

Mayor D. Dwayne Tuggle called a regular monthly meeting of the Amherst Town Council to order on September 9, 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	A	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
Sara Carter	Town Manager	Gary Williams (Remote)	Director of Plants
Tracie Morgan	Office Manager/Treasurer	Becky L. Cash (Remote)	Lead Water Operator
Bobby Shiflett	Chief of Police		

Recitation of the Pledge of Allegiance to the Flag was followed by an invocation by Kenneth S. Watts.

Interim Town Manager Payne gave a report on a proposed Uncodified 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 as Authorized by Virginia Code § 15.2-1413 and § 15.2-142, which would, if approved, allow Council to address the need for emergency and electronic meetings until the crisis subsides and the executive order is rescinded or expires, as recommended by staff. The ordinance had previously been adopted on an emergency basis and needed to be readopted within sixty days.

Mayor Tuggle opened a duly advertised public hearing at 7:05 p.m. on a proposed Uncodified 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 as Authorized by Virginia Code § 15.2-1413 and § 15.2-142, allowing Council to address the need for emergency and electronic meetings until the crisis subsides and the executive order is rescinded or expires, as recommended by staff.

There being no one listed to speak on the citizen public hearing comment sign-in sheet or otherwise, Mayor Tuggle closed the public hearing at 7:06 p.m.

Ms. Carton made a motion that was seconded by Mr. Bunch to adopt the Uncodified 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 as Authorized by Virginia Code § 15.2-1413 and § 15.2-142, as recommended by staff.

There being no discussion, the motion 4-0 via the roll call method carried as follows:

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

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

Interim Town Manager Payne gave a report on a proposed Ordinance Amending the FY20/21 Budget, that would, if adopted, reflect receipt of \$190,633.00 in additional CARES Act funding to be budgeted in the General Fund, Town Manager, Cares Act Expenses with expenditures controlled by future guidance from the state and federal governments and approval of Council; and \$13,797.00 from an insurance settlement related to a piece of equipment at the wastewater treatment plant to be budgeted in the Sewer Fund under Operations, as recommended by staff.

Mayor Tuggle opened a duly advertised public hearing at 7:08 p.m. on a proposed Ordinance Amending the FY20/21 Budget, and appropriating the funds, that would, if adopted, reflect receipt of \$190,633.00 in additional CARES Act funding budgeted in the General Fund, Town Manager, Cares Act Expenses, and \$13,797.00 from an insurance settlement budgeted in the Sewer Fund under Operations, as recommended by staff.

There being no one listed to speak on the citizen public hearing comment sign-in sheet or otherwise, Mayor Tuggle closed the public hearing at 7:09 p.m.

Mr. Watts made a motion that was seconded by Ms. Carton to adopt the proposed Ordinance Amending the FY20/21 Budget, and appropriating the funds, reflecting receipt of \$190,633.00 in additional CARES Act funding to be budgeted in the General Fund, Town Manager, Cares Act Expenses, and \$13,797.00 from an insurance settlement to be budgeted in the Sewer Fund under Operations, as recommended by staff.

There being no discussion, the motion 4-0 via the roll call method carried as follows:

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

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

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

Ms. Carton made a motion that was seconded by Mr. Bunch to approve the minutes from the August 12, 2020, meeting.

There being no discussion, the motion as to the August 12, 2020, minutes carried 4-0 via the roll call method as follows:

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

Finance Chairman Rachel Carton and Interim Town Manager Payne gave a report on the Finance Committee's review of the proposed use of the CARES Act funding and its recommendations to utilize remaining funds to cover police salaries during the pandemic through December 20, 2020, referred to as a "salary swap" freeing up resources in the General Fund to be used for COVID related expenses, FY21 budget restoration, and other uses including hazard pay and part-time salary support for Police Department, to improve audio visual in council chambers, possible HVAC upgrades, and an increase in the Contingency Fund for future needs.

After discussion, upon recommendation from the Finance Committee and staff, Town Council voted 4-0 to approve use of remaining CARES Act funding to cover police salaries during the pandemic through December 20, 2020, freeing up resources in the General Fund to be used for COVID related expenses, FY21 budget restoration, and other uses including hazard pay and part-time salary support for Police Department, improve audio visual in council chambers, possible HVAC upgrades, and increase in the Contingency Fund for future needs.

The vote via the roll call method was follows:

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

By consensus of Council, because no additional information had be received by the applicant, 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.

By consensus of Council a public hearing will be held at its next meeting on October 14, 2020, on a proposed amendment of the Town of Amherst Zoning Ordinance (Article IX. Special Provisions, Section 18.1-908.06 Signs).

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

At 7:32 P.M. Ms. Carton made a motion that was seconded by Mr. Watts as follows: I move that the Town Council go into closed session pursuant to §2.2-3711A.1 of the Code of Virginia as it relates to assignment, appointment, promotion, performance of specific public officers, appointees, or employees, specifically to discuss the potential for, timing and conditions of the Town Manager’s return to duty.

The motion carried 4-0 via the roll call method as follows:

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

Mayor Tuggle recessed the meeting at 7:33 PM.

Mayor Tuggle reconvened the meeting in closed session at 7:39 PM. It was noted that a quorum was present as follows:

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

At 8:04 P.M. Ms. Carton made the following motion: I move that the Town Council adjourn the closed session and enter open session and 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 carried 4-0 via the roll call method as follows:

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

Upon entering open session Mayor D. Dwayne Tuggle made the following statement concerning Town Manager, Sara E. Carter.

Ms. Carter has the full support and confidence of the Town staff and Town Council. We are anticipating her return to full duties and to be able to fulfill all of her job responsibilities or assignments on September 28th. Ms. Carter we are happy you are back.

There being no further business, the meeting adjourned until October 14, 2020, at 8:07 pm on motion by Ms. Carton, seconded by Mr. Bunch.

D. Dwayne Tuggle, Mayor

Attest: _____
Clerk of Council

UNCODIFIED 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 AS AUTHORIZED BY VIRGINIA CODE § 15.2-1413 AND § 15.2-1427

WHEREAS, on March 12, 2020, amended May 26, 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 Town 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 Town Council or to which the Town 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 in accordance with § 15.2-1413, for a period not to exceed 6 months after Executive Order Fifty-One declaring the emergency and disaster arising from the novel Coronavirus (COVID-19) is rescinded by the Commonwealth, or unless amended, rescinded or readopted by the Town Council in conformity with the notice provisions set forth in Virginia Code §15.2-1427. Upon rescission by the Town 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 ON SEPTEMBER 9, 2020.

APPROVED

D. Dwayne Tuggle, Mayor

ATTEST:

Clerk of Council

APPROVED AS TO FORM:

Town Attorney

AN ORDINANCE AMENDING THE [BUDGET](#) ESTABLISHED FOR THE TOWN OF AMHERST, VIRGINIA FOR THE FISCAL YEAR BEGINNING JULY 1, 2020 AND ENDING JUNE 30, 2021 MAKING REVENUE ESTIMATES AND APPROPRIATIONS FOR SAME.

BE IT ORDAINED BY THE COUNCIL OF THE TOWN OF AMHERST, VIRGINIA:

The Fiscal Year 2020/2021 Budget for the Town of Amherst, originally adopted June 10, 2020, is hereby amended to reflect the receipt of the following revenues: to the General Fund, \$190,633 in CARES Act funding from Amherst County to be budgeted for expenditure in the General Fund, Town Manager, Cares Act Expenses, and to the Sewer Fund, \$13,797 from an insurance settlement to be budgeted for expenditure in the Sewer Fund, Operations,

And furthermore, the same amounts are hereby appropriated for expenditure in the respective funds.

That the following projected sources and use of funds are hereby revised and approved as the FY21 Town of Amherst budget and approved appropriations for the respective funds.

Estimated Revenues

General Fund	\$1,284,731
Water Fund	\$1,239,536
Sewer Fund	\$936,420
Garbage Fund	\$141,298
IDA Fund	\$334,857

Estimated Expenditures

General Fund	\$1,284,731
Water Fund	\$1,239,536
- Operations	\$787,174
- Debt Service and Capital Projects	\$452,362
Sewer Fund	\$936,420
- Operations	\$650,840
- Debt Service and Reserve	\$285,580
Garbage Fund	\$141,298
IDA Fund	\$334,857

This Ordinance was passed by a vote of Amherst Town Council on September 9, 2020.

Mayor

Attest:

Clerk of Council