

Mayor J. Paul Kilgore, Jr. called a regular monthly meeting of the Amherst Town Council to order on December 9, 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, Michael Mozingo, and Kenneth Watts were present; Rachel Thompson was absent. Town Manager Jack Hobbs, Town Attorney Tom Berry, Police Chief Robert Kimbrel, Public Utilities Director Tom Fore and Finance Director Colan Davis were present.

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

Ms. Debra Habel from the Amherst County Habitat for Humanity organization came forward to discuss her agency's plans for a fundraiser that would be held on E. Court Street. Mr. Watts made a motion that was seconded by Mr. Mozingo and passed 4-0-1 to support the concept by reserving the venue for the tentative date of May 7, 2016 and agreeing to apply for VDOT permits. Messrs. Bumgarner, Higginbotham, Mozingo and Watts voted "Aye"; Mrs. Thompson was absent.

Mr. Bumgarner made a motion that was seconded by Mr. Watts and passed 4-0-1 to approve the minutes from the November 10, 2015 meeting. Messrs. Bumgarner, Higginbotham, Mozingo, and Watts voted "Aye"; Mrs. Thompson was absent.

Mayor Kilgore recognized a letter from the Town of Altavista expressing appreciation for assistance provided by Director of Public Utilities Tom Fore. On behalf of the Town Council, Mayor Kilgore thanked Mr. Fore for doing a good job of representing the Town Amherst.

After some discussion, on a motion by Mr. Bumgarner that was seconded by Mr. Mozingo and carried 4-0-1, the Town's investment program was amended and participation in the Local Government Investment Pool authorized. Messrs. Bumgarner, Higginbotham, Mozingo, and Watts voted "Aye"; Mrs. Thompson was absent. A copy of the updated policy is attached and made a part of these minutes.

After some discussion, on a motion by Mr. Bumgarner that was seconded by Mr. Mozingo and carried 4-0-1, an ordinance to amend the enforcement provisions of the meals tax collection ordinance was approved. Messrs. Bumgarner, Higginbotham, Mozingo, and Watts voted "Aye". A copy of the ordinance is attached and made a part of these minutes.

A request that the Town donate \$12,000 to the Amherst Fire Department was discussed. On a motion by Mr. Watts that was seconded by Mr. Mozingo and carried 4-0-1, the staff was directed to send \$10,500 to the Amherst Fire Department as outlined in the FY15/16 budget. Messrs. Bumgarner, Higginbotham, Mozingo, and Watts voted "Aye"; Mrs. Thompson was absent.

The Finance Director reported that the next step that needs to be taken toward resolving the business license tax collection problem is hiring additional qualified employees. It was understood that reports on this issue will be made until the problem has been resolved.

The councilors discussed the billboard rental that was originally approved in an effort to promote economic activity and agreed by consensus to not extend the lease.

Mr. Watts made a motion that was seconded by Mr. Mozingo and carried 4-0-1 to extend the utility availability fee waiver program authorized by resolution on February 11, 2015 through December 31, 2016. Messrs. Bumgarner, Higginbotham, Mozingo, and Watts voted "Aye"; Mrs. Thompson was absent.

The councilors discussed the Town's part-time employee pay philosophy.

The Town Manager gave a report on the Town's work plan for calendar year 2016 and presented a draft Town meeting calendar, a FY17 budget timetable that staff plans to follow and oral reports on projects currently underway.

Mr. Bumgarner made a motion that was seconded by Mr. Higginbotham to authorize the purchase of a replacement farm tractor from Phillips Equipment Corp. with a price not to exceed \$32,499. Messrs. Bumgarner, Higginbotham, Mozingo and Watts voted "Aye"; Mrs. Thompson was absent.

Mr. Bumgarner made the following motion which was seconded by Mr. Mozingo and carried 4-0-1: I move that the Town Council convene in closed session for to go into closed session for: (a) discussion, consideration, or interviews of prospective candidates for employment; assignment, appointment, promotion, performance, demotion, salaries, disciplining, or resignation per the exemption at §2.2-3711A.1 of the Code of Virginia, and (b) 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, Mozingo, and Watts voted "Aye"; Mrs. Thompson was absent.

Mr. Bumgarner made the following motion which was seconded by Mr. Mozingo and carried 4-0-1: I move 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. Messrs. Bumgarner, Higginbotham, Mozingo, and Watts voted "Aye" via the roll call method; Mrs. Thompson was absent.

There being no further business, Mr. Watts made a motion that was seconded by Mr. Mozingo and passed 4-0-1 to adjourn the meeting at 10:10 P.M. Messrs. Bumgarner, Higginbotham, Mozingo, and Watts voted "Aye"; Mrs. Thompson was absent.

J. Paul Kilgore, Jr.
Mayor

Attest: _____
Clerk of Council

Town of Amherst Investment Program
(An element of the Town of Amherst Bookkeeping Procedures Manual)
Amended December 9, 2015

2.10 Investment Program

2.10.1 Liquid Fund- It is the Town's policy to maintain a Liquid Fund of cash to cover all anticipated cash outflows for the next 60 days in a same day-available bank account or accounts. Liquid funds may include deposits in the Town's Local Government Investment Pool account.

2.10.2 Permanent Fund - Cash in an amount approximately equal to Permanent Fund amounts (per the fund balance policy) is invested in up to five-year certificates of deposit. The Permanent Fund cash is to be invested so that an approximately equal amount is "rolled over" for investment from year to year.

2.10.3 – Working Fund - A Working Fund composed of all cash not required for the Liquid Fund or the Permanent Fund monies are invested in the Local Government Investment Pool account or one-year certificates of deposit. The Working Fund cash invested in certificate of deposits is to be coordinated with the Town's projected cash flow needs.

2.10.4 Diversification – Monies will be distributed between banks with physical branches located inside the corporate limits of the Town of Amherst, a bank which has purchased bonded debt from the Town and the Local Government Investment Pool. Understanding that minimum deposit requirements, penalties for withdrawing monies on current certificates of deposit and other factors may justify deviation from this goal, to provide diversification in holdings the Treasurer will move money between accounts so that no more than a total of \$500,000 in Town cash is on deposit in any bank. This limit does not apply to the Local Government Investment Pool.

2.10.5 Responsibility - The Treasurer is responsible for managing the investment program for the maximum benefit of the Town, including estimation of funds available for investment, obtaining bids, and placing the monies in accounts. The Treasurer may redeem certificates of deposit for immediate needs or to take advantage of more favorable terms as the needs of the Town and investments offered change. All significant banking activity shall be reported to the Town Council.

AN ORDINANCE TO AMEND THE CODE OF THE TOWN OF AMHERST BY AMENDING CHAPTER 8.1, RELATING TO COLLECTION OF TAXES IN GENERAL AND ENFORCEMENT OF THE MEALS AND BEVERAGE TAX.

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

1. That Sec. 8.1-3 of the Code of the Town of Amherst is hereby amended to read as follows:

Sec. 8.1-3. Delinquent taxes; interest; penalty.

- (a) In accordance with the Code of Virginia, § 58.1-3916, it is deemed to be necessary that payment of interest and penalty on delinquent taxes be provided for.
- (b) Unless otherwise specified in this ordinance, interest on taxes paid after the due date for any tax shall be assessed at the rate of ten (10) percent per annum of the tax past due. Interest shall commence one month after the tax is due.
- (c) Unless otherwise specified in this ordinance, a penalty on taxes paid after the due date shall be assessed at the rate of ten (10) percent of the tax past due.
- (d) Any corporate, partnership or limited liability company officer who willfully fails to pay, collect, or truthfully account for and pay over any local admission, transient occupancy, food and beverage, or daily rental property tax administered by the Treasurer or willfully attempts in any manner to evade or defeat any such tax or the payment thereof, shall, in addition to other penalties provided by law, be liable for a penalty of the amount of the tax evaded or not paid, collected or accounted for and paid over, to be assessed and collected in the same manner as such taxes are assessed and collected.
- (e) The term "corporate, partnership or limited liability company officer" as used in this section means an officer or employee of a corporation, or a member, manager or employee of a limited liability company who, as such officer, employee, member or manager, is under a duty to perform on behalf of the corporation, partnership or limited liability company the act in respect of which the violation occurs and who (i) had actual knowledge of the failure or attempt as set forth herein and (ii) had authority to prevent such failure or attempt.

2. That Sec. 8.1-407 of the Code of the Town of Amherst is hereby amended to read as follows:

Sec. 8.1-407. Enforcement.

If any person shall fail or refuse to collect the tax imposed by the provisions of this article and to make monthly reports and remittances required by this article, the treasurer shall proceed in such manner as he may deem best to obtain the facts and information on which to base his estimate of the tax due. As soon as the treasurer procures such facts and information as he is able to obtain upon which to base the assessment of any tax payable by any person who shall fail or refuse to collect such tax and to make such report and remittance, he shall proceed to determine and assess against such person such tax and penalty and interest provided by this article, and shall notify such person by registered mail sent to his last known place of address of the amount of such tax and penalty and interest, and the total amount thereof shall be payable within ten (10) days from the date of mailing of such notice. The treasurer shall have the power to

examine such records for the purpose of administering and enforcing the provisions of this article.

3. That this Ordinance shall become effective on December 9, 2015.

This ordinance was adopted on December 9, 2015.

Mayor

ATTEST: _____
Clerk of Council