

Mayor D. Dwayne Tuggle called a regular monthly meeting of the Amherst Town Council to order on August 12, 2020, at 7:00 P.M. in the Council Chambers of the Town Hall at 174 S. Main Street.

As a result of COVID-19 cautionary restrictions and limited space the below council members and staff met in person and electronically via virtual meeting in the event persons wishing to avoid attending could still address Council from home.

It was noted that a quorum was present as follows:

| | | | |
|---|------------------|---|-------------------|
| P | D. Dwayne Tuggle | P | Kenneth G. Bunch |
| P | Rachel A. Carton | P | Sarah B. Ogden |
| P | Kenneth S. Watts | P | Janice N. Wheaton |

Also present were the following staff members:

| | | | |
|------------------------|--------------------------|------------------------|---------------------|
| Kimball Payne | Interim Town Manager | Vicki K. Hunt | Clerk of Council |
| W. Thomas Berry | Town Attorney | Becky L. Cash (Remote) | Lead Water Operator |
| Tracie Morgan (Remote) | Office Manager/Treasurer | Bobby Shiflett | Chief of Police |

Recitation of the Pledge of Allegiance to the Flag was followed by an invocation by Sarah B. Ogden.

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

Ms. Ogden made a motion that was seconded by Mr. Watts to approve the minutes from the July 8, 2020, and July 29, 2020, meetings.

There being no discussion, the motion as to the July 8, 2020, minutes carried 4-1 via the roll call method as follows:

| | | | |
|------------------|-----|-------------------|---------|
| D. Dwayne Tuggle | | Kenneth G. Bunch | Aye |
| Rachel A. Carton | Aye | Sarah B. Ogden | Aye |
| Kenneth S. Watts | Aye | Janice N. Wheaton | Abstain |

There being no discussion, the motion as to the July 29, 2020, minutes carried 5-0 via the roll call method as follows:

| | | | |
|------------------|-----|-------------------|-----|
| D. Dwayne Tuggle | | Kenneth G. Bunch | Aye |
| Rachel A. Carton | Aye | Sarah B. Ogden | Aye |
| Kenneth S. Watts | Aye | Janice N. Wheaton | Aye |

After a report by Interim Town Manager Payne, Mr. Bunch made a motion that was seconded by Ms. Carton to adopt a resolution of the Town of Amherst Authorizing the Procedures for Electronic Public Meetings and Public Hearings to Ensure the Continuity of Government During the Covid-19 Pandemic Disaster and re-adopting the April 8, 2020, Emergency Ordinance to Effect Temporary Changes in Certain Deadlines and to Modify Public Meeting Hearing Practices and Procedures to Address Continuity of Operations Associated with Pandemic Disaster, as recommended by staff. After discussion, the motion 5-0 via the roll call method carried as follows:

| | | | |
|------------------|-----|-------------------|-----|
| D. Dwayne Tuggle | | Kenneth G. Bunch | Aye |
| Rachel A. Carton | Aye | Sarah B. Ogden | Aye |
| Kenneth S. Watts | Aye | Janice N. Wheaton | Aye |

A copy of the Resolution and Ordinance is attached to and made a part of these minutes.

Interim Town Manager Payne gave a report on reinstatement of water service cutoffs for delinquent accounts and recommendations by the Utilities Committee as follows:

- service cutoffs resume in September
- delinquent accounts be advised of the plan to renew cutoffs
- delinquent account holders be given an opportunity to participate in a repayment plan
- account holders shall bring their account current by the end of the calendar year, and
- there be no waiver of interest, penalties or fees

After discussion, upon recommendation from the Utility Committee and staff to reinstate water service cutoffs for delinquent accounts, Town Council voted 5-0 to approve reinstatement of water service cutoffs for delinquent accounts and plan via the roll call method, as follows:

| | | | |
|------------------|-----|-------------------|-----|
| D. Dwayne Tuggle | | Kenneth G. Bunch | Aye |
| Rachel A. Carton | Aye | Sarah B. Ogden | Aye |
| Kenneth S. Watts | Aye | Janice N. Wheaton | Aye |

By consensus of Council action on the proposed amendment to the Town's Comprehensive Plan to change the designated land use for Tax Map parcels 96-4-A and 96-1-1-7, totaling 76+/- acres from Planned Development-Residential to Agricultural to allow a request for a conservation easement by Dave McCormack, Owner, Lazy River LTD, that would, if approved by Town Council, allow land between the developed portion of the Mill Race subdivision and the Amherst Milling Company to be changed from planned development areas to conservation and would allow Mr. McCormick to complete a conservation easement process for the property was deferred to a future meeting with a date uncertain due to the current covid-19 crisis, as recommended by staff.

After a report by Interim Town Manager Payne, Ms. Carton made a motion which was seconded by Mr. Watts to accept payment of funds per the Federal CARES Act from the County of Amherst in the amount of \$190,633.00, and authorize execution of Certification of Coronavirus Relief Fund Payments by the Town of Amherst affirming the Town's responsibility for following guidance for the use of Federal CARES act funds and appropriate documentation, as recommended by staff.

After discussion, the motion via roll call method carried 5-0 as follows:

| | | | |
|------------------|-----|-------------------|-----|
| D. Dwayne Tuggle | | Kenneth G. Bunch | Aye |
| Rachel A. Carton | Aye | Sarah B. Ogden | Aye |
| Kenneth S. Watts | Aye | Janice N. Wheaton | Aye |

A copy of the Certification for Receipt of Coronavirus Relief Fund Payments by the Town of Amherst is attached hereto and made a part of these minutes.

The Finance Committee was directed to prepare a recommendation to present to Council after receiving plan for use of the Cares Act funds from staff.

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

There being no further business, the meeting adjourned until September 9, 2020, at 7:24 pm on motion by Mr. Bunch seconded by Ms. Ogden.

D. Dwayne Tuggle, Mayor

Attest: _____
Clerk of Council

RESOLUTION OF THE TOWN OF AMHERST

AUTHORIZING READOPTION OF EMERGENCY ORDINANCE TO EFFECTUATE TEMPORARY CHANGES IN CERTAIN DEADLINES AND TO MODIFY PUBLIC MEETING AND PUBLIC HEARING PRACTICES AND PROCEDURES TO ADDRESS CONTINUITY OF OPERATIONS ASSOCIATED WITH PANDEMIC DISASTER

WHEREAS, on the 8th day of April, 2020, the Town of Amherst adopted a Resolution Authorizing the Adoption of Procedures for Electronic Public Meetings and Public Hearings to Ensure the Continuity of Government During the Covid-19 Pandemic Disaster; and,

WHEREAS, on the 8th day of April, 2020, the Town of Amherst adopted an Emergency Ordinance to Effectuate Temporary Changes in Certain Deadlines and to Modify Public Meeting and Public Hearing Practices and Procedures to Address Continuity of Operations Associated with Pandemic Disaster which allows Council to address the need for emergency and electronic meetings during the crisis; and

WHEREAS, the April 8, 2020, Emergency Ordinance to Effectuate Temporary Changes in Certain Deadlines and to Modify Public Meeting and Public Hearing Practices and Procedures to Address Continuity of Operations Associated with Pandemic Disaster has expired; and

WHEREAS, the Town of Amherst finds that COVID-19 continues to constitute a substantial threat to public health and safety and constitutes a “disaster” as defined by Virginia Code §44-146.16 being a “communicable disease of public health threat;” and

NOW, THEREFORE BE IT RESOLVED that the Town of Amherst readopts and reaffirms the requirements and policies of the Emergency Ordinance to Effectuate Temporary Changes in Certain Deadlines and to Modify Public Meeting and Public Hearing Practices and Procedures to Address Continuity of Operations Associated with Pandemic Disaster, a copy of which is attached hereto; and,

BE IT FURTHER RESOLVED that this Resolution shall take effect immediately upon adoption and shall remain in effect during the pendency of the Emergency Ordinance including for any applicable period upon the re-adoption of the Emergency Ordinance by Town Council.

This Resolution was adopted by the Town Council of the Town of Amherst on August 12, 2020.

Mayor Dwayne Tuggle

Attest:

EMERGENCY ORDINANCE TO EFFECTUATE TEMPORARY CHANGES IN CERTAIN DEADLINES AND TO MODIFY PUBLIC MEETING AND PUBLIC HEARING PRACTICES AND PROCEDURES TO ADDRESS CONTINUITY OF OPERATIONS ASSOCIATED WITH PANDEMIC DISASTER.

WHEREAS, on March 12, 2020, Governor Ralph S. Northam issued Executive Order Fifty-One declaring a state of emergency for the Commonwealth of Virginia arising from the novel Coronavirus (COVID-19) pandemic; and

WHEREAS, Executive Order Fifty-One acknowledged the existence of a public health emergency which constitutes a disaster as defined by Virginia Code § 44-146.16 arising from the public health threat presented by a communicable disease anticipated to spread; and

WHEREAS, Executive Order Fifty-One ordered implementation of the Commonwealth of Virginia Emergency Operations Plan, activation of the Virginia Emergency Operations Center to provide assistance to local governments, and authorization for executive branch agencies to waive “any state requirement or regulation” as appropriate; and

WHEREAS, on March 13, 2020, the President of the United States declared a national emergency, beginning March 1, 2020, in response to the spread of COVID-19; and

WHEREAS, on March 11, 2020, the World Health Organization declared the COVID-19 outbreak a pandemic; and

WHEREAS, on March 23, 2020, the governing body of Amherst County, the Board of Supervisors, confirmed the declaration of local emergency made by the local director of emergency management; and

WHEREAS, the Board of Supervisors of Amherst County and the Town Council of the Town of Amherst finds that COVID-19 constitutes a real and substantial threat to public health and safety and constitutes a “disaster” as defined by Virginia Code §44-146.16 being a “communicable disease of public health threat;” and

WHEREAS, Virginia Code § 15.2-1413 provides that, notwithstanding any contrary provision of law, a locality may, by ordinance, provide a method to assure continuity of government in the event of a disaster for a period not to exceed six months; and

WHEREAS, Virginia Code § 44-146.21(C) further provides that a local director of emergency management or any member of a governing body in his absence may upon the declaration of a local emergency “proceed without regard to time-consuming procedures and formalities prescribed by law (except mandatory constitutional requirements) pertaining to performance of public work;” and

WHEREAS, Virginia Code § 2.2-3708.2(A)(3) allows, under certain procedural requirements including public notice and access, that members of Council may convene solely by electronic means “to address the emergency;” and

WHEREAS, the open public meeting requirements of the Virginia Freedom of Information Act (“FOIA”) are limited only by a properly claimed exemption provided under that Act or “any other statute;” and

WHEREAS, the Governor and Health Commissioner of the Commonwealth of Virginia and the President of the United States have recommended suspension of public gatherings of more than ten attendees; and

WHEREAS, The Attorney General of Virginia issued an opinion dated March 20, 2020 stating that localities have the authority during disasters to adopt ordinances to ensure the continuity of government; and

WHEREAS, this emergency ordinance in response to the disaster caused by the COVID-19 pandemic promotes public health, safety and welfare and is consistent with the law of the Commonwealth of Virginia, the Constitution of Virginia and the Constitution of the United States of America.

NOW, THEREFORE, BE IT ORDAINED by the Town Council of the Town of Amherst, Virginia:

1. That the COVID-19 pandemic makes it unsafe to assemble in one location a quorum for public bodies including the Town Council, the Planning Commission, Board of Zoning Appeals, Industrial Development Authority, and all local and regional boards, commissions, committees and authorities created by the Council or to which the Council appoints all or a portion of its members (collectively “Public Entities” and individually “Public Entity”), or for such Public Entities to conduct meetings in accordance with normal practices and procedures.
2. That in accordance with Virginia Code § 15.2-1413, and notwithstanding any contrary provision of law, general or special, the following emergency procedures are adopted to ensure the continuity of government during this emergency and disaster:
 - a. Any meeting or activities which require the physical presence of members of the Public Entities may be held through real time electronic means (including audio, telephonic, video or other practical electronic medium) without a quorum physically present in one location; and
 - b. Prior to holding any such electronic meeting, the Public Entity shall provide public notice of at least 3 days in advance of the electronic meeting identifying how the public may participate or otherwise offer comment; and
 - c. Any such electronic meeting of Public Entities shall state on its agenda and at the beginning of such meeting that it is being held pursuant to and in compliance with this Ordinance; identify Public Entity members physically and/or electronically present; identify the persons responsible for receiving public comment; and identify notice of the opportunities for the public to access and participate in such electronic meeting; and
 - d. Any such electronic meeting of the Public Entities shall be open to electronic participation by the public and closed to in-person participation by the public; and
 - e. For any matters requiring a public hearing, public comment may be solicited by electronic means in advance and shall also be solicited through telephonic or other electronic means

during the course of the electronic meeting. All such public comments will be provided to members of the Public Entity at or before the electronic meeting and made part of the record for such meeting; and

- f. The minutes of all electronic meeting shall conform to the requirements of law, identify how the meeting was conducted, members participating, and specify what actions were taken at the meeting. The Public Entities may approve minutes of an electronic meeting at a subsequent electronic meeting and shall later approve all such minutes at a regular or special meeting after the emergency and disaster has ended.

IT IS FURTHER ORDAINED that notwithstanding any provision of law, regulation or policy to the contrary, any deadlines requiring action by a Public Entity, its officers (including Constitutional Officers) and employees of its organization shall be suspended during this emergency and disaster, however, the Public Entities, officers and employees thereof are encouraged to take such action as is practical and appropriate to meet those deadlines. Failure to meet any such deadlines shall not constitute a default, violation, approval, recommendation or otherwise.

IT IS FURTHER ORDAINED, that non-emergency public hearings and action items of Public Entities may be postponed to a date certain provided that public notice is given so that the public are aware of how and when to present their views.

IT IS FURTHER ORDAINED, that the provisions of this Emergency Ordinance shall remain in full force and effect for a period of 60 days, unless amended, rescinded or readopted by the Council in conformity with the notice provisions set forth in Virginia Code §15.2-1427 but in no event shall such ordinance be effective for more than 6 months. Upon rescission by the Council or automatic expiration as described herein, this emergency ordinance shall terminate and normal practices and procedures of government shall resume.

Nothing in this Emergency Ordinance shall prohibit Public Entities from holding in-person public meetings provided that public health and safety measures as well as social distancing are taken into consideration.

An emergency is deemed to exist, and this ordinance shall be effective upon its adoption.

ADOPTED by the Town of Amherst April 8, 2020 .

Readopted: August 12, 2020.

APPROVED

ATTEST:

APPROVED AS TO FORM:

FOR APPROVAL

**CERTIFICATION FOR RECEIPT OF
CORONAVIRUS RELIEF FUND PAYMENTS**

By

The Town of Amherst

We the undersigned represent the Town of Amherst (the Town), and we acknowledge that:

1. We have the authority to request direct payment on behalf of the Town from the County of Amherst (the “County”) of revenues from the Coronavirus Relief Fund (CRF) pursuant to section 601 of the Social Security Act, as added by section 5001 of the Coronavirus Aid, Relief, and Economic Security Act, Pub. L. No. 116-136, div. A, Title V (March 27, 2020).
2. We understand that the County will rely on this certification as a material representation in making a direct payment to the Town in the amount of \$190,633.
3. The Town's proposed uses of the funds received as direct payment from the County pursuant to section 601 of the Social Security Act will be used only to cover those costs that:
 - a. Are necessary expenditures incurred due to the public health emergency with respect to the Coronavirus Disease 2019 (COVID-19);
 - b. Were not accounted for in the budget most recently approved as of March 27, 2020, for the Town; and
 - c. Were or will be incurred during the period that begins on March 1, 2020, and ends on December 30, 2020.
4. Any funds that are not expended or that will not be expended on necessary expenditures on or before December 30, 2020, by the Town or its grantee(s), must be returned to the County no later than January 8, 2021, so that the County may return the unexpended funds to the Commonwealth of Virginia by January 29, 2020, and we understand that the Commonwealth of Virginia is entitled to invoke state aid intercept to recover any such unexpended funds that have not been returned to the Commonwealth within 30 days after December 30, 2020.
5. We understand that the Town will not receive continued funding beyond December 30, 2020, from any source to continue paying expenses or providing services that were initiated or previously supported from CRF funds prior to December 30, 2020.
6. Funds received as a direct payment from the County pursuant to this certification must adhere to official federal guidance issued or to be issued regarding what constitutes a necessary expenditure.¹
7. Any CRF funds expended by the Town or its grantee(s) in any manner that does not adhere to official federal guidance shall be returned to the County within 15 days so that the County may return these funds within 30 days of finding that a expenditure is disallowed, and that the Commonwealth of Virginia is entitled to invoke state aid intercept to recover any and all such funds that are not repaid within 30 days of a finding that the expenditure is disallowed.
8. As a condition of receiving the CRF funds pursuant to this certification, the Town shall retain documentation of all uses of the funds, including but not limited to payroll time records, invoices, and/or

¹ Official Guidance for the use of funds may be found at: <https://home.treasury.gov/system/files/136/Coronavirus-Relief-Fund-Guidance-for-State-Territorial-Local-and-Tribal-Governments.pdf>.

Answers to Frequently asked questions may be found at: <https://home.treasury.gov/system/files/136/Coronavirus-Relief-Fund-Frequently-Asked-Questions.pdf>.

sales receipts. Such documentation shall be provided to the County by close of business on September 1, 2020 and final documentation shall be provided no later than January 8, 2021, or upon request.

9. The Town must maintain proper accounting records to segregate these expenditures from those supported by other funding sources and that all such records will be subject to audit.
10. Any funds provided pursuant to this certification cannot be used as a revenue replacement for lower than expected revenue collections from taxes, fees, or any other revenue source.
11. Any CRF funds received pursuant to this certification will not be used for expenditures for which the Town has received funds from any other emergency COVID-19 supplemental funding (whether state, federal, or private in nature) for that same expense nor may CRF funds be used for purposes of matching other federal funds unless specifically authorized by federal statute, regulation, or guideline.
12. The Town will receive an equitable share of CRF funds received by the County from the Commonwealth of Virginia and that such grant shall be used by the Town solely for necessary expenditures incurred due to the public health emergency with respect to the Coronavirus Disease 2019 (COVID-19), as prescribed in this certification.
13. We acknowledge that the County is responsible for ensuring the Town's compliance with the documentation requirements of this certification, and for ensuring that the Town's use of the CRF funds meets the requirements set forth in this certification. Accordingly, we certify that the Town will comply, in a timely fashion, with all requests made by the County for the purpose of ensuring compliance with the requirements of this certification and Section 601 of the Social Security Act.

We certify that we have read the above certification and our statements contained herein are true and correct to the best of our knowledge.

| | | |
|---------------------|---------------------|---------------------|
| By: _____ | By: _____ | By: _____ |
| Signature: _____ | Signature: _____ | Signature: _____ |
| Title: _____ | Title: _____ | Title: _____ |
| Date: _____ | Date: _____ | Date: _____ |