

Virginia:

AT A CONTINUED MEETING of the Nelson County Board of Supervisors at 7:00 p.m. in the General District Courtroom at the Courthouse in Lovingston, Virginia.

Present: Jesse N. Rutherford, East District Supervisor –Chair
Robert G. “Skip” Barton, South District Supervisor – Vice Chair
Thomas D. Harvey, North District Supervisor
Ernie Q. Reed, Central District Supervisor
J. David Parr, West District Supervisor
Stephen A. Carter, County Administrator
Amanda B. Spivey, Administrative Assistant/Deputy Clerk
Candice W. McGarry, Director of Finance and Human Resources

I. CALL TO ORDER

Mr. Rutherford called the meeting to order at 7:01 p.m. with five (5) Supervisors present to establish a quorum.

II. PUBLIC HEARINGS

A. TRANSIENT OCCUPANCY TAX (O2022-01)

Ms. McGarry began her presentation on the transient occupancy tax (TOT) by reviewing the advertising requirements for changing the tax rate. She explained that public notices must comply with State Code, which required two notice published seven days apart. She noted that the public hearing notice was published on April 14th and April 21st in the Nelson County Times. She explained that the tax rate must be set by ordinance and the proposed ordinance could be adopted following the public hearing.

Ms. McGarry noted that sixty percent of the first 5% of the transient occupancy tax revenues must be dedicated to Tourism. She noted that revenues exceeding that could be used within restriction in the General Fund budget. She reported that the FY22 TOT rate of 5% yielded a budgeted tax levy of \$665,000, and \$266,000 of that was unrestricted revenue. She noted that the FY23 TOT rate of 5% yielded an anticipated tax levy of \$1,150,131 and \$460,052 of that would be unrestricted revenue.

Ms. McGarry then presented the proposed FY23 TOT rate of 10% which would yield an anticipated tax levy of \$2,300,262. She noted that there would be \$1,318,525 in unrestricted revenue, which was proposed to be allocated towards School Division operational funding.

Ms. McGarry presented the following proposed ordinance O2022-01 for the Board’s consideration:

**ORDINANCE 2022-01
NELSON COUNTY BOARD OF SUPERVISORS
AMENDMENT OF THE CODE OF NELSON COUNTY, VIRGINIA
CHAPTER 11, TAXATION, ARTICLE VI TRANSIENT OCCUPANCY TAX**

BE IT HEREBY ORDAINED, by the Nelson County Board of Supervisors that the Code of Nelson County, Virginia, Chapter 11, Taxation, Article VI is hereby amended as follows:

Amend

Sec. 11-131. Levy of tax on transient room rentals; collection generally.

There is hereby imposed and levied upon every transient obtaining or occupying lodging within the county, in addition to all other taxes and fees of every kind now imposed by law, a tax equivalent to *ten* (10) ~~five (5)~~ percent of the amount charged for such lodging. The tax shall be collected from transients in the manner and at the time provided for in this article.

BE IT FURTHER ORDAINED, that this ordinance becomes effective July 1, 2022.

Mr. Rutherford opened the public hearing.

Elizabeth-Anne Driskill, The Cabins at Crabtree Falls, Tyro, VA

Ms. Driskill stated that she worked for The Cabins at Crabtree Falls, a rental property which has been in operation for more than 25 years. She noted that they have consistently paid their taxes on time, but pointed out that many individuals rent their properties out privately without paying. She felt that the Commissioner of Revenue should make sure that everyone renting their property is paying their taxes. She was concerned that doubling the TOT would kill tourism for the County. She noted the lodging tax in other localities, which ranged from 2% to 8%. She stated that raising the tax to 10% would bring the County up to comparison with Vegas or Los Angeles. Ms. Driskill felt that doubling the tax was unfair and not comparable with other vacation destinations in the state. She noted that Nelson County would have the highest lodging tax rate in Virginia if it were increased to 10%. She felt that the County would lose tourism and people would be deterred from opening businesses.

Greg Truslow, Nellysford, VA

Mr. Truslow reiterated Ms. Driskill's comments about the effects of an increased TOT. He felt that Wintergreen could be impacted significantly by the proposed increase. He also noted the number of people privately renting out their property without paying taxes. Mr. Truslow referenced a letter sent to the Board and Mr. Carter, which was in support of the lodging industry and the concerns regarding the proposed increase to the transient occupancy tax. He asked that the County work to make sure that all taxes are collected from lodging establishments, not just the honest few.

Barbara Larson, Lovingston, VA

Ms. Larson noted her concerns on the proposed increase to the TOT. She explained that she and her husband had one private short term rental on their property, which they rent through Airbnb. She noted a slowdown in bookings in 2022 as other travel has opened back up. She estimated that if current trends held, they would be down 25% from 2021. She felt that raising rates to accommodate the increase in tax would have an effect on the demand for rental of her space. She noted that she does not collect the TOT from her guests, but at the end of the month, she remits the 5% monthly to the Commissioner of Revenue. Ms. Larson noted that she had worked in public finance and never saw a tax rate double in a single year. She suggested an incremental increase over time. She asked the Board to reconsider the drastic height.

Mark Franklin, Roseland, VA

Mr. Franklin spoke about concerns and frustrations regarding youth sports in Nelson. He noted there had been six fields in use when he was in youth sports. He added that no improvements had been made to the fields at Tye River. Mr. Franklin acknowledged the changes in Nelson over the years, businesses bringing jobs, increases in property values, home sales and construction, with the exception of youth sports. He stated that youth baseball and football had disappeared, while soccer was the dominant sport with only two fields to use. He voiced frustrations over the quality of the fields noting that Tye River was overused and Rockfish Ruritan Park was a marshy hayfield. He noted that Parks and Rec was not using the Rockfish Elementary field. He asked if the kids had been forgotten during community planning and investment.

There being no other persons wishing to be recognized, the public hearing was closed.

B. REAL ESTATE TAX RATE

Ms. McGarry presented the proposed real property tax rate requirements. She noted that in a reassessment year, public notices must comply with State Code, which requires one 30-day notice period. She reported that the real property tax rate public notice was published in the March 24th edition of the Nelson County Times, giving a 34-day notice period. Ms. McGarry noted that the tax rate was set by resolution and could be adopted following the public hearing. She stressed to the Board that the tax rate needed to be set that evening in order for the tax bills could be issued in compliance with state code requirements. Ms. McGarry noted that Resolution R2022-23 was drafted to include all 2022 tax rates for consideration following all public hearings. She presented a proposed tax rate of \$0.65/\$100 assessed value, which would be effective January 1, 2022.

Ms. McGarry reviewed the Notice of Real Property Tax Increase, which denoted an assessment increase of 20.5%. She noted that the lowered tax rate necessary to offset the increased assessment would be \$0.58 per \$100 assessed value, which was equivalent to \$0.14. She explained that the effective rate increase was 12%. Ms. McGarry reported that the 2021 tax rate of \$0.72/\$100 assessed value yielded a revenue of \$18,023,191. She noted that the proposed 2022 tax rate of \$0.65/\$100 assessed value was anticipated to yield a revenue of \$20,224,451. She noted this was a proposed revenue increase of \$2,201,260, or 12%. She did note that individual property taxes may increase at a percentage greater than or less than 12%.

Ms. McGarry explained that \$2,010,000 of the projected increase was proposed to be allocated towards a debt service reserve that would provide for increased debt capacity in fiscal years 2023-2026 for the

financing of County and School Division capital projects. She noted that the majority of the balance of \$191,260 was slated to be allocated to the School Division operational funding.

Mr. Rutherford opened the public hearing for the Real Estate Tax Rate.

Carlton Ballowe, Faber, VA

Mr. Ballowe estimated that the average person currently pays over 40% of their income in taxes. He noted he was philosophically opposed to any tax increase at any time for any reason. He stated that he was practically opposed to the real estate tax increase. He noted inflation rates, increasing interest rates and a possible recession coming. He felt it was bad timing to be reaching into tax payers pockets even more.

Phillip Purvis, Shipman, VA

Mr. Purvis noted comments made at a prior Board meeting that the County had a large amount of revenue on hand in savings. He felt that the proposed tax rate was going to put extra stress on families. He did not feel it was the best time to venture into projects.

Margaret Clair, Faber, VA

Ms. Clair noted she was commenting as a tax payer and supporter of schools. She asked that the Board set the tax rate so they could fully support the school funding as proposed by the School Superintendent and the School Board. She noted that an investment in the children was an investment in their future as well as the County's. She explained that the school budget was built on people and more than 80% of the cost to run the schools went towards salaries and benefits for staff. She further noted that the increase for the upcoming year was more than 90% related to salary increases needed for bus drivers and support staff as well as step adjustments to correct salaries. She noted increases to the cost of living. Ms. Clair expressed concerns regarding staff recruitment and retention. She felt many in the community would pay more in taxes to support the school system.

Dr. Joe Cox, Lovingston, VA

Dr. Cox advocated for the schools and employees. He asked the Board to consider the needs of the schools when making decisions for the budget.

Shannon Irvin, Nelson County Public Schools

Ms. Irvin spoke on behalf of the schools. She noted that the setting of the tax rates was one of the most important decisions made by the Board during the year as it affected every household in the County. She explained that the tax rate determined the amount of monies available to the government to serve the citizens. She noted that the funds paid for important services that are critical, as well as those that help enhance our quality of life. Ms. Irvin noted the real estate tax revenues allowed the schools to employ individuals to work in the division to educate the County's youth. She pointed out that over half of the staff are residents of Nelson County. She explained that the School Board submitted a budget that was heavily increased by salary needs for bus drivers and support staff. She noted the rising cost of gas and health insurance. She pointed out that the school division was competing with businesses for entry level employees. She noted the importance of the support staff in each school. She highlighted the importance of support staff particularly during the pandemic and noted that their proposed budget included a 5% increase in pay. She explained that teachers had to reinvent ways of teaching to address learning loss and the challenges created by the pandemic. Ms. Irvin thanked the Board for their assistance with the Broadband initiative. She closed noting it had been a tough year and asked the Board for continued support and funding for the division.

There being no other persons wishing to be recognized, the public hearing was closed.

C. PERSONAL PROPERTY TAX RATE

Ms. McGarry presented the tangible personal property tax rate. She noted that public notices must comply with State code, which require one 7-day notice period. She reported that the public notice for the personal property tax rate was published in the April 21st edition of the Nelson County Times. She noted that the tax rate was set by resolution and could be adopted following the public hearing. She reiterated to the Board that the draft resolution R2022-23 included all 2022 tax rates for consideration.

Ms. McGarry presented a proposed rate of \$2.79/\$100 assessed value, to be effected January 1, 2022. She noted that vehicle values an increased an overall 25% from 2021 due to market conditions. She reported that the 2021 of \$3.45/\$100 assessed value yielded an anticipated revenue of \$6,204,102. She noted that the proposed 2022 rate of \$2.79/\$100 assessed value was anticipated to yield a revenue of

approximately \$6,204,102 which was the same level as 2021. She explained that the proposed tangible personal property tax rate decrease was anticipated to offset the overall 25% increase in tangible personal property values and was intended to lessen the impact of the proposed 2022 effective Real Property Tax rate increase of 12%.

Mr. Rutherford opened the public hearing for the personal property tax rate.

Mark Franklin, Roseland, VA

Mr. Franklin noted that he did not care what tax was needed to increase to provide the ballfields and staffing for Parks and Recreation. He stated that the School Board was always first to get what they needed. He asked the Board to help so that the kids could be active in sports.

Phillip Purvis, Shipman, VA

Ms. Purvis commented on some of the statements made earlier in the evening, and stated that raising property taxes would create hardships for the same people they were trying to increase salaries for in the school system. He felt they were raising taxes to help increase salaries but would then tax them and take the same money back. He did not feel that made sense.

Carlton Ballowe, Faber, VA

Mr. Ballowe asked how keeping the personal property tax rate flat would lessen the impact of the real estate tax.

There being no other persons wishing to be recognize, the public hearing was closed.

Mr. Rutherford asked Ms. McGarry to clarify that the real estate tax was proposed to reduce from \$0.72/\$100 assessed value to \$0.65/\$100 assessed value. Ms. McGarry confirmed the proposed decrease in tax rate. Mr. Rutherford then asked about the personal property, noting they were not keeping the rate flat, but reducing the rate. Ms. McGarry explained that they were reducing the rate from \$3.45/\$100 assessed value to \$2.79/\$100 assessed value. She noted that they were reducing the rate and the revenue from that rate would remain flat.

Mr. Rutherford noted that the transient occupancy tax did not need to be decided yet. He reminded the Board that the other tax rates would need to be set that evening. Mr. Rutherford noted they could discuss the TOT increase at a later date. Mr. Reed thought it may be easier to wait until January for any changes to become effective. Mr. Parr agreed that some lodging reservations may already be booked and paid for, in which the lodging establishment would have to go back to the customer for the additional tax if implemented in a short timeframe. Mr. Rutherford asked how long they could wait to make a decision and if another public hearing would be required. Mr. Carter thought the Board could wait several months to a year, but staff would check.

Mr. Parr asked for clarification on a comment made by one person that they did not collect the tax from their guests. Mr. Parr asked Mr. Rutherford what he did with his short term rental regarding tax collection. Mr. Rutherford explained that he only used Airbnb to rent out. He asked Ms. Beth-Anne Driskill to explain the process. She noted that Airbnb and VRBO take out the state tax of 5.3%, but they did not take out the Nelson TOT. She noted those users had to report and pay the Commissioner of Revenue the Nelson TOT. She explained that her business collected the tax at the time of booking and paid the tax to Nelson County in the month they collected it.

Mr. Parr explained that he was interested in doubling the tax but he saw it being paid by someone coming to stay in Nelson, but he didn't realize that some people don't collect it from the lodgers. He noted it was something to think about more. Mr. Harvey felt the County was only getting a portion of what it should be collecting in tax revenue. Mr. Rutherford noted they needed to talk with the Commissioner of Revenue about enforcement. Mr. Reed commented that when the tax rates were drafted, the plan was to dedicate a portion of the TOT and personal property to go to the schools. He noted that if they put off deciding on those until later, they may end up giving less to the schools than proposed. He noted that he would hate to see the schools get less money because of waiting to make decisions. Mr. Rutherford noted they had considered using a portion of the TOT to offset the school funding, but he felt there would be enough in the general recurring revenues to cover it.

The Board was in consensus to wait on any decisions regarding the transient occupancy tax to allow for more information from staff and the Commissioner of Revenue.

III. ESTABLISHMENT OF 2022 TAX RATES (R2022-23)

Mr. Rutherford asked if the Board wished to discuss each individual tax rate. He noted that the mobile home tax and real property tax were the same rate. He pointed out that the machinery and tools tax was flat. He noted that the tangible personal property tax was proposed at a lower rate. Mr. Harvey felt that rates needed to be accepted as proposed. Mr. Barton did not want the citizens to think the tax rates and affordability had not been discussed. He noted the many discussions among Board members. Mr. Rutherford noted that low income folks struggled the most. He commented on the affordable housing crisis and noted that people were struggling to find places to live in Nelson. Mr. Rutherford noted the considerations that went into lowering the real estate tax rate and equalizing the personal property tax rate. He noted that many hours had been put in during the budget cycle.

Mr. Parr reiterated that the Board had discussed the tax rates and the budget quite a bit. He felt that lower the tax rate \$0.07 was a good compromise for the goals the Board had been discussing. He mentioned recreational goals and school funding.

Mr. Harvey made a motion to approve Resolution **R2022-23** as presented. Mr. Parr seconded the motion. There being no further discussion, Supervisors voted (4-0) by roll call vote to approve the motion, with Mr. Reed voting no, and the following resolution was adopted:

**RESOLUTION R2022-23
NELSON COUNTY BOARD OF SUPERVISORS
ESTABLISHMENT OF 2022 TAX RATES**

RESOLVED, by the Nelson County Board of Supervisors, pursuant to and in accordance with Section 58.1-3001 of the Code of Virginia, 1950, that the tax rate of levy applicable to all property subject to local taxation, inclusive of public service corporation property, shall remain effective until otherwise re-established by said Board of Supervisors and is levied per \$100 of assessed value as follows:

Real Property Tax		\$0.65
Tangible Personal Property	\$2.79	
Machinery & Tools Tax	\$1.25	
Mobile Home Tax	\$0.65	

Mr. Harvey asked Mr. Reed why he voted no. Mr. Reed noted that during the budget sessions he had stated that he wished to raise the tax level to fully fund the schools. He said he voted no because his position was to raise taxes enough for the schools to be funded. He felt people of Nelson would have been happy to support schools for the benefit of the children and school staff.

IV. ESTABLISHMENT OF 2022 PERSONAL PROPERTY TAX RELIEF (R2022-24)

Ms. McGarry presented the personal property tax relief distribution. She explained that pursuant to State Code §58.1-3524, for tax year 2006 and thereafter, localities would be reimbursed by the State for providing the required tangible personal property tax relief. She noted that the annual amount of tangible personal property tax relief provided to the County by the State was determined to be \$1,708,030. She explained that State Code mandates that a tax relief rate for qualifying vehicles be annually established in order to receive this tax relief reimbursement from the State. Ms. McGarry noted that proposed resolution R2022-24 established a percentage tax relief rate of 39% for 2022. She reported that the relief rate in 2021 was 38%. She noted that a 39% rate distributed approximately \$1,670,497 of the \$1,708,030 in tax relief received from the State. She reviewed the 2022 personal property tax relief rates for qualifying vehicles:

- Qualified vehicles with an assessed value of \$1,000 or less will be eligible for 100% tax relief;
- Qualified vehicles with an assessed value of \$1,001 to \$20,000 will be eligible for 39% tax relief;
- Qualified vehicles with an assessed value of \$20,001 or more shall be eligible to receive 39%tax relief only on the first \$20,000 of assessed value; and
- All other vehicles which do not meet the definition of “qualifying” (business use vehicle, farm use vehicle, motor homes, etc.) will not be eligible for any form of tax relief under this program.

She further noted that the personal property tax relief rates for qualifying vehicles would be effective January 1, 2022 through December 31, 2022.

Mr. Parr made a motion to approve Resolution **R2022-24** and Mr. Barton seconded the motion. There being no further discussion, Supervisors voted unanimously (5-0) to approve the motion and the following resolution was adopted:

**RESOLUTION R2022-24
NELSON COUNTY BOARD OF SUPERVISORS
2022 PERSONAL PROPERTY TAX RELIEF**

WHEREAS, the Personal Property Tax Relief Act of 1998, Va. Code § 58.1-3524 has been substantially modified by the enactment of Chapter 1 of the Acts of Assembly, 2004 Special Session I (Senate Bill 5005), and the provisions of Item 503 of Chapter 951 of the 2005 Acts of Assembly; and

WHEREAS, the Nelson County Board of Supervisors has adopted an Ordinance for Implementation of the Personal Property Tax Relief Act, Chapter 11, Article X, of the County Code of Nelson County, which specifies that the rate for allocation of relief among taxpayers be established annually by resolution as part of the adopted budget for the County.

NOW THEREFORE BE IT RESOLVED that the Nelson County Board of Supervisors does hereby authorize tax year 2022 personal property tax relief rates for qualifying vehicles as follows:

- Qualified vehicles with an assessed value of \$1,000 or less will be eligible for 100% tax relief;
- Qualified vehicles with an assessed value of \$1,001 to \$20,000 will be eligible for 39% tax relief;
- Qualified vehicles with an assessed value of \$20,001 or more shall be eligible to receive 39% tax relief only on the first \$20,000 of assessed value; and
- All other vehicles which do not meet the definition of “qualifying” (business use vehicle, farm use vehicle, motor homes, etc.) will not be eligible for any form of tax relief under this program.

BE IT FINALLY RESOLVED that the personal property tax relief rates for qualifying vehicles hereby established shall be effective January 1, 2022 through December 31, 2022.

V. OTHER BUSINESS (AS PRESENTED)

The Board had no other business to discuss.

VI. CLOSED SESSION

Mr. Reed moved that the Nelson County Board of Supervisors convene in closed session to discuss the following as permitted by Virginia Code Sections 2.2-3711 (A)(1): “Discussion, consideration, or interviews of prospective candidates for employment; assignment, appointment, promotion, performance, demotion, salaries, disciplining, or resignation of specific public officers, appointees, or employees of any public body” – Discussion of Prospective Candidates for County Administrator Position.

Mr. Parr seconded the motion and there being no further discussion, Supervisors voted unanimously (5-0) by roll call vote to approve the motion.

Supervisors conducted the closed session and upon its conclusion, Mr. Reed moved to reconvene in public session. Mr. Parr seconded the motion and there being no further discussion, Supervisors voted unanimously (5-0) by roll call vote to approve the motion.

Upon reconvening in public session, Mr. Reed moved pursuant to the requirements of Chapter 37, Virginia Freedom of Information Act and Section 2.2-3712 of the Code of Virginia, that the Nelson County Board of Supervisors certify that to the best of each member’s knowledge (i) only public business matters lawfully exempted from open meeting requirements under this chapter and (ii) 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 by the public body. Mr. Parr seconded the motion and there being no further discussion, Supervisors voted unanimously (5-0) by roll call vote to approve the motion.

Mr. Rutherford asked if the Board had other business to discuss before adjournment. Mr. Parr noted tours for the Amherst and Nelson Boards at the Chatham Ag Facility the following week.

VII. ADJOURNMENT

At 8:21 p.m., Mr. Barton made a motion to adjourn and Mr. Reed seconded the motion. There being no further discussion, Supervisors approved the motion without objection and the meeting adjourned.