

The regular meeting of the Amherst Town Council was called to order on August 13, 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.

Tom Fore gave an invocation.

Marceline Lotman, a resident of 117 Woodland Drive, came forward and asked the Town Council to amend the utility billing policy/late fee/disconnect notice policy. The matter was referred to the Utilities Committee.

Region 2000 Local Government Council Executive Director Gary Christie gave a presentation on his group's activities.

Mr. Swisher made a motion that was seconded by Mr. Mottley to approve the July 9, 2008 minutes as distributed earlier with a correction to the adjournment time. The motion passed 5-0. Messrs. Bondurant, Kilgore, Mottley, Swisher and Wydner voted "Aye".

Mr. Wydner reported that the Utilities Committee recommends that the Town Council take no further action Skelton utility bill adjustment matter that was referred to the committee on July 9.

Mr. Wydner made the following motion that was seconded by Mr. Kilgore and passed 5-0 with Messrs. Bondurant, Kilgore, Mottley, Swisher and Wydner voting "Aye":

1. that all bids for the Phase 1 portion of the S. Main Street Sidewalk Project that were received on June 24, 2008 be rejected, and
2. that the specifications for the project be appropriately adjusted to lower the probable overall project cost in ways such as allowing lower-cost HDPE storm sewer pipes, eliminating the contractor prequalification requirement, and extending the allowed construction time, and
3. that the Phase 1 work be rebid at the earliest practical date with the goal of having bids processed for approval at the October Town Council meeting, and
4. due to anticipated escalation in project costs, that the Town Manager, with the support of the Region 2000 Local Government Council and the Town Engineer, be authorized and directed to apply for additional grant monies to reduce the Town's overall net project costs to the extent possible.

Mr. Wydner made a motion that was seconded by Mr. Kilgore to adopt an ordinance to amend Section 17-15 of the Town Code and thereby effect an improved industrial strength sewage pretreatment program. 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, and the full text of the code amendment is to be included in the Town Code.

Mr. Wydner led a discussion on the size and content of a proposed plaque for the Union Hill Water Tank. It was reported that the tank contractor has agreed to pay for the fabrication and installation of the plaque at Mr. Fore's request. Mr. Wydner made a motion that was seconded by

Mr. Swisher to approve the plaque proposal as presented. The motion passed 5-0. Messrs. Bondurant, Kilgore, Mottley, Swisher and Wydner voted "Aye".

Mr. Wydner made a motion that was seconded by Mr. Bondurant to authorize the Town Manager to execute an agreement with the Virginia Nutrient Credit Association that would authorize the trading of sewer plant "nutrient credits." The motion passed 5-0. Messrs. Bondurant, Kilgore, Mottley, Swisher and Wydner voted "Aye".

Mr. Wydner reported that he had received a complaint about tall grass hanging over the sidewalk on N. Main Street and asked the staff to remedy the problem.

Mr. Mottley made a motion that was seconded by Mr. Swisher to appoint C. Manly Rucker, III to the Property Maintenance Investigation Board for a term to expire on June 30, 2011. The motion passed 5-0. Messrs. Bondurant, Kilgore, Mottley, Swisher and Wydner voted "Aye".

By consensus, Council agreed that Mr. Kilgore, as Town Council member and Town Manager Jack Hobbs, as a rate-paying user of the Town's sewer service, are appointed to the Town/Sweet Briar Sewer Use Advisory Commission for terms to expire on June 30, 2010.

Mr. Wydner made a motion that was seconded by Mr. Bondurant to accept the July 15 actions by Amherst County to improve the raw water release arrangement and approve the potential sale of finished water to the Town. The motion passed 5-0. Messrs. Bondurant, Kilgore, Mottley, Swisher and Wydner voted "Aye". Copies of the county's resolutions are attached and made part of these minutes.

Mr. Kilgore made a motion that was seconded by Mr. Wydner to adopt a resolution to confirm the practice of making "employer" contributions to the employee retirement fund on a pre-tax basis. 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.

Mayor Bailey led a discussion on how to encourage but regulate the installation of event banners across S. Main Street. The matter was referred to the Community Relations Committee.

Mayor Bailey led a discussion on how the appearance of the traffic island in the center of S. Main Street at the southern corporate limits could be improved. By consensus, the Council agreed that if VDOT is willing to remove the weeds and have grass established there the Town would take over the maintenance.

Mr. Swisher made a motion that the Town Council reconvene in a closed session for (a) 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 pursuant to §2.2-3711 A.1 of the Code of Virginia, (1950), as amended and (b) discussion or consideration of the acquisition of real property for a public purpose, or of the disposition of publicly held real property, where discussion in an open meeting would adversely affect the bargaining position or negotiating strategy of the public body pursuant to §2.2-3711 A.3 of the Code of Virginia, (1950), as amended. The motion was seconded by Mr. Mottley and carried 5-0. Messrs. Bondurant, Kilgore, Mottley, Swisher and Wydner voted "Aye".

Mr. Swisher made a motion that that the Town Council certify that to the best of each councilors' knowledge that (i) only public business matters lawfully exempted from open meeting requirements under Title 2.2, Chapter 37 and 15.2-2907 of the Code of Virginia and (ii) only such public business matters as were identified in the motion by which the closed session was convened were heard, discussed or considered in the session. The motion was seconded by Mr. Bondurant and carried 5-0 on a roll call vote. Messrs. Bondurant, Kilgore, Mottley, Swisher and Wydner voted "Aye".

The Town Manager was directed to work with the Amherst County Administrator to coordinate a joint Town Council/Board of Supervisors meeting.

There being no further business, the meeting adjourned at 8:52 P.M.

---

Jacob P. Bailey  
Mayor

Attest:

---

Clerk of Council

**AN ORDINANCE TO AMEND THE CODE OF THE TOWN OF AMHERST BY AMENDING SECTION 17-15 WHICH REFERS TO THE INDUSTRIAL STRENGTH SEWAGE PRETREATMENT PROGRAM.**

**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 17-15, Wastewater Pretreatment Ordinance, of the Town Code. The amended ordinance is hereby adopted by reference, and a copy of the full text of the amended ordinance shall be maintained within the Town Code.*
- 2. That this Ordinance shall be effective on August 13, 2008.*

This ordinance was adopted on August 13, 2008.

ATTEST:

\_\_\_\_\_  
Mayor

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

Approved as to form and content. Pursuant to VPDES Permit # VA0031321, I hereby certify that the Town of Amherst has the authority to enforce the Clean Water Act, Water Control Law and State Regulations as granted to it by the Code of Virginia.

\_\_\_\_\_  
Town Attorney

## **Procedure for the Emergency Release of Water from Amherst County Reservoirs**

The intent of the following is to establish a non-binding procedure and policy under which water may be released from Amherst County-owned water reservoirs for the benefit of the Town of Amherst waterworks in the event of a drought. Therefore, it is the policy of Amherst County Board of Supervisors that in the event of a drought the process for the release of water from the County's reservoirs is as follows:

1. The Town of Amherst will submit a written request to the Amherst County Administrator for the release of water into the Buffalo River from a County owned reservoir or reservoirs in an amount sufficient to meet the water demand of the Town of Amherst during the drought. The amount of water needed to meet this demand, or the difference between the daily demand and the actual flow in the river, shall be included in the request.
2. Subsequent to the Town of Amherst's request and due to the need for timely action, the County Administrator will advise the Chairman of the Board of Supervisors of the request and his action to release water from a County-owned reservoir or reservoirs. The County Administrator will inform the Board of Supervisors of the request and subsequent release of water at the next regularly scheduled meeting of the Board.
3. The release of water to benefit the Town of Amherst shall not exceed 1,000,000 gallons per day as measured at the reservoir outlet(s).
4. The release of water shall continue until such time as the drought condition has abated to the extent that the Town of Amherst can withdraw water from the Buffalo River in amounts sufficient to meet its water demands.

**RESOLUTION PROVIDING FOR THE NON-EMERGENCY AND A RECOMMENDED DRAFT RESOLUTION FOR THE AMHERST COUNTY BOARD OF SUPERVISORS GOVERNING WATER RELEASES FROM COUNTY RESERVOIRS**

**WHEREAS**, both the governing bodies of the Amherst County Service Authority and the Town of Amherst recognize that the citizenry will benefit from establishing a procedural agreement for the non-emergency sale of Authority treated water to the Town when it is needed; and

**WHEREAS**, completion of the Ebenezer Rd. & Cabell Ln. Water Line & Pump Station Project has provided interconnection of the two public water systems, and has now made such sales possible.

**NOW THEREFORE BE IT RESOLVED**, that the Amherst County Service Authority Board agrees that when the Town of Amherst wishes to purchase treated water from the Authority, that if such water is available in the amounts requested, the Authority shall sell it wholesale to the Town for eighty-five percent (85%) of the Authority retail rate which exist at the time of the sale,

**AND**, whenever the Town desires the sale of such treated water for ninety (90) days in any twelve month period, if available, the Authority shall enter into a contract with the Town to reserve a portion of the Authority=s water system capacity via the payment of an availability fee. This reserve capacity fee shall be based on the maximum volumn the Town wishes to reserve, and the Authority=s ability to provide that volumn. The amount of the resulting availability fee shall be established at that time, based on County ordinance and Town/Authority/County negotiations,

**AND**, the Authority Board recommends the following resolution to the Amherst County Board of Supervisors.

**PROCEDURE FOR WATER RELEASE FROM COUNTY RESERVOIRS**

**WHEREAS**, there is a history of Amherst County releasing stored water from the Mill Creek Reservoir when drought conditions have made the flow of the Buffalo River inadequate to meet the water treatment needs of the Town of Amherst; and

**WHEREAS**, the parties wish to establish a new standardized procedure for these releases.

**THEREFORE BE IT RESOLVED**, that the following procedures are established.

1. If the Amherst County Service Authority has established either voluntary or mandatory water conservation regulations at the time the Town of Amherst request a release, the Town of Amherst shall impose similar legally enforceable regulations to restrict or otherwise reduce daily water usage and consumption by all its water users. If the Amherst County Service Authority establishes such regulations after water releases from a reservoir have begun the Town must also promptly do so, until the Authority has suspended its regulations, or the water release ceases.
2. The Town of Amherst will submit a written request to the Amherst County Administrator for the releases of water into the Buffalo River from a County owned reservoir or reservoirs in an amount sufficient to meet the water demand of the Town of Amherst during the drought. The amount of water needed to meet this demand, or the difference between the restricted daily demand and the actual flow in the river, shall be included in the request.
3. Subsequent to the Town of Amherst=s request and due to the need for timely action, the County Administrator will contact each member of the Board of Supervisors to advise of the request and to further advise of his action to release the water from a County-owned reservoir or reservoirs. The Board of Supervisors will then review the action at the next regularly scheduled meeting of the Board of Supervisors.
4. The release of water to benefit the Town of Amherst shall be the minimum to meet the Town=s need, and shall not exceed 1,000,000 gallons per day as measured at the reservoir outlet(s). As in past instances of such reservoir releases, an employee of the Amherst County Service Authority shall assist the Town=s representative whenever outlet valves are being adjusted.
5. The release of water shall continue until such time as the drought condition has abated to the extent that the Town of Amherst can withdraw water from the Buffalo River in amounts sufficient to meet its water demands.

**A RESOLUTION TO AFFIRM AUTHORIZATION TO PICK-UP EMPLOYEE'S CONTRIBUTION TO VRS FOR TOWN OF AMHERST (55343) UNDER § 414(h) OF THE INTERNAL REVENUE CODE.**

**WHEREAS**, the Town of Amherst (referred to as Town) provides its employees with tax deferral pursuant to § 414(h) of the Internal Revenue Code with respect to their member contributions to the Virginia Retirement System (referred to as VRS) by picking up member contributions to the VRS; and

**WHEREAS**, VRS keeps track of such picked up member contributions, and treats such contributions as employee contributions for all purposes of VRS; and

**WHEREAS**, the Internal Revenue Service in Notice 2006-43 has provided transition relief for existing pick up arrangements provided that an authorized person takes formal action to evidence the establishment of the pick-up arrangement no later than January 1, 2009;

**WHEREAS**, in order to avail itself of the protection given under Notice 2006-43, the Town desires to affirm its intention to establish and maintain a pick-up arrangement through formal action by its governing body.

**NOW, THEREFORE, BE IT RESOLVED** that the existing member contribution pick-up arrangement is hereby affirmed as it relates to salary reduction elections in effect prior to the date of this Resolution; and it is further

**RESOLVED** that effective the first pay period on or after this date the Town shall pick up member contributions of its employees to VRS, and such contributions shall be treated as employer contributions in determining tax treatment under the Internal Revenue Code of the United States; and it is further

**RESOLVED** that such contributions, although designated as member contributions, are to be made by the Town in lieu of member contributions; and it is further

**RESOLVED** that pick up member contributions shall be paid from the same source of funds as used in paying the wages to affected employees; and it is further

**RESOVLED** that member contribution made by the Town under the pick up arrangement shall be treated for all purposes other than income taxation, including but not limited to VRS benefits, in the same manner and to the same extent as member contributions made prior to the pick up arrangement; and it is further

**RESOLVED** that nothing herein shall be construed so as to permit or extend an option to VRS members to receive the pick up contributions made by the Town directly instead of having them paid to VRS, and it is further

**RESOLVED** that notwithstanding any contractual or other provisions, the contributions of each member of VRS who is employed by the Town shall be picked up either through a reduction in the current salary of such employee or as an offset against future salary increases of such employee or as a combination of both at the option of the employer by the Town on behalf of such employee pursuant to the foregoing resolutions.

This Resolution was adopted by the Town Council of the Town of Amherst on August 13, 2008.

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

Attest: \_\_\_\_\_