

Mayor Jacob P. Bailey called the regular monthly meeting of the Amherst Town Council to order on August 10, 2011 at 7:00 P.M. in the Council Chambers of the Town Hall at 186 S. Main Street. Council members Kenneth Bumgarner, J. Paul Kilgore, Michael Mozingo and Richard Wydner were present. Councilor Haney Mottley was absent. Town Manager Jack Hobbs, Police Chief Kelvin Brown, Office Manager Colan Davis, Director of Public Utilities Tom Fore and Town Attorney Tom Berry were present.

Dr. Kelvin Brown from Mount Olive Baptist Church gave an invocation.

Mr. Glen Burley came forward to congratulate Police Chief Brown on his appointment and to thank the Town Councilors for all of their hard work.

After the Councilors learned that the Planning Commission's intent was for Amherst Baptist Church to fulfill the requirements as outlined in the Commission's July 6, 2011 minutes and return to the Planning Commission for its recommendation prior to the Church being referred to Town Council, the public hearing on Church's special use permit amendment application was cancelled.

Bob White of Region 2000 Local Government Council presented a report on a potential U.S. Route 60 sidewalk project.

Ms. Suny Monk, Executive Director for the Virginia Center for the Creative Arts, came forward to ask for a donation for the center. Materials articulating funding requests from the Virginia Center for the Creative Arts and Blue Ridge Medical Center were discussed. The Town Council took no action on these items.

Mr. Bumgarner made a motion that was seconded by Mr. Wydner and approved 4-0 to approve the minutes from the July 13, 2011 meeting. Messrs. Bumgarner, Kilgore, Mozingo and Wydner voted "Aye"; Mr. Mottley was absent.

The Councilors agreed to consider a request by the Industrial Development Authority for approval of its planned action to refinance \$10,000,000 of its Sweet Briar College bonds via the "bank qualified" method during the September 14 Town Council meeting.

Mr. Bumgarner gave a report on his work to improve the noise ordinance. The Councilors agreed to discuss the document at the September meeting and to consider holding a public hearing on the proposal during the October 12 meeting.

The Police Chief reported that due to his promotion that there is a vacancy in the Sergeant position that he would like to fill with Officer Harler. Mr. Bumgarner made a motion that was seconded by Mr. Kilgore and approved 4-0 to authorize the promotion of Officer Harler to the position of Sergeant with a 10% salary increase. Messrs. Bumgarner, Kilgore, Mozingo and Wydner voted "Aye"; Mr. Mottley was absent.

The Police Chief reported that Officer Harler is exceeding the carryover limit on vacation and compensatory time due to staff limitations and asked for approval to pay officer Harler at his rate prior to his promotion for 40 hours of compensatory time. Mr. Bumgarner made a motion that was seconded by Mr. Kilgore and approved 4-0 to authorize the payment of 40 hours of compensatory time as requested. Messrs. Bumgarner, Kilgore, Mozingo and Wydner voted "Aye"; Mr. Mottley was absent.

Mr. Bumgarner made a motion that was seconded by Mr. Kilgore and approved 4-0 to amend the Town's drought ordinance. Messrs. Bumgarner, Kilgore, Mozingo and Wydner voted "Aye"; Mr. Mottley was absent. A copy of the ordinance is attached and made a part of these minutes.

Mr. Bumgarner made a motion that was seconded by Mr. Mozingo and approved 4-0 to adopt a resolution approving a regional water supply plan. Messrs. Bumgarner, Kilgore, Mozingo and Wydner voted "Aye"; Mr. Mottley was absent. A copy of the resolution is attached and made a part of these minutes.

Documents from the N. Main Street "sliplining" construction project bid process were reviewed. Mr. Kilgore made a motion that was seconded by Mr. Wydner and approved 4-0 to accept the Town Engineer's recommendation and authorize the Town Manager to sign a \$73,026 construction contract with Reynolds Inliner, LLC for the project. Messrs. Bumgarner, Kilgore, Mozingo and Wydner voted "Aye"; Mr. Mottley was absent.

The Town Manager gave a report on the potential use of "excess" sidewalk grant monies. Mr. Bumgarner made a motion that was seconded by Mr. Mozingo and approved 4-0 to pursue the Lancer Lane drainage structure and South Main Street Landscaping. Messrs. Bumgarner, Kilgore, Mozingo and Wydner voted "Aye"; Mr. Mottley was absent.

Mr. Bumgarner made a motion that was seconded by Mr. Wydner and approved 4-0 to adopt a resolution endorsing applications for Virginia Department of Health planning grant monies. Messrs. Bumgarner, Kilgore, Mozingo and Wydner voted "Aye"; Mr. Mottley was absent. A copy of the resolution is attached and made a part of these minutes.

The Town Manager reported that the Amherst Fire Department asked the Town for assistance in applying for Fire Programs Grant Funding for a computer. The Town Manager was asked to have the Fire Department seek assistance through Amherst County.

The Town Manager reported that a donation was received by Mr. Glen Burley to assist with the Police Chief's reception. The Town Manager was asked to thank Mr. Burley for his generosity but to return the donation.

Mr. Bumgarner made a motion that was seconded by Mr. Mozingo and approved 4-0 to convene in closed session for discussion concerning a prospective business or industry where no previous announcement has been made of the business' or industry's interest in locating or expanding its facilities in the community per the exemption at §2.2-3711A.5 of the Code of Virginia.. Messrs. Bumgarner, Kilgore, Mozingo and Wydner voted "Aye"; Mr. Mottley was absent.

Mr. Bumgarner made a motion that was seconded by Mr. Mozingo 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 approved 4-0 by roll call vote with Messrs. Bumgarner, Kilgore, Mozingo and Wydner voting "Aye" and Mr. Mottley absent.

There being no further business, the meeting adjourned at 9:45 P.M.

Jacob P. Bailey
Mayor

Attest:

Clerk of Council

AN ORDINANCE TO REPEAL SECTION 17-16 AND ADOPT SECTION 17-16.1 OF THE CODE OF THE TOWN OF AMHERST, THE REPEALED AND ADOPTED SECTIONS PERTAINING TO DROUGHT MANAGEMENT STRATEGY.

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

- 1. That Sec. §17-16 of the Town Code of the Town of Amherst (Emergency powers of the Mayor in the event of a drought, adopted on January 8, 2003) is hereby repealed.**
- 2. That the following Sec. §17-16.1 of the Town Code of the Town of Amherst is hereby adopted.**

§17-16.1. Drought Management Ordinance.

- A. **Short Title.** This ordinance shall be known and may be cited as the Drought Management Ordinance.
- B. **Authority to declare water emergencies.** During the continued existence of climatic, hydrological and other extraordinary conditions the protection of the health, safety and welfare of the residents of the Town of Amherst may require that certain uses of water, not essential to public health, safety and welfare, be reduced, restricted or curtailed. As the shortage of raw or potable water becomes increasingly more critical, conservation measures to reduce consumption or curtail nonessential water use may be necessary.

The Town Manager is authorized to declare drought stages and appropriately restrict the use of water in the Town's service area. All drought stages are built upon and require compliance with previous drought stages. For example when a drought warning is declared all provisions of a drought watch are in effect. Also the Town Manager may declare any of the three stages; they do not have to be declared sequentially.

- C. **Water use considerations.** Upon the declaration of a water shortage or emergency, the Town Manager is authorized and directed to implement conservation measures by ordering the restricted use or absolute curtailment of the use of water for certain nonessential purposes for the duration of the water shortage in the manner hereinafter set out. In exercising this discretionary authority, and making the determinations set forth hereof, the Town Manager shall give due consideration to water levels, available/usable storage on hand, draw down rates and the projected supply capability; system purification and pumping capacity; daily water consumption and consumption projections of the system's customers; prevailing and forecast weather conditions; fire service requirements; pipeline conditions including breakages, stoppages and leaks; supplementary source data; estimates of minimum essential supplies to preserve public health and safety and such other data pertinent to the past, current and projected water demands.
- D. **Limitation of restrictions.** The provisions of this ordinance shall not apply to any

governmental activity, institution, business or industry which shall be declared by the Mayor or designee, upon a proper showing, to be necessary for the public health, safety and welfare or the prevention of severe economic hardship or the substantial loss of employment. Any person aggrieved by any decision of the Mayor or designee pursuant to this ordinance may appeal that decision to the Town Council in writing.

E. **Drought stages.** Upon a determination by the Town Manager of the existence of the following conditions, the Town Manager shall take the following actions that shall apply to any person whose water supply is furnished from the public water system:

(a) **Drought Watch:** A drought watch stage is defined as those times when the flow of water in Buffalo River falls below 1,000,000 gallons per day at the Town of Amherst Water Treatment Plant Intake Pump Station. Insofar as there is insufficient water in Buffalo River to efficiently operate the water plant, the Town Manager shall initiate the appropriate procedures to augment this flow from reservoirs located in the Buffalo River watershed above the Town's intake point. This stage will include identification of potential water conservation measures that could be employed by Town water users and other activities in anticipation of more severe drought stages.

Upon the declaration of a drought watch, the Town Manager shall immediately notify the Town Council.

(b) **Drought Warning:** A drought warning stage is defined as when the water level in Mill Creek Reservoir falls to 4 feet below the spillway or if the Amherst County Board of Supervisors has established voluntary water conservation measures. When moderate but limited supplies of water are available and a drought warning is declared, the Town Manager shall, through appropriate means, ask the general population to employ prudent restraint in water usage and to conserve water voluntarily by whatever methods available with the goal of reducing water use by 10%.

Upon the declaration of a drought warning, the Town Manager shall immediately notify the Town Council, post a written notice of the declaration at the Town Hall and on the Town's web site, issue a public service announcement to the local news media, and promulgating the declaration via any other appropriate means.

(c) **Drought Emergency:** A drought emergency stage is defined as when the water level in Mill Creek Reservoir falls to 8 feet below the spillway or if the Amherst County Board of Supervisors has established mandatory water conservation regulations. When a drought emergency is declared, the Town Manager shall restrict the use of water to purposes which are absolutely essential to life, health and safety. Mandatory water conservation activities shall be identified with the goal of reducing water use by 15%. When a drought warning is declared, the Town Manager shall order curtailment of less essential usages of water, including, but not limited to, one or more of the following:

(1) The watering of outside shrubbery, trees, lawns, grass, plants, or any other vegetation except from a watering can or container not exceeding three (3) gallons in capacity,

except indoor plantings, greenhouse or nursery stocks and except limited watering for new lawns and watering by commercial nurseries of freshly planted plants upon planting and once a week for five (5) weeks following planting.

- (2) The washing of automobiles, trucks, trailers, boats, buses, airplanes, or any other type of mobile equipment, except in facilities operating with a water recycling system. The facility shall post a notice in public view that a recycling system is in operation. Exceptions may be approved by the Town Manager or his designee when they are demonstrated to be necessary for the purposes of health and safety.
- (3) The washing of sidewalks, streets, driveways, parking lots, service stations aprons, office buildings, exteriors of homes or apartments, or other outdoor surfaces, unless the use is approved by the Town Manager or his designee for the purposes of health and safety.
- (4) The operation of any ornamental fountain or other structure making a similar use of water.
- (5) The filling of swimming or wading pools requiring more than five gallons of water, or the refilling of swimming or wading pools which were drained after the effective date of the declaration of a drought warning except that pools may be filled to a level necessary to protect the structure from hydrostatic damage.
- (6) The use of water from fire hydrants for any purpose other than fire suppression unless the use has been approved by the Town Manager.
- (7) The serving of drinking water in restaurants, except upon request.
- (8) Water service lines from the meter box to the home or structure shall be maintained and have no visible leaks.
- (9) Any additional water use restriction deemed necessary.

Upon the declaration of a drought emergency, the Town Manager shall immediately notify the Town Council, post a written notice of the declaration at the Town Hall and on the Town's web site, issue a public service announcement to the local news media, and promulgating the declaration via any other appropriate means.

F. Penalty and enforcement.

- (a) Any person who violates any provision of this ordinance shall be subject to the following:
 - (1) For the first offense, violators shall receive a written warning delivered in person or posted by a representative of the Town.
 - (2) For the second offense, violators shall be fined fifty dollars (\$50.00), the fine to be imposed on the violator's next water bill, or in the case of violators not on the public water system, in a written notice.

- (3) For the third and each subsequent offense, violators shall be fined one hundred dollars (\$100.00) for each offense, the fine to be imposed on the violator's next water bill, or in the case of violators not on the public water system, in a written notice.
- (4) Each violation by a person shall be counted as a separate violation by that person, irrespective of the location at which the violation occurs.
- (5) The Town Manager may suspend water service to any person continuing to violate the provisions of this article or the regulations promulgated thereunder. If such water service is terminated, the person shall pay any reconnection fee established by the Town Council before service is restored.

(b) Persons who have been assessed a penalty shall have the right to challenge the assessment by providing a written notice to the Town Manager within ten (10) days of the date of the assessment of the penalty. The Town Council shall determine whether the penalty was properly assessed and notify the complaining person in writing of its determination.

(c) The Town Council may waive the penalty if it determines that the violation occurred due to no fault of the person.

G. **Notification of end of water emergency.** The Town Manager shall notify the Town Council when, in his opinion, the drought stage condition no longer exists. When this declaration is made, the information shall be conveyed to the general public through the news media.

Reference: §§ 62.144.15 and 62.144.38:1 of the Code of Virginia and 9VAC25-780-120

3. That this Ordinance shall be effective on August 10, 2011.

This ordinance was adopted on August 10, 2011.

Mayor

ATTEST:

Clerk of the Council

A RESOLUTION APPROVING THE REGION 2000 REGIONAL WATER SUPPLY PLAN.

WHEREAS, Virginia State Water Control Board Regulation 9 VAC 25-780, Local and Regional Water Supply Planning, requires all counties, cities and towns in the Commonwealth of Virginia to prepare and submit a water supply plan to the Department of Environmental Quality (DEQ); and

WHEREAS, the Town of Amherst is a participant in the Region 2000 Regional Water Supply Planning Group as reported to DEQ by letter before the November 2, 2008 deadline; and

WHEREAS, on July 13, 2011, the Town of Amherst held a public hearing to accept public comment on the Regional Water Supply Plan; and

WHEREAS, the adopted Regional Water Supply Plan will be submitted to the DEQ on or before November 2, 2011.

NOW, THEREFORE BE IT RESOLVED that the Town Council of the Town of Amherst hereby adopts the Region 2000 Regional Water Supply Plan as it pertains to the Town of Amherst. Approval and adoption of this regional plan indicates support for and general agreement with the regional planning approach, but does not indicate approval or disapproval of conclusions and recommendations presented in the plan as they pertain to other localities. The Town of Amherst reserves the right to comment on specific water supply alternatives in the future even though such alternatives may be recommended in this adopted plan. The Town of Amherst will not be limited to specific water supply alternatives in this adopted plan and reserves the right to recommend additional alternatives for consideration in the future.

BE IT FURTHER RESOLVED that the Town Council of the Town of Amherst intends that the Regional Water Supply Plan shall be revised to reflect changes in relevant data at least once every five years and resubmitted to DEQ every ten years in accordance with the regulation and sound planning practice.

Adopted in the Town of Amherst, Virginia this 10th day of August, 2011.

Mayor Jacob P. Bailey

Attest:

Clerk of Council

A RESOLUTION ENDORSING APPLICATIONS FOR FUNDING BY THE VIRGINIA DEPARTMENT OF HEALTH – OFFICE OF DRINKING WATER.

WHEREAS, the Town of Amherst intends to apply for funding for various drinking water projects; and

WHEREAS, the Virginia Department of Health-Office of Drinking Water is able to provide funds for the planning of drinking water projects; and

WHEREAS, the Town Council of the Town of Amherst has determined that this type of funding would be appropriate for the work that is being considered;

THEREFORE, BE IT RESOLVED, the Town Council of the Town of Amherst hereby authorizes the Town Manager to seek planning funds from Virginia Department of Health-Office of Drinking Water for:

- 1. Out of Town upgrade/ 60 West to East Monitor Road Water Line Project Design,**
- 2. Amherst Water Treatment Plant Rate of Flow Controller Replacement Design, and**
- 3. Buffalo River Water Intake Improvement Study.**

BE IT FURTHER RESOLVED that the Town Manager is directed to pursue such funding and be authorized to sign any and all documents to accept such funding contingent upon review and concurrence by the Town Attorney.

Adopted in the Town of Amherst, Virginia this 10th day of August, 2011.

Mayor Jacob P. Bailey

Attest:

Clerk of Council