

Mayor D. Dwayne Tuggle called a regular monthly meeting of the Amherst Town Council to order on May 10, 2023, 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	Andra Higginbotham
A	Janice N. Wheaton	P	Michael Driskill
P	Sharon W. Turner	A	Douglas Thompson

Also present were the following staff members:

Sara E. McGuffin	Town Manager	Ryan Watts	Police Captain
Kelley Kemp	Town Attorney	Gary Williams	Director of Plants
Vicki K. Hunt	Clerk of Council	Becky Cash	Plants Operator
Tracie Morgan	Office Manager/Treasurer	Gary P. Smith, Jr.	Lead Wastewater Operator

Recitation of the Pledge of Allegiance to the Flag was followed by an invocation by Andra Higginbotham.

Master Deputy S.W. Martin, on behalf of the Amherst Sheriff’s Department, was present with a request to allow closure of East Court Street, Goodwin Street and Main Street (from Star Street to the traffic light) for the purpose of having a car show as part of their Project Life Saver program on September 9, 2023, from 12:00 p.m. to 5:00 p.m.

Ms. Wheaton made a motion that was seconded by Mr. Driskill to allow the requested street closures for the Amherst Sheriff’s Department Project Life Saver car show and provide necessary participation in the event by town staff.

After discussion, the motion carried 4-0 via the roll call method as follows:

D. Dwayne Tuggle		Andra Higginbotham	Aye
Janice N. Wheaton	Aye	Michael Driskill	Aye
Sharon Turner	Aye	Douglas Thompson	Absent

Ms. Wheaton made a motion that was seconded by Mr. Higginbotham to allow Mr. Thompson to participate in the meeting from a remote location due to a personal matter, specifically from London, England.

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

D. Dwayne Tuggle		Andra Higginbotham	Aye
Janice N. Wheaton	Aye	Michael Driskill	Aye
Sharon Turner	Aye	Douglas Thompson	Absent

Town Manager McGuffin gave a report on a proposed amendment to Chapter 10 (Nuisances) Article I (In General) Section 10-1 – Maintenance of Premises, that would, if approved, delete the authority and/or involvement of the Property Maintenance Board in matters related to property maintenance

giving all authority to the Town Manager, and would change the manner in which property owners receive notice. Staff recommended adoption of the ordinance following the hearing.

Mayor Tuggle opened a duly advertised public hearing at 7:07 P.M. on the proposed amendment to Chapter 10, Article I, Section 10-1 as presented by staff. There being no one present in person or otherwise who wished to speak on the matter, the public hearing closed at 7:08 P.M.

Mr. Thompson entered the meeting at 7:08 P.M.

Mr. Higginbotham made a motion that was seconded by Ms. Wheaton to approve the proposed amendment to Chapter 10 (Nuisances), Article I, (In General) Section 10-1, as presented by staff.

There being no discussion, the motion carried 5-0 via the roll call method as follows:

D. Dwayne Tuggle		Andra Higginbotham	Aye
Janice N. Wheaton	Aye	Michael Driskill	Aye
Sharon Turner	Aye	Douglas Thompson	Aye

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

Mayor Tuggle opened the floor to citizen comments.

Jason Ingram, resident of the Town of Amherst, came forward on behalf of the Amherst Recreation Center in support of its request for the Council’s consideration to allow Amherst Recreation Center an in-town water rate due to the Center’s non-profit status and benefits it provides to the community.

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

Ms. Turner made a motion that was seconded by Mr. Driskill to approve the consent agenda items consisting of minutes of the meetings held on April 12, 2023, and April 27, 2023, and the April 2023 check registry, as presented.

There being no discussion, the motion carried 4-0-1 via the roll call method as follows:

D. Dwayne Tuggle		Andra Higginbotham	Aye
Janice N. Wheaton	Abstain	Michael Driskill	Aye
Sharon Turner	Aye	Douglas Thompson	Aye

Town Manager McGuffin gave a report on adoption of a proposed amendment to the FY23 Utility Rate and Fee Policy to allow for an in town rate for community based nonprofits that are located out of town. At its meeting on April 14, 2021, council approved amendment to the town’s water policy to allow Town Manager authorization to allow out-of-town non-profit organizations that have a financial hardship and provide a community service to be billed at an in-town rate, on an annual basis. The provision was included in the 2021/2022 Utility Rate and Fee Policy but inadvertently left out of the 2022/2023 Utility Rate Fee Policy. Staff recommended the amendment to the current FY23 policy.

After discussion, Mr. Driskill made a motion that was seconded by Ms. Turner to amend the FY23 Utility Rate and Fee Policy to include that out-of-town non-profit organizations who can demonstrate an ability that the organization’s operation benefits the Town, can show non-profit status, and can provide proof of financial hardship, may make annual application for in-town water rates for review and recommendation by the Town Manager, as recommended by staff.

After discussion, the motion failed 1-4 via the roll call method as follows:

D. Dwayne Tuggle		Andra Higginbotham	Nay
Janice N. Wheaton	Nay	Michael Driskill	Aye
Sharon Turner	Nay	Douglas Thompson	Nay

Town Manager McGuffin gave a report on the revised policy for short term rentals in the Town. At its meeting on April 12, 2023, Council approved amendment of the zoning ordinance to allow for short term rental as a special use permit in the R-1 and R-2 districts along with the adoption of a short term rental policy. Council requested staff to put the policy in proper format stating the approved standard zoning conditions for short term rentals.

Mr. Higginbotham made a motion that was seconded by Mr. Driskill to approve the short term rental policy as presented by staff.

After discussion, the motion failed 3-2 via the roll call method as follows:

D. Dwayne Tuggle		Andra Higginbotham	Aye
Janice N. Wheaton	Nay	Michael Driskill	Aye
Sharon Turner	Nay	Douglas Thompson	Nay

Town Manager McGuffin gave a report on a proposal from W/W Associates for engineering work for a new SCADA system at the Wastewater Plant in the amount of \$60,000.00 for design and construction phase services and bidding assistance for equipment and installation.

Ms. Turner made a motion that was seconded by Ms. Wheaton to approve the proposal submitted by W/W Associates in the amount of \$60,000.00 for a new SCADA system at the Wastewater Plant.

There being no discussion, the motion carried 5-0 via the roll call method as follows:

D. Dwayne Tuggle		Andra Higginbotham	Aye
Janice N. Wheaton	Aye	Michael Driskill	Aye
Sharon Turner	Aye	Douglas Thompson	Aye

After a report by Town Manager McGuffin, Mr. Higginbotham made a motion that was seconded by Ms. Wheaton to set a public hearing at Council’s June 14, 2023, meeting on an Application for Special Use Permit submitted by Rutledge Development LLC which, if approved, would allow a temporary contractor storage yard on property owned by Rutledge Development LLC (Tax Map No. 96 A 22) located in the B-2 district at Route 60 and the railroad tracks (no address), as recommended by staff.

There being no discussion, the motion carried 5-0 via the roll call method as follows:

D. Dwayne Tuggle		Andra Higginbotham	Aye
Janice N. Wheaton	Aye	Michael Driskill	Aye
Sharon Turner	Aye	Douglas Thompson	Aye

After a report from Town Manager McGuffin, Ms. Turner made a motion that was seconded by Mr. Higginbotham to set a public hearing at Council’s July 12, 2023, meeting on an Application for Abandonment of Public Right-of-Way submitted by Mount Olive Baptist Church which, if approved, would abandon that portion of an alleyway between Mount Olive Road and West Court Street on the north side of and adjacent to Mount Olive Baptist Church, as recommended by staff.

There being no discussion, the motion carried 5-0 via the roll call method as follows:

D. Dwayne Tuggle		Andra Higginbotham	Aye
Janice N. Wheaton	Aye	Michael Driskill	Aye
Sharon Turner	Aye	Douglas Thompson	Aye

After a report by Town Manager McGuffin, Ms. Turner made a motion that was seconded by Mr. Driskill to set a public hearing at Council’s June 14, 2023, meeting to consider acceptance of property from The Meadows known as The Meadows, Section I, II, III, located at Route 1114 Cedar Street, Meadow Green Court and Meadow Lake Court, and to grant Virginia Department of Transportation (VDOT) an unrestricted right of way along the property that would, if approved, allow VDOT maintenance of the road, as recommended by staff.

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

D. Dwayne Tuggle		Andra Higginbotham	Aye
Janice N. Wheaton	Aye	Michael Driskill	Aye
Sharon Turner	Aye	Douglas Thompson	Aye

Ms. Turner made a motion that was seconded by Mr. Thompson to appoint the following individual to the following board for the term listed below.

<b>Board</b>	<b>Appointed</b>	<b>Term of Office</b>
Planning Commission	Veda Butcher	05-10-2023 – 11-09-2025

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

D. Dwayne Tuggle		Andra Higginbotham	Aye
Janice N. Wheaton	Aye	Michael Driskill	Aye
Sharon Turner	Aye	Douglas Thompson	Aye

Mayor Tuggle opened the floor to citizen comments.

Angela Sundaramurthy, resident of the Town of Amherst, came forward with various concerns related to sidewalks.

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

At 7:42 PM, Town Attorney Kemp read a resolution to authorize closed meeting, as follows:

WHEREAS, the Town Council of the Town of Amherst desires to discuss in Closed Meeting the following matter(s):

- Discussion, consideration, or interviews of prospective candidates for employment, assignment, appointment, promotion, performance, demotion, salaries, disciplining, or resignation of specific public officers, appointees, or employees of any public body concerning the Town Police Department, the Town Manager, and the Town Attorney.
- Consultation with legal counsel pertaining to actual or probable litigation, where such consultation in open meeting would adversely affect the negotiating or litigating posture of the public body concerning a zoning enforcement action.

WHEREAS, pursuant to: §2.2-3711 (A)(1) and (A)(7) of the Code of Virginia, such discussions may occur in Closed Meeting;

NOW, THEREFORE, BE IT RESOLVED that the Amherst Town Council does hereby authorize discussion of the aforesated matters in Closed Meeting.

After the reading, Ms. Wheaton made a motion that was seconded by Ms. Turner to approve the resolution and go into closed session.

The motion carried 5-0 via the roll call method as follows:

D. Dwayne Tuggle		Andra Higginbotham	Aye
Janice Wheaton	Aye	Michael Driskill	Aye
Sharon W. Turner	Aye	Douglas Thompson	Aye

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

At 7:47 PM, pursuant to the Resolution, Town Council convened in closed session.

At 8:25 PM the meeting reopened to the public.

Clerk of Council Hunt read the following closed session certification to Council:

Do you certify that to the best of your knowledge (i) only public business matters lawfully exempted from open meeting requirements under Title 2.2, Chapter 37 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?

Responses via the roll call method were as follows:

D. Dwayne Tuggle	Yes	Andra Higginbotham	Yes
Janice N. Wheaton	Yes	Michael Driskill	Yes
Sharon Turner	Yes	Douglas Thompson	Yes

There being no further business, on motion of Mr. Driskill seconded by Ms. Turner, the meeting adjourned at 8:26 P.M., until June 14, 2023, at 7:00 p.m.

The motion carried 5-0 as follows:

D. Dwayne Tuggle		Andra Higginbotham	Aye
Janice N. Wheaton	Aye	Michael Driskill	Aye
Sharon Turner	Aye	Douglas Thompson	Aye

\_\_\_\_\_  
D. Dwayne Tuggle, Mayor

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

**ORDINANCE #5-2023-10**

**AN ORDINANCE AMENDING THE PROVISIONS SET FORTH IN THE AMHERST TOWN CODE OF ORDINANCES TO AMEND CHAPTER 10 (NUISANCES) ARTICLE I (IN GENERAL) SEC. 10-1 – MAINTENANCE OF PREMISES. THIS AMENDMENT WILL DELETE THE AUTHORITY AND/OR INVOLVEMENT OF THE PROPERTY MAINTENANCE BOARD IN MATTERS RELATED TO PROPERTY MAINTENANCE GIVING ALL AUTHORITY TO THE TOWN MANAGER, AND WILL CHANGE THE MANNER IN WHICH PROPERTY OWNERS RECEIVE NOTICE.**

**WHEREAS**, Sections 15.2-1427 and 15.2-1433 of the Code of Virginia, 1950, as may be amended from time to time, enable a local governing body to adopt, amend, and codify ordinances or portions thereof; and

**WHEREAS**, this amendment will delete the authority and/or involvement of the Property Maintenance Board in matters related to property maintenance, giving that authority to the Town Manager only, and will change notice requirements to property owners.

**WHEREAS**, the proper advertisement and public hearing were conducted as required by law; and

**WHEREAS**, the full text of this amendment was available for public inspection in the Town Hall located at 174 S. Main Street, Amherst, Virginia 24521.

**NOW THEREFORE**, BE IT ORDAINED BY THE TOWN COUNCIL OF AMHERST that Section 10-1 of the Town of Amherst Code of Ordinances is amended and reenacted as follows:

**Sec. 10-1. Maintenance of premises.**

In order to promote the general welfare of the town and the safety, health, peace, good order, comfort, convenience and morale of its inhabitants, all owners, occupants and persons in charge of real property, including vacant lots, shall at all times maintain such premises in a clean and sanitary condition, free from stagnant water, weeds, filth, trash, garbage, refuse, litter, unsightly objects and other substances which might endanger the health or safety of other residents of the town.

(1) *Weeds.*

- a. *Definitions.* The following words, terms and phrases, when used in this subsection (1), shall have the meanings ascribed to them in this subsection, except where the context clearly indicates a different meaning:

*Neglected property* includes any property which contains weeds that violate the provisions of this section and whose owner/occupant has failed to cut the weeds after receiving notice from the town.

*Nuisance* means the doing of any act or the omission to perform any duty, or the permitting of any condition or thing to exist that endangers life or health, obstructs or interferes with the reasonable or comfortable use of public or private property, tends to depreciate the value of the property of others, or in any way renders other persons insecure in the life or the use of property. Wherever the term "nuisance" is used in this

section, it shall be deemed to mean a public nuisance.

*Owner* means and includes the owner or occupant of any parcel of real estate, including, but not limited to, any person in possession thereof having charge thereof as an executor, administrator, trustee, guardian or agent, and the beneficiary of any easement or right of use thereof.

*Person* includes individuals, corporations, partnerships and all other legal entities which may hold title to real or personal property.

*Premises* means a tract of real property with a building thereon and shall include its grounds and other appurtenances.

*Property* means both real property and personal property.

*Public nuisance* means a nuisance which is common to the public generally and which injures those citizens generally who may be so circumstanced as to come within its influence. A nuisance shall be deemed to be public if it is committed in such a place and in such a manner that the aggregation of private persons injured thereby is sufficiently great so as to constitute a public annoyance and inconvenience.

*Safety* means any situation that creates a health hazard, a personal or public safety hazard, or creates a need for expedited enforcement action due to the nature of the condition that constitutes more than a nuisance.

*Weeds* includes any plant, grass or other vegetation (herbaceous or woody) over 12 inches in height, excluding trees, ornamental shrubbery, vegetable and flower gardens purposefully planted and maintained by the property owner or occupant free of weed hazards or nuisances, cultivated crops, or undisturbed woodlands not otherwise in violation. The term "weeds" includes any plant, grass or other vegetation that is prohibited by state or federal law.

- b. *Prohibited growth.* It shall be unlawful for the owner or occupant of any property, either vacant or developed, situated in the town to allow weeds to reach a stage of growth to a height of 12 inches or more. Prohibited growth shall include weeds or grasses 12 inches in height or taller situated within 15 feet of any structure, or protruding beyond the boundaries of such property or which constitutes a health or safety hazard, or which is known to harbor nuisance wildlife as defined by Code of Virginia, § 29.1-100, which shall also include rats, or vermin, snakes, or poisonous or vicious animals. This subsection shall not apply to land zoned for or in active farming operation.
- c. *Violation.* Any owner or occupant coming under the provisions of this section who shall fail to cause weeds to be cut and/or removed from such property or premises within the time specified will be deemed to be in violation of this section.
- d. *Notice to cut and/or remove.* The owner or occupant of property situated in the town shall be, and is hereby, required to cut and/or remove all weeds. It shall be the duty of the town manager to serve notice on the owner to cause such grass, weeds, or other foreign growth to be cut and/or removed from the premises within 15 calendar days after notification. Only one written notice per growing season to the owner is required.
- e. *Service of notice; generally.* All notices to comply with the provisions of this section shall be served either by personal service, publication, posting or by certified mail, and



such procedures shall be deemed the equivalent of personal service. If the owner of any unoccupied lot or premises is not a resident of the town and does not have an agent in the town upon whom notice can be served, notice may be given by sending the same by certified mail to the last-known address of the nonresident owner. The last-known address of the owner shall be that shown on the current real estate tax assessment books or current real estate tax assessment records. Nonresident owners shall also have 15 calendar days to comply with said directive.

f. *Enforcement.*

1. The town manager shall be responsible for enforcing the provisions of this section. The town manager shall have the authority to delegate duties and powers to other appropriate agencies and individuals to assist in the enforcement of this section. Whenever the term "town manager" is used in this section, it includes all the agencies or individuals to which the town manager delegates enforcement powers, except where the context clearly indicates a different meaning.
2. The town manager shall have the authority, ~~whenever deemed appropriate~~ after notice is given to the owner, ~~and upon recommendation of the property maintenance board~~ to have such weeds or grasses on property or on such portions of the property as deemed appropriate cut and/or removed and to restrict their future growth by the town's agents or employees, in which event the costs and expenses thereof shall be chargeable to and paid by the owner of such property and may be collected by the town in the same manner as taxes and levies are collected, and all unpaid costs and expenses shall constitute a lien against such property. Any owner may avoid any liability to the town, provided abatement is completed prior to the initiation of the abatement process by the town's designated agent.

g. *Application for removal of weeds.*

1. Whenever any town resident or property owner believes that the provisions of this section are being violated, such person shall notify the town manager in writing ~~and the property maintenance board~~ and the town manager shall examine the condition of the property described in such notice. If the ~~property maintenance board~~ town manager determines that the provisions of this section are being violated, ~~the board will report the violation to the town manager for enforcement.~~ The owner/occupant of the offending property shall be given notice as provided in this section and shall be requested to remove the weeds from the property within 15 calendar days of the ~~delivery or mailing of the notice.~~ posted notice or the certified mailing of the notice.
2. If the owner of the property cannot be found within the town after a reasonable search, notice shall be sent by ~~registered~~ certified mail, return receipt requested, to the last-known address of the owner as provided in this section, and a copy of the notice shall be posted on the property in a conspicuous place and such procedures shall be deemed the equivalent of personal service.
3. If the owner/occupant of the property does not cut the weeds within 15 calendar days of the ~~delivery or mailing of the notice or within 15 calendar days of the posting of the notice~~ posted notice or the certified mailing of the notice, whichever period is greater, the town manager shall declare the property to be neglected property, and such designation shall remain in full force and effect until the owner

gives the town manager adequate assurances that the property will be properly maintained in regard to weeds in the future.

4. Once ~~the property maintenance investigation board~~ the town manager designates a parcel of property to be neglected property, the person or organization that is contracted by the town to abate such nuisances shall be authorized to go onto the property as an agent of the town at the owner's sole cost and expense to cut, remove and restrict the future growth of the offending weeds. The agent shall be responsible for taking all precautions necessary to cut, remove and restrict the growth of offending weeds in a safe and proper manner.
5. Neither the town nor its employees and officials shall be liable for any damages or injuries caused by cutting, removing or restricting the future growth of weeds from a neglected property and shall not be liable for any damages, injuries or expenses incurred by any agent or any other person in cutting, removing or restricting the future growth of weeds.
6. The provisions of this section shall not authorize an agent to enter onto property to remove trees or shrubbery either alive or dead unless the branches, limbs, or other parts of the trees or shrubbery extend or protrude onto private or public property in a manner which constitutes a danger to citizens or property or where the limbs or branches are likely to fall in such a manner as to endanger private citizens or property.

If the property maintenance investigation board determines that the trees or shrubbery constitute a danger or hindrance to the public, private citizens or private property, the agent may be authorized to cut and remove such trees and shrubbery that have been designated for removal by the property maintenance investigation board in accordance with the provisions of this section.

h. *Costs of expenses chargeable to owner.*

1. Cost and expenses incurred for abatement of nuisances shall be assessed upon the owner of the property. The assessment shall be collected by the town as taxes and levies are collected. Every charge authorized by this section with which the owner of any property shall have been assessed and which remains unpaid shall constitute a lien against such property. Included in every charge to the property owner in the abatement cost shall be an administrative service charge of 20 percent of the abatement cost and interest on any unpaid balance of the abatement cost accruing at a rate of ten percent per annum from the date of the assessment until paid.
2. With respect to all such accounts remaining unpaid 14 days after being assessed, a notice of the lien of the special assessment shall be prepared by the treasurer and recorded in the clerk's office of the circuit court. The treasurer may take any appropriate steps, including initiating court action, to enforce the lien to satisfy the special assessment.

(2) *Safety.*

- a. If a written complaint is made to the town manager regarding unsafe or unsanitary conditions existing upon a property, the town manager shall, as soon as practical, perform an inspection of the property. Under a finding by the town manager that a health, safety

or fire hazard exists on any premises, the town manager shall give written notice to the owner, occupant or person in charge of such premises to take such action as may be necessary to abate such violation within ten days or within such lesser period as may be provided in such notice, which may be served in any manner authorized by law for the service of process. For the purposes of this subsection, nuisance weeds alone, absent any condition which otherwise constitute a health, safety or fire hazard, are not considered a safety hazard. Protruding or dead trees as described in subsection (1)g.6 of this section may be considered a safety hazard.

- b. If any owner, occupant or person in charge of any premises to whom such notice is given as provided in subsection (2)a of this section fails to comply with such notice within the time therein specified, the town manager shall proceed to have done that which was directed in such notice to be done, and the expense so incurred shall be chargeable to and paid by the owner or occupant of the premises involved and may be collected by suit or motion or by distress sale, or by any other means by which taxes and levies are collected.

That this Ordinance shall be effective on May 10, 2023.

This ordinance was adopted on May 10, 2023.

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D. Dwayne Tuggle, Mayor

ATTEST:

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Clerk of Council

**TOWN COUNCIL OF THE TOWN OF AMHERST**

MOTION: Sharon Turner

Wednesday, May 10, 2023  
Regular Meeting

SECOND: Janice Wheaton

RE: AUTHORIZE CLOSED MEETING

WHEREAS, the Town Council of the Town of Amherst desires to discuss in Closed Meeting the following matter(s):

- Discussion, consideration, or interviews of prospective candidates for employment, assignment, appointment, promotion, performance, demotion, salaries, disciplining, or resignation of specific public officers, appointees, or employees of any public body concerning the Town Police Department, the Town Manager and the Town Attorney.
- Consultation with legal counsel pertaining to actual or probable litigation, where such consultation in open meeting would adversely affect the negotiating or litigating posture of the public body concerning a zoning enforcement action.

WHEREAS, pursuant to: §2.2-3711 (A)(1) and (A)(7) of the Code of Virginia, such discussions may occur in Closed Meeting;

NOW, THEREFORE, BE IT RESOLVED that the Amherst Town Council does hereby authorize discussion of the aforestated matters in Closed Meeting.

Adopted this 10<sup>th</sup> day of May 2023.

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D. Dwayne Tuggle, Mayor

ATTEST:

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Clerk of Council