At a Regular Meeting of the Orange County Board of Supervisors held on Tuesday, December 21, 2021, beginning at 5:00 p.m., in the Meeting Room of the Public Safety Building, 11282 Government Center Drive, Orange, Virginia. Present: James P. Crozier, Chairman; R. Mark Johnson, Vice Chairman; James K. White; Keith F. Marshall; and Lee H. Frame. Also present: Theodore L. Voorhees, County Administrator; Thomas E. Lacheney, County Attorney; and Alyson A. Simpson, Chief Deputy Clerk.

RE: ADOPTION OF AGENDA

On the motion of Mr. Frame, seconded by Mr. White, which carried by a vote of 5-0, the Board adopted the agenda, as presented. Ayes: Johnson, White, Marshall, Crozier, Frame. Nays: None.

RE: SPECIAL PRESENTATIONS AND APPEARANCES

RE: PRESENTATION OF THE ANNUAL COMPREHENSIVE FINANCIAL REPORT (ACFR) FOR FY2020 – FY2021

Andrea Nichols, CPA, Manager with PB Mares, provided a brief overview of the County's Independent Auditor's Report for Fiscal Year 2020-2021, as required by Code. Ms. Nichols reviewed highlights from the Audit Report, indicating that an unmodified opinion had been issued.

Discussion ensued among the Board regarding: the applicability of GASB standards.

The Board thanked Ms. Nichols for her presentation.

RE: CONSENT AGENDA

On the motion of Mr. Frame, seconded by Mr. Marshall, which carried by a vote of 5-0, the Board adopted the Consent Agenda, as presented.

RE: FY22 BUDGET AMENDMENTS (SUPPLEMENTALS AND TRANSFERS)

As part of the Consent Agenda, the Board approved the following budget amendments, as presented:

ACCOUNT NUMBER	ACCOUNT DESCRIPTION	PREVIOUS BUDGET	BUDGET CHANGE	AMENDED BUDGET
30023001-31575	Sheriff Firing Range Fees	$ (2,800.00)	$ (445.00)	$ (3,245.00)
43120001-43350	Other Repair/Maintenance	14,311.00	445.00	14,756.00
30046008-37208	Cat. Aid - Va Early Chldhd.	(107,114.00)	91,812.00	(15,302.00)
49310015-47100	Transfer to General Fund	107,114.00	(91,812.00)	15,302.00
30051001-39290	Transfer from COVID Fund	(107,114.00)	91,812.00	(15,302.00)
30025501-31795	LES - Fees	(49,301.00)	(22,953.00)	(72,254.00)
30025501-31650	GBES - Fees	(117,640.00)	(22,953.00)	(140,593.00)
30025501-31725	OES - Fees	(100,435.00)	(22,953.00)	(123,388.00)
30025501-31780	LGES - Fees	(116,273.00)	(22,953.00)	(139,226.00)
30046008-37208	Cat. Aid - Va Early Chldhd.	(107,114.00)	(391,300.00)	(498,414.00)
49310015-47100	Transfer to General Fund	107,114.00	391,300.00	498,414.00
30051001-39290	Transfer from COVID Fund	(107,114.00)	(391,300.00)	(498,414.00)
30025501-31795	LES - Fees	(49,301.00)	91,000.00	41,699.00

30025501-31650	GBES - Fees	(117,640.00)	91,000.00	(26,640.00)
30025501-31725	OES - Fees	(100,435.00)	91,000.00	(9,435.00)
30025501-31780	LGES - Fees	(116,273.00)	118,300.00	2,027.00
30030006-33500	Donations - Animal Shelter	(6,813.00)	(2,181.00)	(8,994.00)
43520003-43115	Prof. Serv. - Emergency Vet	150,824.00	2,181.00	153,005.00
43551001-41500	Wages - Hazard - Bonus	132,000.00	229,105.00	361,105.00
43551001-42100	FICA & Medicare	26,662.00	14,389.00	41,051.00
43551001-45900	Contingency	387,965.00	(243,494.00)	144,471.00
43552025-41500 V1016	Wages - Premium - Bonus	0.00	41,000.00	41,000.00
43552025-42100 V1016	FICA & Medicare	0.00	3,137.00	3,137.00
43551006-45900	Contingency	2,718,004.00	(44,137.00)	2,673,867.00
30045009-37100	Byrne Grant	0.00	(795.00)	(795.00)
43120007-46350	Police Supplies	0.00	795.00	795.00
TOTALS		**$ 2,438,627.00**	**$ 0.00**	**$ 2,438,627.00**

RE: ADOPTION OF THE DECEMBER 7, 2021 WORKSESSION MINUTES

As part of the Consent Agenda, the Board adopted the December 7, 2021 Worksession minutes, as presented.

RE: ADOPTION OF THE DECEMBER 7, 2021 REGULAR MEETING MINUTES

As part of the Consent Agenda, the Board adopted the December 7, 2021 Regular Meeting minutes, as presented.

RE: NEW BUSINESS

RE: LEASE-PURCHASE OF BRUSH TRUCKS FOR VOLUNTEER FIRE COMPANIES

Amanda Amos, Contract and Procurement Specialist, indicated the Capital Improvements Plan (CIP) included Project C1234 for the lease-purchase of five (5) brush trucks for the volunteer fire companies. She added that the FY22 Adopted Budget contained funds in the amount of $550,000 to purchase said brush trucks.

Ms. Amos explained that a selection committee had been formed to review the various types of trucks, pricing components, and cooperative contracts the County could utilize. After much review, Atlantic Emergency Solutions offered Vengeant Sandstorm Brush Trucks, meeting all of the requested components, through Cooperative Contract No. 012-072 with COSTARS. Ms. Amos noted the original budget amount for the trucks was obtained in 2019 and, since then, there had been supply chain obstacles, as well as increased costs in materials and labor, that had affected the price.

Ms. Amos stated that, as a result of the unforeseen challenges, pricing for the trucks was now quoted at $698,840, an increase over the existing budget of $148,840. As such, a budget adjustment increasing the estimated financing proceeds by $150,000 and increasing the expenditure by $150,000 in the CIP Project was needed to cover the additional expense. Ms. Amos noted that, because the purchase would not take place until later in the fiscal year, the original debt service budget was sufficient to cover the estimated payment for the current fiscal year. However, future annual debt service would be increased by approximately $51,000 to cover the higher purchase price over the three-year term of the lease-purchase.

Discussion ensued among the Board regarding: the lead time on production and delivery of the trucks; whether the pricing was locked or was still subject to change; and the fact that the trucks would be owned by the County.

On the motion of Mr. Frame, seconded by Mr. White, which carried by a vote of 5-0, the Board authorized use of the COSTARS Cooperative Contract No. 012-072 with Atlantic Emergency Solutions for the lease-purchase of five (5) Vengeant Sandstorm Brush Trucks for a total of $698,840, contingent upon approved bank financing, as presented.

Ayes: Johnson, White, Marshall, Crozier, Frame. Nays: None.

On the motion of Mr. Frame, seconded by Mr. White, which carried by a vote of 5-0, the Board approved a budget amendment for FY22, as follows:

30050001-38000	Financing Proceeds	Increase $150,000
49400003-48165 C1234	Brush Trucks (5)	Increase $150,000

Ayes: Johnson, White, Marshall, Crozier, Frame. Nays: None.

RE: <u>REQUEST FOR THROUGH TRUCK RESTRICTION AND SPEED STUDY ON ROUTE 600 (MT. SHARON ROAD)</u>

Theodore L. Voorhees, County Administrator, explained that Supervisor Marshall had received a request from constituents on Route 600 (Mt. Sharon Road) for the Board to consider a request to VDOT for both a Through Truck Restriction and a Speed Study.

Mr. Voorhees indicated that, in order to formally request the Through Truck Restriction, the Board would have to authorize and conduct a public hearing. The public hearing advertisement required that the termini of the proposed restriction be identified, as well as the termini of the proposed reasonable alternate route. He added that only after conducting such public hearing could the Board adopt the required resolution to make the request to VDOT.

Regarding the Speed Study, Mr. Voorhees stated the speed limit was currently unposted on Mt. Sharon Road, making it the statutory 55 mph. In order to formally request the Speed Study, the Board would have to adopt a resolution making such request. He noted that a motion would be necessary and then staff would prepare and send the signed resolution to VDOT for action.

Discussion ensued among the Board regarding: identifying the appropriate alternate route for the Through Truck Restriction request.

On the motion of Mr. Marshall, seconded by Mr. Johnson, which carried by a vote of 5-0, the Board authorized staff to advertise for and schedule a public hearing for the Through Truck Restriction on Route 600 (Mt. Sharon Road) on Tuesday, January 25, 2022, using the Town of Orange as the alternate route, as presented.

Ayes: Johnson, White, Marshall, Crozier, Frame. Nays: None.

On the motion of Mr. Frame, seconded by Mr. Marshall, which carried by a roll call vote of 5-0, the Board adopted the following resolution, as presented:

RESOLUTION REQUESTING THAT THE VIRGINIA DEPARTMENT OF TRANSPORTATION (VDOT) CONDUCT A SPEED AND SAFETY STUDY ON ROUTE 600 (MT. SHARON ROAD) IN ORANGE COUNTY, VIRGINIA

WHEREAS, it is the intention of the Orange County Board of Supervisors to protect the health, safety, and welfare of all its citizens; and

WHEREAS, the Board of Supervisors has received a request for a speed and safety study along the entire length of Route 600 (Mt. Sharon Road), as travelers appear to be using speeds in excess of the current road conditions; and

WHEREAS, the Board feels that posting the appropriate speed limit, safety signage, and pavement markings would significantly improve the safety on this roadway for all residents and travelers;

NOW, THEREFORE, BE IT RESOLVED, on this 21st day of December, 2021, that the Orange County Board of Supervisors hereby requests that the Virginia Department of Transportation conduct a speed and safety study on Route 600 (Mt. Sharon Road) in Orange County, Virginia.

Ayes: Johnson, White, Marshall, Crozier, Frame. Nays: None.

RE: OLD BUSINESS

RE: AMENDMENT TO CHAPTER 34 (FLOOD HAZARD REDUCTION) OF THE ORANGE COUNTY CODE OF ORDINANCES

Joshua Gillespie, Planning and Development Services Director, explained that this item represented a draft ordinance amending the Orange County Code of Ordinances related to Floodplain Management, as revised by staff following discussion and direction at the Board of Supervisors' Meeting on December 7, 2021. He indicated that changes were made to the original draft to 1) remove unnecessary references to districts not present in Orange County and 2) use only minimum required standards in lieu of other recommendations in the model code. Mr. Gillespie stated that amendments to the current ordinance conforming with the NFIP and the Code of Virginia requirements must be in place by May 3, 2022, when the finalized FIRM become effective.

Discussion ensued among the Board regarding: elimination of the non-existent zones in the proposed language; questions regarding the compliance of existing structures; concerns with future interpretation of the language; and the desire to add language to allow for the appeal of provisions to the Board of Zoning Appeals.

By consensus, the Board directed staff to make the requested changes to the proposed amendment to the Zoning Ordinance and bring the matter back for further discussion at the Regular Meeting on January 11, 2022.

RE: DEPARTMENT DIRECTOR / CONSTITUTIONAL OFFICER REPORTS

There were no Department Director or Constitutional Officer Reports at this time.

RE: COUNTY ATTORNEY'S REPORT

The County Attorney had nothing to report on at this time.

RE: COUNTY ADMINISTRATOR'S REPORT

The County Administrator had nothing to report on at this time.

RE: BOARD COMMENT

Collectively, the Board shared its comments on the new Public Safety Facility.

Supervisor Frame commented that the recent adoption of the radon ordinance had promoted awareness throughout the community, which he felt was a benefit.

RE: INFORMATIONAL ITEMS

The Board received the following correspondence for its information:

- CSA Monthly Report
- Health Center Commission Minutes; September 30, 2021

RE: APPOINTMENTS TO BOARDS, COMMISSIONS, AND COMMITTEES

There were no appointments at this time.

RE: CALENDAR

The Board received copies of its calendar of meetings for the months of December 2021, January 2022, and February 2022.

RE: PUBLIC COMMENT

At 5:48 p.m., Chairman Crozier opened the floor for public comment.

The following individuals spoke:

- Chelsea Quintern, 35171 Sara Court, Locust Grove
- Jonathan Carriveau, 35174 Sara Court, Locust Grove
- Caroline Freeman, 35252 Sara Court, Locust Grove
- Carol Granger, 35240 Sara Court, Locust Grove
- Darron Breeden, 35252 Sara Court, Locust Grove

There being no further speakers, public comment was closed at 6:01 p.m.

RE: PUBLIC HEARING #1; PROPOSED LEASE OF COUNTY-OWNED PROPERTY

Theodore L. Voorhees, County Administrator, explained that the Board had previously authorized the scheduling of a public hearing to consider the lease of County-owned property to the Orange County Broadband Authority, dba FiberLync. He noted the subject property, known as the Blue Bell Building, was located at 315 Waugh Blvd., was further identified as Tax Map No. 44A1-6-3, and contained 2.74 acres. Mr. Voorhees indicated consideration of said lease was related to the provision of broadband.

At 6:03 p.m., Chairman Crozier called the Public Hearing to order to receive comments on the following:

PROPOSED LEASE OF COUNTY-OWNED PROPERTY

The Board of Supervisors will consider a lease with the Orange County Broadband Authority, dba FiberLync, for County-owned property known as the Blue Bell Building. Said property is located at 315 Waugh Blvd., Orange, Virginia; is identified as Tax Map No. 44A1-6-3; and contains 2.74 acres. Consideration of said lease is related to the provision of broadband.

There being no speakers, Chairman Crozier closed the Public Hearing at 6:03 p.m.

On the motion of Mr. Johnson, seconded by Mr. Frame, which carried by a roll call vote of 5-0, the Board authorized the Chairman to execute the Lease Agreement with the Orange County Broadband Authority, dba FiberLync, for County-owned property known as the Blue Bell Building, located at 315 Waugh Blvd., Orange, as presented.

Ayes: Johnson, White, Marshall, Crozier, Frame. Nays: None.

RE: <u>PUBLIC HEARING #2; PROPOSED CIGARETTE TAX ORDINANCE</u>

Theodore L. Voorhees, County Administrator, explained that the Board had previously authorized the scheduling of a public hearing to consider a Cigarette Tax Ordinance that, if adopted, would impose an excise tax of two cents ($0.02) on each cigarette sold or used within the County, beginning January 1, 2022. He reminded the Board that, if adopted, said tax would be administered by the Blue Ridge Cigarette Tax Board, as Orange County was a member of said Tax Board.

Discussion ensued among the Board regarding: the anticipated revenue to be generated; tax and distributer logistics; and the policing of "illegal" or unstamped cigarettes.

At 6:11 p.m., Chairman Crozier called the Public Hearing to order to receive comments on the following:

<u>PROPOSED CIGARETTE TAX ORDINANCE</u>

Pursuant to §58.1-3830 (C)(1) of the Code of Virginia, the Board of Supervisors will consider the adoption of a proposed cigarette tax ordinance. Said ordinance would impose an excise tax of two cents ($0.02) for each cigarette sold or used within the County, beginning January 1, 2022. If adopted, said tax would be administered by the Blue Ridge Cigarette Tax Board.

The following individual spoke:

- Adam Bryington, 10100 Tower Road, Unionville

There being no further speakers, Chairman Crozier closed the Public Hearing at 6:15 p.m.

Discussion ensued among the Board regarding: the discouragement to use tobacco products; varying cigarette tax rates across the region; the idea that towns will begin to adjust their cigarette tax rates as surrounding counties establish their rates; concern regarding whether this tax would push tobacco users to vape instead; the County's annual cost on the Regional Tax Board; the need to evaluate the cigarette sales on an annual basis; and the need to monitor the effect of the tax on local businesses.

Mr. Frame made a motion, which was seconded by Mr. White for discussion, to adopt the ordinance, as presented; however, the motion failed by a vote of 1-4, with Messrs Johnson, White, Marshall, and Crozier voting against.

Ayes: Frame. Nays: Johnson, White, Marshall, Crozier.

Following additional discussion on the proposed cigarette tax rate, a new motion was made.

On the motion of Mr. White, seconded by Mr. Marshall, which carried by a roll call vote of 4-1, with Mr. Frame voting against, the Board adopted the following ordinance, as modified:

ORDINANCE ADOPTING ARTICLE X (CIGARETTE TAX), SECTION 58 (TAXATION), OF THE ORANGE COUNTY CODE OF ORDINANCES CONCERNING THE ESTABLISHMENT OF A CIGARETTE TAX

WHEREAS, action was previously initiated to consider adoption of Article X (Cigarette Tax), Section 58 (Taxation), of the Orange County Code of Ordinances concerning the establishment of a cigarette tax; and

WHEREAS, the recommended language for the text amendments was prepared by the Blue Ridge Cigarette Tax Board, of which Orange County is a member, and was presented to the Board of Supervisors for consideration; and

WHEREAS, the Board of Supervisors advertised and conducted a Public Hearing on the proposed text amendments on December 21, 2021; and

WHEREAS, following discussion at the Public Hearing, the Board of Supervisors hereby supports the proposed text amendments, as modified during its meeting;

NOW, THEREFORE, BE IT ORDAINED, on this 21st day of December, 2021, that the Orange County Board of Supervisors hereby approves the proposed amendments to Article X (Cigarette Tax), Section 58 (Taxation), of the Orange County Code of Ordinances concerning the establishment of a cigarette tax, effective January 1, 2022, as modified and shown below.

Ayes: Johnson, White, Marshall, Crozier. Nays: Frame.

Amendments to the Orange County Code of Ordinances

As adopted in Ord. No. 211221 – PH2
by the Orange County Board of Supervisors
on December 21, 2021

All text below to be added as new text:

Chapter 58 - Taxation

Article X - Cigarette Tax

Sec. 58-450 - Definitions.
For the purposes of this Article, the following words and phrases have the meanings respectively ascribed to them by this Section, except in those instances where the context clearly indicates a different meaning:

Board or *BRCTB* means the Blue Ridge Cigarette Tax Board, or its administrator, in cases where the Board has delegated its duties or authority to the administrator.

Cigarette has the meaning given in Virginia Code § 58.1-1000.

Cigarette Machine Operator means any individual, partnership, or corporation engaged in the sale of packages of cigarettes from vending machines.

Dealer means both “retail dealer” and “wholesale dealer,” as those terms are defined in Virginia Code § 58.1-1000.

Package means any container of cigarettes from which they are consumed by a user. Ordinarily, a package contains 20 cigarettes; however, “package” includes those containers in which fewer or more cigarettes are placed.

Registered agent means any person who pays the tax or makes the report imposed under this article.

Retail dealer has the meaning given in Virginia Code § 58.1-1000.

Sale or *sell* means the transfer of cigarettes from a dealer to another person, for consideration, and includes the use of vending machines.

Stamp has the meaning given in Virginia Code § 58.1-3832(2).

Storage or *store* has the meaning given in Virginia Code § 58.1-1000.

Use has the meaning given in Virginia Code § 58.1-1000.

Wholesale dealer has the meaning given in Virginia Code § 58.1-1000.

Sec. 58-451 - Levy and rate.
A tax upon the sale or use of cigarettes within the County is hereby imposed, at a rate of $0.12 for each pack (containing 20 cigarettes or less) sold, stored, or received. The tax payable for each pack sold or used within the County shall be paid but once.

Sec. 58-452 - Methods of collection.

A. Upon paying the tax imposed by this article, the taxpayer shall affix a stamp to the package for which the tax was paid, and shall report to the Board, in whatever form the Board provides. Stamps shall be affixed in such a manner that their removal will require continued application of water or steam. The report to the Board shall include the following:
   1. The quantity of cigarettes sold or delivered to:
      a. Each registered agent appointed by the Board for which no tax was collected;
      b. Each manufacturer's representative;
      c. Each person during the preceding calendar month;
   2. The quantity of BRCTB-stamped cigarettes on hand on the first and the last day of the preceding month, the quantity of BRCTB stamps received during that month, and the quantity of BRCTB-stamped cigarettes received during that month;
   3. The quantity of cigarettes on hand to which the BRCTB stamp had not been affixed on the first and last day of the preceding month, and the quantity of cigarettes received during that month to which the BRCTB stamp had not been affixed; and
   4. Any other information that the Board deems necessary to administer or enforce this article.

B. Each registered agent shall report and pay the tax to the Board by the 20th day of the following month, or such other day as set by the Board, and shall provide to the Board copies of all cigarette tax reports submitted to the Virginia Department of Taxation.

C. If a registered agent is unable to show the Board that it has purchased sufficient stamps, relative to the cigarettes that it sold or used, there is a presumption that those cigarettes were sold or used without the proper tax having been paid. The Board shall impose a penalty of 10 percent and may impose interest of 3/4 percent of the gross tax due per month.

D. If a registered agent files a false report, fails to file a report, or acts to evade payment of the tax, the Board shall assess the tax and impose a penalty not to exceed 50 percent of the tax due and interest of 3/4 percent of the gross tax due per month. These taxes, penalties, and interest are due within 10 days after the Board issues notice of the deficiency.

E. A registered agent that receives cigarettes not bearing the BRCTB stamp shall, within one hour of receipt, commence, and diligently complete, affixing the BRCTB stamp to each package.

F. A registered agent that has notified the Board that it holds cigarettes for sale outside the jurisdiction of the Board, may hold such cigarettes without affixing the stamps required by this article. Any such cigarettes shall be kept separate from the BRCTB cigarettes, in such a manner as to prevent their commingling.

G. A registered agent that loses untaxed cigarettes, whether by negligence, theft, or any other means, shall pay the tax imposed by this article.

H. Registered agents shall keep all records of cigarettes sold or used, whether stamped or unstamped, for three years, and shall make all such records available for examination by the Board.

Sec. 58-453 - Registered agents.

A. Any person required to pay or report the tax under this article shall first file an application with the Board to qualify as a registered agent, in the manner specified by the Board, and provide a surety bond equal to 150 percent of its anticipated average monthly tax liability, made out by a surety company authorized to do business in Virginia. By filing an application, a person appoints the Board as its agent for service of process.

Upon receipt and review of an application and surety bond, the Board shall issue a registered agent permit to sell and use within the County.

B. When any registered agent's monthly report and payment of the tax is not received when due, a late reporting penalty of 10 percent of the tax due shall be assessed. The penalty shall be imposed on the day after the report and tax are due and, once it is imposed, it becomes a part of the tax. The Board may revoke or suspend any registered agent's permit for failure to timely report or pay the tax, or if the registered agent’s surety bond becomes impaired for any reason.

C. All money collected as taxes under this article are held in trust by the dealer until remitted to the Board.

D. The Board may conduct audits to determine any variance between the number of stamps purchased and the number of stamps reported to have been purchased. An assessment shall be made for all unaccounted-for stamps. Assessment of registered agents located outside the jurisdiction of the Board shall be based upon the average sale by locality during the audit period. Assessments of registered agents located within the jurisdiction of the Board shall be based upon the tax rate of the jurisdiction in which they are located. A penalty for not reporting shall be assessed, in the same manner and amount as in subsection (b).

Sec. 58-454 - Requirements for retail dealers.

A. Retail dealers shall purchase cigarettes only from a registered agent and give the registered agent the business trade name and address of the location where the cigarettes will be offered for sale to the public. Retail dealers cannot sell cigarettes that were previously purchased for personal use. Only licensed retail stores may sell cigarettes to the public. To be licensed, a retail store must have a valid Virginia state sales and use tax certificate and valid retail business license. Cigarettes must be purchased and stored separately for each business location. Retail dealers shall retain copies of cigarette purchase invoices and receipts for three years and provide them to the Board upon request. The Board may seize a retail dealer’s cigarettes for failure to provide cigarette invoices or receipts, until it is able to verify that the tax has been paid. The Board shall seize cigarettes found without the appropriate stamp.

B. The Board may make a search of any location at which it reasonably suspects that cigarettes are kept, to ensure that all cigarettes are properly stamped.

Sec. 58-455 - Presumption of illegality; seizure of contraband goods, sealing/seizing of machines.

A. If any person is found to possess cigarettes without the proper tax stamp affixed, there is a rebuttable presumption that such cigarettes are untaxed in violation of this article.

B. There is rebuttable presumption that cigarettes in a vending machine were placed there as an offer to sell. If a vending machine contains packages upon which the BRCTB stamp has not been affixed, or contains packages placed in a manner that does not allow inspection of the BRCTB stamp without opening the vending machine, there is a rebuttable presumption that the machine contains untaxed cigarettes in violation of this article.

C. Cigarettes, vending machines, stamps, and other goods violating this article are contraband goods and may be seized by the Board.

D. Additionally, the Board may seal a vending machine to prevent continued illegal sale or removal of cigarettes. The removal of a seal from a vending machine is a violation of this article.

E. The owner of a vending machine shall plainly mark it with the owner’s name, address, and telephone number.

Sec. 58-456 - Illegal acts.

It is a violation of this article for any person:

A. To make any act or omission for the purpose of evading the full or partial payment of the tax imposed by this article, or to fail to obey a lawful order issued under this article;
B. To falsely make, or cause to be made, an invoice or report; or to alter or counterfeit, or cause to be altered or counterfeited, any stamp; or to knowingly and willfully offer any false invoice or report, or altered or counterfeited stamp;
C. To sell or offer for sale cigarettes upon which the BRCTB stamp has not been affixed or upon which the tax has not been paid;
D. To use cigarettes upon which the BRCTB stamp has not been affixed or upon which the tax has not been paid; or
E. To transport or authorize the transportation of 1,200 cigarettes or more in the County upon which the BRCTB stamp has not been affixed or upon which the tax has not been paid, if they are:
   1. Not accompanied by a receipt or other document indicating the true name and address of the seller and purchaser and the brands and quantity of cigarettes;
   2. Accompanied by a receipt or other document that is false;
   3. Accompanied by a receipt or other document that fails to indicate that:
      a. The non-Virginia purchaser is authorized by the law of that other jurisdiction to possess the cigarettes, and on which the taxes imposed by that other jurisdiction have been paid; or
      b. The Virginia purchaser possesses a Virginia Sales and Use Tax Certificate and any license required by the locality of destination;

F. To refill with cigarettes a stamped package from which cigarettes have been removed;
G. To reuse or remove a stamp from a package with the intent to use it or cause it to be used again, after it has already been used to evidence the payment of the tax imposed by this article; or
H. To sell, offer for sale or distribute any loose or single cigarettes.

Sec. 58-457 - Jeopardy assessment.
If the Board determines that the collection of a tax under this article would be jeopardized by delay, it shall assess the tax, along with penalties and interest, and mail or otherwise issue a notice of the assessment to the taxpayer, together with a demand for immediate payment. In such cases, immediate payment is required, regardless of the due date for paying and reporting the tax under this article.

Sec. 58-458 - Erroneous assessment; notices and hearings in event of sealing of vending machines or seizure of contraband property.

A. Any person aggrieved by a tax, penalty, or interest assessment or by a seal or seizure under this article may request a hearing before the Board, in the manner provided by the Board.

B. The Board shall send notice within 24 hours of a seizure or sealing to each known holder of an interest in the property seized or sealed. Where the identity of a property interest holder is unknown at time of seizure or sealing, the Board shall post notice to a door or wall of the building that contained the seized or sealed property. The notice shall state the manner of requesting a hearing before the Board, as well as the affirmative defenses available under this section.

C. A hearing must be requested within 15 days of the date that notice was postmarked. The request must be on the form provided by the Board and set forth the reasons why the Board's action should be reversed. Within five days after receiving a request, the Board shall notify the requester, by the method selected on the request form, of the hearing date and time, where the Board will accept an informal presentation of evidence. The hearing shall be within 15 days of the date of that notification. A request for hearing shall be denied if the assessed tax, penalties, or interest has not been paid, or if the request is untimely. Within five days after the hearing, the Board shall notify the requester of its decision, by the method selected on the request form.

D. The Board shall grant appropriate relief if it determines that seized or sealed cigarettes were in the possession of a person other than the requester without the requester's consent. If the Board determines that a tax, penalty, or interest was erroneously assessed, it shall refund the amount erroneously assessed and shall return any property seized or sealed to the requester.

Sec. 58-459 - Disposal of seized property.
Any seized property used to evade a tax imposed by this article may be disposed of by sale or other method the Board deems appropriate, after the owner has exhausted its appeals. The credit from any such sale shall not be credited to the owner.

Sec. 58-460 - Extensions.
If the Board determines that good cause exists, it may grant an extension of up to 30 days to report or pay a tax. No interest or penalty shall accrue during such an extension.

Sec. 58-461 - Penalty for violation of article.
A person convicted of violating a provision of this article shall be guilty of a misdemeanor, punished by a fine of not more than $2,500.00 or imprisonment for not more than 12 months, or both. Such person shall remain liable for any underlying tax, penalty, or interest.

Sec. 58-462 - Each violation a separate offense.
Each violation of this article constitutes a separate offense. Each day that a violation continues constitutes a separate offense.

Sec. 58-463 - Severability.
If any portion of this article is invalidated by a Court of competent jurisdiction, that decision shall not affect the remainder of the article; and the remainder of the article shall continue in full force and effect.

Sec. 58-464 - Application within towns.
The tax imposed by this article shall not apply within the limits of towns. However, if the governing body of a town provides that the county cigarette tax, as well as the town cigarette tax, applies within that town, then the tax imposed by this article shall be imposed within that town.

RE: PUBLIC HEARING #3; PROPOSED AMENDMENT TO RSA ARTICLES OF INCORPORATION

Theodore L. Voorhees, County Administrator, explained that the Board had previously authorized the scheduling of a public hearing to consider a Concurrent Resolution to amend the Articles of Incorporation of the Rapidan Service Authority (RSA). He indicated the effect of the Concurrent Resolution was to amend the RSA Board to five (5) members with the majority of members being appointed by Orange County, consistent with a Memorandum of Agreement adopted earlier this year.

At 6:31 p.m., Chairman Crozier called the Public Hearing to order to receive comments on the following:

PROPOSED AMENDMENT TO RSA ARTICLES OF INCORPORATION
Pursuant to §15.2-5110, the Board of Supervisors will consider the adoption of a Concurrent Resolution to amend the Articles of Incorporation of the Rapidan Service Authority (RSA). The effect of the Concurrent Resolution is to amend the RSA Board to five (5) members with the majority of members appointed by Orange County, once Greene County withdraws. This change is consistent with a Memorandum of Agreement adopted earlier this year.

There being no speakers, Chairman Crozier closed the Public Hearing at 6:31 p.m.

On the motion of Mr. Frame, seconded by Mr. Johnson, which carried by a roll call vote of 5-0, the Board adopted the following resolution, as presented:

CONCURRENT RESOLUTION OF THE BOARDS OF SUPERVISORS OF ORANGE COUNTY, MADISON COUNTY, AND GREENE COUNTY, VIRGINIA, AMENDING THE ARTICLES OF INCORPORATION OF THE RAPIDAN SERVICE AUTHORITY

WHEREAS, on June 2, 1969, the Boards of Supervisors of Orange County (“Orange”), Madison County (“Madison”), and Greene County (“Greene”), Virginia (collectively, “the Counties”), adopted a concurrent resolution signifying their intention to create the Rapidan Service Authority (the "RSA"), and setting forth proposed Articles of Incorporation of the RSA (the "Articles"); and

WHEREAS, on June 17, 1969, following a duly-advertised public hearing, the Board of Supervisors of each of the Counties adopted a resolution concurring in the creation of the RSA as set forth in the June 2, 1969 concurrent resolution, thereby adopting the Articles and creating the RSA under the Virginia Water and Sewer Authorities Act, now the Virginia Water and Waste Authorities Act, Virginia Code § 15.2-5100 *et seq.*; and

WHEREAS, on June 24, 1969, the State Corporation Commission of Virginia (the "SCC") issued a Certificate of Incorporation of the RSA; and

WHEREAS, on April 5, April 8, and May 13, 1980, the Boards of Supervisors of Greene, Orange, and Madison, respectively, adopted a concurrent resolution signifying their intention to amend sections "(a)" and "(c)" of the Articles; and

WHEREAS, on May 3, May 13, and June 10, 1980, the Boards of Supervisors of Greene, Orange, and Madison, respectively, each following a duly-advertised public hearing, amended section "(a)" of the Articles by changing the RSA's principal office address from Orange County to Ruckersville in Greene County, and amended section "(c)" of the Articles by providing that the RSA governing board shall have six members, with the Boards of Supervisors of the Counties appointing two members each, and on July 18, 1980, the SCC issued a Certificate of Amendment; and

WHEREAS, on March 7, March 13, and May 8, 1984, the Boards of Supervisors of Greene, Orange, and Madison, respectively, adopted a concurrent resolution signifying their intention to amend section "(e)" of the Articles; and

WHEREAS, on May 8, 1984, the Boards of Supervisors of Orange and Madison, and on June 12, 1984, the Board of Supervisors of Greene, each following a duly-advertised public hearing, amended section "(e)" of the Articles to provide that the RSA exist as a corporation for a term of 50 years from January 1, 1984, and on August 31, 1984, the SCC issued a Certificate of Amendment; and

WHEREAS, on September 13, September 16, and October 11, 2011, the Chairmen of the Boards of Supervisors of Greene, Madison, and Orange, respectively, executed a concurrent resolution further amending section "(e)" of the Articles to provide that the RSA exist as a corporation for a term of 50 years from January 1, 2011, and on December 5, 2011, the SCC issued a Certificate of Amendment; and

WHEREAS, on September 14, 2020, the Greene County Board of Supervisors filed, in the Circuit Court of Greene County, as Case Number CL20-689-00, a Complaint against the RSA, and on January 19, 2021, an Amended Complaint against the RSA, Orange, and Madison, seeking withdrawal from the RSA under Virginia Code § 15.2-5112; and

WHEREAS, on April 5, 2021, the Board of Supervisors of Greene signified its desire to withdraw from the RSA, by adopting a resolution under Virginia Code § 15.2-5112(B); and

WHEREAS, in its April 5, 2021 resolution, the Board of Supervisors of Greene also called for unanimous consent to the withdrawal by Orange and Madison under Virginia Code § 15.2-5112(A); and

WHEREAS, on April 13, 2021, the Board of Supervisors of Madison adopted a resolution unanimously consenting to the withdrawal of Greene on the condition that Greene provide evidence that the bond holders of Greene and RSA consent to the withdrawal, and that the withdrawal follow the approvals and protocols set forth in Virginia Code § 15.2-5112; and

WHEREAS, also on April 13, 2021, the Board of Supervisors of Orange adopted a resolution unanimously consenting to the withdrawal of Greene from the RSA pursuant to Virginia Code § 15.2-5112 and supporting the initiation of the process for the proper separation of Greene from the RSA, subject to

Orange and Madison entering into an agreement to configure the RSA board with an Orange majority after Greene's departure; and

WHEREAS, on May 25, 2021, Madison and Orange entered into a Memorandum of Agreement agreeing that, prior to Greene's withdrawal from participation in the RSA, the Board of Supervisors of Greene, Madison, and Orange will adopt a concurrent resolution to amend the Articles so that, effective upon Greene's withdrawal, the RSA's governing board shall consist of five representatives, three of whom shall be appointed by Orange, and two of whom shall be appointed by Madison; and

WHEREAS, Virginia Code § 15.2-5110 permits amendment to the Articles "by following the procedure prescribed by law for the creation of" a water or sewer authority; and

WHEREAS, Virginia Code § 15.2-5102 provides for creation of an authority by concurrent resolution of the governing bodies of the participating localities, adopted after a public hearing has been held;

NOW, THEREFORE, BE IT RESOLVED, on this 21st day of December, 2021, that the Orange County Board of Supervisors, under Virginia Code § 15.2-5110, hereby amends the Articles by concurrent resolution of the Boards of Supervisors of each of the Counties after a public hearing, and it is hereby resolved by each Board of Supervisors, after a duly-advertised public hearing pursuant to Virginia Code § 15.2-5104 that the Articles, as previously amended by other concurrent resolutions and as set forth in Certificates of Amendment, are hereby further amended, effective as set forth below, and as follows:

Section (a) is amended by deletion of:

the address of its principal office shall be Ruckersville, Greene County, Virginia.

and insertion in its place of:

<u>the principal office shall be within the Rapidan Service Authority's service area.</u>

Section (c) is amended by deletion of:

Hereafter, the number of members who shall exercise the powers of the Authority shall be six. Two members shall be appointed by the Board of Supervisors of Greene County, two members shall be appointed by the Board of Supervisors of Orange County and two members shall be appointed by the Board of Supervisors of Madison County.

and insertion in its place of:

<u>Hereafter, the number of members of the governing Board which exercises the powers of the Rapidan Service Authority shall be five. Three members of the governing Board of the Rapidan Service Authority shall be appointed by the Board of Supervisors of Orange County, and two members of the governing Board of the Rapidan Service Authority shall be appointed by the Board of Supervisors of Madison County.</u>

BE IT FURTHER RESOLVED, that the Boards of Supervisors of Orange, Madison, and Greene have adopted this concurrent resolution constituting the fourth amendment to the Articles. The amended Articles shall become effective immediately upon issuance of a certificate of withdrawal to Greene by the SCC pursuant to Virginia Code § 15.2-5112(E), and the Board of Supervisors of Orange shall, pursuant to Virginia Code § 15.2-5107, thereafter file with the SCC this concurrent resolution as the fourth amended Articles.

Ayes: Johnson, White, Marshall, Crozier, Frame. Nays: None.

RE: <u>CLOSED MEETING</u>

At 6:33 p.m., Mr. Lacheney read the following motion authorizing Closed Meeting:

WHEREAS, the Orange County Board of Supervisors desired to discuss in Closed Meeting the following matter:

- Discussion, consideration, or interviews of prospective candidates for employment; or the assignment, appointment, promotion, performance, demotion, salaries, disciplining, or resignation of specific public officers, appointees, or employees of the public body concerning Community Development. - *§2.2-3711(A)(1) of the Code of Virginia*

WHEREAS, pursuant to §2.2-3711 (A)(1) of the Code of Virginia, such discussions may occur in Closed Meeting;

NOW, THEREFORE, BE IT RESOLVED, that the Orange County Board of Supervisors hereby authorized discussion of the aforestated matter in Closed Meeting.

On the motion of Mr. Frame, seconded by Mr. White, which carried by a vote of 5-0, the Board adopted the resolution authorizing Closed Meeting, as presented. Ayes: Johnson, White, Marshall, Crozier, Frame. Nays: None.

RE: <u>CERTIFICATION OF CLOSED MEETING</u>

At 7:35 p.m., Ms. Simpson read the following resolution certifying Closed Meeting:

WHEREAS, the Orange County Board of Supervisors has, this day, adjourned into Closed Meeting in accordance with a formal vote, and in accordance with the provisions of the Virginia Freedom of Information Act; and

WHEREAS, the Freedom of Information Act requires certification that such Closed Meeting was conducted in conformity with the law;

NOW, THEREFORE, BE IT RESOLVED, that the Orange County Board of Supervisors hereby certified that, to the best of each member's knowledge, i) only public business matters lawfully exempted from open meeting requirements under the Freedom of Information Act were discussed in the Closed Meeting to which this certification applied, and ii) only such public business matters as were identified in the motion by which the said Closed Meeting was convened were heard, discussed or considered by it.

Ayes: Johnson, White, Marshall, Crozier, Frame. Nays: None.

RE: <u>NEW BUSINESS (Continued)</u>

RE: <u>REQUEST FOR THROUGH TRUCK RESTRICTION AND SPEED STUDY ON ROUTE 600 (MT. SHARON ROAD)</u>

On the motion of Mr. Marshall, seconded by Mr. Johnson, which carried by a vote of 5-0, the Board amended the alternate route for the Through Truck Restriction on Route 600 from the Town of Orange (from the intersection of Route 615 (Rapidan Road) and Route 600 along Route 615 through the Town of Orange to Selma Road and then to Route 20 (Constitution Highway)) to instead use Route 522 (from the intersection of Route 615 and Route 600 along Route 615 north to Route 522 (Zachary Taylor Highway) and then south to Route 20).

Ayes: Johnson, White, Marshall, Crozier, Frame. Nays: None.

RE: <u>ADJOURN</u>

On the motion of Mr. White, seconded by Mr. Marshall, which carried by a vote of 5-0, the Board adjourned the meeting at 7:36 p.m. Ayes: Johnson, White, Marshall, Crozier, Frame. Nays: None.

James P. Crozier, Chairman

Theodore L. Voorhees, County Administrator