At the recess meeting of the Giles County Board of Supervisors held on Thursday, November 18, 2021, at 6:30 PM in the Giles County Administration Building located at 315 N. Main Street, Pearisburg, the following members were present unless noted absent.

Richard McCoy	Chair (At-Large Supervisor)
Paul “Chappy” Baker	Vice-Chair (At-Large Supervisor)
Jeff Morris	Central District
Perry Martin	Eastern District
John C. Lawson, Jr.	Western District
Chris McKlarney	County Administrator
Catherine Ballard	Finance Director
Richard Chidester	County Attorney
Missy Bray	Board Secretary

CALL TO ORDER/INVOCATION

Mr. McCoy called the meeting to order, and Mr. McKlarney offered the invocation and led the Pledge of Allegiance.

APPROVAL OF MINUTES

Mr. Baker motioned to approve the November 3, 2021, minutes as presented. Mr. Morris seconded the motion. The motion was approved 4-0 as follows: Voting Yes: Mr. Baker, Mr. Lawson, Mr. McCoy and Mr. Morris; Absent: Mr. Martin

CONSTITUTIONAL OFFICERS

Ms. Angie Higginbotham, Giles County Treasurer, updated members on happenings at her office including a tax sale and DMV items. She noted the tax sale had brought in $281,000 plus $24,000 in back taxes. She indicated DMV offices are reopening to walk in traffic several days a week, which should get things more back to normal at the Pearisburg office. Ms. Higginbotham reported National Bank had advised her it would no longer cover credit card fees for localities beginning January 1st. She gave amounts of interchanges and anticipated National Bank had covered approximately $50,254 in fees last year. Ms. Higginbotham gave options to members to pass the cost on to customers such as bundle pricing with National Bank and third party, adding many localities had opted for third party billing. She advised the fees could not be charged at the counter utility fees, and changes will need to be put in place by January 1st. Mr. Lawson inquired if it only affects credit card charges. Ms. Higginbotham stated it would affect credit or debit cards. Mr. McKlarney commended National Bank for its service to the county over the years.

PAYMENT OF WARRANTS

Mr. Baker motioned to approve warrants in the amount of $897,418.87, and Mr. Morris seconded the motion. The motion was approved 5-0 as follows: Voting Yes: Mr. Baker, Mr. Lawson, Mr. Martin, Mr. McCoy and Mr. Morris

SCHOOL BOARD APPROPRIATIONS

Mr. Lawson motioned to approve $1,695,167.37 for the December 2021 School Board appropriations, and Mr. Morris seconded the motion. The motion was approved 5-0 as follows: Voting Yes: Mr. Baker, Mr. Lawson, Mr. Martin, Mr. McCoy and Mr. Morris

Mr. Lawson motioned to approve $404,832.63 for carryover School Board appropriations, and Mr. Morris seconded the motion. The motion was approved 5-0 as follows: Voting Yes: Mr. Baker, Mr. Lawson, Mr. Martin, Mr. McCoy and Mr. Morris

SOCIAL SERVICES APPROPRIATIONS

Mr. Morris motioned to approve $153,000 for the December 2021 Social Services appropriations. Mr. Baker seconded the motion. The motion was approved 5-0 as follows: Voting Yes: Mr. Baker, Mr. Lawson, Mr. Martin, Mr. McCoy and Mr. Morris

BUDGET SUPPLEMENTS

Mr. Morris made a motion to approve FY 2022 budget supplements in the amount of $161,519.77. Mr. Lawson seconded the motion. The motion was approved 5-0 as follows: Voting Yes: Mr. Baker, Mr. Lawson, Mr. Martin, Mr. McCoy and Mr. Morris
A copy of the supplements is attached at the end of these minutes.

OLD BUSINESS

PROPOSED RESOLUTION SUPPORTING THE DISCONTINUANCE OF A PORTION OF ROUTE 799

Mr. McKlarney related VDOT had a representative at the previous meeting regarding the proposed resolution, and no comments had been received. A copy of the resolution is attached at the end of these minutes.

Mr. Martin made a motion to approve the resolution for the discontinuance of a portion of Route 799 as requested. Mr. Morris seconded the motion. The motion was approved 5-0 as follows: Voting Yes: Mr. Baker, Mr. Lawson, Mr. Martin, Mr. McCoy and Mr. Morris

NEW BUSINESS

SURPLUS REQUEST

Mr. McKlarney stated a request had come from the bus garage for approval to surplus a John Deere 310D backhoe loader (4103) and a John Deere Gator (5731). He indicated the backhoe might have a little life left but the gator was only useful for parts.

Mr. Baker made a motion to approve the surplus of the John Deere 310D backhoe and the John Deere gator as requested, and Mr. Lawson seconded the motion. The motion was approved 5-0 as follows: Voting Yes: Mr. Baker, Mr. Lawson, Mr. Martin, Mr. McCoy and Mr. Morris

PEPPER'S FERRY SEPTAGE AGREEMENT

Mr. McKlarney presented the renewal of the Pepper's Ferry septage agreement, noting the cost is still the same. He advised there is no cost to the county, only the haulers who take sewage to the plant.

Mr. Baker made a motion to approve the renewal of the Pepper's Ferry septage agreement, and Mr. Martin seconded the motion. The motion was approved 5-0 as follows: Voting Yes: Mr. Baker, Mr. Lawson, Mr. Martin, Mr. McCoy and Mr. Morris

RECESS

Mr. McCoy called a recess until the start of the public hearings.

PUBLIC HEARINGS

Mr. McCoy called the meeting back to order and opened the public hearings. Mr. Berkman called the Planning Commission to order. Members of the Commission present at the meeting were as follows: J. Berkman, P. Baker, R. Browning, B. Johnson, T. Pitzer and G. Snider.

CONDITIONAL USE PERMIT – COMMERCIAL OR SERVICE ESTABLISHMENT – D. DIRICO

Mr. Ross indicated the Planning Commission received a request for a conditional use permit pursuant to sections 802.04 and 610.03-22 (Commercial or Service Establishment) of the Giles County Zoning Ordinance, specifically to allow for the repair/rebuilding of equipment at 6233 Virginia Avenue, Pembroke, Virginia. No outside storage or repair of equipment is proposed with this request. The property is specifically identified as Tax Parcels 43A-1-28, 43A-1-29, 43A-1-30 and 43A-1-31, and is owned by Larry "Jay" Williams, and Donald DiRico is the applicant of the request. Mr. Ross indicated Mr. DiRico is in contract to purchase the property if approved, and Mr. DiRico would like the option to work with a wood chipper on the property, adding there would be no outside storage. He noted no comments were received.

With no further questions or comments, Mr. McCoy closed this portion of the public hearing and indicated it would be returned to the Planning Commission for further recommendations.

CONDITIONAL USE PERMIT – COMMERCIAL OR SERVICE ESTABLISHMENT AND MULTI-FAMILY DWELLING – E. BRADLEY

Mr. Ross indicated the Planning Commission had received a request for the issuance of a conditional use permit pursuant to Sections 802.04, 603.03-1 (Commercial or Service Establishment), and 603.03-25 (Multi-Family Dwellings) of the Giles County Zoning Ordinance, specifically to allow for the establishment of three one-bedroom apartments, eight climate-controlled storage areas, and garage rental space at 1194 Pulaski Giles Turnpike, Pearisburg, Virginia. These activities will be conducted within the existing structure with no additions proposed. The property is specifically identified as Tax Parcel 40-29A, is owned by Bradley Property Management, and Edward Bradley is the applicant of the request. Mr. Ross indicated the property was previously owned by Roger Lucas, and Mr. Bradley had reached out to VDOT but has not heard back from them. He noted no comments were received.

Mr. McCoy asked for any comments or questions. Hearing none, he closed this portion of the public hearing and indicated it would be returned to the Planning Commission for recommendations.

PROPOSED TEXT AMENDMENT TO THE GILES COUNTY ZONING ORDINANCE – SECTION 703

Mr. Ross presented a proposed text amendment to Section 703 (Off Street Parking) of the Giles County Zoning Ordinance to reduce the required amount of parking spaces for selected uses. The intent of this change is to bring these requirements more in line with actual usage and current trends in parking space numbers. He outlined the numbers for multi-family dwellings, restaurants and offices, and noted no comments had been received.

Mr. McCoy asked for any comments or questions. Hearing none, he closed this portion of the public hearing and indicated it would be returned to the Planning Commission for recommendations.

PROPOSED TEXT AMENDMENT TO THE GILES COUNTY ZONING ORDINANCE – SECTION 714

Mr. Ross presented a proposed text amendment to Section 714 (Short Term Rental of Dwelling) of the Giles County Zoning Ordinance to allow for the short-term rental of portions of an owner-occupied single-family dwelling, short-term rental of mobiles homes, and short-term rental of single-family dwellings wherever these uses are allowed. Mr. Ross indicated the rental was for a single group and stated no comments were received.

Mr. Morris inquired about the single group. Mr. Ross advised if there were two unoccupied bedrooms, both could be rented but to the same group, not two separate

groups of people. He indicated renting to two groups would put it under hotel code with Health Department requirements. Mr. Lawson inquired about the definition of short-term. Mr. Ross advised it would be less than 30 days. Mr. McCoy inquired if the dwelling could be rented if not occupied. Mr. Ross stated the entire structure could be rented if it is not occupied.

With no additional questions or comments, Mr. McCoy closed this portion of the public hearing and indicated it would be returned to the Planning Commission for recommendations.

Mr. Berckman adjourned the Planning Commission. Mr. Ross advised the next Planning Commission meeting will be held at 5:00 pm on Tuesday, November 23, 2021 at the Giles County Administration Office located at 315 North Main Street, Pearisburg, Virginia.

PROPOSED ORDINANCE AMENDING THE GILES COUNTY TRANSIENT OCCUPANCY TAX

Mr. Chidester explained the changes to the ordinance are based on changes the General Assembly made, which requires third party organizations to collect transient occupancy tax on short-term rentals and send the tax due to the applicable locality. He stated hotels and individuals send the tax directly to the localities, and the tax rate would be the same at five percent. Mr. Chidester related the rental would be less than 30 days, and there is a prevision in the previous ordinance that the person collecting the taxes would receive three percent. He advised that prevision has been eliminated. Mr. McKlarney reported a 37 percent increase in transient occupancy tax this year. Mr. McCoy asked for any questions or comments. Hearing none, he closed the public hearing. A copy of the ordinance is attached at the end of these minutes.

Mr. Baker made a motion to approve the Transient Occupancy Tax Ordinance number 8-8 as presented. Mr. Lawson seconded the motion. The motion was approved 5-0 as follows: Voting Yes: Mr. Baker, Mr. Lawson, Mr. Martin, Mr. McCoy and Mr. Morris

APPOINTMENTS

Mr. Baker made a motion to reappoint Mr. Gary Tickle to the Industrial Development Authority. Mr. Morris seconded the motion. The motion was approved 5-0 as follows: Voting Yes: Mr. Baker, Mr. Lawson, Mr. Martin, Mr. McCoy and Mr. Morris

EXECUTIVE SESSION

Mr. Morris motioned to go into executive session as permitted by Virginia Code 2.2-3711 A(1) Personnel, (7) Legal Counsel, and (30) Contracts. Mr. Baker seconded the motion. The motion was approved 5-0 by rollcall vote as follows: Voting Yes: Mr. Baker, Mr. Lawson, Mr. Martin, Mr. McCoy and Mr. Morris

Mr. Morris motioned to return to open session and he certified that in the closed session just concluded, nothing was discussed except the matter or matters (1) specifically identified in the motion to convene in closed session and (2) lawfully permitted to be discussed under the provisions of the Virginia Freedom of Information act cited in that motion. Mr. Baker seconded the motion. The motion was approved 5-0 by rollcall vote as follows: Voting Yes: Mr. Baker, Mr. Lawson, Mr. Martin, McCoy and Mr. Morris

ADJOURN

With no further business, the meeting was adjourned. The next Board of Supervisors meeting will be held on Wednesday, December 1, 2021, at 3:00 PM. The meeting will be held at the Giles County Administration Office located at 315 North Main Street, Pearisburg.

APPROVED:

_____
Chair

ATTEST:

_____
Clerk

BUDGET SUPPLEMENTS
NOVEMBER 18, 2021 BOARD MEETING

SUPPLEMENTS

CODE		AMOUNT	OFF-SETTING REVENUE
100-43100-5601		$102,167.21	YES- AMERICAN RESCUE PLAN
100-81700-3019		$24,910.76	YES - BUSINESS RESILIENCY GRANT
100-91200-5650		$15,612.45	YES-FUEL REIMBURSEMENT
100-43100-8201		$18,829.35	NO-SCISSOR LIFT MAINT
	TOTAL	**$161,519.77**	

A resolution, supporting the discontinuance, but not abandonment, of a portion of VDOT Secondary Route 799, unnamed, Giles County, Virginia.

Approved as to form and legality by the Giles County Attorney

BE IT RESOLVED BY THE BOARD OF SUPERVISORS OF THE COUNTY OF GILES, VIRGINIA:

I. **That the Giles County Board of Supervisors supports the discontinuance of a portion of VDOT Secondary Route 799, unnamed, Giles County, Virginia, as follows:**

WHEREAS, the Virginia Department of Transportation has notified the Giles County Board of Supervisors of its intent to discontinue Route 799 from the intersection of Route 799 and US460 to the terminus of Route 799, a distance of 0.19 miles; and

WHEREAS, the sketch attached and incorporated herein as a part of this resolution, defines the adjustment required in the secondary system of state highways as a result of the discontinuance of said portion of Route 799; and

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF SUPERVISORS OF GILES COUNTY, VIRGINIA:

That the Giles County Board of Supervisors hereby concurs with and supports the Commonwealth Transportation Board's changes to the secondary system of state highways as identified on the attached sketch, pursuant to §33.2-908.B of the Code of Virginia; and

BE IT FURTHER RESOLVED:

That a certified copy of this resolution be forwarded to the Residency Engineer of the Virginia Department of Transportation Christiansburg Residency.

II. **That this resolution shall be in force and effect upon adoption.**

Adopted this 18th day of November, 2021.

	YES	NO	ABSTAIN	ABSENT
P. Baker	X			
J. Lawson	X			
P. Martin	X			
R. McCoy	X			
J. Morris	X			

Chris McKlarney, Clerk

ORDINANCE AMENDING GILES COUNTY TRANSIENT OCCUPANCY TAX NUMBER 8-8, DUE TO CHANGES IN STATE LAW, SPECIFICALLY TO REVISE THE TRANSIENT OCCUPANCY TAX REPORTING AND COLLECTION REQUIREMENTS WHEN ACCOMMODATIONS ARE BOOKED THROUGH AN INTERMEDIARY (E.G. EXPEDIA)

WHEREAS, the 2021 General Assembly passed Senate Bill 1398 amending the Virginia Code to revise transient occupancy taxes to provide for tax reporting when a room is booked through an accommodations intermediary (e.g. Expedia, Home Away, Air BNB); and

WHEREAS, the Board of Supervisors wishes to amend the Giles County Transient Occupancy Tax Ordinance 8-8 to comport with state law; and

WHEREAS, after proper advertisement was made as required by law, a public hearing was conducted on November 18, 2021 at the Giles County Administration Building, Board Meeting Room, 315 North Main Street, Pearisburg, VA 24134.

NOW, THEREFORE, BE IT ORDAINED, that the Giles County Transient Occupancy Tax Ordinance 8-8 is hereby amended, and this ordinance is hereby re-enacted as follows:

SECTION 1: Definitions.

The following words and phrases, for the purpose of this ordinance, have the following respective meanings except when the context clearly indicates a different meaning:

(a) *Accommodations:* any room or rooms, lodgings, or accommodations in any hotel, motel, inn, tourist camp, tourist cabin, camping grounds, club, house, or any other place in which rooms or accommodations for lodging are regularly furnished to transients for consideration.

(b) *Accommodations fee:* the amount paid to or retained by the accommodations intermediary for facilitating the sale. The accommodations fee shall be distinctly set out as a separate item.

(c) *Accommodations intermediary:* any person other than an accommodations provider who facilitates the sale of an accommodation, charges a room charge to the customer, and charges an accommodations fee, which fee it retains as compensation for facilitating the sale. For the purposes of this definition, "facilitates the sale" includes brokering, coordinating, or in any other way arranging for the purchase of the right to use accommodations via a transaction directly, including via one or more payment processors, between a customer and an accommodations provider.

"Accommodations intermediary" does not include a person:

(1) If the accommodations are provided by an accommodations provider operating under a trademark, trade name, or service mark belonging to that person; or

(2) Who facilitates the sale of an accommodation if (i) the price paid by the customer

to the person is equal to the price paid by the person to the accommodations provider for the accommodations, and (ii) the only compensation received by the person facilitating the sale of the accommodation is a commission paid from the accommodations provider to that person.

(d) *Accommodations provider:* any person who furnishes accommodations to the general public for compensation. The term "furnishes" includes the sale of use or possession, or the sale of the right to use or possess.

(e) *Room charge:* the price charged for the use of lodging accommodations before taxes.

(f) *Total price paid*: the total price charged to the customer. It will include the room charge and the accommodations fee, if any.

(g)*Transient:* Any person who obtains accommodations for a period of less than 30 consecutive days.

SECTION 2: TAX RATE.

Pursuant to Virginia Code Section 58.1-3819, there is hereby levied and imposed, in addition to all other taxes and fees of every kind now imposed by law, a tax of five (5) percent of the total price paid by or for a customer for use or possession of any lodging accommodations for continuous occupancy for fewer than 30 consecutive days. The tax shall be collected at the time and in the manner provided by this article.

SECTION 3: COLLECTION OF TAX

(a) For sales of accommodations not facilitated by an accommodations intermediary, the accommodations provider shall collect the amount of the transient occupancy tax from the person paying for the accommodations when the total price paid is collected.

(b) For sales of accommodations facilitated by an accommodations intermediary, the accommodations intermediary shall collect the transient occupancy tax computed on the total price paid.

(c) The taxes collected under this article shall be deemed to be held in trust for the county by the person required to collect them until remitted as required in this ordinance.

SECTION 4. REPORTS AND REMITTANCE OF TAX COLLECTED

(a) For sales of accommodations facilitated by an accommodations intermediary, the accommodations intermediary is responsible for remittance of the transient occupancy tax as follows:

(1) For accommodations at a hotel, the accommodations intermediary shall remit the tax on the accommodations fee to the county, and any remaining tax to the hotel, and the hotel shall remit those taxes to the county. An accommodations intermediary shall not be liable for taxes under this article remitted to a hotel that the hotel does not remit to the locality.

(2) For accommodations not at a hotel, the accommodations intermediary shall remit all the

transient occupancy taxes directly to the county.

(b) The person collecting any transient occupancy tax shall make a report of the taxes collected upon the commissioner of the revenue's forms showing the total price paid, the room charge, the accommodations fee, and the tax required to be collected. The person collecting any tax shall then sign and deliver the report to the commissioner of the revenue and remit the collected tax to the treasurer. The reports and remittances shall be made on or before the 15th day of each month following the month in which the tax is collected. Reports shall include the total price paid by each occupant, the date thereof, the date of payment thereof, and the amount of the tax imposed hereunder. Reports shall identify the property address of the accommodation and the name of the Accommodations Provider.

(c) Any person collecting the transient occupancy tax on transactions exempt or not taxable under this ordinance shall transmit to the treasurer such erroneously or illegally collected tax unless and until the person can affirmatively show that the tax has since been refunded to the payor or credited to payor's account.

SECTION 5. INTEREST AND PENALTIES UPON FAILURE OR REFUSAL TO REMIT TAX OR FILE REPORT.

(a) If any person fails or refuses to remit to the treasurer the tax required to be collected and paid under this article within the time and in the amount specified, the treasurer shall add (i) a penalty in the amount of ten (10) percent or ten dollars ($10.00), whichever is greater, and (ii) interest thereon at the rate of ten (10) percent per annum, computed on the taxes and penalty from the date the taxes are due and payable.

(b) In addition to the penalty and interest provided for in subsection (a), a penalty of ten (10) percent or ten dollars ($10.00), whichever is greater, shall be assessed on any person who fails to file a report as required in this ordinance.

SECTION 6. ESTIMATED ASSESSMENT UPON FAILURE OR REFUSAL TO COLLECT OR REPORT TAX.

If any person fails or refuses to collect the taxes levied and imposed under this article, or to make, within the time provided in this article, the reports and remittances required in this article, the commissioner of revenue shall proceed to obtain facts and information on which to base an estimate of the tax due. When facts and information are obtained upon which to base the assessment of any tax payable by any person who has failed or refused to collect it, to make a report, or to make a remittance, the commissioner of revenue shall proceed to determine and assess against that person the tax, penalty and interest as provided for in this article, and shall notify the person by registered mail, to the person's last known address, the amount of the tax, interest and penalty, and the total amount shall be payable to the treasurer within fifteen (15) days from the date the notice was mailed.

SECTION 7. RECORDS TO BE KEPT BY PERSON LIABLE FOR COLLECTION OR PAYMENT OF TAX.

Every person liable for the collection or payment to the county of any transient occupancy tax is required to keep, for three (3) years, the records necessary to determine and show accurately the basis for the transient occupancy tax collected or paid. The treasurer and the commissioner of revenue may inspect these records at any reasonable time.

SECTION 8. TAX IMMEDIATELY DUE AND PAYABLE UPON CESSATION OF BUSINESS.

Whenever any person required to collect or remit transient occupancy tax goes out of business, disposes of the business, or otherwise ceases to operate, all taxes collected and any tax payable under this article shall thereupon be reported to the commissioner of revenue and remitted to the county treasurer.

SECTION 9. EXEMPTIONS FROM TAX.

No transient occupancy tax shall be payable on charges for accommodations paid to any hospital, medical clinics, convalescent home, or home for the aged.

SECTION 10. PENALTY FOR VIOLATION OF ARTICLE.

Any person who willfully violates or fails to comply with any of the provisions of this article shall be guilty of a Class 1 misdemeanor as defined in Virginia Code Section 18.2-11. Each violation or failure to comply shall constitute a separate offense. Conviction of such violation shall not relieve any person from the payment, collection or remittance of the taxes imposed by this article.

This ordinance shall be effective January 1, 2022.

Adopted at a meeting of the Board of Supervisors of Giles County, Virginia, held on November 18, 2021

	voting for	voting against	abstain	absent
McCoy	X			
Morris	X			
Baker	X			
Lawson	X			
Martin	X			

Attest: _____
Christopher P. McKlarney, Clerk