

The regular meeting of the Amherst Town Council was held on October 10, 2007 at 7:00 P.M. in the Council Chambers of the Town Hall with Mayor Jacob Bailey presiding. Council members present were: Bobby J. Bondurant; Jason D. Campbell, Haney Mottley; Harold Swisher and C. Manly Rucker, III. Town Manager Jack Hobbs, Police Chief Kenneth Watts, Director of Public Utilities Tom Fore and Assistant Office Manager Cynthia Conner were also present.

Mr. Fore gave an invocation.

Mr. Bondurant made a motion that was seconded by Mr. Motley to approve the agenda as presented. The motion passed 5-0. Messrs. Rucker, Campbell, Mottley, Swisher and Rucker voted "Aye".

A duly advertised public hearing regarding the issuance of bonds to finance the Union Hill Water Tank was opened at 7:05 P.M. There being no one present who wished to speak, the hearing was closed at 7:07 P.M. Mr. Motley made a motion that was seconded by Mr. Campbell to adopt a resolution that would have the effect of approving the financing. The motion passed 5-0. Messrs. Bondurant, Campbell, Mottley, Swisher and Rucker voted "Aye". The resolution is attached and made a part of these minutes. By consensus the staff was authorized to solicit bids on the project as soon as this is approved by USDA. Mayor Bailey thanked Bond Counsel Tracey Shaw for his work on the project.

The Town Manager reported that the Planning Commission has worked through an extensive technical study and public hearing process that has resulted in a recommended amendment to the Comprehensive Plan that would affect the Ambriar Area. The duly advertised public hearing on the proposal was opened at 7:09 P.M. Mr. Barry Thompson expressed concern regarding future zoning and preservation of the natural area on property adjacent to his residence on Waughs Ferry Road. There being one else present who wished to speak, the hearing was closed at 7:38 P.M. Mr. Campbell made a motion that was seconded by Mr. Swisher to adopt an ordinance that would have the effect of approving the proposal. The motion passed 3-2. Messrs. Campbell, Mottley and Swisher voted "Aye". Messrs. Bondurant and Rucker voted "Nay". The ordinance is attached and made a part of these minutes.

Amy Gallagher from Davidson Doyle & Hilton came forward to present a report on her work to audit the Town's FY07 books. Mrs. Gallagher also presented a recommendation letter to Council on internal controls and recommended that the Town develop a manual of bookkeeping procedures. Mayor Bailey asked the Finance Committee to meet with Ms. Gallagher to review these issues. The Council agreed to review the draft report for approval at the November meeting.

Mr. Campbell made a motion that was seconded by Mr. Bondurant to approve the minutes of the September 12, 2007 Town Council meeting as previously submitted. The motion passed 5-0. Messrs. Bondurant, Campbell, Mottley, Swisher and Rucker voted "Aye".

After a report on the status of the Town's current major projects, Mr. Campbell made a motion that was seconded by Mr. Motley to authorize the Town Manager to contract with the

Town Engineer to perform a water distribution system/sewer collection system study as budgeted in the Capital Improvement Plan. The motion passed 5-0. Messrs. Bondurant, Campbell, Mottley, Swisher and Rucker voted "Aye".

After Mayor Bailey gave a report on his efforts on the matter, Mr. Rucker made a motion that was seconded by Mr. Bondurant to approve a resolution authorizing the purchase and sale of water, in emergency situations only, between the Town and Amherst County Service Authority as that board had approved on October 2. The motion passed 5-0. Messrs. Bondurant, Campbell, Mottley, Swisher and Rucker voted "Aye". A copy of the resolution is attached and made a part of these minutes.

The Council received proposed Developer Ordinance & Utility Rate and Billing Policy documents and agreed to continue the discussion on these at the November meeting.

The Town Attorney reported that the Amherst County burn ban applies inside the Town of Amherst. Mr. Campbell suggested that the Town consider an ordinance that would give the Mayor similar authority for the Town.

The Council discussed the proposed sale contract for the "Green House" property which is scheduled for auction on October 23 at 10 AM in the Circuit Court room at the Amherst County Courthouse but no changes were suggested.

There being no further business, the meeting adjourned at 8:22 P.M.

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Jacob P. Bailey, Mayor

Attest:

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Clerk of Council

**A RESOLUTION AUTHORIZING THE ISSUANCE, SALE AND AWARD OF A  
\$1,230,000.00 WATER SYSTEM IMPROVEMENT GENERAL OBLIGATION BOND,  
SERIES 2007 AND PROVIDING FOR THE FORM, DETAILS AND PAYMENT  
THEREOF**

WHEREAS, the Town of Amherst, Virginia (the "Town"), is a public body politic and corporate of the Commonwealth of Virginia duly created by Charter under Section 1, Article III, Ch. 397 of the Acts of Assembly of 1950, as amended and reenacted by Ch. 347 of the Acts of Assembly of 1975; and

WHEREAS, by the 1995 Resolution, as hereinafter defined, the Town authorized the issuance, sale and award to the Government of its \$2,000,000 Water System General Obligation Bond, Series 1995, and provided for the issuance of Additional Bonds for improvements to the System, as hereinafter defined, under such Resolution, such Additional Bonds to be secured on a parity with the Initial Bond in the revenues derived from the ownership and operation of the System; and

WHEREAS, the Town has described the need to construct a new water storage tank to become a part of the System, and to pay the cost of such water storage tank through the issuance of the Bond, as hereinafter defined, as an Additional Bond under the 1995 Resolution; and

WHEREAS, the United States of America acting through the Rural Utilities Service (the "Government"), has offered to purchase the Town's \$1,230,000.00 Water System Improvement General Obligation Bond, Series 2007, upon certain terms and conditions as set forth in the letter, dated April 24, 2007 and made a part of this Resolution, and bearing interest at the rate of 4.125 %, and the Town, after mature consideration of the condition of the municipal bond market and other methods of selling its bonds, has determined to satisfy such terms and conditions and award the Bond to the Government:

BE IT RESOLVED BY TOWN COUNCIL OF THE TOWN OF AMHERST,  
VIRGINIA:

ARTICLE 1)

DEFINITIONS

Section a) Definitions: Whenever used in this resolution, unless a different meaning clearly appears from the context:

i) "Act" shall mean the Virginia Public Finance Act (Chapter 26, Title 15.2, Code of Virginia of 1950, as amended).

ii) **"Closing Date"** shall mean the date on which the Bond is delivered to the Government upon payment of the purchase price therefor.

iii) **"Government"** shall mean the United States of America, acting through Rural Utilities Service, its successors and assigns.

iv) **"Bond"** shall mean the Town's \$1,230,000.00 Water System Improvement General Obligation Bond, Series 2007, issued pursuant to Article 3, notwithstanding its series designation which may be changed pursuant to Section 9.6 prior to its issuance.

v) **"Project"** shall mean improvements to the System consisting of a 1,000,000 gallon water storage tank located approximately one (1) mile east of U.S. Route 29 Bypass off U.S. Route 60 at its intersection with S.R. 604.

(g) **"System"** shall mean the existing water system serving the Town, all additions, extensions and enlargements thereto and any water project or projects that may be duly authorized by the Town and made a part of the System.

(h) **"1995 Resolution"** shall mean A Resolution Authorizing The Acquisition, Construction and Financing of Improvements and Extensions To The Water System of the Town of Amherst and The Issuance, Sale And Award Of A \$2,000,000.00 Water System General Obligation Bond, Series 1995 And Providing For The Form, Details And Payment Thereof, dated August 8, 1995.

## ARTICLE 2)

### AUTHORIZATION OF PROJECT

Section a) The Project: In order to improve facilities and equipment serving the citizens of the Town, the acquisition and construction of the Project was authorized by Resolution of the Town Council dated October 11, 2006. The Project is hereby found and ordered to be a part of the System.

Section b) Modification of Project: The Project may be modified by the Town; provided, however, that any such modification shall have been approved by the Government.

ARTICLE 3)

AUTHORIZATION, FORM, EXECUTION, DELIVERY,  
REGISTRATION AND PREPAYMENT OF BOND

Section a) Authorization of Bond; Additional Bond. There is hereby authorized to be issued a general obligation bond of the Town in the principal amount of \$1,230,000.00 to provide funds to finance the Project. The Bond shall be designated "Town of Amherst, Virginia \$1,230,000.00 Water System Improvement General Obligation Bond, Series 2007." The Bond shall be an Additional Bond under the 1995 Resolution secured on a par with the Initial Bond issued thereunder and with all other Additional Bonds in the revenues from the System.

Section b) Details of Bond: The Bond shall be issued as a single fully registered bond without coupons in the denomination of \$1,230,000.00, registered in the name of United States of America, Rural Utilities Service, shall be numbered R-1, shall be dated the Closing Date and shall bear interest at the rate of Four and One-Eighth percent (4.125%) per year. Interest shall accrue during the first twelve (12) months and shall be payable on the first anniversary of the Closing Date. The Bond shall provide for combined payments of principal and interest of \$5,302.00 beginning on the thirteenth (13th) month anniversary of the Closing Date and continuing each month thereafter for a period of 468 months until paid. If not sooner paid, the final installment shall be due and payable on the payment date 480 months from the Closing Date. The payment of every installment shall be applied first to interest accrued to the payment date and then to principal. In the event the Closing Date occurs on the 29th, 30th or 31st day of a month, the installment payment date shall be the 28th day of the month.

The Bond shall be delivered as a fully registered bond in the form substantially as set forth in Section 3.4.

Installments shall be payable in lawful money of the United States of America. Installments shall be payable by pre-authorized electronic debit for the account of the registered owner of the Bond at such address as shall be provided from time to time by the registered owner, except that the final installment shall be payable upon presentation and surrender of the Bond at the office of the Registrar.

Section c) Execution of Bond: The Bond shall be signed by the Mayor of the Town and countersigned by its Clerk and its seal shall be affixed thereto.

Section d) Form of Bond: The Bond shall be in substantially the form attached hereto as Exhibit A.

Section e) Registration and Exchange of Bond: The Treasurer of the Town is hereby appointed Registrar. Transfer of the Bond may be registered upon books maintained for that purpose at the office of the Registrar. Prior to due presentment for registration of transfer the

Registrar shall treat the registered owner as the person exclusively entitled to payment of principal and interest and the exercise of all other rights and powers of the owners.

Section f) Delivery of Bond: The Mayor and the Clerk are hereby authorized and directed to take all proper steps to have the Bond prepared and executed in accordance with its terms and to deliver the Bond to the Government upon payment therefor. The Mayor and the Clerk are further authorized and directed to agree to and comply with, on behalf of the Town, any and all further conditions and requirements of the Government not inconsistent with this resolution in connection with its purchase of the Bond.

Section g) Disbursement Proceeds of Bond: Proceeds from the sale of the bond shall be disbursed at thirty (30) day intervals upon request of the Town as necessary for application to pay the cost of the Project.

Section h) Prepayment of Bond: Installments of principal due on the Bond may be prepaid at the option of the Town at any time as a whole or in part from time to time (and if in part, at the direction of the Town, in chronological order or in inverse order of their maturities), without premium, from any source. Prepayments of installments of principal shall not affect the obligation of the Town to pay the remaining installments payable as provided in Section 3.2. Any such advance payment shall not affect the amount of such installments or the interest accruing on the Bond.

#### ARTICLE 4)

##### PARTICULAR COVENANTS

Section a) Payment of Bond: The Town shall pay promptly, as provided herein, the principal of and interest on the Bond.

Section b) Construction of Project; Operation and Maintenance of System: The Town shall complete construction of the Project in a sound and economical manner and in conformity with all requirements of the Government and all other governmental authorities. The Town shall operate the System in an efficient and economical manner, maintain the same in good condition and make all necessary repairs, replacements and renewals. All compensation, salaries, fees and wages paid by it in connection with the operation, maintenance and repair of the System shall be reasonable. The Town shall comply with all applicable state and Federal laws.

## ARTICLE 5

### CONFIRMATION OF 1995 RESOLUTION

Section 5.1 Confirmation of 1995 Resolution: As hereby amended and supplemented the 1995 Resolution is in all respects ratified, confirmed and approved. All covenants and provisions of, and all security provided under, the 1995 Resolution shall apply in full force and effect to the Bond. The Town hereby ratifies, confirms and approves all the representations and covenants made in the 1995 Resolution.

## ARTICLE 5)

### MISCELLANEOUS

Section a) Contract with Bondholder: The provisions of this resolution shall constitute a contract between the Town and the holder of the Bond for so long as any of the Bond and interest thereon are outstanding.

Section b) Town Officers and Agents: The officers and agents of the Town shall do all acts and things required of them by this resolution, the Bond and the Act for the complete and punctual performance of all the terms, covenants and agreements contained therein.

Section c) Limitation of Rights: Nothing expressed or mentioned in or to be implied from this resolution or the Bond is intended or shall be construed to give to any person or company other than the parties hereto and the holder of the Bond any legal or equitable right, remedy or claim under or in respect to this resolution or any covenants, conditions and agreements herein contained; this resolution and all of the covenants, conditions and agreements hereof being intended to be and being for the sole and exclusive benefit of the parties hereto and the holder of the Bond as herein provided.

Section d) Limitation of Liability of Officials of Town: No covenant, condition or agreement contained herein shall be deemed to be a covenant, agreement or obligation of a present or future member, officer, employee or agent of the Town in his individual capacity, and neither the members of the Town Council nor any officer thereof executing the Bond shall be liable personally on the Bond or be subject to any personal liability or accountability by reason of the issuance thereof. No member, officer, employee or agent of the Town shall incur any personal liability with respect to any other action taken by him pursuant to this resolution or the Act, provided he acts in good faith.

Section e) Conditions Precedent: Upon the issuance of any bonds all acts, conditions and things required by the Constitution and statutes of the Commonwealth of Virginia or this resolution to have happened, exist and to have been performed precedent to or in the issuance of such Bond shall have happened, exist and have been performed.

Section 9.6 Series Designation: In the event the Bond is not issued during calendar year 2007, the Mayor and Clerk of the Town are hereby authorized and directed to change the series designation to such other year as may be appropriate at the time of its issuance. Thereafter all references in this resolution to the Bond shall be deemed to refer to the \$52,600.00 General Obligation Bond issued pursuant to Article 3 under its new series.

Section 9.7 Repeal of Resolutions in Conflict: All other resolutions, or parts thereof, in conflict with this resolution are hereby repealed except for such resolutions as may have been adopted by the Town at the specific request of the Government as a condition to its purchase of the Bond.

Section 9.8 Successors and Assigns: All the covenants, stipulations, promises and agreements of the Town contained in this resolution shall bind and inure to the benefit of its successors and assigns, whether so expressed or not.

Section 9.9 Headings: Any headings in this resolution are solely for convenience of reference and shall not constitute a part of the resolution nor shall they affect its meaning, construction or effect.

Section 9.10 Severability: If any court of competent jurisdiction shall hold any provision of this resolution to be invalid and unenforceable, such holding shall not invalidate any other provision hereof.

Section 9.11 Effective Date: This resolution shall take effect immediately. The Clerk of the Town is hereby authorized and directed to file a certified copy of this resolution in the office of the Town.

This Resolution was passed by a vote of the Amherst Town Council on the 10th day of October, 2007.

\_\_\_\_\_

Mayor

ATTEST:

\_\_\_\_\_

Clerk of Council



**EXHIBIT A**  
**TO BOND RESOLUTION OF THE COUNCIL OF TOWN OF AMHERST, VIRGINIA**  
Dated \_\_\_\_\_, 2007

No. R-1

\$1,230,000.00

UNITED STATES OF AMERICA  
COMMONWEALTH OF VIRGINIA  
TOWN OF AMHERST

The Town of Amherst (the "Town"), a public body politic and corporate of the Commonwealth of Virginia duly created by the General Assembly of Virginia by Act of Assembly, Ch. 397, April 5, 1950, and amended by Act of Assembly Ch. 347, March 19, 1975 (the "Charter"), and there have been no amendments to the Charter of the Town since March 19, 1975, for value received, hereby promises to pay to the United States of America, Rural Utilities Service, or registered assigns, the principal sum of

ONE MILLION TWO HUNDRED THIRTY THOUSAND DOLLARS  
(\$1,230,000.00)

and to pay to the registered owner hereof interest on the unpaid principal from the date hereof until payment of the entire principal sum at the rate of Four and One Eighth Percent (4.125%) per year. Interest shall accrue during the first twelve (12) months hereof and shall be payable on the first anniversary date hereof. Thereafter combined monthly payments of principal and interest of Five Thousand Three Hundred and Two Dollars (\$5,302.00) shall be payable beginning on the same date of the thirteenth (13<sup>th</sup>) month hereof and continuing for Four Hundred Sixty Eight (468) consecutive months thereafter on the same date until the principal of this bond is paid in full, each installment to be applied first to interest accrued to such payment date and then to principal. In the event the payment date occurs on the 29th, 30th or 31st day of a month, the installment payment date shall be the 28th day of the month. The final installment, if not sooner paid, of all amounts owed hereunder shall be due and payable on the payment date 480 months from the date hereof. Such installments shall be payable in lawful money of the United States of America by pre-authorized electronic debit for the account of the registered owner of the Bond at such address as shall be provided from time to time by the registered owner, except that the final installment shall be payable upon presentation and surrender hereof at the office of the Registrar.

Amounts shall be advanced against this bond as requested by the Town and approved by the Government and interest shall accrue on the amount of each advance from its actual date as shown on the Record of Advances attached hereto. The Town agrees to use the proceeds of advances solely for the purposes authorized by the Government.

This bond has been authorized by a resolution adopted by the Town Council on October 10, 2007 (the "Bond Resolution"), and is issued pursuant to A Resolution Authorizing The Acquisition, Construction and Financing of Improvements and Extensions To The Water System of the Town of Amherst and The Issuance, Sale And Award Of A \$2,000,000.00 Water System

General Obligation Bond, Series 1995 And Providing For The Form, Details And Payment Thereof (the "1995 Resolution"), the Town Charter and the Virginia Public Finance Act to provide funds to finance improvements to the Town's water system through the construction of a water storage tower off U.S. Route 60 at its intersection with S.R. 604. A copy of the Bond Resolution and the 1995 Resolution are on file at the Town Hall, Amherst, Virginia. Reference is hereby made to the Bond Resolution, the 1995 Resolution and any amendments thereto for the provisions, among others, describing the pledge and covenants securing the bond, the nature and extent of the security, the terms and conditions upon which the bond is issued, the rights and obligations of the Town and the rights of the bondholder.

Both principal of and interest on this bond constitute an indebtedness of and a pledge of the full faith and credit of the Town of Amherst, Virginia. This is an Additional Bond as defined in the 1995 Resolution and is equally and ratably secured on a par with the Initial Bond and any Additional Bonds issued under the 1995 Resolution in all revenues derived by the Town from the System, as defined in the Bond Resolution.

Installments of principal due on this bond may be prepaid at the option of the Town at any time as a whole or in part from time to time (but if in part, in inverse order of their maturities), without premium. Prepayments of installments of principal shall not affect the obligation of the Town to pay the remaining installments payable as provided above.

This bond is fully registered as to both principal and interest. Transfer of this bond may be registered upon books maintained for that purpose by the Registrar. Prior to due presentment for registration of transfer the Registrar shall treat the registered owner as the person exclusively entitled to payment of principal and interest and the exercise of all other rights and powers of the owner.

All acts, conditions and things required by the Constitution and statutes of the Commonwealth of Virginia to happen, exist or be performed precedent to and in the issuance of this bond have happened, exist and have been performed.

IN WITNESS WHEREOF, the Town has caused this bond to be signed by its Mayor, to be countersigned by its Clerk, its seal to be affixed hereto and this bond to be dated \_\_\_\_\_, 2007.

(SEAL)  
ATTEST:

\_\_\_\_\_  
Clerk, Town of Amherst

\_\_\_\_\_  
Mayor, Town of Amherst

**TRANSFER OF BOND**

Transfer of this bond may be registered by the registered owner or his duly authorized attorney upon presentation hereof to the Registrar who shall make note of such transfer in books kept by the Registrar for that purpose and in the registration blank below.

<b>Date of Registration</b>	<b>Name of Registered Owner</b>	<b>Signature of Registrar</b>
_____	United States of America Rural Utilities Service	_____
_____	_____	_____

**RECORD OF ADVANCES**

<b>Amount</b>	<b>Date</b>
_____	_____
_____	_____

**AN ORDINANCE TO ADD PAGES D6 THROUGH D12 OF THE LAND USE SECTION  
THE COMPREHENSIVE PLAN, SAID PAGES HAVING THE EFFECT OF ADOPTING  
A LONG-RANGE DEVELOPMENT STRATEGY FOR THE AMBRIAR AREA.**

**BE IT ORDAINED BY THE COUNCIL OF THE TOWN OF AMHERST:**

1. *That pages D6 through D12 shall be added to the Land Use section of the Comprehensive Plan.*
2. *That this Ordinance is effective upon its passage.*

*This ordinance was adopted on October 10, 2007.*

\_\_\_\_\_  
Jacob P. Bailey, Mayor

ATTEST:

\_\_\_\_\_  
*Clerk of Council*

**A RESOLUTION AUTHORIZING FOR THE EMERGENCY SHARING OF TREATED WATER RESOURCES BETWEEN THE TOWN OF AMHERST AND THE AMHERST COUNTY SERVICE AUTHORITY.**

**Whereas**, both governing bodies of the Town of Amherst and Amherst County Service Authority recognize that all citizens will benefit from establishing a procedural agreement for the short term sharing of treated water during water emergencies; and

**Whereas**, in such crisis situations it is appropriate that emergency water be supplied to each other at the marginal cost of production, as described below; and

**Whereas**, completion of the Ebenezer Road and Cabell Lane Water Line and Pump Station Project has provided interconnection of the two public water systems, and has now made sharing of either system's treated water possible;

**Now, Therefore, Be It Resolved** that the Town Council of the Town of Amherst hereby agrees to the following conditions for the short term sharing of treated water:

1. Both governing bodies must agree that an emergency situation exists. The Town Manager and Service Authority Secretary, in consultation with their respective utility directors, may rapidly respond to such crisis situations, and request formal approval from the governing bodies at their next meeting.
2. Such assistance is limited to short term emergencies, thirty (30) days or less, only. A new agreement will be necessary if the non-emergency exchange of water becomes desirable.
3. The short term emergency water rate charged by the supplying utility shall be marginal cost only, based on the following:
  - A. Their current budget year's projected finished water production volume.
  - B. Their current budget year's projected chemical and power cost.

As an example,

<b>a. Projected Finished Water Production</b>	= 145,378,902 gal/yr.	
	= 145,379 units of 1,000 gal	
	= 194,357 units of CCF	
<b>b. Marginal Production Cost:</b>		
Budgeted Chemical Cost	= \$31,088.00	
Budgeted Electricity Cost	= <u>\$28,483.00</u>	
Total Marginal Cost	= \$59,571.00	
<b>c. Emergency Water Rate =</b>	$\frac{\$59,571.00}{145,379}$	= \$0.41/1,000 gal
	OR	
	$\frac{\$59,571.00}{194,357}$	= \$0.31/CCF

*This resolution was adopted by the Town Council of the Town of Amherst on **October 10, 2007.***

\_\_\_\_\_  
Jacob P. Bailey, Mayor

ATTEST:

\_\_\_\_\_  
Clerk of Council