

Minutes
Board of Supervisors
Regular Meeting
July 20, 2021

Members Present: Morgan Phenix, Chairman At-Large
D. Keith Guzy, District 1
Allen Louderback, District 2
Mark Stroupe, District 3
Larry Foltz, District 4

Absent Jeff Vaughan, District 5

Staff Present: Amity Moler, County Administrator
Regina Miller, Assistant County Administrator
Tyler Olsen, Budget Officer
Becky Smith, Commissioner of the Revenue
Nina Fox, Economic Development and Tourism Director
Michael Helm, County Attorney
Janeena Zalipski, Office Aide

Call to Order:

Chairman Morgan Phenix called to order the regular meeting of the Page County Board of Supervisors on Tuesday, July 20, 2021, at 6:00 p.m. in the Conference Room located in the Page County Government Center, 103 South Court Street, Luray, VA 22835.

Closed Session:

Supervisor Guzy moved that the Page County Board of Supervisors convene in closed session under the Virginia Freedom of Information Act to consult with legal counsel regarding a landfill matter that requires the provision of legal advice by counsel, pursuant to Section 2.2-3711(A)(8) of the Code of Virginia. Supervisor Stroupe seconded and the motion carried by a vote of 5-0. Aye: Phenix, Guzy, Louderback, Stroupe, Foltz. Nay: None. Absent: Vaughan.

Exit Closed Session:

Supervisor Guzy moved the closed meeting be adjourned and the Page County Board of Supervisors reconvene in open session. Supervisor Louderback seconded and the motion carried by a vote of 5-0. Aye: Guzy, Louderback, Stroupe, Foltz, Phenix. Nay: None. Absent: Vaughan.

Recess:

Chairman Phenix recessed the meeting at 6:45 p.m.

Reconvene: 7:00p.m.

Chairman Phenix reconvened the meeting at 7:00 p.m., in the Board Room.

Certification of Closed Meeting:

To the best of my knowledge only public business matters lawfully exempted from open meeting requirements under Section 2.2-3711 (A) of the Code of Virginia, 1950, as amended, and only such public business matters as were identified in the motion by which the closed meeting was convened were heard, discussed or considered in the meeting.

<u>Recorded roll Call Vote:</u>	<u>AYE</u>	<u>NAY</u>	<u>ABSENT</u>	<u>ABSTAIN</u>
D. Keith Guzy, Jr.	X			
Allen Louderback	X			
Mark Stroupe	X			
Larry Foltz	X			
Jeff Vaughan			X	
Morgan Phenix	X			

The certification was followed by a Moment of Silence and the *Pledge of Allegiance*. The meeting was live-streamed via YouTube.

Adoption of the Agenda:

Mrs. Moler said that Board and Commission Appointments and the WB LLC Temporary Waste Agreement needs to be added under action matters.

Motion: Supervisor Foltz moved to adopt the agenda, with the addition of Board and Commission Appointments and WB LLC Temporary Waste Agreement, under Action Matters. Supervisor Guzy seconded and the motion carried by a vote of 5-0. Aye: Phenix, Guzy, Louderback, Stroupe, Foltz. Nay: None. Absent: Vaughan.

Public Hearings:

Budget Amendment:

The Budget Amendment public hearing was advertised as follows:

NOTICE OF PUBLIC HEARING
BUDGET AMENDMENT
PAGE COUNTY BOARD OF SUPERVISORS

On July 20, 2021, at 7:00 p.m., the Page County Board of Supervisors will conduct a public hearing at the Page County Administration building, 103 South Court St., Luray, VA 22835, for the purpose of considering an amendment to the fiscal year 2022 budget. The aggregate amount of the amendments exceeds one percent of the fiscal year 2022 budget and the public hearing is required, by Section 15.2-2507, of the Code of Virginia.

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REVENUE:	Federal Funds	\$ 2,321,342
	State Funds	403,472
	Local Funds	6,152,892
EXPENDITURE:	Capital Improvements	\$ 6,152,892
	General Fund	2,724,814

Chairman Phenix opened the public hearing on the Budget Amendment at 7:03 p.m.

Tyler Olsen, Budget Officer, reviewed that Page County has received \$2,321,342 in fiscal recovery funds from the Federal Government's American Rescue Plan Act. In short, this money is to be used for mitigating the spread of COVID-19, pay for workers responding to COVID-19, broadband infrastructure, and more. It is requested that these Federal funds be appropriated to the General Fund to aid the County in responding to the effects of COVID-19.

Page County Fire & EMS has been awarded a grant in the amount of \$327,705 from the Virginia Rescue Squads Assistance Fund (RSAF). These State funds will be used to upgrade two of the County's cardiac monitors and all of the volunteers' monitors, except for those operated by Luray Rescue Squad, which were updated recently. The volunteer agencies receiving these upgrades are expected to contribute towards the County's 20% match.

Page County Fire & EMS has also been awarded an additional RSAF grant for \$75,767. These State funds will be used to upgrade the computer tablets that are used for patient care reporting. This grant requires no matching funds.

In FY 2021, proceeds from a lease purchase agreement of \$6.95 million were appropriated to the CIP Fund to fund the ongoing radio project. He said that \$6,152,892 of this initial appropriation was not spent in FY 2021, and it has moved to the CIP Fund balance. It is requested that these funds are reappropriated from the CIP Fund balance to the radio project.

The attached appropriation requests are funded with Federal funds in the amount of \$2,321,342, State funds in the amount of \$403,472, and General Fund balance dollars in the amount of \$6,152,892.

Supplemental Appropriations Requests:

Department	Description	Revenue Source	Expenditure	Amount
Various	ARPA Fiscal Relief Funds	ARPA Funds	ARPA Funds	\$2,321,342

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Fire & EMS	VOEMS RSAF Grant	RSAF Grant 101-0000-324-0493	RSAF Grant 101-3230-432-59-89	327,705
Fire & EMS	VOEMS RSAF Grant (tablets)	RSAF Grant (Tablets)	RSAF Grant (Tablets)	75,767
CIP	Radio Project Carryover Funds	Fund Balance 301-0000-341-04-07	Radio Project 101-9420-541-80-71	6,152,892
Total				\$8,877,706

Public Comments on the Budget Amendment:

There were no public comments during the public hearing. Chairman Phenix closed the public hearing at 7:06 p.m.

Motion: Supervisor Stroupe moved to approve revenue from the Federal government in the amount of \$2,321,342, from the State in the amount of \$403,472, and from local funds in the amount of \$6,152,892, and expenditures to the Page County CIP Fund in the amount of \$6,152,892 and to the General Fund in the amount of \$2,724,814. Supervisor Louderback seconded and the motion carried by a vote of 5-0. Aye: Guzy, Louderback, Stroupe, Foltz, Phenix. Nay: None. Absent: Vaughan.

Ordinance to Amend Chapter 105 (Taxation) – Cigarette Tax

The public hearing was advertised as follows:

NOTICE OF PUBLIC HEARING BOARD OF SUPERVISORS
COUNTY OF PAGE, VIRGINIA
AN ORDINANCE TO AMEND CHAPTER 105 (TAXATION)
OF THE PAGE COUNTY CODE

PLEASE TAKE NOTICE: That the Board of Supervisors of the County of Page, Virginia shall hold a public hearing on July 20, 2021, at 7:00 p.m. at 103 South Court Street, Luray, Virginia 22835, for the purpose of a public hearing on the proposed ordinance to amend Chapter 105 (Taxation) of the Page County Code to add a provision for imposing a tax of 20 cents on every pack of cigarettes sold within County limits.

The full text of the proposed amendments to the Ordinances may be reviewed and inspected at the office of the County Administrator, 103 South Court Street, Suite F, Luray, Virginia 22835.

The public is invited to attend this public hearing to express their views thereon.

The Notice is given pursuant to § 15.2-1427 of the Code of Virginia (1950), as amended.

Chairman Phenix opened the public hearing on the Ordinance to Amend Chapter 105 (Taxation) for a cigarette tax at 7:09 p.m.

Becky Smith, Commissioner of the Revenue, said that the Commonwealth of Virginia has now granted counties the ability to tax cigarettes as the towns have been doing. She projected that this will generate an additional \$40,000 to \$50,000 a year. She noted that, if adopted, the ordinance would take effect on September 1, 2021.

Public Comments on Cigarette Tax Ordinance:

There were no public comments during the public hearing on the Cigarette Tax Ordinance.

Chairman Phenix closed the public hearing on the Ordinance to Amend Chapter 105 (Taxation) for a Cigarette Tax at 7:10 p.m.

Motion: Supervisor Guzy moved to adopt the Ordinance to Amend Chapter 105 (Taxation) for a Cigarette Tax. Supervisor Stroupe seconded and the motion carried by a vote of 5-0. Aye: Louderback, Stroupe, Foltz, Phenix, Guzy. Nay: None. Absent: Vaughan.

Presentations, Proclamations and Awards:

There were no presentations, proclamations or awards.

Public Comments on Agenda Items:

There were no public comments during Public Comments on Agenda Items.

Action Matters:

Special Entertainment Permit – Luray Triathlon:

Nina Fox, Page County Economic Development & Tourism Director, reviewed that Racine Multisport has requested a special entertainment permit pursuant to Chapter 55 (Festivals) of the Code of the County of Page, Virginia, to conduct the following events: Luray Triathlon August 21th-22th, 2021/All-day Event. Staff recommendation is to approve this special entertainment application as there are no outstanding issues.

Supervisor Guzy asked Mrs. Fox to make sure it's clear that the County cannot pay the overtime for law enforcement or rescue squads. It's up to the event to pay for their service.

Motion: Supervisor Guzy moved that the Board of Supervisors approve the Special Entertainment Permit application for the following Racine Multisport event: Luray Triathlon August 21-22, 2021/All day event. Supervisor Foltz seconded and the motion carried by a vote of 5-0. Aye: Stroupe, Foltz, Phenix, Guzy, Louderback. Nay: None. Absent: Vaughan.

Special Entertainment Permit – Luray Half Marathon:

Nina Fox, Page County Economic Development & Tourism Director, said that Racine MultiSports, same organizer as the Luray Triathlon, will bring a Half Marathon to Page County during the month of September. The race starts on Main Street Luray, travels through Page County and ends on Zerkel Street, at the Hawksbill Brewery.

The Luray Half Marathon will be held on Saturday, September 12, 2021 from 8am-1pm. Staff recommendation was to approve this special entertainment application as there are no outstanding issues.

Motion: Supervisor Guzy moved that the Board of Supervisors approve the Special Entertainment Permit application for the Luray Half Marathon race on Saturday, September 12, 2021, from 8am-1pm. Supervisor Foltz seconded and the motion carried by a vote of 5-0. Aye: Foltz, Phenix, Guzy, Louderback, Stroupe. Nay: None. Absent: Vaughan.

Resolution to Support Purdue Pharma Bankruptcy Plan:

Michael Helm, County Attorney, explained that the county had decided to take part in this litigation, which is progressing. The first plan was rejected by the State, then they went back to mediation and made some major changes and Virginia has accepted the plan, which includes an additional \$15 million from the estate going into the proceeds and the release of documents. Most counties involved in this have adopted the resolution and he recommended passing this resolution to continue to move forward. This has nothing to do with any kind of settlement; it's just to get the bankruptcy moving.

#2021-06
RESOLUTION

A RESOLUTION OF THE PAGE COUNTY BOARD OF SUPERVISORS
AUTHORIZING THE COUNTY'S OUTSIDE COUNSEL TO VOTE ON THE COUNTY'S
BEHALF TO SUPPORT THE PROPOSED PURDUE PHARMA BANKRUPTCY PLAN

WHEREAS, Purdue Pharma and its corporate affiliates have filed for bankruptcy protection related to the liabilities they face as a result of their involvement in the marketing and sale of opioids; and

WHEREAS, Page County has filed a Proof of Claim form in the Purdue bankruptcy proceeding and is a Creditor in said proceeding; and

WHEREAS, all creditors in the Purdue bankruptcy proceeding are entitled to vote, on or before July 14, 2021, on whether to accept a plan that has been proposed to resolve the Purdue bankruptcy proceeding;

WHEREAS, the County's outside opioid litigation counsel has recommended that the County approve the proposed bankruptcy plan; and

WHEREAS, the County Attorney has reviewed the available information about the proposed bankruptcy plan and concurs with the recommendation of outside counsel; now, therefore be it

RESOLVED by the Page County Board of Supervisors this 20th day of July, 2021, that that the County Attorney is authorized to direct the County's outside opioid litigation counsel to cast the vote of Page County in favor of the proposed bankruptcy plan as recommended by outside counsel.

Resolution adopted by the Page County Board of Supervisors this 20th day of July, 2021.

Motion: Supervisor Guzy moved to adopt the Resolution to Support Purdue Pharma Bankruptcy Plan. Supervisor Stroupe seconded and the motion carried by a vote of 4-1. Aye: Guzy, Louderback, Stroupe, Foltz. Nay: Phenix. Absent: Vaughan

Memorandum of Understanding – Dominion Energy Virginia, All Points Broadband partners, Shenandoah Valley Electric Cooperative, and Participating Localities:

Mrs. Moler said Dominion Energy Virginia, All Points Broadband Partners, LLC and Shenandoah Valley Electric Cooperative are partnering for the expansion of broadband access to all unserved locations. The County has been invited to participate in this which will help to bring broadband to these unserved areas. There is no commitment and we can back out if the cost is overwhelming, but she said we owe it to our citizens to explore the opportunity.

#2021-07
RESOLUTION REGARDING EXECUTION OF
PHASE ONE MEMORANDUM OF UNDERSTANDING

WHEREAS, the Page County Board of Supervisors (the "Board") has identified expansion of broadband access to all unserved locations within Page County (the "County") as a policy priority; and

WHEREAS, access to broadband is critical for economic development and education, promotes social equity and provides significant public benefits and opportunities for citizens of the County and;

WHEREAS, the Board has reviewed that certain Phase One Memorandum of Understanding executed by and between Virginia Electric and Power Company dba Dominion Energy Virginia, All Points Broadband Partners, LLC and Shenandoah Valley Electric Cooperative, dated as of June 30, 2021 (the "Regional Broadband MOU"); and

WHEREAS, the Board has determined that the approach set forth in the Regional Broadband MOU represents a prudent and viable approach to achieving expanded broadband access within the County; and

WHEREAS, the County has been invited to execute the Regional Broadband MOU and thereby become a Participating County.

NOW, THEREFORE, BE IT RESOLVED, that the Board has determined that the County should execute the Regional Broadband MOU, and that the County Administrator is hereby authorized and directed to execute the Regional Broadband MOU.

This Resolution was adopted by the Page County Board of Supervisors this 20th day of July, 2021.

Motion: Supervisor Stroupe moved to adopt the Resolution #2021-07, regarding Execution of Phase one Memorandum of Understanding, as presented. Supervisor Louderback seconded and the motion carried by a vote of 5-0. Aye: Phenix, Guzy, Louderback, Stroupe, Foltz. Nay: None. Absent: Vaughan.

Board and Commission Appointments:

Ms. Miller reviewed the Board and Commission Appointments as follows:

Broadband Authority:

Motion: Supervisor Guzy moved to appoint Josh Hahn to the Broadband Authority for a two-year term [July 20, 2023]. Supervisor Stroupe seconded and the motion carried by a vote of 5-0. Aye: Guzy, Louderback, Stroupe, Foltz, Phenix. Nay: None. Absent: Vaughan.

People Incorporated - Board of Directors:

The County has a vacancy on the Board of Directors for People Incorporated. Nina Fox has agreed to serve on the Board.

Motion: Supervisor Stroupe moved to appoint Nina Fox to the Board of Directors for People Incorporated. Supervisor Foltz seconded and the motion passed by a vote of 5-0. Aye: Louderback, Stroupe, Foltz, Phenix, Guzy. Nay: None. Absent: Vaughan.

WB Waste Solutions LLC Temporary Waste Agreement:

Jeff Blevins, Landfill Director, asked the Board to approve a temporary 90-day agreement with WB Waste Solutions LLC, which will go into effect on August 2, 2021. Mr. Blevins said he will come back October 19, 2021 and report to the Board how things are going. He feels that some equipment may need to be rented; however, both parties feel this will be a win-win situation.

Motion: Supervisor Foltz moved to approve the WB Waste Solutions LLC Temporary Waste Agreement. Supervisor Stroupe seconded and the motion passed by a vote of 5-0. Aye: Stroupe, Foltz, Phenix, Guzy, Louderback. Nay: None. Absent: Vaughan.

Consent Agenda:

Motion: Supervisor Guzy moved to approve the Consent Agenda as follows:

- Financial reports for the periods for June 1-30, 2021;
- Accounts payable checks, payroll checks, payroll direct deposits, and payroll tax related electronic fund transfers totaling \$2,440,334.00 for the month of June 2021;
- Minutes of June 1, 2021 and June 15, 2021.

Supervisor Foltz seconded and the motion carried by a vote of 5-0. Aye: Foltz, Phenix, Guzy, Louderback, Stroupe. Nay: None. Absent: Vaughan.

Old Business

Supervisor Guzy let the Board know that there have been several meetings with the broadband and the county is working diligently on this issue. Hopefully, next month we will be able to bring additional information to the Board.

New Business:

Landfill Compactor Discussion:

Jeff Blevins, Landfill Director, said the landfill is in need of a compactor. The one they currently use was purchased used in 2016. As of this date, we have had \$141,000 in repairs. Mr. Blevins reviewed several bids for the Board to entertain, with, both, leasing and purchasing options and warranty options. After discussion, the Board agreed to use ARPA funds to pay the first payments on the equipment. They agreed to give Jeff Blevins full negotiation privileges in making the deal.

Motion: Supervisor Guzy moved to allow staff negotiate a contract for a new Aljon compactor to lease or purchase. Supervisor Foltz seconded and the motion passed by a vote of 5-0. Aye: Phenix, Guzy, Louderback, Stroupe, Foltz. Nay: None. Absent: Vaughan

Discussion of the Distribution of Transient Occupancy Tax (TOT) Funds:

Nina Fox, Economic Development and Tourism Director, outlined the Tourism Management Plan, which she provided to the Board. She said the County's goals must be strategic, balanced, sensitive, and well-managed to ensure enhanced quality of life for resident and high-quality visitor experience. At the end of the day everything we do will affect our residents of Page County. No other entity will be able to have its finger on the pulse better than the County. We are more available to law enforcement, education and civic groups to make a decision that is better for our community as a whole. We also need to be compliance with legislation. The projected amount of TOT funds for this year is \$1.5 million. She noted that it's really important that the Tourism Council be respected for their decisions as they represent the lodging business that most of the TOT money is generated from, so they should be having a say on who receives it. Mrs. Fox said money

received from the TOT funds are mostly generated from cabin rentals, camp grounds and Shenandoah National Park. We have already established a Tourism Council, who has recommended to hire office staff to support county tourism efforts as well as fund the Luray-Page County Chamber of Commerce & Visitor Center Staff Facility Costs, and earmark funding for the three towns to utilize in collaboration with the county tourism department. Funding will be based on an actual budget, not projected, as in the past. Funding for special events, marketing, and other tourism initiatives will be allocated on a quarterly basis, not annual. The unaudited amount in reserves is approximately \$560,000 and the initial round of funding proposed by the Council is \$366,000. All those applying for these remaining funds must qualify, based on criteria established by the Tourism Council and Tourism Department.

The Council recommended the following:

County of Page	\$191,000
LPCCC	100,000
Luray	25,000
Stanley	25,000
Shenandoah	25,000

Supervisor Guzy asked Mrs. Fox if she spoke with Gina Hilliard from the Luray-Page Chamber of Commerce to let them know of the proposal to cut their funding. Mrs. Fox replied that she had spoken with Mrs. Hilliard. Supervisor Guzy expressed that the County hired Mrs. Fox for economic development and that we do not need a full-time tourism position and further stated that the Board agreed on your position being economic development not tourism.

Supervisor Louderback reminded Supervisor Guzy that the TOT funds are from tourism-based businesses and that the position is being funded from that money.

Gina Hilliard, Executive Director of the Chamber, said with this reduction in funding they will not be able to do the visitor's guides or marking campaigns as in previous years. She also indicated that her board is not aware of this cut yet. She said she was not told an exact figure by the Tourism Council until now.

Motion: Supervisor Foltz moved that the Board of Supervisors approve the Preliminary Tourism Management Plan and Funding Allocations for the County of Page, the Luray-Page County Chamber of Commerce, the Town of Luray, Stanley, and Shenandoah, as presented. Supervisor Stroupe seconded and the motion carried by a vote of 4-1. Aye: Phenix, Louderback, Stroupe, Foltz. Nay: Guzy. Absent: Vaughan.

Open Public Comments:

J.D. Cave, Chairman of the Tourism Council, applauded Mrs. Fox for all her hard work and let the Board know that she was definitely the right person for this task. He feels this

council will do very good work, as they are all professionals and have a stake in what goes on in our county. He also pointed out that the council voted unanimously for these appropriations of the TOT funds.

Clyde Humphrey said the Page County Public Forum will be holding a meeting on July 28, 2021, at 6:30 via Zoom on Economic Development. Another forum is scheduled for August 25, 2021 to discuss Broadband.

Administrator's Report:

Mrs. Moler reported that the Compactor Sites remain closed on Wednesdays due to staff shortages. Open interviews are scheduled for anyone who has applied and wants an interview. She reminded the Board that the next joint work session with the Planning Commission is scheduled for July 27, 2021, at 6pm. Mrs. Moler informed the Board that the Clerk's Office is without air conditioning because the HVAC unit has gone out. A new unit has been ordered but it will be approximately six weeks before it will arrive and be installed. Lastly, she said the state passed a new law that companies cannot give compensatory time but has to pay overtime. This was something that was not included in the budget, so any employee who had accrued compensatory time was paid as of July 1, 2021. She was hopeful that when the General Assembly reconvenes for their special session that they will revisit this law.

Supervisors Time:

All Supervisors thanked everyone for coming.

Closed Session:

Supervisor Guzy moved that the Page County Board of Supervisors convene in closed session under the Virginia Freedom of Information Act to discuss and consider personnel matters relating to the appointment of a county attorney, pursuant to Section 2.2-3711(A)(1) of the Code of Virginia and to discuss the award of a public contract involving the expenditure of public funds as it relates to a county attorney, pursuant to Section 2.2-3711(A)(29) of the Code of Virginia. Supervisor Stroupe seconded and the motion carried by a vote of 5-0. Aye: Guzy, Louderback, Stroupe, Foltz, Phenix. Nay: None. Absent: Vaughan.

Exit Closed Session/Certification of Closed Session:

Supervisor Guzy moved the closed meeting be adjourned and the Page County Board of Supervisors reconvene in open session. Supervisor Louderback seconded and the motion carried by a vote of 5-0. Aye: Louderback, Stroupe, Foltz, Phenix, Guzy. Nay: None. Absent: Vaughan.

Certification of Closed Meeting:

To the best of my knowledge only public business matters lawfully exempted from open meeting requirements under Section 2.2-3711(A) of the Code of Virginia, 1950, as

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amended, and only such public business matters as were identified in the motion by which the closed meeting was convened were heard, discussed or considered in the meeting.

Recorded roll Call Vote:

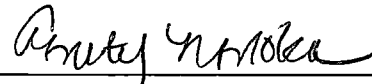
	AYE	NAY	ABSENT	ABSTAIN
D. Keith Guzy, Jr.	X			
Allen Louderback	X			
Mark Stroupe	X			
Larry Foltz	X			
Jeff Vaughan			X	
Morgan Phenix	X			

Adjourn: 9:40 p.m.

With no further business, Chairman Phenix adjourned the meeting.



Morgan Phenix, Chairman



Amity Moler, County Administrator

**ORDINANCE TO AMEND CHAPTER 105 ("TAXATION")
OF THE PAGE COUNTY, VIRGINIA CODE**

WHEREAS, by Ordinance duly adopted, the Board of Supervisors of the County of Page adopted Chapter 105, Taxation, of the Page County Code, which chapter has been further amended from time to time; and

WHEREAS, upon mature consideration, the Board of Supervisors has determined it is in the best interest of the County to further amend the ordinance.

NOW THEREFORE, be it resolved and ordained by the Board of Supervisors of the County of Page, Virginia, that Chapter 105 (Taxation), Article XXII (Cigarette Tax) of the Page County Code of the Page County Code be added as follows:

§ 105-83. Definitions.

The following words and phrases, when used in this Article, shall, for the purposes of this article, have the following meanings:

Carton. Any container, regardless of material used in its construction, in which two (2) or more packs of cigarettes are placed.

Cigarette. Any roll of any size or shape for smoking, whether filtered or unfiltered, with or without a mouthpiece, made wholly or partly of cut, shredded, or crimped tobacco, or other plant or substitute for tobacco, whether the same is flavored, adulterated, or mixed with another ingredient, if the wrapper or cover is made of any material other than leaf tobacco or homogenized leaf tobacco, regardless of whether the roll is labeled or sold as a cigarette or by any other name.

Dealer/Distributor/Wholesaler. Every manufacturer, manufacturer's representative, self-wholesaler, wholesaler, or public warehouseman, or other person, who sells, receives, stores, possesses, distributes, or transports cigarettes for resale within or into the County.

Pack. Every package, box, can, or other container of any cigarettes, irrespective of the material from which such container is made, and in which retail sales of such cigarettes are normally made or intended to be made. Packs are those containers of cigarettes from which individual cigarettes are ordinarily taken when they are consumed by their ultimate user.

Purchaser. Every person to whom title to any cigarette is transferred by a seller within the limits of the County.

Retailer. Every person who transfers title to any cigarette, or in whose place of business title to any cigarette is transferred, within the limits of the County, for any purpose other than resale.

Sale. Every act or transaction, irrespective of the method or means employed, including the use of vending machines, and other mechanical devices whereby title to any cigarette is transferred from the seller, to any person within the limits of the County.

Stamp. A small heat set of paper or decalcomania to be sold by the Commissioner of the Revenue, to be affixed to every pack of cigarettes sold at retail in the County limits.

County. County of Page, Virginia.

Commissioner. Commissioner of the Revenue for the County of Page.

§ 105-84. Rate and amount of tax; exemptions; tax additional to other taxes.

(a) There is hereby levied and imposed by the County, upon the sale of each and every pack, or part of a pack, of cigarettes, sold within County limits, on and after September 1, 2021, a tax of twenty cents (\$0.20) per pack, regardless of the number of cigarettes within the pack. The tax shall be paid and collected in the manner and at the time hereinafter prescribed; provided, that the tax payable for each cigarette or cigarette pack sold or used within the County shall be paid but once.

(b) The tax hereby shall not apply to free distribution of sample cigarettes in packs containing five (5) or fewer cigarettes.

(c) The tax levied and imposed by this article shall be in addition to all other taxes of every kind levied and imposed by any other ordinance or law.

§ 105-85. Methods of collection; reports.

(a) The tax imposed by this article shall be evidenced by the use of a stamp and shall be paid by each dealer or retailer liable for the tax at the time the stamps are purchased from the Commissioner. The stamps shall be affixed in such a manner that their removal will require continued application of water or steam. Each dealer or retailer liable for the tax is hereby required, and it shall be his duty, to collect and pay the tax.

(b) All unstamped cigarette packs in the possession of any retailer in the County on the effective date of this article shall be inventoried and reported to the Commissioner not later than twelve noon (12:00 PM) on September 13, 2021. The Commissioner shall provide the report form, and the retailer shall remit the tax for the unstamped packs along with the report. Such reporting shall continue monthly until all unstamped cigarette packs have been sold. Any unstamped cigarette packs not reported and the tax not paid may be confiscated by the Commissioner.

(c) It shall be the duty of each dealer or retailer liable for the tax to report monthly to the Commissioner separately the following information:

(1) The quantity of stamped cigarettes sold or delivered, specifying recipients, during the period requested by the Commissioner.

(2) The quantity of stamps on hand, both affixed and unaffixed, on the last day of the period of request and the quantity of stamps or stamped cigarettes received during the period.

(3) Such further information from any appropriate party as the Commissioner may require for the proper administration and enforcement of this article.

(d) When, upon examination and audit of any invoices, records, books, canceled checks, or other memoranda touching on the purchase, sale, receipt, storage, or possession of cigarette products taxed herein, any dealer or retailer liable for the tax is unable to furnish evidence to the Commissioner of sufficient tax payments and stamp purchases to cover cigarettes that were sold, used, stored, received, purchased, or possessed by him, the prima facie presumption shall arise that such cigarettes were received, sold, used, stored, purchased, or possessed by him without the proper tax having been paid. The Commissioner shall, from the results of such examination and audit based upon such direct or indirect information available, assess the tax due and unpaid.

(e) The dealer or retailer liable for the tax shall be notified by certified mail or hand delivery of such deficiency and such tax, penalty, and interest assessed shall be due and payable within ten (10) days after notice of such deficiency has been issued.

(f) It shall be the duty of every dealer and retailer in the County to keep complete records for the current year and the three (3) preceding calendar years of all cigarettes delivered or sold by such dealer or retailer and to make all such records available for examination by the Commissioner, or other authorized personnel, upon demand, at any and all reasonable times.

§ 105-86. Preparation and sale of stamps generally.

(a) For the purpose of making stamps available for use, the Commissioner shall sell stamps by the roll for the payment of the taxes imposed by this article.

(b) Stamps shall be placed upon each pack of cigarettes in such manner as to be readily visible to the purchaser.

(c) Every retailer is hereby required to examine each pack of cigarettes prior to exposing the same for sale for the purpose of ascertaining whether such pack has the proper stamps affixed thereto as provided by this article.

§ 105-87. Notice by retailers.

Retailers who sell, offer for sale, store, possess, distribute, purchase, receive, or transport cigarettes in or into the County shall notify the Commissioner, in writing, upon the request of the Commissioner, of the dealer of such cigarettes and the name and address and the Virginia Retail Sales and Use Certificate of Registration number for each separate place of business.

§ 105-88.. Display of stamps; seizure.

(a) Packs of cigarettes shall be displayed by the retailer so that the stamps are readily visible.

(b) Except as allowed by sub-section 105-84 (b), any retailer found to possess any cigarettes without the stamp affixed who is not in the process of affixing such stamps thereto, shall be presumed to be in possession of untaxed cigarettes in violation of this article. Retailers shall have forty-eight (48) hours to stamp all cigarette packs in their possession.

(c) Any cigarettes placed in any coin-operated vending machine shall be presumed for sale within the County. Any vending machine located within the County containing cigarettes upon which the stamp has not been affixed or containing cigarettes placed so as to not allow visual inspection of the stamp through the viewing area as provided for by the vending machine manufacturer shall be presumed to contain untaxed cigarettes in violation of this article.

(d) Any cigarettes, coin-operated vending machines, counterfeit stamps, or other property found in violation of this article shall be declared contraband goods and may be seized by the Commissioner. In addition to any tax due, the dealer or retailer liable for the tax possessing such untaxed cigarettes shall be subject to civil and criminal penalties herein provided.

(e) In lieu of seizure, the Commissioner may seal such vending machines to prevent continued illegal sale or removal of such cigarettes. The removal of such seal from a vending machine by any unauthorized person shall be a violation of this article. Nothing in this article shall prevent the seizure of any vending machine at any time after it is sealed.

(f) All cigarette vending machines shall be plainly marked with the name, address, and telephone number of owners of said machines.

(g) Any seized and confiscated cigarettes, vending machines, or other property used in the furtherance of any illegal evasion of the tax may be disposed of by sale or other method deemed appropriate by the Commissioner after thirty (30) days notice to the person from whom the items were seized. No credit from any sale of cigarettes, vending machines, or other property seized shall be allowed toward any tax, penalties, or interest assessed.

§ 105-89. Design of stamps.

The Commissioner may, from time to time, and as often as he or she may deem advisable, provide for the issuance and exclusive use of stamps of a new design, and forbid the use of stamps of any other design.

§ 105-90. Refunds.

(a) Should any person, after acquiring from the Commissioner any stamps herein provided for, cease to be engaged in a business necessitating the use thereof, or should any such stamps become mutilated and unfit for use, such person shall be entitled to a refund of the face amount of any such stamps so acquired and not used, upon presenting the stamps and an affidavit to the Commissioner showing that the stamps were acquired by such person and have not in any manner been used, and the reason for requesting a refund.

(b) In the case of a stale-dated cigarettes, a refund of the face amount of the stamps shall be made upon furnishing the Commissioner with (i) a count of pre-stamped packs that have not been sold

and have been removed from the market, and (ii) a sworn affidavit of the manufacturer affirming the number of packs returned.

§ 105-91. Rules and regulations.

The Commissioner is authorized and empowered to prescribe, adopt, promulgate, and enforce rules and regulations relating to all matters pertaining to the administration and enforcement of the provisions of this article. The Commissioner is further authorized and empowered to examine the books, records, invoices, papers, and any and all cigarettes in and upon any premises where the same are placed, stored, sold, offered for sale, or displayed for sale by a retailer. The Commissioner is authorized to delegate any of the powers and duties set out in this article to one or more deputies or assistants, except as may be prohibited by law.

§ 105-92. Violations of article--Generally.

(a) Any person violating any provision of this article shall be guilty of a Class 1 misdemeanor. Conviction and punishment for such violation shall not relieve any person from the payment of any tax imposed by this article. In addition, any person who shall perform any act or fail to perform any act for the purpose of evading the payment of any tax imposed by this article shall be required to pay a penalty in the amount of fifty (50) percent, and interest at the rate of ten (10) percent per year, of any tax found to be overdue and unpaid.

(b) Each day's violation of, or noncompliance with, any of the provisions of this article may constitute a separate offense.

§ 105-93. Violations of article--Prohibited acts enumerated.

(a) It shall be unlawful and a violation of this article for any dealer or other person liable for the tax:

(1) To perform any act or fail to perform any act for the purpose of evading the payment of any tax imposed by this article or any part thereof; for any retailer, with intent to violate any provision of this article, to fail or refuse to perform any of the duties imposed upon him under the provisions of this article or to fail or refuse to obey any lawful order which the commissioner may issue under this article, or;

(2) To falsely or fraudulently make, forge, alter, or counterfeit any stamp or to procure or cause to be made, forged, altered, or counterfeited any such stamp or knowingly and willfully to alter, publish, pass, or tender as true any false, altered, forged, or counterfeited stamp or stamps, or;

(3) To sell, offer for sale, or distribute any cigarettes upon which the tax imposed by this article has not been paid and upon which evidence of payment thereof is not shown on each pack of cigarettes, or;

(4) To reuse or refill with cigarettes any package from which cigarettes have been removed, for which the tax imposed has been theretofore paid, or;

(5) To remove from any pack any stamp with the intent to use, or cause the stamp to be used, after it has already been used, or to buy, sell, or offer for sale, or give away any used, removed, altered, or restored stamps to any person, or to reuse any stamp that had been previously used for evidence of the payment of the tax prescribed by this article, or, except as to the Commissioner, to sell, or offer to sell, any stamp provided for herein.

(6) To sell, offer for sale or distribute any loose or single cigarettes.

§ 105-94. Appointment of attorney for service of process.

Any dealer whose business and residence is outside of the limits of the County, who shall sell, store or possess within the limits of the County any cigarettes shall, by virtue of such sale, storage or possession submit himself to the County's legal jurisdiction and appoint as his attorney for any service of lawful process the County Administrator for that purpose. A copy of any such process served on the said County Administrator shall be sent forthwith by registered mail to the dealer.

This Ordinance shall be in full force and effect from and after September 1, 2021, as provided by Virginia law.

Dates of Notice Publication: July 1, 2021

July 8, 2021

Date of Adoption of Ordinance July 20, 2021

Morgan S. Phenix
Morgan Phenix, Chairman-at-Large
Board of Supervisors of the County of Page, Virginia

Attest:

Amity Moler
Amity Moler, Clerk to Board of Supervisors

CERTIFICATE OF VOTES

The undersigned Clerk of the Board of Supervisors of Page County, Virginia, hereby certifies that the foregoing Ordinance constitutes a true and correct copy thereof adopted by the Board of Supervisors at a regular meeting duly held and called on July 20, 2021. A record of the roll-call vote by the Board of Supervisors is as follows:

NAME	AYE	NAY	ABSTAIN	ABSENT
Morgan Phenix	✓			
Mark Stroupe	✓			
D. Keith Guzy, Jr.	✓			
Larry Foltz	✓			
Jeff Vaughan				✓
Allen Louderback	✓			

Dated: July 20, 2021

Amity Moler
Amity Moler, Clerk, Board of Supervisors
Page County, Virginia