

Mayor J. Paul Kilgore, Jr. called a regular monthly meeting of the Amherst Town Council to order on October 14, 2015 at 7:00 P.M. in the Council Chambers of the Town Hall at 174 S. Main Street. Council members Kenneth Bumgarner, André Higginbotham, Mike Mozingo, Rachel Thompson and Kenneth Watts were present. Town Manager Jack Hobbs, Town Attorney Tom Berry, Police Chief Robert Kimbrel and Office Manager Colan Davis were present.

Ms. Rachel Carton came forward to offer a prayer as a citizen comment.

Amy Gallagher from Davis Doyle & Hilton came forward to present her audit of the Town's FY15 financial records. It was agreed that acceptance of the audit would follow a report from the Finance and IT Committee.

The Town Manager reported that a presentation by Ron Staton of the Central Virginia Criminal Justice Academy on his agency's use of the Town pistol range has been delayed.

Derrick Brown came forward to request Town Council support for the 6th Annual IRON 5k Run/Walk event that would occur on the afternoon of Sunday, April 10, 2016. Mrs. Thompson made a motion that was seconded by Mr. Higginbotham and carried 5-0 to endorse the event with the understanding that Mr. Brown would fully fund sufficient traffic control for the activity as required by the Police Chief, be responsible for obtaining permission from VDOT to close some or all of S. Main Street for the event, and notify all affected residents, businesses and public safety agencies that would be affected by the closure. Messrs. Bumgarner, Higginbotham, Mozingo, Thompson and Watts voted "Aye".

A duly advertised public hearing on the following proposed amendments to the Zoning and Subdivision Ordinance was opened at 7:25 P.M.:

§ 18.1-302.144: Update the definition of "variance" to match the language in §15.2-2201 of the Code of Virginia, and

§ 18.1-1402.03: Update the duties and powers of the Board of Zoning Appeals to match those articulated in §15.2-2309 of the Code of Virginia.

After the Town Manager gave a report on the proposed amendments and there being no one who wished to speak, the public hearing was closed at 7:26 P.M.

Mr. Watts made a motion that was seconded by Mr. Bumgarner and passed 5-0 to approve an ordinance having the effect of updating the definition of "variance" and the duties and powers of the Board of Zoning Appeals by amending § 18.1-302.144 and § 18.1-1402.03 of the Town Code. Messrs. Bumgarner, Higginbotham, Mozingo, Thompson and Watts voted "Aye". A copy of the ordinance is attached and made a part of these minutes.

A duly advertised public hearing on the following proposed amendment to the Zoning and Subdivision Ordinance was opened at 7:30 P.M.:

§ 18.1-908.03: Increasing the allowable size of temporary real estate signs to a height of eight (8) feet and an area of sixteen (16) square feet in the Central Business District CBD and a height of twelve (12) feet and an area of thirty two (32) in the agricultural, industrial and other business districts.

After the Town Manager gave a report on the proposed amendment and there being no one who wished to speak, the public hearing was closed at 7:31 P.M.

Mr. Bumgarner made a motion that was seconded by Mrs. Thompson and passed 5-0 to approve an ordinance having the effect of allowing larger real estate “for sale” signs by amending §18.1-908.03 of the Town Code. Messrs. Bumgarner, Higginbotham, Mozingo, Thompson and Watts voted “Aye”. A copy of the ordinance is attached and made a part of these minutes.

The Town Manager reported that Carol Dziak of 211 Sunset Drive had provided the only entry to the holiday ornament contest. This ornament will be sent to the Governor’s office as Town’s contribution to the tree that will be placed in the ballroom of the Executive Mansion.

Mr. Mozingo made a motion that was seconded by Mrs. Thompson and passed 4-0-1 to approve the minutes from the September 9, 2015 meeting. Messrs. Higginbotham, Mozingo, Thompson and Watts voted “Aye”; Mr. Bumgarner abstained.

Mrs. Thompson reported on behalf of the Finance and IT Committee that the Committee plans to meet to discuss improvements to the meals tax procedure after a staff proposal has been developed.

Chief Kimbrel gave an oral report on the 6th officer grant results and advised the Council that the Police Department is field testing a body camera.

Mr. Higginbotham reported on behalf of the Community Relations Committee that the Committee has prepared a recommended amendment to the snow policy and has worked on a donation request form. Mr. Bumgarner made a motion that was seconded by Mrs. Thompson and passed 5-0 to adopt the proposed changes to the Town’s snow plan. Messrs. Bumgarner, Higginbotham, Mozingo, Thompson and Watts voted “Aye”. A copy of the revised policy is attached and made a part of these minutes.

Mayor Kilgore led a discussion on the items left to complete for the Town Hall project which include the Council Chamber meeting room table and possible sound and video surveillance systems. A proposal on the design and pricing of the table will be provided as soon as it becomes available.

The Town Manager gave a report on the status of the Urban Development Area study project and recommended approval of a proposed assistance grant contract including a scope of work which had been negotiated by the Steering Committee and discussed by the Planning Commission. Mr. Watts made a motion that was seconded by Mrs. Thompson and passed 5-0 to authorize the contract subject to minor adjustments. Messrs. Bumgarner, Higginbotham, Mozingo, Thompson and Watts voted “Aye”.

The Town Manager gave a summary report on the Springsted employee Pay and Classification Study. Mr. Watts made a motion that was seconded by Mrs. Thompson and passed 5-0, with Messrs. Bumgarner, Higginbotham, Mozingo, Thompson and Watts voting “Aye”, to instruct the Town Manager to:

1. Implement the recommended step pay plan and move all full-time employees to Step 3 or at the next highest step of their assigned grades so that all full-time employees would receive at least a 2.0% increase in pay rate effective with the October 22 paychecks.
2. Provide all part-time employees with a 2.0% raise effective with the October 22 paychecks.

3. Issue updated employee position descriptions, including new job titles where appropriate, to all Town employees.
4. Review and recommend improvements to the Town's Personnel Policy that could be implemented on July 1, 2016 to reflect the elements of the new pay and classification system and better practices, changes in benefit programs and state and federal laws, and the updated Town Charter. This would include:
 - a. Developing a new pay plan philosophy/policy document to guide the establishment of pay for new hires and pay adjustments for both part-time and full-time employees.
 - b. Developing position "progression plans" to document how a full-time employee would move up in steps within the position pay grade. The progression plans should be based on certifications and qualifications, ability, attitude and experience.
 - c. Preparing an improved compensation plan for part-time employees.
 - d. Developing a new employee evaluation system that will incorporate elements of the position progression plans.
5. Prepare for the full fiscal impact of an implemented progression plan and the effects of hiring the sixth police officer.

The Town Manager gave a report on the status of various projects.

Mrs. Thompson made a motion that was seconded by Mr. Mazingo and passed 5-0 to authorize an adjustment in date for the Amherst Cruise-In to November 1, 2015. Messrs. Bumgarner, Higginbotham, Mazingo, Thompson and Watts voted "Aye".

Mr. Bumgarner made a motion that was seconded by Mr. Watts and passed 5-0 that the Town Council convene in closed session for consultation with legal counsel and briefings by staff members or consultants pertaining to actual or probable litigation, where such consultation or briefing in open meeting would adversely affect the negotiating or litigating posture of the public body; and consultation with legal counsel employed or retained by a public body regarding specific legal matters requiring the provision of legal advice by such counsel per the exemption at §2.2-3711A.7 of the Code of Virginia. Messrs. Bumgarner, Higginbotham, Mazingo, Thompson, and Watts voted "Aye".

Mr. Bumgarner made a motion that was seconded by Mr. Mazingo and approved 5-0 by a roll call vote that the Councilors 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. Messrs. Bumgarner, Higginbotham, Mazingo, Thompson, and Watts voted "Aye" by the roll call method.

There being no further business, the meeting adjourned at 9:15 P.M.

J. Paul Kilgore, Jr.
Mayor

Attest: _____
Clerk of Council

AN ORDINANCE TO AMEND THE CODE OF THE TOWN OF AMHERST BY AMENDING CHAPTER 18.1, DEFINITION OF VARIANCE AND DUTIES AND POWERS OF THE BOARD OF ZONING APPEALS.

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

1. That Sec. 18.1-302.144 of the Code of the Town of Amherst is hereby amended to read as follows:

Sec. 18.1-302.144

Variance. A reasonable deviation from those provisions regulating the shape, size, or area of a lot or parcel of land; or the size, height, area, bulk, or location of a building or structure when the strict application of the provisions of this ordinance would result in unnecessary or unreasonable hardship to unreasonably restrict the utilization of the property owner, and such need for a variance would not be shared generally by other properties, and provided such variance is not contrary to the intended spirit and purpose of this ordinance, and would result. It shall not include a change in substantial justice being done use, which change shall be accomplished by a rezoning or by a conditional zoning.

2. That Sec. 18.1-1402.03 of the Code of the Town of Amherst is hereby amended to read as follows:

Sec. 18.1-1402.03 Duties and powers

The board of appeals shall have the following duties and powers as set forth in § 15.2-2309 of the Code of Virginia.

- ~~1. To hear and decide appeals from any order, requirement, decision or determination made by an administrative officer in the administration or enforcement of this chapter. The decision on such appeal shall be based on the board's judgment of whether the administrative officer was correct. The board shall consider the purpose and intent of any applicable ordinances, laws and regulations in making its decision.~~
- ~~2. To authorize upon appeal or original application in specific cases such variance as defined in §15.2 2201 of the Code of Virginia from the terms of the ordinance as will not be contrary to the public interest, when, owing to special conditions a literal enforcement of the provisions will result in unnecessary hardship; provided that the spirit of the ordinance shall be observed and substantial justice done, as follows:~~

~~When a property owner can show that his property was acquired in good faith and where by reason of the exceptional narrowness, shallowness, size or shape of a specific piece of property at the time of the effective date of the ordinance, or where by reason of exceptional topographic conditions or other extraordinary situation or condition of the piece of property, or of the condition, situation, or development of property immediately adjacent thereto, the strict application of the terms of the ordinance would effectively prohibit or unreasonably restrict the utilization of the property or where the board is satisfied, upon the evidence heard by it, that the granting of the variance will alleviate a clearly demonstrable hardship, as~~

~~distinguished from a special privilege or convenience sought by the applicant, provided that all variances shall be in harmony with the intended spirit and purpose of the ordinance.~~

~~No such variance shall be authorized by the board unless it finds:~~

- ~~a. That the strict application of the ordinance would produce undue hardship relating to the property;~~
- ~~b. That the hardship is not shared generally by other properties in the same zoning district and the same vicinity; and~~
- ~~c. That the authorization of the variance will not be of substantial detriment to adjacent property and that the character of the district will not be changed by the granting of the variance.~~

~~No variance shall be authorized except after notice and hearing as required by §15.2-2204 of the Code of Virginia. However, when giving any required notice to the owners, their agents or the occupants of abutting property and property immediately across the street or road from the property affected, the board may give such notice by first class mail rather than by registered or certified mail.~~

~~No variance shall be authorized unless the board finds that the condition or situation of the property concerned is not of so general or recurring a nature as to make reasonably practicable the formulation of a general regulation to be adopted as an amendment to the ordinance.~~

~~In authorizing a variance the board may impose such conditions regarding the location, character and other features of the proposed structure or use as it may deem necessary in the public interest, and may require a guarantee or bond to ensure that the conditions imposed are being and will continue to be complied with. Notwithstanding any other provision of law, the property upon which a property owner has been granted a variance shall be treated as conforming for all purposes under state law and local ordinance; however, the structure permitted by the variance may not be expanded unless the expansion is within an area of the site or part of the structure for which no variance is required under the ordinance. Where the expansion is proposed within an area of the site or part of the structure for which a variance is required, the approval of an additional variance shall be required.~~

- ~~3. To hear and decide appeals from the decision of the zoning administrator after notice and hearing as provided by §15.2-2204 of the Code of Virginia. However, when giving any required notice to the owners, their agents or the occupants of abutting property and property immediately across the street or road from the property affected, the board may give such notice by first class mail rather than by registered or certified mail.~~

- ~~4. To hear and decide applications for interpretation of the district map where there is any uncertainty as to the location of a district boundary. After notice to the owners of the property affected by the question, and after public hearing with notice as required by §15.2 2204, the board may interpret the map in such way as to carry out the intent and purpose of the ordinance for the particular section or district in question. However, when giving any required notice to the owners, their agents or the occupants of abutting property and property immediately across the street or road from the property affected, the board may give such notice by first class mail rather than by registered or certified mail. The board shall not have the power to change substantially the locations of district boundaries as established by ordinance.~~

- ~~5. No provision of this section shall be construed as granting any board the power to rezone property or to base board decisions on the merits of the purpose and intent of local ordinances duly adopted by the governing body.~~

3. *That this Ordinance shall become effective on October 14, 2015.*

This ordinance was adopted on October 14, 2015

Mayor

ATTEST:

Clerk of Council

AN ORDINANCE TO AMEND THE CODE OF THE TOWN OF AMHERST BY AMENDING CHAPTER 18.1, REGULATION OF REAL ESTATE SIGNS.

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

4. That Sec. 18.1-908.03p of the Code of the Town of Amherst is hereby amended to read as follows:

Sec. 18.1-908.03 Signs Allowed Without a Permit.

Sign permits shall not be required for the following signs; however, all other applicable regulations of this Ordinance shall apply:

...

- p. Temporary real estate signs, located on the premises, not exceeding a height of six (6) feet or an area of four (4) square feet in residential districts or a height of twelve (12) feet or an area of thirty two (32) ~~or eight (8)~~ square feet in other districts. One real estate sign shall be permitted for each side of the property facing a public right of way. No off-premise real estate signs shall be permitted, with the exception of open house notices, which may be displayed for no more than 72 consecutive hours, and not more than five (5) directional signs not exceeding two (2) square feet in area. No real estate sign shall contain language indicating that the subject real estate is sold or under pending contract and any such sign so erected shall be immediately removed by the Zoning Administrator. Temporary real estate signs shall be removed within 10 days of sale.

...

5. That this Ordinance shall become effective on October 14, 2015.

This ordinance was adopted on October 14, 2015

Mayor

ATTEST:

Clerk of Council

Snow Plan

This policy is intended to establish the Town of Amherst's policies on snow plowing and snow removal.

The Town of Amherst maintains snow removal equipment consisting of one pickup truck mounted snow plow and cannot respond to all requests for service. It is the Town's policy to remove snow at certain utility, public safety and Town-owned facilities in and around the Town during and after weather emergencies as follows:

Highest Priority

Highest priority sites are ones that require Town employees to be on standby when heavy snows are forecasted. This category shall include those sites whose snow removal needs justifies compensatory leave accrual. The following sites are declared to be highest priority sites:

- Amherst Life Saving Crew entrance and parking areas
- Amherst Fire Department entrance and parking areas
- Amherst Town Hall parking lot

High Priority

High priority sites are those that need to be accessed in order for the Town to maintain water and sewer service. This category shall include those sites whose snow removal needs can be met during normal working hours by the Town crew. The following sites are declared to be high priority sites:

- Water intake access road
- Water plant driveway
- Town shop entrance
- Sewer plant access road
- Water tank sites

Normal Priority

Normal priority sites are sites required to be maintained due to Town ownership of adjacent real estate. The following are declared to be normal priority sites:

- S. Main Street Sidewalk in front of the Town Hall
- S. Main Street sidewalk in front of the MiniPark

After all snow priorities have been addressed, the Town crew will remove excess snow from on-street parking areas on S. Main Street from the traffic circle to the Wells Fargo entrance and then work to clear snow along the sidewalks in the same area.

As VDOT is responsible for the maintenance of streets in Town of Amherst, the Town of Amherst and its employees and contractors shall not plow any street except as specifically authorized herein.

Per the Town Code, it is the duty of owners, occupants and persons in charge of premises within the Town to keep the sidewalks adjacent thereto free from accumulation of ice and snow.

However, in the event of extreme emergencies, the Mayor shall be empowered to declare an emergency for snow removal situations after overtime pay; contractor work; financial, material and personnel resource availability; and appropriateness have been considered. The emergency and extra work ordered shall be reported to the Town Council by the Mayor at the next Town Council meeting.