

The regular meeting of the Amherst Town Council was called to order on July 9, 2008 at 7:00 P.M. in the Council Chambers of the Town Hall at 186 S. Main Street with Mayor Jacob P. Bailey presiding. Council members Bobby J. Bondurant; J. Paul Kilgore; Haney Mottley; Harold Swisher; and Richard Wydner were present. Town Manager Jack Hobbs, Police Chief Kenneth Watts, Director of Public Utilities Tom Fore and Office Manager Colan Davis were also present.

Father Daniel Kelly from St. Francis of Assisi Catholic Church gave an invocation.

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

A duly advertised public hearing to amend Sections 8.1-709 and 710 of the Town Code to alter the due date to May 1 for business license applications was opened at 7:11 P.M. There being no one present who wished to speak, the hearing was closed at 7:12 P.M. Mr. Swisher made a motion that was seconded by Mr. Bondurant to adopt an ordinance to effect the proposed changes. The motion passed 5-0. Messrs. Bondurant, Kilgore, Mottley, Swisher and Wydner voted "Aye". A copy of the ordinance is attached and made part of these minutes.

A duly advertised public hearing to amend Section 17-15 of the Town Code to update the Town's industrial wastewater pretreatment ordinance was opened at 7:13 P.M. Mr. Charlie Brown of Glad Manufacturing asked for clarity on a few items in the proposed ordinance. The hearing was closed at 7:17 P.M. Action on this item was tabled until a further date pending additional discussion between the Town staff and Glad Manufacturing.

Mr. Bondurant made a motion that was seconded by Mr. Swisher to elect Mr. Richard Wydner as Vice Mayor for the July 1, 2008-June 30, 2010 Council term. The motion passed 4-0. Messrs. Bondurant, Kilgore, Mottley and Swisher voted "Aye". Mr. Wydner abstained.

A request for relief to a utility bill above and beyond normal Town policy from Jamie Skelton, 586 Kenmore Road, was received. By consensus, Council agreed to allow Ms. Skelton to pay her normal average utility bill by July 20, 2008 and have the balance due by August 20, 2008 without penalty. Ms. Skelton's request for additional relief was referred to the Utilities Committee, and it was understood that Ms. Skelton will be notified of the committee's findings.

Mr. Mottley made a motion that was seconded by Mr. Bondurant to approve the June 11, 2008 minutes as distributed earlier. The motion passed 3-0. Messrs. Bondurant, Mottley and Wydner voted "Aye". Messrs. Kilgore and Wydner abstained.

It was reported that Frank Bryant asked that he not be appointed to the Property Maintenance Investigation Board as discussed by the Council on June 11. The Council discussed appointments to various Town committees but took no action. The Centennial Committee idea was also discussed. It was reported that Mr. Diggs has officially been appointed to the Board of Zoning Appeals by the Amherst County Circuit Court.

The Town Manager reported that bids for the Phase 1 portion of the S. Main Street Sidewalk Project have been received but irregularities have prevented the development of a recommendation prior to this meeting. This issue was referred to the Utilities Committee.

Recent correspondence indicating that the Amherst County Board of Supervisors is scheduled to consider relief to the raw water release program and also the rules for the potential sale of finished water to the Town on July 15 was discussed.

The Town Manager reported that an unsolicited proposal to “option” an easement for the Town Shop antenna tower has been received. If exercised, the face value of the offer is \$150,000. Mayor Bailey asked Paul Kilgore to take the lead in negotiating with the proposer and asked Mr. Mottley to support him in this effort.

The Police Chief reported that a proposed new lease for the police department space in the Clinton Masonic Lodge building has been received. Mr. Mottley made a motion that was seconded by Mr. Bondurant to authorize the Police Chief to execute a new lease for the lodge space. The motion passed 5-0. Messrs. Bondurant, Kilgore, Mottley, Swisher and Wydner voted “Aye”.

The Town Manager presented a letter of complaint regarding weeds at 120 W. Court Street from Jean Higginbotham, who lives at 121 Mount Olive Road. It was reported that the weeds have been cut since the letter was written and that Ms. Higginbotham has verbally expressed her satisfaction with the current situation, so the Town Council took no action on the matter.

Mr. Swisher made a motion that was seconded by Mr. Mottley to adopt resolutions honoring outgoing Vice Mayor C. Manly Rucker, III, honoring outgoing Councilman Jason Campbell, honoring former reporter Mike Morell and honoring the Jones family. The motion passed 5-0. Messrs. Bondurant, Kilgore, Mottley, Swisher and Wydner voted “Aye”. Copies of the resolutions are attached and made a part of these minutes.

Mr. Mottley made a motion that was seconded by Mr. Swisher to adopt a resolution to effect a management plan for the July 1, 2008-June 30, 2010 Council term. The motion passed 5-0. Messrs. Bondurant, Kilgore, Mottley, Swisher and Wydner voted “Aye”. A copy of the resolution is attached and made part of these minutes.

There being no further business, the meeting adjourned at 8:02 P.M.

Jacob P. Bailey
Mayor

Attest:

Clerk of Council

AN ORDINANCE TO AMEND THE CODE OF THE TOWN OF AMHERST BY AMENDING SECTIONS 8.1-709 AND 710 OF THE TOWN CODE, THE AMENDED SECTIONS REFERRING TO BUSINESS LICENSES AND THE DUE DATES FOR BUSINESS LICENSES.

Be it Ordained by the Council of the Town of Amherst:

1. **That the Code of the Town of Amherst is hereby amended by amending Section 8.1-709 and Section 8.1-710 to read as follows:**

Sec. 8.1-709. When license taxes payable.

All license taxes imposed by this article except as herein otherwise provided, shall become due and payable on or before ~~April~~May first (1st) of each license year. In all cases where the person shall begin the business, profession, trade or occupation upon which a license tax is imposed under such article after ~~April~~May first (1st) of the license tax year, such license tax shall become due and payable at the time which such person commences business. The assessing official may grant an extension of time in which to file an application for a license, for a reasonable cause. The extension may be conditioned upon the timely payment of a reasonable estimate of the appropriate tax; the tax is then subject to adjustment to the correct tax at the end of the extension, together with the interest from the due date until the date paid, and if the estimate submitted with the extension is found to be unreasonable under the circumstances, with a penalty of ten (10) percent of the portion paid after the due date.

Sec. 8.1-710. Penalty for failure to pay license tax or file application when due.

A penalty of ten (10) percent of the tax may be imposed upon the failure to file an application or the failure to pay the tax by the due date, ~~April~~May first (1st); provided that only the late filing penalty may be imposed. If both the application and payment are late; however, both penalties shall be assessed if the treasurer determines that the taxpayer has a history of noncompliance with either the timely filing of application or timely payment of the tax under this article. In the case of an assessment of additional tax made by the treasurer, if the application and, if applicable, the return were made in good faith and the understatement of the tax was not due to any fraud, reckless or intentional disregard of the law by the taxpayer, there shall be no late payment penalty assessed with the additional tax. If any assessment of tax by the assessing official is not paid within thirty (30) days, the treasurer may impose a ten (10) percent late payment penalty. If the failure to file or pay was not the fault of the taxpayer, the penalties shall not be imposed, or if imposed, shall be abated. In order to demonstrate lack of fault, the taxpayer has the burden of showing and must show that he acted responsibly and that the failure was due to events beyond his control. Interest shall accrue on past due assessments at 10 percent per annum.

Acted responsibly means that:

- (a) The taxpayer exercised the level of reasonable care that a prudent person would exercise under the circumstances in determining the filing obligations for the business; and
- (b) The taxpayer undertook significant steps to avoid or mitigate the failure, such as requesting appropriate extensions (where applicable), attempting to prevent a foreseeable

impediment, acting to remove an impediment once it occurred, and promptly rectifying a failure once the impediment was removed or the failure discovered.

Events beyond the taxpayer's control include, but are not limited to, the unavailability of records due to fire or other casualty; the unavoidable absence (e.g., due to death or serious illness) of the person with the sole responsibility for tax compliance; or the taxpayer's reasonable reliance in good faith upon erroneous written information from the assessing official who was aware of the relevant facts relating to the taxpayer's business when he provided the erroneous information.

2. That this Ordinance shall be effective on July 9, 2008.

This ordinance was adopted on July 9, 2008.

Mayor

ATTEST:

Clerk of the Council

Resolution
of the
Town Council of the Town of Amherst

WHEREAS, C. Manly Rucker, III is recognized for service to the citizens of the Town of Amherst as a member of the Amherst Town Council from July 1, 1994 to June 30, 2002 and October 8, 2003 through June 30, 2008; and

WHEREAS, C. Manly Rucker, III served as Vice Mayor of the Town of Amherst for many of those years; and

WHEREAS, C. Manly Rucker, III was instrumental in the rehabilitation and expansion of the water and waste treatment systems and the L. Barnes Brockman, Sr. Business and Industrial Park; and

WHEREAS, C. Manly Rucker, III was actively involved in the renovation of the Amherst traffic circle which is one of two in the state of Virginia; and

WHEREAS, C. Manly Rucker, III has operated a successful insurance agency in the Town of Amherst for many years; and

WHEREAS, C. Manly Rucker, III has been very instrumental in the improvements and progress of the Town of Amherst;

NOW, THEREFORE, BE IT RESOLVED that the Town Council of the Town of Amherst does, on this date, acknowledge the outstanding service that C. Manly Rucker, III has given to our community; and

BE IT FURTHER RESOLVED that the Town Council of the Town of Amherst hereby declares that the Town of Amherst has been improved as a result of C. Manly Rucker, III's tenure as a member of the Town Council of the Town of Amherst; and

FINALLY, BE IT RESOLVED that the Clerk of the Council of the Town of Amherst is ordered to deliver an original copy of this Resolution to C. Manly Rucker, III as a token of the Council's deep appreciation of his contributions to our community and that this resolution be spread upon the minute books of the Town Council of the Town of Amherst as a tribute to a

Good Neighbor and a Friend of the Town of Amherst.

This Resolution was adopted by the Town Council of the Town of Amherst on July 9, 2008.

Mayor Jacob P. Bailey

Attest:

Clerk of Council

Resolution
of the
Town Council of the Town of Amherst

WHEREAS, Jason Campbell is recognized for service to the citizens of the Town of Amherst as a member of the Amherst Town Council from July 1, 2004 through June 30, 2008; and

WHEREAS, Jason Campbell served as the Chairman of the Ordinance and Physical Development Committee and a member of the Community Relations Committee during that time; and

WHEREAS, Jason Campbell was a member of the Amherst Life Saving Crew from 1993 to 2003 and a member of the Amherst County Emergency Service Council from 1998 to 2001; and

WHEREAS, Jason Campbell earned a Master of Business Administration degree from Lynchburg College in 1998 and attended the University of Virginia and became a national registered paramedic in 2000; and

WHEREAS, Jason Campbell was promoted to the rank of Captain with the City of Lynchburg Fire and EMS Department; and

WHEREAS, Jason Campbell is the founder of Lynchburg Fire and EMS Foundation, a member of the James River BBQ Festival, and a member of the Virginia State Jousting Association; and

WHEREAS, the Town Council of the Town of Amherst wishes to acknowledge the services that Jason Campbell has given to his community and also to express its appreciation for all that Jason Campbell has done for the Town of Amherst;

NOW, THEREFORE, BE IT RESOLVED that the Town Council of the Town of Amherst does, on this date, acknowledge the outstanding service that Jason Campbell has given to our community; and

BE IT FURTHER RESOLVED that the Town Council of the Town of Amherst hereby declares that the Town of Amherst has been improved as a result of Jason Campbell's tenure as a member of the Town Council of the Town of Amherst; and

FINALLY, BE IT RESOLVED that the Clerk of the Council of the Town of Amherst is ordered to deliver an original copy of this Resolution to Jason Campbell as a token of the Council's deep appreciation of his contributions to our community and that this resolution be spread upon the minute books of the Town Council of the Town of Amherst as a tribute to a

Good Neighbor and a Friend of the Town of Amherst.

This Resolution was adopted by the Town Council of the Town of Amherst on July 9, 2008.

Mayor Jacob P. Bailey

Attest:

Clerk of Council

Resolution
of the
Town Council of the Town of Amherst

WHEREAS, Michael Morell is recognized for his service to the citizens of the Town of Amherst by his many years of honest, thorough and straightforward reporting; and

WHEREAS, Michael Morell developed an intimate knowledge of the happenings in the Town of Amherst via the relationships he developed with the members of this community; and

WHEREAS, Michael Morell kept the residents and business operators of the Town of Amherst abreast of current events through his responsible and professional approach to covering local news; and

WHEREAS, Michael Morell has played an important role in improving the Town of Amherst and in the forward progress of our community;

NOW, THEREFORE, BE IT RESOLVED that the Town Council of the Town of Amherst does, on this date, acknowledge the outstanding service that Michael Morell has given to our community; and

BE IT FURTHER RESOLVED that the Town Council of the Town of Amherst hereby declares that the Town of Amherst has been improved as a result of Michael Morell's work as a reporter in our community; and

FINALLY, BE IT RESOLVED that the Clerk of the Council of the Town of Amherst is ordered to deliver an original copy of this Resolution to Michael Morell as a token of the Council's deep appreciation of his contributions to our community and that this resolution be spread upon the minute books of the Town Council of the Town of Amherst as a tribute to a

Good Neighbor and a Friend of the Town of Amherst.

This Resolution was adopted by the Town Council of the Town of Amherst on July 9, 2008.

Mayor Jacob P. Bailey

Attest:

Clerk of Council

Resolution
of the
Town Council of the Town of Amherst

WHEREAS, the descendants of Washington and Owey Dickerson Jones have inhabited the greater Town of Amherst area for over 132 years; and

WHEREAS, the third Jones family reunion which will be held at the Coolwell Recreational Center has as its theme “Recognizing our Elders and Showcasing Our Children”; and

WHEREAS, Mrs. Edith Jones will celebrate her 100th birthday on July 12, 2008. Mrs. Jones came to Lynchburg in the 1930’s from Fort Wayne, Indiana to attend Virginia Seminary and College. She remained in the area upon her marriage to the late Henry W. Jones and for her 42½ year long Amherst county teaching career.

NOW, THEREFORE, BE IT RESOLVED that the Town Council of the Town of Amherst hereby recognizes the strong family ties that have bound the descendants of Washington and Owey Dickerson Jones through six generations and declares the weekend of July 12-13, 2008 “Jones Family Reunion Weekend” in the Town of Amherst; and

BE IT FURTHER RESOLVED, that the Clerk is directed to transmit a copy of this resolution to the Jones Family in commemoration of this occasion.

This Resolution was adopted by the Town Council of the Town of Amherst on July 9, 2008.

Mayor Jacob P. Bailey

Attest:

Clerk of Council

RESOLUTION TO ADOPT AND EFFECT AN ORGANIZATIONAL PLAN FOR THE TOWN OF AMHERST FOR THE JULY 1, 2008 - JUNE 30, 2010 COUNCIL TERM.

WHEREAS, various provisions of Code of Virginia, the Town Charter and the Town Code require Town Council of the Town of Amherst, Virginia, to organize at the first meeting of the Council term,

NOW, THEREFORE, BE IT RESOLVED by the Town Council of the Town of Amherst, Virginia, that the following organizational plan shall apply for the July 1, 2008 – June 30, 2010 Council term:

1. **Election of Vice Mayor:** Pursuant to Article III, Section 3.01(9) of the Town Charter, Richard Wydner, Jr. shall be elected Vice Mayor
2. **Continuation of Policies:**
 - 2.1 Pursuant to Article III, Section 3.01(10) of the Town Charter, Section 2-10 of the Town Code which establishes the regular date and place of the **regular monthly Town Council meeting** is hereby affirmed. Regular meetings shall begin at 7:00 PM. Special meetings may be called as per Section 2-11 of the Town Code.
 - 2.2 The **rules of conduct** for the meetings of the Town Council as established in Sections 2-12 through 2-40 of the Town Code are hereby affirmed.
 - 2.3 The **Personnel Policy** adopted on June 14, 2006 and effective on July 1, 2006 is hereby affirmed.
 - 2.4 The **Procurement Policy** adopted on May 13, 1993 is hereby affirmed.
 - 2.5 The **Policy for the Development of Agendas and Presentations** to the Town Council shall be as follows:

Most items considered by the Town Council are routine in nature or are arranged by the Town Manager, Police Chief or Office Manager. Some items are developed and presented by members of the Town Council or any of its various committees, boards and commissions. Materials supporting such issues are to be developed and distributed to the members of the Town Council as soon as practical or, at a minimum, along with the agenda materials.

There are times when residents of the Town of Amherst, Town business operators, or other individuals desire to speak before the Town Council or request the Town Council to take action or otherwise react on a specific issue. The Town Council has found it difficult to appropriately respond in a timely manner if sufficient notice of the request is not given. Therefore, it is the policy of the Town Council of the Town of Amherst to require that a reproducible (8 ½ x 11) written description of any item to be considered be submitted to the Town Manager by 5:00 PM on the first Wednesday of the month for the meeting to be held that month. Individuals are reminded that such information becomes public information, subject to the Freedom of Information Act, upon receipt at the Town Hall.

However, the Town Council feels that Town residents and business operators have the right to address the Town Council on any issue that may involve the Town. Any individual desiring to speak before the Council who has not met the deadline requirement noted above will be allowed a maximum of three minutes to speak before the Town Council. Any individual representing a bona fide group will be allowed a maximum of five minutes to speak before the Town Council. Placement on the agenda will be at the discretion of the Mayor but usually after the invocation, scheduled public hearings and other matters of privilege.

The Town Council may waive this policy if it finds that strict adherence to its language is too restrictive.

3. Standing Council Committees: The authority of the Town Council to appoint standing committees is established in §2-41 of the Town Code. The purpose of standing committees is (a) to facilitate policy decisions by the Town Council via review, preliminary discussion and investigation of various matters during preparation of their reports to the Town Council and (b) to act in an advisory capacity to Town management but not to supplant the authority of either the Town Council or management. The following standing committees are hereby established, members appointed, and ongoing duties assigned accordingly:

3.1 Finance Committee -Haney Mottley (Chairman) and Bobby Bondurant

- Monitor and advise on accounting procedures, budgets, and bookkeeping activities of the staff.
- Interface with auditors.
- Monitor the budget development process.

3.2 Ordinance Committee –Harold Swisher (Chairman) and Haney Mottley

- Review and recommend new and updated ordinances and policies
- Monitor implementation of the Town’s public safety programs.
- Interface with all Town and external law enforcement, fire and rescue agencies.

3.3 Utilities Committee –Richard Wydner (Chairman) and Paul Kilgore

- Recommend needed utility system upgrades and extensions.
- Interface and assist developers in coordinating Town policies with proposed new developments.
- Monitor the development and construction of capital improvement projects.

3.4 Community Relations Committee –Bobby Bondurant (Chairman) and Richard Wydner

- Communicate Council actions and policies to citizens and business operators.
- Interface with Sweet Briar College, School Board, and VDOT.
- Coordinate Town beautification efforts and programs.

- 3.5 **Personnel Committee** –Paul Kilgore (Chairman) and Harold Swisher
- Coordinate the recruitment and selection of appointed staff and individuals to serve on established Town committees.
 - Monitor staff's compliance with approved procedures.
 - Develop improvements to the Personnel Policy.
4. The following staff appointments are hereby made for the July 1, 2008 – June 30, 2010 Town Council term. The effect of this resolution shall be to appoint all individuals subject to the authority of the Town Council to terminate any appointment made under this section without cause or notice subject to the provisions of the Charter, state code, and contracts approved by the Town Council.
- 4.1 **Town Manager** – Pursuant to Article III, Section 3.01(16) and (18) and of the Town Charter, **Jack Hobbs** is hereby appointed Town Manager and Clerk of the Council with the duties and authorities as outlined in Section 2-47 and 2-48 of the Town Code, other sections of the Town Code, the Charter, and the Code of Virginia and as may be assigned by the Town Council from time to time.
- 4.2 **Chief of Police** - Pursuant to Article III, Section 3.01(17) of the Town Charter, **Kenneth Watts** is hereby appointed Chief of Police with all duties and authorities as described in the Town Code and as may be assigned by the Town Council.
- 4.3 **Town Treasurer** – Office Manager **Colan Davis** is hereby appointed Town Treasurer pursuant to Article III, Section 3.01(13) of the Town Charter with the duties and authorities as outlined in Section 2-49 of the Town Code, other sections of the Town Code, the Charter, and the Code of Virginia. These duties shall be considered in addition to her duties as Office Manager.
- 4.4 **Town Attorney** – **W. Thomas Berry** is hereby appointed Town Attorney with the duties and authorities as outlined in Section 2-50 of the Town Code and as may be assigned by the Town Council or Town Manager from time to time. Remuneration shall be continued on a contractual basis.
- 4.5 **Town Engineer** – **Herbert F. White, III** is hereby appointed Town Engineer with duties as assigned from time to time by the Town Council or Town Manager. Remuneration shall be continued on a contractual basis.
5. **Town Depository:** Pursuant to Article III, Section 3.01(15) of the Town Charter and Section 2-5 of the Town Code, all banks currently operating a branch inside the corporate limits of the Town of Amherst (Wachovia Bank, BB&T, Carter Bank and Trust, Bank of the James and First National Bank of Altavista) and SunTrust Bank shall be considered approved places of deposit for Town funds. The Mayor, Town Manager and Treasurer are hereby authorized to execute all necessary papers to continue or effect new accounts.
6. **Assignment of Priorities:** The Town priorities adopted along with the FY 09 budget are hereby assigned to the following committees and officers:

- 6.1 Complete the FY09 projects contained in the Capital Improvement Plan – *Town Manager*.
- 6.2 Improve the capital improvement plan via a major water distribution and sewer collection system planning study – *Town Manager*.
- 6.3 Adopt a new comprehensive plan – *Planning Commission with assistance by the Town Manager*.
- 6.4 Plan appropriate ways to recognize the Town’s incorporation on April 15, 1910 – *A Centennial Committee (nominated by the Mayor and approved by the Town Council) with assistance by the Town Manager*.

7. Board Appointments:

- 7.1 Pursuant to Article II, Section 2 of the July, 2005 **Virginia’s Region 2000 Local Government Council**, **Harold Swisher** and **Jack Hobbs** are hereby appointed to that board for the July 1, 2008 – June 30, 2010 term.
- 7.2 Pursuant to Article III, Section 1 of the November 1999 **Central Virginia Transportation Planning Council** (MPO) bylaws, **Harold Swisher** and **Jack Hobbs** are hereby appointed to that board for the July 1, 2008 – June 30, 2010 term.
- 7.3 Pursuant to Article II, Section 2.3 of the April 26, 2007 **Virginia’s Region 2000 Economic Development Council** bylaws, **Jacob P. Bailey** is hereby appointed to that board for the July 1, 2008 – June 30, 2010 term with **Jack Hobbs** being designated as his alternate for that same term.

This Resolution was adopted by the Town Council of the Town of Amherst on July 9, 2008.

Mayor Jacob P. Bailey

Attest:
