Revenue Fund and consolidate this fund into the General Fund. Commissioner Jones placed a second to the motion to amend. Commissioner Westbrook commented that this was set out in this manner so that the Commission and the people could see what the penny was for and where it was going. Question was called on the amendment, a voice vote was taken with the ayes carrying, and none was opposed. County Mayor Gifford called for any other discussion on the original resolution as amended. Commissioner Stewart called the Question.

County Mayor Gifford exercised his right to address the Commission and he vacated the Chair in order to do so. County Mayor Gifford asked that Commissioner Buckley assume the Chair as Pro Tempore. County Mayor Gifford addressed the Commission and commented that the budget was a good

budget and praised the Finance, Ways and Means Committee for working hard and close to the bone, but a low fund balance was its downside. The budget presented totaled more than \$43 million, but was in the black by only \$200,000, leaving little room for overflow spending or the possibility of substantial reserves. County Mayor Gifford commented that it is never easy when you're dealing with other people's money, County Mayor Gifford reminded the Commission that they are dealing with the money of the people of Weakley County. There are tough choices that have to be made, and we have reason to be proud of the tax rate that we have in Weakley County, compared with the other counties around us. With this in mind, County Mayor Gifford called for an amendment by the Commission striking a \$4,000 pay raise for the Director of Finance, Shawn Francisco. County Mayor Gifford felt this would be a good first step in increasing the fund balance. County Mayor Gifford commented that the raise was unjust, commenting on what this says to the employees who are receiving three per-cent raises. County Mayor Gifford commended the Finance Director does work hard and the employees in this office work very hard. County Mayor Gifford called upon the Commission's sense of justice and fairness to all the employees of Weakley County and he asked that this commission amend the budget with this raise excluded. County Mayor Gifford commented that these were his heartfelt convictions and he felt that he was honoring what the people would have him to do under the circumstances.

Chairman Pro Tempore, Buckley called for any comments from the Commissioners. Commissioner Stewart commented that the Chairman of Finance Ways and Means, Commissioner Phebus, had addressed these comments in a Memo that each of the Commissioners had before them. Commissioner Stewart read excerpts from the Memo that substantiates the raise for the Finance Director. Commissioner Stewart commented that because of the reasons outlined in the memo that he did not have a problem with giving the raise in question.

Commissioner Phebus made comments concerning his Memo; the reasons are clear as to why the Finance, Ways and Means Committee and Financial Management Committee recommended this raise. This raise is both a merit increase and also to get the Finance Director in line with counties of similar size in Tennessee. Even with this raise, the Finance Director will still be making less than the School Superintendent, Road Supervisor and the County Mayor and a number of employees in the School Department.

Commissioner Phebus called for the question on the Resolution as amended. County Mayor Gifford commented that when the County Finance Department was formed the salary was set at five percent below the Trustee's Salary. Then a few years ago it was raised to the same salary as the Trustee. Now you are going \$4,000 above the Trustee's Salary. County Mayor Gifford commented that he was not criticizing the performance of the Finance Director, which was not the issue. The issue is if this department is doing so well, then maybe we should look at dividing the salary among all the employees that contributed to this productivity. County Mayor Gifford commented that this sends the wrong message to issue a \$4000 raise beyond anything else in General Fund, Highway Department, or uncertified personnel in the School Department.

Commissioner Westbrook called for the question. County Mayor Gifford called for anyone to amend the budget and there was not a motion made. County Clerk Scarbrough called the roll with 17 ayes and one no. The Budget was approved.

County Mayor Gifford assumed the Chair. County Attorney Neese called for Commissioner Buckley to vote after he vacated the chair since technically he could not vote as Pro Tempore and Commissioner Buckley voted yes. The vote was 17 ayes and 1 nay, the motion carried.

**RESOLUTION NO. 2005-02:** Resolution Fixing the Tax Levy for Weakley County, Tennessee for the Fiscal Year Beginning July 1, 2004 and Ending June 30, 2005.

Commissioner Phebus gave the Committee Report from Finance Ways and Means; this Resolution passed the committee unanimously. Commissioner Phebus made a motion to approve and Commissioner Westbrook placed the second. Discussion was called. Commissioner Westbrook made a motion to amend the General Fund to fifty-three cents and eliminate the special revenue fund. The Highway Fund was set at twenty-nine cents, the General Purpose School Fund at eighty cents and the Debt Service Fund was set at fifty-five cents; making the total tax rate \$2.17. Commissioner Garner placed a second to the amendment. Discussion on the amendment was called and the question. A voice vote was taken with the ayes carrying and none opposed. The commission was back to the original motion as amended. Commissioner Phebus called for the question. County Clerk Scarbrough called the roll with 18 for and none opposed. The Motion carried.

**RESOLUTION NO. 2005-03:** Resolution Making Appropriations to Non-Profit Charitable Organizations for the Fiscal Year Beginning July 1, 2004 – June 30, 2005.

Committee Report from the Finance Ways and Means was called and Commissioner Phebus commented that it passed his committee unanimously. Commissioner Salmon made the motion to adopt and Commissioner Jones placed the second. Discussion was called and Commissioner Baltz was recognized. Commissioner Baltz questioned Item # 15 for \$6,000 for the Dolly Parton Reading Railroad line item. Was this the same type of program that was approved through the school budget? Commissioner Phebus commented that this is a different program from what the school department has. Supervisor Barber commented that this is totally a different program. This program sends the books directly home to their parents. Commissioner Phebus commented that it identifies those children from birth to kindergarten and if they sign up they, will receive a book a month until they are five years old. This amounts to sixty books over a period of five years. This applies to children in Weakley County only. This provides books for those children that might not be able to afford their own. Commissioner Baltz commented that this would not make the parent read to the child and Commissioner Vincent disagreed. Commissioner Vincent felt that the parent would read to the child if afforded the opportunity.

Question was called and the County Clerk called the roll with 18 for and none opposed. The motion carried.

**RESOLUTION NO. 2005-04:** Resolution Supporting the Passage of Federal Legislation Allowing Sales Tax to be Deductible from the Federal Income Tax and to Allow for a Buyout of Tobacco Farmers.

County Mayor Gifford commented that this came recommended to the Commission by way of the Tennessee Government Relations Office and did not go through a Committee. The Commission no longer has a Legislative Committee. Commissioner Vincent commented that there were other committees this could go before, i.e., the Health, Education, and Welfare Committee or the Finance Ways and Means Committee. Commissioner Vincent commented that he did not like to vote on a resolution that had not gone before a Committee. Commissioner Rook made a motion to place the resolution on the floor for discussion. County Mayor Gifford called for a second; there was not a second forthcoming and the motion died for lack of a second.

Commissioner Owen commented that it needed to go before some committee before it is brought before the Commission. Commissioner Stewart made a

motion to refer this Resolution to the Finance Ways and Means Committee and the Health, Education and Welfare Committee. Commissioner Vincent placed a second to the motion. A voice vote was taken with the ayes carrying and none opposed. The Resolution was referred to the above committees.

The County Mayor called for any other New Business to be brought before the Commission, there being none the commission moved to the next item on the Agenda.

### **TRUSTEE'S RELIEF OF TAXES:**

The Commission had before them in their packet dated July 1, 2004 the final reconciliation of the 2002 Tax Aggregate. Motion to relieve the Trustee of Taxes was made by Commissioner Phebus and Commissioner Owen placed a second. Discussion was called and the question. The County Clerk called the roll with 18 ayes and none opposed. The Trustee was relieved of the 2002 Tax Aggregate.

The next item on the Agenda was the Elections, Appointments and Confirmations, that was moved from the first of the Agenda. The Commission has a letter before them nominating or appointing for confirmation three individuals to the Weakley County Emergency Communications Board of Directors. Dr. David Long of Martin, Phillip Johnson of Martin and Kayla Anderson of Dresden were the nominees recommended in County Mayor Gifford's letter. County Mayor Gifford called for a motion to approve. Commissioner Barner was recognized and questioned why the County Mayor was taking off good people that have been serving and put on somebody else in their place. Commissioner Barner commented that if Don Teal does not want to be re-appointed, then put someone in his position and leave the rest of the appointments alone. County Mayor Gifford commented that the Commission can discuss freely any of the nominations but none of the nominations or appointments may come from the floor.

Commissioner Vincent commented that Commissioners should be present on the Emergency Communications Committee, as they are typically on most boards of the County Government. There has been a county Commissioner, I believe three or four or five, on this board since it's inception. With these three appointments, there will not be a Commissioner on the Board. County Mayor Gifford commented that he did not believe the presence of Commissioners on the Board was necessary and knew law did not require it.

Commissioner Gardner was recognized and questioned if it was out of order to ask what kind of resume or interview that these candidates had. Commissioner Owen made a motion that these three individuals are voted on separately. Commissioner Barner placed a second. Commissioner Phebus was recognized and he questioned whom David Long would be replacing. County Mayor Gifford commented that there was no replacing of anyone. There are three positions open. The three individuals not being reappointed are Commissioner Phebus, Commissioner Salmon and Don Teal of Martin.

Commissioner McAlpin commented that the bylaws state the board members would remain in their positions until a replacement is appointed. If this is the way it reads, Commissioner McAlpin, commented that the nominees would need to be voted on separately regardless and would need to be identified as replacing which Board Member.

County Attorney Neese commented that that the corporate by-laws read one of two ways. Terms define at which time the term ends, the position goes vacant or dead. The language to the effect that the person shall serve for a period of three years or two years or whatever until such time as his or her successor is appointed.

County Mayor Gifford commented that he thought that you have definite terms and these three positions were two year terms and then we have two coming up that are three year terms to make them staggered.

Commissioner Owen rescinded his motion to vote on individuals separately, and to vote on all three of them together. Commissioner Barner refused to remove his second and commented that he wanted to vote on the appointments one at a time. Commissioner Vincent was recognized and he questioned who would stay and who would go if voted on individually. County Mayor Gifford commented that these terms would expire on September 1, 2004. Commissioner Vincent questioned if there should not be at least two county commissioners on the board.

Commissioner Stewart made a motion to recess for ten minutes to look at the by-laws. Commissioner Sinclair placed a second. The County Commissioner recessed at 6:55 p.m. and reconvened at 7:05 p.m.

County Mayor Gifford called the meeting back to order at 7:05 p.m. County Attorney Neese addressed the question of the terms of the expiration of one of the board members, and what happens when no one replaces them. This statute was amended in 2002 and specifically provides that a person is appointed for a staggered term and serves until his or her term expires and until his or her successor is appointed and confirmed. What you have is a continuation in office by these expired term members for some period until the successor is appointed and confirmed. There is some law that you cannot go on for whole terms.

Commissioner Westbrook was recognized and addressed the County Attorney. Commissioner Westbrook questioned if a motion could say, I move we approve Phillip Johnson of Martin to replace Don Teal of Martin. Would this be a proper motion? County Attorney Neese commented that as he stated before the proper way to vote on the appointments is one at a time and that the County Mayor has the right to appoint the seats of the positions they will fill.

County Mayor Gifford nominated David Long to take the place of Don Teal.

County Mayor Gifford nominated Phillip Johnson to take the place of Commissioner Phebus.

County Mayor Gifford nominated Kayla Anderson to take the place of Commissioner Salmon.

County Mayor Gifford called the question from the Chair, to save further time and he called for them to vote on each of them individually. The first person to be voted on was David Long for the position of Don Teal. The County Clerk called the roll with 1 aye and 17 nays. The appointment was not confirmed.

The next person to be voted on was Phillip Johnson for the position of Commissioner Phebus. The County Clerk called the roll with 1 aye, 16 nays and 1 pass. The appointment was not confirmed.

The next person to be voted on was Kayla Anderson for the position of Commissioner Salmon. The County Clerk called the roll with one aye 16 nays and 1 pass. The appointment was not confirmed.

**MISCELLANEOUS ANNOUNCEMENTS AND STATEMENTS:**

Commissioner Vincent recognized Commissioner Page as the new President of the Chamber.

Commissioner Phebus was recognized and questioned if anyone had received notification of the Tennessee County Commissioner Meetings. The County Mayor has not received any notice on the Regional Meeting. The T.C.S.A. Fall Conference is in October at the Peabody in Memphis.

**NOTARY PUBLIC:**

Commissioner Owen made a motion and Commissioner Sinclair placed a second for approval of the Notary Public List. A voice vote was taken with the ayes carrying and none was opposed. The Notary Public List was approved.

Commissioner Sinclair made a motion to adjourn and Commissioner Vincent placed the second. A voice vote was taken and the ayes carried with none opposed the meeting of the Weakley County Legislative Body adjourned at 7:18 p.m.

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Pat Scarbrough, County Clerk