

The regular meeting of the Amherst Town Council was held on February 14, 2007 at 7:00 P.M. in Council Chambers, Vice Mayor C. Manly Rucker, III presiding. Council Members present were: Bobby J. Bondurant; Jason D. Campbell; Haney Mottley; C. Manly Rucker, III and Harold Swisher. Mayor Bailey was absent.

Also present were Town Manager Jack Hobbs, Town Attorney W. Thomas Berry, Police Chief Kenneth Watts, Superintendent of Plants Thomas W. Fore and Office Manager Colan R. Davis.

Deacon Willie Diggs from Mt. Olive Baptist Church gave an invocation.

Mr. Campbell made a motion that was seconded by Mr. Bondurant to approve the agenda as presented. The motion passed 5-0. Messrs. Bondurant, Campbell, Mottley, Rucker and Swisher voted "Aye".

A duly advertised public hearing on revisions to the Zoning and Subdivision Ordinance, as recommended by the Planning Commission, was opened at 7:02 P.M.

Mr. Gary Jennings spoke on the setback requirement in the proposed Central Business District.

The public hearing was closed at 7:12 P.M.

Planning Commission Chairperson June Driskill gave a brief statement regarding the recommended setbacks for the Central Business District.

The Town Manager reported that Patrick and Catherine Dreher have petitioned for inclusion within the Town of Amherst so that they may be allowed to connect to the Town's municipal water system off Hangar Road. Mr. Mottley made a motion that was seconded by Mr. Swisher to accept the petition and permit the connection pursuant to Section 17-13 of the Town Code. The motion passed 5-0. Messrs. Bondurant, Campbell, Mottley, Rucker and Swisher voted "Aye".

Bill Gillespie, representing MRG Consulting, came forward to give a status report on the downtown revitalization study project.

Kevin Cash and Lewis Addison, on behalf of Centra Health, came forward to answer questions about the use of \$8,000,000 of the Town's annual allotment of \$10,000,000 in tax exempt financing. Mr. Swisher made a motion that was seconded by Mr. Mottley to adopt a resolution to grant the request as recommended by the IDA. The motion passed 4-0. Messrs. Bondurant, Mottley, Rucker and Swisher voted "Aye". Mr. Campbell voted "Nay". A copy of the resolution is attached and made a part of these minutes.

Mr. Swisher made a motion that was seconded by Mr. Mottley to approve the minutes of the January 10, 2007 Town Council meeting as previously submitted. The motion passed 5-0. Messrs. Bondurant, Campbell, Mottley, Rucker and Swisher voted "Aye".

The Town Manager reported that a petition regarding dilapidated buildings at 135 Gregory Street has been received. Mr. Mottley made a motion that was seconded by Mr. Campbell to refer the petition to the Property Maintenance Investigation Board for its

consideration and recommendation pursuant to Section 4-2.2 of the Town Code. The motion passed 5-0. Messrs. Bondurant, Campbell, Mottley, Rucker and Swisher voted "Aye".

A proposed policy on meals and beverage and lodging tax collection was discussed. Mr. Mottley made a motion that was seconded by Mr. Campbell to adopt the policy as presented. The motion passed 5-0. Messrs. Bondurant, Campbell, Mottley, Rucker and Swisher voted "Aye". A copy of the policy is attached and made a part of these minutes.

The Town Manager reported that the phasing of the S. Main Street sidewalk project has been approved by VDOT as requested per the October 26, 2006 meeting of the Town Council and that the next step is to authorize the engineering work. A proposal from the Town Engineer has been received, and authorization to execute a contract for the work is needed. Mr. Campbell made a motion that was seconded by Mr. Swisher to authorize the engineering work for the first portion of the project. The motion passed 5-0. Messrs. Bondurant, Campbell, Mottley, Rucker and Swisher voted "Aye".

By consensus, the Town Council approved Town of Amherst credit cards to be issued to Investigator Placer and Officer Tinnell.

The Town Manager gave a report on plans for the upcoming Amherst LIVE! season. Events are planned for April 27, June 8 and August 17 and a draft charter for the organization is being developed. Mr. Campbell made a motion that was seconded by Mr. Bondurant to authorize the closing of the streets from 3:00 PM to 9:00 PM on the dates indicated. The motion passed 5-0. Messrs. Bondurant, Campbell, Mottley, Rucker and Swisher voted "Aye".

Mr. Mottley made a motion that was seconded by Mr. Swisher to reconvene in a closed session for negotiating issues which are or would be subject to review by the Commission on Local Government pursuant to §15.2-2907D of the Code of Virginia, (1950), as amended.

After reconvening in open session, Mr. Mottley made a motion that was seconded by Mr. Bondurant that the Town Council certify that to the best of each councilors' knowledge that (i) only public business matters lawfully exempted from open meeting requirements under Title 2.2, Chapter 37 and 15.2-2907 of the Code of Virginia and (ii) only such public business matters as were identified in the motion by which the closed session were convened were heard, discussed or considered in the session. The motion passed 5-0. Messrs. Bondurant, Campbell, Mottley, Rucker and Swisher voted "Aye" on a roll call vote.

There being no further business to discuss, the meeting adjourned at 8:18 P.M.

C. Manly Rucker, III, Vice Mayor

Attest:

Clerk of Council

A RESOLUTION APPROVING CENTRA HEALTH, INC.'S USE OF \$8,000,000 OF THE TOWN OF AMHERST'S \$10,000,000 CY2007 ALLOTMENT OF BANK QUALIFIED CAPACITY.

The Industrial Development Authority of the Town of Amherst, Virginia ("Authority"), has considered the application and plan of finance of Centra Health, Inc., ("Centra"), requesting the issuance of the Authority's revenue bonds at one time or from time to time, in an amount not to exceed \$8,000,000 ("Bonds") to assist Centra in financing or refinancing the construction, renovation and equipping of various facilities ("Project"), including the construction and equipping of a regional cancer center located at 2216 Langhorne Road, Lynchburg, Virginia 24501 and the construction and equipping of an assisted living facility adjacent to the Summit Nursing Home, both of which are located in the City of Lynchburg, Virginia, all located or to be located on Centra property in the City of Lynchburg, Virginia, and held a public hearing on January 19, 2007. The Authority issues its bonds on behalf of the Town of Amherst, Virginia ("Town"). Centra and Authority have represented that the principal amount of the Bonds, to be issued on or before March 15, 2007 will not be greater than \$8,000,000.

Section 147(f) of the Internal Revenue Code of 1986, as amended (the "Code"), provides that the governmental unit having jurisdiction over the issuer of private activity bonds and over the area in which any facility financed with the proceeds of private activity bonds is located must approve the issuance of the bonds, which approval requires that a public hearing be held by the governmental unit or its appointee. Accordingly, the issuance of the Bonds must be approved by the Authority, the Town and the City of Lynchburg, Virginia ("City"). Section 147(f) of the Code further requires the approval of the highest elected governmental units in the Town and the City. The Town Council of the Town of Amherst, Virginia ("Town Council") constitutes the highest elected governmental unit of the Town, and the City Council of the City of Lynchburg, Virginia ("City Council") constitutes the highest elected governmental unit of the City.

Section 15.2-4905 of the Code of Virginia of 1950, as amended ("Virginia Code"), provides that if a locality has created an industrial development authority, no industrial development authority created by a second locality may finance a facility located in the first locality unless the governing body of such first locality concurs with the inducement resolution adopted by the industrial development authority created by the second locality.

The Authority has held a public hearing on the financing on January 19, 2007 and has recommended that the Town Council and City Council approve the plan of financing and the issuance of the Bonds.

A copy of the Authority's resolution approving the issuance of the Bonds pursuant to the plan of financing, subject to the terms to be agreed upon, a certificate of the public hearing and a Fiscal Impact Statement have been filed with the Town Council.

NOW, THEREFORE, BE IT RESOLVED BY THE TOWN COUNCIL OF THE TOWN OF AMHERST, VIRGINIA:

- 1.The Town Council approves the issuance of the Bonds by the Authority for the benefit of Centra, as required by Section 147(f) of the Code and Section 15.2-4906 of the Virginia Code, to permit the Authority to assist Centra in its plan of financing.
- 2.The approval of the plan of financing and the issuance of the Bonds do not constitute an endorsement to a prospective purchaser of the Bonds of the creditworthiness of the Project or Centra.

3. The Bonds shall provide that they shall not be deemed to constitute a debt or pledge of the faith or credit or taxing power of the Commonwealth of Virginia or any political subdivision thereof, including the Authority, the City and the Town, and neither the Authority nor any political subdivision of the Town or the City shall be obligated to pay the principal of, premium, if any, or interest on the Bonds or other costs incident thereto, except from the revenues and monies pledged therefor, and neither the faith and credit nor the taxing power of the Commonwealth of Virginia, or any political subdivision thereof including the Authority, the City and the Town, is pledged for the payment of principal or premium, if any, or interest on the Bonds or other costs incident thereto.
4. The Council designates the amount of the Bonds actually issued as "qualified tax-exempt obligations" eligible for the exception from the disallowance of the deduction of interest by financial institutions allocable to the cost of carrying the tax-exempt obligations in accordance with the provisions of Section 265(b)(3) of the Code. The Council does not reasonably anticipate having more than \$10,000,000 in qualified tax-exempt obligations during calendar year 2007, and the Council will not designate more than \$10,000,000 of qualified tax-exempt obligations pursuant to such Section 265(b)(3) in such year.
5. This resolution shall take effect immediately upon its adoption.

Adopted by the Town Council of the Town of Amherst, Virginia this 14th day of February, 2007.

Vice Mayor

ATTEST:

Clerk of Council

Town of Amherst
Meals and Beverage Tax and Lodging Tax Collection Policy
Approved February 14, 2007

This policy is intended to (a) supplement the provisions of §8.1-400 Meals and Beverage Tax and §8.1-500 Transient Occupancy Tax of the Town Code, (b) clarify the authority and responsibility of the Treasurer in the matter of collecting these taxes that are past due, and (c) instruct other Town employees and officers in the support of the Treasurer's collection efforts.

The Treasurer is authorized to institute policies to implement the provisions of the subject ordinances.

The Treasurer shall review the collection of the meal and beverage and lodging taxes immediately after the due date and issue a notice of past due (i.e. a lien letter) at the earliest practical date. It is expected that this should occur no more than 10 days after the due date.

The Treasurer is authorized to institute collection proceedings as he deems appropriate. Tactics which may be employed include, but are not limited to:

1. Imposing a lien on the operator's accounts at financial institutions
2. Imposing a lien on the operator's real estate, personal property or other assets
3. Appearing at the business and demanding immediate payment of amounts due. The time of the appearance shall be at the Treasurer's discretion. The amount taken from the till shall be the amount due the town or 100% of the contents of the till, whichever is less. The Treasurer shall immediately issue a receipt for the monies taken in this manner.
4. Imposing a warrant in debt
5. Reporting the business to the Virginia Alcoholic Beverage Control officials
6. Withholding a business license

The Town Police Department shall serve notices as directed by the Treasurer. A Town of Amherst police officer shall accompany the Treasurer during the "till tapping" procedure for security purposes.

The Town Attorney shall give collection matters priority and shall in all ways give immediate attention and fully support the Treasurer in collection matters.

The Treasurer shall report on these activities to the Town Council with a full accounting of the amounts more than 30 days past-due and the measures taken to collect the past-due amounts.