

Mayor D. Dwayne Tuggle called a regular monthly meeting of the Amherst Town Council to order August 14, 2019, at 7:00 P.M. in the Council Chambers of the Town Hall at 174 S. Main Street. It was noted that a quorum was present as follows:

P	D. Dwayne Tuggle	P	Kenneth G. Bunch
P	Rachel A. Carton	P	Sarah G. Ogden
P	Kenneth S. Watts	P	Sharon W. Turner

Also present were the following staff members:

Sara E. Carter	Town Manager	Gary Williams	Director of Plants
W. Thomas Berry	Town Attorney	Becky L. Cash	Lead Water Operator
Vicki K. Hunt	Clerk of Council	Charles Thompson	Utilities Maintenance Foreman
Tracie L. Wright	Office Manager	Gary P. Smith, Jr.	WWTP Operator
Robert A. Shiflett, II	Chief of Police	Fred W. Adams	WWTP Operator Apprentice

Recitation of the Pledge of Allegiance to the Flag was followed by an invocation by Charles Thompson.

Town Manager Carter gave a brief report on a lease of property by Atlantic Coast Pipeline, LLC for approximately 49 acres, generally known as Tax Map number 96-5-15, and located at the end of Brockman Park Drive for a period of two years with possible extensions.

Dominion Energy Services representatives were present to answer questions.

Mayor Tuggle opened a duly advertised public hearing at 7:05 PM on the request by Dominion Energy Services on behalf of Atlantic Coast Pipeline, LLC, that would, if approved, lease approximately 49 acres (Tax Map. No. 96-5-15) commonly referred to as Lot 15 Brockman Park Drive, Amherst, Virginia 24521, to Atlantic Coast Pipeline, LLC, for a period of two years, along with possible extensions, together with all improvements, rights, privileges, ingress and egress, and other easements appurtenant thereto, for the purposes of a contractor office, shop, equipment and materials storage yard and for such other related purposes Company may determine from time to time in the future.

Eleanor Amidon, 931 Tanbark Drive, Afton, Nelson County, VA 22920, came forward in opposition of the request by Dominion Services on behalf of Atlantic Pipeline, LLC, stating her resistance to the pipeline for 4-5 years and expressing concerns that the lease lets Dominion do whatever it wants leaving the Town with the cleanup, absolving them of any responsibility for any mess they make. She implored council, for the Town's sake, to have an attorney who is familiar with this type of law, to look over the lease before signing.

Barbara Pryor, 2464 Puppy Creek Road, Amherst, VA, came forward in opposition of the request by Dominion Services on behalf of Atlantic Pipeline, LLC, expressing concerns of its close proximity to Fairmont Nursing Home and pipeline workers are not known to be the safest workers in the world, and asked council to stand against Dominion's plan in the interest of fighting climate change.

There being no one else present who wished to speak on the matter, the public hearing closed at 7:13 PM.

Mrs. Turner made a motion that was seconded by Mr. Bunch to authorize Town Manager Carter to enter into an agreement with Atlantic Coast Pipeline, LLC, to lease to Atlantic Coast Pipeline, LLC, approximately 49 acres (Tax Map. No. 96-5-15) commonly referred to as Lot 15 Brockman Park Drive,

Amherst, Virginia 24521, for a period of two years, along with possible extensions, together with all improvements, rights, privileges, ingress and egress, and other easements appurtenant thereto, for the purposes of a contractor office, shop, equipment and materials storage yard and for such other related purposes Company may determine from time to time in the future, as recommended by staff.

After discussion, the motion carried 5-0 as follows:

D. Dwayne Tuggle		Kenneth G. Bunch	Aye
Rachel A. Carton	Aye	Sarah G. Ogden	Aye
Kenneth S. Watts	Aye	Sharon W. Turner	Aye

Mayor Tuggle recessed the meeting at 7:15 PM.

Mayor Tuggle reconvened the meeting at 7:21 PM. It was noted that a quorum was present as follows:

D. Dwayne Tuggle	Present	Kenneth G. Bunch	Present
Rachel A. Carton	Present	Sarah B. Ogden	Present
Kenneth S. Watts	Present	Sharon W. Turner	Present

Mayor D. Dwayne Tuggle took citizen comments in the order listed on the sign-in sheet as follows:

Ann Hubbard, 179 N. Main Street, Amherst, VA, came forward with a prepared statement which was read to council in support of a petition asking that council petition the General Assembly to amend the Town’s Charter. Mayor Tuggle asked that the petition be brought forth and given to the Clerk of Council. The full statement and petition are attached to these minutes.

Jason Eagle, 248 Grandview Drive, Amherst, VA, came forward to state that he has no problem in and of itself of the actions of council voting a member of council off, but that he now believes that the voters in the next election are an uninformed electorate because they have been given no reason as to why the member was “dismissed” and since she is on the ballot, why she should not be re-elected.

Barry Thompson, Waughs Ferry Road, Amherst, VA, came forward with a prepared statement which was read in part to council. Mayor Tuggle asked that the full statement be brought forth and given to the Clerk of Council, a copy of which is attached to these minutes.

Mayor Tuggle read a prepared statement concerning public misconception of illegality and/or unprecedented expulsion and violation of closed session under FOIA. A copy of the statement is attached and made a part of these minutes.

Mrs. Carton made a motion that was seconded by Mr. Watts to approve the minutes from the July 10, 2019, and August 7, 2019, meetings as presented. After discussion the motion carried 5-0 as follows:

D. Dwayne Tuggle		Kenneth G. Bunch	Aye
Rachel A. Carton	Aye	Sarah B. Ogden	Aye
Kenneth S. Watts	Aye	Sharon W. Turner	Aye

Mr. Bunch made a motion that was seconded by Mrs. Carton to appoint the following individual to the board and for the term listed below subject to his willingness to serve. After discussion, the motion carried 5-0 with Mmes. Carton, Ogden, Turner and Messrs. Watts and Bunch voting “Aye.”

<b>Board</b>	<b>Appointed</b>	<b>Term of Office</b>
Industrial Development Authority	Clifford Hart	8/14/19 - 6/30/23 (4 years)

Mr. Watts made a motion that was seconded by Mrs. Turner to recommend for reappointment the following individual to the board and for the term listed below subject to his willingness to continue serving. After discussion, the motion carried 4-0-1 with Mmes. Turner, Ogden, and Messrs. Watts and Bunch voting “Aye.” Mrs. Carton abstained.

<b>Board</b>	<b>Appointed</b>	<b>Term of Office</b>
Board of Zoning Appeals	Edward L. Carton	9-1-19 – 8-31-24 (5 years)

Mrs. Carton made a motion that was seconded by Ms. Ogden to hold a public hearing at its next meeting on September 11, 2019, on a proposed amendment to Section 20-75 and addition of Section 20-88 of Chapter 20, Article III of the Town Code referring to prohibited parking. The purpose of the amendment is an addition of prohibitive parking of commercial vehicles as defined and any trailer or semitrailer of any size except for a limited time, and to prohibit parking in any way that blocks any portion of a bicycle lane, as recommended by staff. After discussion, the motion carried 5-0 with Mmes. Carton, Ogden, Turner and Messrs. Watts and Bunch voting “Aye.”

Mrs. Turner made a motion that was seconded by Mrs. Ogden to publish the link of Town Manager Carter’s radio interview on Virginia Talk Radio Network WIOQ, August 7, 2019, within the body of these minutes. After discussion, the motion carried 4-1 as follows:

D. Dwayne Tuggle		Kenneth G. Bunch	Aye
Rachel A. Carton	Aye	Sarah B. Ogden	Aye
Kenneth S. Watts	Nay	Sharon W. Turner	Aye

The link to Town Manager Carter’s August 7, 2019, radio interview on Virginia Talk Radio Network WIOQ, is as follows: <https://player.fm/series/virginia-talk-radio-network/sara-carter>.

There being no one listed to speak on the citizen comment sign-in sheet, no comments were made.

There being no further business, the meeting adjourned until September 11, 2019, at 7:00 pm on motion by Mr. Bunch seconded by Mr. Watts at 7:52 PM. The motion carried 5-0 with Mmes. Carton, Ogden, Turner and Mr. Watts and Bunch voting “Aye.”

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D. Dwayne Tuggle  
Mayor

Attest: \_\_\_\_\_  
Clerk of Council

Hello! Thank you for having me.

My name is Ann Hubbard and I have lived in Amherst for over four years, and I have voted in every election since I moved here and I had always assumed that my vote mattered.

So imagine my surprise when I found out that my vote can be overturned by the actions of the town council, behind closed doors.

I do not blame the council; they acted under the rules currently in effect in the town charter to remove a duly-elected council member.

But I think even the council members would agree that is undemocratic, and that is why I and 71 signatories ask that the council petition the General Assembly of Virginia to amend the charter of the town to prevent such an occurrence in the future.

My suggestion would be that if a council member is thought to need removal, a recall election be held, with the reasons for the proposed removal stated, and that the voters be allowed to determine if the "crimes" of the council member warrant their removal.

As it is now, four people were able to overturn the will of 511 voters, and that's not how things should be in a democratic nation.

Here is a copy of the petition which I will give to you, signed by 71 in total, 56 of whom are residents of our town and nearby areas.

And if I may ask the room, would any more of you support this action?

Thank you for your attention.

To be delivered to Town Council of Amherst Virginia

UNDEMOCRATIC!

On Wednesday, July 10, in a session closed to the public, the Amherst Town Council voted 4-1 to remove a duly-elected member from the council. They have refused to answer inquiries about this, instead simply falling back on, "The action that was taken was properly performed," according to the town's charter. Please take note of this part--the town charter currently allows them to do this!

THIS IS UNDEMOCRATIC AND UNACCEPTABLE

The charter of our town should not permit a small group to override the will of the voters. I ask all residents of Amherst and interested parties to sign this petition for the purpose of DEMANDING the council petition the General Assembly to amend their charter to prevent this kind of undemocratic action in the future. Members of council should not be able to overturn the will of 511 voters. If they wish a member to be removed, they should be required to issue a recall petition, with the reasons for the removal request spelled out.

The council's next meeting is August 14 at 7 p.m.; it is open to the public. I will be attending this meeting for the express purpose of presenting this petition to the council. In addition to signing this petition, it would be wonderful if you could also attend the meeting to express your concern about the current charter.

I am just a regular resident of the town who, like many others, was stunned to learn that my vote didn't really matter.

August 14 - 7 p.m. Town Hall 174 S. Main Street Amherst Virginia

BE THERE TO STAND FOR DEMOCRACY!

Signers from the Town of Amherst and nearby areas. The date is the date they signed the petition. If signers made a comment on the petition, I have included it. These are their words, not mine:

- 1) Jonathan reed from Amherst, VA Aug 11, 2019
- 2) Elizabeth Massie from Amherst, VA Aug 10, 2019
- 3) Adrian Holmes from Amherst, VA Aug 9, 2019 "The public needs to be involved in the voting and decision making."
- 4) Jan Bradley from Amherst, VA Aug 9, 2019
- 5) John P Vrobel from Amherst, VA Aug 9, 2019
- 6) Michael Coates from Amherst, VA Aug 9, 2019
- 7) Kristen McGinn from Amherst, VA Aug 9, 2019
- 8) leonard d inge jr from madison heights, VA Aug 9, 2019
- 9) Jennifer Moore from Amherst, VA Aug 8, 2019 "Should never have removed her."

- 10) Carol Nassef from Amherst, VA Aug 8, 2019
- 11) Anne L Bailey from Amherst, VA Aug 8, 2019
- 12) Sherry Carton from Amherst, VA Aug 8, 2019
- 13) Joyce Rumburg from Amherst, VA Aug 8, 2019
- 14 & 15) Robert and Lisa Bouldin from Amherst, VA Aug 8, 2019 "We would like transparency from the elected council, as they govern at the will of the people they represent."
- 16) Dana Inge from Mad hghts, VA Aug 8, 2019
- 17) Grace Mattox from Amherst, VA Aug 7, 2019
- 18) Debbie from Madison Hts, VA Aug 7, 2019
- 19) Angela Cheatham from Monroe, VA Aug 7, 2019
- 20) Kay Wilkes from Lynchburg, VA Aug 7, 2019 "WE THE PEOPLE! We is the keyword!"
- 21 & 22) Terri Cash & Myrna Cash from Madison Heights, VA Aug 7, 2019
- 23) Amy Connelly from Amherst, VA Aug 7, 2019
- 24) Margie Watt from Madison Heights, VA Aug 7, 2019
- 25) Michael R Davis Jr from Schuyler, VA Aug 7, 2019
- 26) Megan Harris from Sweet briar, VA Aug 7, 2019
- 27) Patricia Morton from Appomattox, VA Aug 7, 2019 "I am not an Amherst resident, but nearby. This is undemocratic and needs changing."
- 28) Theodore Drewry from Amherst, VA Aug 7, 2019
- 29) Cheryl D. Scott from madison heights, VA Aug 7, 2019
- 30) Karen David from Amherst, VA Aug 7, 2019
- 31) Shannon Stevens from Amherst, VA Aug 7, 2019
- 32) Joseph Brown from Amherst, VA Aug 7, 2019
- 33) Carole Humphreys from Amherst, VA Aug 7, 2019
- 34) Jeremy Brown from Amherst, VA Aug 7, 2019

- 35) Elizabeth Healey from Amherst, VA Aug 7, 2019 "Follow the law. Nobody is above the law."
- 36) Carrie Brown from Amherst, VA Aug 7, 2019
- 37) Susanna Trefsgar from Amherst, VA Aug 7, 2019
- 38) Richard D Harper from Gladstone, VA Aug 6, 2019
- 39) Virginia W. Myers from Monroe, VA Aug 6, 2019
- 40) Brenda Dieppa from Amherst, VA Aug 6, 2019
- 41) Elizabeth Schupp from Amherst, VA Aug 6, 2019
- 42) Claudia Tucker from Amherst, VA Aug 6, 2019
- 43) Philip Komoroski from AMHERST, VA Aug 6, 2019 "This is how fascism starts!"
- 44) Aaron Temple from Amherst, VA Aug 6, 2019
- 45) Harold Willis from Amherst, VA Aug 6, 2019
- 46) Andy Dugger from Amherst, VA Aug 6, 2019
- 47) Michelle Dugger from Amherst, VA Aug 6, 2019
- 48) Deborah Tomlin from Amherst, VA Aug 3, 2019
- 49) Mary M. Nash from Amherst, VA Aug 2, 2019
- 50) Wendy Robertson from Amherst, VA Aug 2, 2019
  
- 51) Kimberly Druen Thompson from Amherst, VA Aug 1, 2019
- 52) DARLENE TUCKER from Amherst, VA Aug 1, 2019 "I am just a regular resident of the town who, like many others, was stunned to learn that my vote didn't really matter."
- 53) Joyce Hoffmann from Amherst, VA Aug 1, 2019 "Change the charter, don't let this happen again."
  
- 54) Kiran Reed from Amherst, VA Aug 1, 2019
- 55) Don Dieffenbach from Amherst, VA Aug 1, 2019
- 56) Ann E. Hubbard from Amherst, VA Aug 1, 2019

The following signers are from other areas of Virginia:

57) John Kemp Farlow II from Chesapeake, VA Aug 7, 2019 "Something just doesn't smell right."

58) Elmer Bonilla from Danville, VA Aug 7, 2019

59) Roy campbell from Danville, VA Aug 7, 2019 "If he has not committed a crime, they should not just be able to vote him out."

60) melanie ross from Danville, VA Aug 10, 2019 "outrageous!"

This last group of signers did not provide their location, or were signing from out of state.

61) Marylou Canipe Aug 13, 2019

62) Sherri Temple Aug 1, 2019

63) Judy Clarke Aug 1, 2019

65) Mary-Jane W. Puckett Aug 1, 2019 "I too have never heard of any elected official, even in a small town, being treated in this way!"

66) Carl Jackson Aug 7, 2019

67) Irving A. Smithers from Riverdale, GA Aug 7, 2019 "The Good Ol' Boy network of County Politics back home needs to be toppled.."

68) Joshua Harris Aug 7, 2019

69) Jessica Pruitt Aug 7, 2019

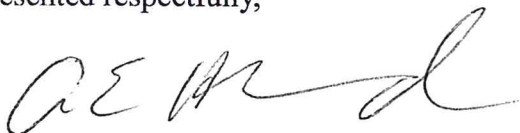
70) Whitney Aug 8, 2019

71) Mandy Whiting Aug 7, 2019

I certify that this is a true copy of the petition that appears at the hosting site, MoveOn.org

The original can be viewed at <https://petitions.moveon.org/sign/amherst-virginia-town>

Presented respectfully,

A handwritten signature in black ink, appearing to read 'Ann E. Hubbard', written in a cursive style.

Ann E. Hubbard of Amherst, Virginia



## Town Council Comments 08/14/2019

My name is Barry Thompson, and I live within the town limits at 287 Waugh's Ferry Road. I have a couple of issues on my mind other than your inappropriate removal of Janice Wheaton from Council.

First, I would like to share my thoughts regarding your decision to spend \$500,000 on a Police Station. It has barely been three years since moving into the current town hall which was supposed to accommodate the current and future needs of the Town. At that time the decision was made that the Police Dept. could be adequately accommodated in the new building. Otherwise that would have been the perfect time for them to occupy the old town hall. It was handicapped accessible and had a recently installed HVAC system and roof and could have been used as is to meet their needs. Mr. Watts, former Police Chief, was on council then and evidently said it wasn't needed. Instead the building was sold for \$120,000. Now Mr. Watts is saying it is needed, so here we are three years later, at an additional cost to the taxpayers of \$380,000.

I understand that Mr. Watts' son is a town policeman, and to me that creates a conflict of interest as a member of council. I realize that the police chief handles affairs of the Dept. but nothing gets done or appropriated without the approval of Council. I just don't see how Mr. Watts can participate in discussions regarding the Police Dept. and vote on budget or personnel issues without some degree of bias. There is opportunity here for nepotism.

Now what about the Town Park? Other than a zoning change, I don't believe there has been any type of Public Hearing regarding the need for a park. Nor, can I find anywhere that Council has had any feasibility discussions about a need for a park, and if so what will it provide. If you were going to have a park, you should have decided ahead of time what it would provide and then looked for a parcel that would satisfy those requirements. Instead, you bought a parcel without public input regarding the need as well as what it would provide. There is not much you can do with this isolated parcel in a flood plain which is at the end of a

single lane road that is not state maintained. This is not a case of where if you buy it, they will come. I think the only way they come is in your dreams. Let's not spend good money after bad. This would not have been a good deal even if it was donated, certainly not at a cost of \$35,000 before the cost of any necessary improvements and ongoing upkeep.

I think Council needs to be addressing the cost of water which is high compared to other localities, and is an expense that is affecting almost all town residents. The water system just doesn't have a large enough customer base to reasonably spread the cost of infrastructure upgrades in the rate structure. Rather than trying to recover all this cost through rates, Council should consider using other revenues to mitigate the rates. Nothing in the Town code prevents this. I think residents would vote for this use of their funds over spending more money on things such as an unwanted Town Park and an expensive Police Station.

The way you have been spending money is a reflection of the fact that you have not had to meet a payroll. If so, you might have been a bit more cautious. The Town is fortunate to have a high percentage of meals tax revenue providers which puts it in a positive cash position. Other than water, sewer, police and the support thereof, the Town really doesn't have required cash obligations, so don't be looking for ways to spend money just because you have it. Spend it because of a need, not a want.

As a parting thought, you ought to discuss merging the Police Dept. into the Sheriff's Dept. Appomattox is a bigger town than Amherst and they do not have a police dept. Their town has an arrangement with the Sheriff's Dept. that meets the protection requirements of the town with one law enforcement agency serving the county as a whole. I have heard this idea discussed by several in the town, and who knows, there might be a consensus on this. Let's find out.

Anyway, 2020 is the next election where the voters can hold three of you accountable for your past votes and how you vote on whether or not to change the Town Charter plus other issues that arise over the next year.

Remarks from the Mayor  
Town Council Meeting on August 14, 2019

Thank you all for coming tonight to speak to the Council. We are grateful for your participation and your attendance.

We have heard everything that was expressed this evening, and we want to Thank you for your feedback and your concern. The process of governance requires an active citizenry to work as it should. Your concern, attention and action are welcomed by the Council. We hope that you continue to attend and to voice your thoughts.

Please be assured that the Council has had, and will continue to have, nothing but the best interests of the citizenry and the Town. The actions that have been taken are legal and ethical and while we know that there are those who do not agree with them, they were in all ways, legal and ethical decisions.

I want to take a minute of personal privilege to dispel two particular misconceptions that have been repeated in public.

First, the expulsion, while unusual, is neither illegal nor unprecedented. In a 2014 State Attorney General Advisory Opinion to the Town of Haymarket – which along with several other Towns in the state has the same provision in their Charter- the AG notes that “a legislative body’s discipline of one of its members is a core legislative act” and this has been supported in multiple cases over time. Additionally, this same power is held by both the Virginia General Assembly and Congress. If you have any questions about this issue, I encourage you to read the entire opinion. It is comprehensive and clear.

Second, the closed session has been questioned as to whether it would be a violation of FOIA since a Council member is not an employee. The Virginia FOIA Council offers advisory opinions to governments and interested citizens regarding FOIA practices. In 2003, the FOIA Council rendered an opinion addressing this question regarding a School Board. In the opinion, they make the distinction clear that the determining factor for whether the exemption can be used is whether the body has the right to discipline the member. If the ‘public body retains some level of control over the individual whom it wishes to discuss,’ then the closed session may be used. Again, if you have questions about this, please read the full opinion. Staff will be happy to provide a link to anyone who is interested.

We know that there are citizens of the Town that are not happy with this decision, and that there are some that are not happy with us. We know that you want more information. The concern of Council about our obligation to maintain our Code of Ethics has put us in a problematic position in regard to satisfying the very real and reasonable desire for information. It has been a very hard road to walk for the last month. But at the end of every day, Council has stayed true to their commitment to handle this with the highest level of legal and ethical behavior. It would have been easier on Council’s part to say more. However, that would have been a violation of the Council’s Code of Ethics.

We ask for your patience, your grace, and your prayers for the Town.