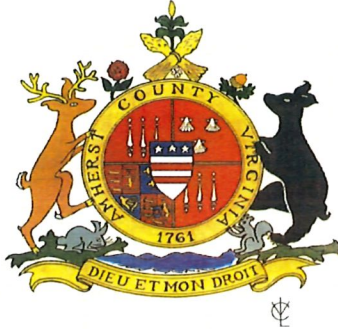


Board of Supervisors

Claudia D. Tucker, Chair
District 2
David W. Pugh, Jr., Vice-Chair
District 4
L. J. Ayers III, Supervisor
District 3
Kenneth M. Campbell, Supervisor
District 1
John A. Marks, Jr., Supervisor
District 5



County Administrator
Dean C. Rodgers

County Attorney
Ellen Bowyer

AMHERST COUNTY BOARD OF SUPERVISORS

MINUTES

May 2, 2017

Administration Building - 153 Washington Street - Public Meeting Room
1:00 p.m.

Informal Luncheon - 12:00 p.m.
Meeting Convened - 1:00 p.m.

- I. Call to Order**
- II. Invocation and Pledge of Allegiance**
- III. Approval of Agenda**
- IV. Citizen Comment**
- V. Consent Agenda**
 - A. Minutes - April 4, 2017
 - B. Finance - FY17 Appropriation of Revenue: 1) Sheriff's Office; 2) Circuit Court Clerk; 3) Public Works
 - C. Resolution 2017-0004-CR, commemorating and celebrating the service of Trenton ("Trent") Richie, Jr. to Amherst County.
- VI. Fiscal Year 2018 Budget Adoption**
 - A. Resolution 2017-0017-R - General Fund Budget
 - B. Resolution 2017-0018-R - Capital Improvement Plan
 - C. Resolution 2017-0019-R - School Budget
 - D. Resolution 2017-0020-R - Solid Waste Fund
 - E. Resolution 2017-0021-R - Tax Rates
- VII. New Business**
 - A. EDA as Agent for Winton Development
- VIII. County Administrator's Report**
 - A. Boards/Committees/Commissions - Building Appeals Board - appointment
 - B. Projects Status Report

IX. Liaison and Committee Reports

- A. Central Virginia Metropolitan Planning Organization - April 20, 2017
- B. Lynchburg Regional Business Alliance Executive Board - April 21, 2017

X. Departmental Reports

- A. Building Safety and Inspections - March 2017 Report
- B. Treasurer - March 2017 Report

XI. Citizen Comment

XII. Matters from Members of the Board of Supervisors

XIII. Closed Session

- A. Pursuant to § 2.2-3711(A)(7) of the Code of Virginia, to consult with legal counsel retained by a public body regarding specific legal matters requiring the provision of legal advice by such counsel.
- B. Pursuant to § 2.2-3711(A)(3) of the Code of Virginia, to discuss the disposition of publicly-held real property, where discussion in open session would adversely affect the County's bargaining position or negotiating strategy.
- C. Pursuant to § 2.2-3711(A)(7) of the Code of Virginia, to consult with the County Attorney regarding the litigation involving the Phelps Road School building.

XIV. Adjournment

MINUTES

At a regular meeting of the Board of Supervisors of Amherst County and held at the Administration building thereof on Tuesday, the 2nd day of May, 2017, at 7:00 p.m. at which the following members were present:

BOARD OF SUPERVISORS:

PRESENT:	Claudia D. Tucker, Chair David W. Pugh, Jr., Vice-Chair Kenneth M. Campbell, Supervisor L. J. Ayers, III, Supervisor John A. Marks, Jr., Supervisor	ABSENT: None
----------	---	--------------

STAFF PRESENT: County Administrator Dean C. Rodgers; Deputy County Administrator David R. Proffitt; County Attorney Ellen Bowyer; and Executive Administrative Assistant Regina Rice

OTHER PRESENT: EDA Director Victoria Hanson
Attorney H. (Sam) Darby of Glenn, Feldman, Darby & Goodlatte

I. Call to Order

Chair Tucker called the meeting to order at 1:00 p.m.

II. Invocation and Pledge of Allegiance

Supervisor Marks led the Invocation and Pledge of Allegiance.

III. Approval of Agenda

Supervisor Marks recommended moving Item A., VII. New Business, to a closed session. This item addresses guidance provided to the Board by the County Attorney and an outside source identified as privileged or confidential communication and that would be pertinent to this particular matter.

Supervisor Marks stated the County Attorney provided the Board guidance on the Board's relationship with Winton Country Club and that guidance should be a part of the discussion of the resolution. He stated he had no objection if the Board desired to waive its privilege to discuss this matter in open session; however, believed it should be discussed in a closed session regarding the Board's relationship with Winton, any comments by the Board, and the resolution.

Chair Tucker stated there was nothing the Board would be hearing from outside counsel that would require a closed session and this was confirmed by Attorney H. (Sam) Darby who was present.

Supervisor Marks asked if the Board would waive its privilege to the information the County Attorney has provided.

Chair Tucker advised that relationship would be ending and the issue before the Board is ready to be heard in an open session and made the recommendation. Chair Tucker further stated that if the County Attorney has information to speak on in a closed session, she would need to make that recommendation.

Ms. Bowyer advised the Board to strike the matter under Closed Session relating to disposition of county property and labeled as Item XIII. B.

By motion of Supervisor Campbell and with the following vote, the Board amended the Agenda for May 2, 2017 by striking Item XIII. B. under Closed Session.

AYE: Mrs. Tucker, Mr. Pugh, Mr. Ayers, Mr. Campbell
NAY: Mr. Marks
ABSTAIN: None

IV. Citizen Comment

There was no public comment.

V. Consent Agenda

A. Minutes - April 4, 2017

B. Finance - FY17 Appropriation of Revenue: 1) Sheriff's Office; 2) Circuit Court Clerk; 3) Public Works

C. Resolution 2017-0004-CR, commemorating and celebrating the service of Trenton ("Trent") Richie, Jr. to Amherst County.

By motion of Chair Tucker and with the following vote, the Board approved the Consent Agenda for May 2, 2017.

AYE: Mrs. Tucker, Mr. Pugh, Mr. Ayers, Mr. Campbell and Mr. Marks
NAY: None
ABSTAIN: None

VI. Fiscal Year 2018 Budget Adoption

A. Resolution 2017-0017-R - General Fund Budget

County Administrator Rodgers explained a public hearing was held on April 18, 2017 and no public comment for or against the proposed budget was received.

Mr. Rodgers stated the following five resolutions addressed the budget that the Board previously approved and required individual votes by the Board.

By motion of Chair Tucker and with the following vote, the Board adopted Resolution 2017-0017-R appropriating the General Fund Budget as part of the Amherst County Budget for Fiscal Year 2017-2018. **(See Attachment 1)**

Roll Call Vote

Supervisor Marks	Nay
Supervisor Campbell	Aye
Supervisor Ayers	Aye
Vice-Chair Pugh	Nay
Chair Tucker	Aye

B. Resolution 2017-0018-R - Capital Improvement Plan

By motion of Chair Tucker and with the following vote, the Board adopted Resolution 2017-0018-R for the Fiscal Year 2018-2022 Capital Improvement Plan and assigning fiscal year 2018 Capital Improvement Plan funds within the General Reserve Fund. **(See Attachment 2)**

Roll Call Vote

Supervisor Marks	Nay
Supervisor Campbell	Aye
Supervisor Ayers	Aye
Vice-Chair Pugh	Nay
Chair Tucker	Aye

C. Resolution 2017-0019-R - School Budget

By motion of Chair Tucker and with the following vote, the Board adopted Resolution 2017-0019-R appropriating the School Budget as part of the Amherst County Budget for Fiscal Year 2017-2018. **(See Attachment 3)**

Roll Call Vote

Supervisor Marks	Nay
Supervisor Campbell	Aye
Supervisor Ayers	Aye
Vice-Chair Pugh	Nay
Chair Tucker	Aye

D. Resolution 2017-0020-R - Solid Waste Fund

By motion of Chair Tucker and with the following vote, the Board adopted Resolution 2017-0020-R appropriating the Amherst County Solid Waste Budget as part of the Amherst County Budget for Fiscal Year 2017-2018. **(See Attachment 4)**

Roll Call Vote

Supervisor Marks	Aye
Supervisor Campbell	Aye
Supervisor Ayers	Aye
Vice-Chair Pugh	Aye
Chair Tucker	Aye

E. Resolution 2017-0021-R - Tax Rates

By motion of Chair Tucker and with the following vote, the Board adopted Resolution 2017-0021-R establishing County tax rates for Fiscal Year 2017-2018. (See Attachment 5)

Supervisor Marks	Aye
Supervisor Campbell	Aye
Supervisor Ayers	Aye
Vice-Chair Pugh	Aye
Chair Tucker	Aye

VII. New Business

A. EDA as Agent for Winton Development

County Administration Rodgers stated at the April 18, 2017 Board meeting, the Board requested a resolution be prepared using the motion made by Supervisor Ayers at that meeting. A resolution was crafted by outside counsel, Attorney H. Sam Darby and EDA Counsel Attorney Ted Cradock. The resolution accomplished what was proposed in Supervisor Ayers' motion.

Mr. Rodgers said he inserted language from Supervisors Ayers' motion to read, on page 2, section 1, "for a twenty-four (24) month period beginning the date of adoption of this Resolution."

Mr. Rodgers advised the resolution was sent to the Board previously, which he received no comments.

Supervisor Marks requested that one statement on page 2 of the resolution be changed to read "County Administrator" instead of "County Attorney".

Supervisor Marks questioned the language on page 1, second WHEREAS clause, ... "counsel and advisors have been uncertain about the alienability of the Property and whether or not it is bound or restricted by the terms of the gift or other trust doctrine or limitation";

Supervisor Marks stated that counsel has ruled on the facts that Winton was a restricted gift.

Mr. Rodgers said the advice that counsel has provided to the County has given us a variety of alternatives in terms of eliminating the property. He said the County would have to go to the Attorney General and the Circuit Court to determine the extent of the restrictions and, therefore, there is no certainty until going through all those final steps. Mr. Rodgers stated he believed that was an accurate statement.

Vice-Chair Pugh said he would like to see some of the legal guidance in this process be released so the public will know what the Board has been informed of. Vice-Chair Pugh said there is no question that Winton is a restricted gift and held in trust for the citizens of the County.

Supervisor Marks questioned on page 1, the third WHEREAS clause, that the "Corporation is economically untenable"..... He said that Winton has a new board that has aggressively gone out and made membership drives and presented actions to improve the status of Winton.

Supervisor Marks remarked that if this resolution is approved and the matter turned over to the EDA, he believed it appeared that the County was giving up on Winton.

Supervisor Marks asked Mr. Darby the question if Winton fails because the County has interfered with their business plans, was the County setting itself up for a lawsuit.

Mr. Darby's response was that he could not answer that question.

Chair Tucker said that Winton is in her district and she has talked with Board members of Winton and wants nothing but their success. She stated that having the EDA to assist is an effort and tool to market that property properly and to assist Winton's success.

Chair Tucker asked Supervisor Ayers to restate his motion with the noted amendments.

Supervisor Ayers requested an amendment to Resolution 2017-0023-R, page 2, section 1, to read "for a twenty-four (24) month period beginning the date of adoption of this Resolution."

Mr. Rodgers requested Supervisor Ayers to also amend page 2, section 5 to read, "The County Administrator does hereby hire the law firm of Glenn, Feldmann, Darby & Goodlatte and approve its engagement letter signed by the County Administrator....

By motion of Chair Tucker and with the following vote, the Board amended Resolution 2017-0023-R on page 2, section 1, by adding the following underlined language: The EDA take responsibility for a twenty-four (24) month period beginning the date of adoption of this Resolution...; and page 2, section 5, to read, "The County Administrator does hereby hire the law firm of Glenn, Feldmann, Darby & Goodlatte and approve its engagement letter signed by the County Administrator.... (See Attachment 6)

Roll Call Vote

Supervisor Marks	Nay
Supervisor Campbell	Aye
Supervisor Ayers	Aye
Vice-Chair Pugh	Nay
Chair Tucker	Aye

VIII. County Administrator's Report

A. Boards/Committees/Commissions - Building Appeals Board - appointment

Mr. Rodgers advised the Board is being asked to appoint a representative to the Building Appeals Board. Mr. John Maynard has requested to fill this vacancy.

Supervisor Campbell said he has worked with Mr. Maynard over the years and he would be an excellent representative.

By motion of Supervisor Campbell and with the following vote, the Board appointed John E. Maynard as the District 1 representative to the Building Appeals Board.

AYE:	Mrs. Tucker, Mr. Pugh, Mr. Ayers, Mr. Campbell and Mr. Marks
NAY:	None
ABSTAIN:	None

B. Projects Status Report

Mr. Rodgers reported that the only change to this report is the grant for design work for Riveredge Park has been approved.

IX. Liaison and Committee Reports

A. Central Virginia Metropolitan Planning Organization - April 20, 2017

B. Lynchburg Regional Business Alliance Executive Board - April 21, 2017

For Board information only.

X. Departmental Reports

A. Building Safety and Inspections - March 2017 Report

B. Treasurer - March 2017 Report

For Board information only.

XI. Citizen Comment

There was no public comment.

XII. Matters from Members of the Board of Supervisors

Supervisor Marks made a request to address the Board in response to Supervisors Ayers' comments at the April 18, 2017 meeting. Supervisor Marks stated he had questions to ask Supervisors Ayers as a result of his comments. Supervisor Marks requested his statement and Supervisors Ayers' comments be included in the official minutes of this meeting.

Supervisor Marks read his statement. **(See Attachment 7)**

Supervisor Ayers stated he would respond to the questions included in Supervisor Marks' statement:

- Supervisor Ayers stated he does not know if Runk & Pratt will seek to again purchase Winton; Supervisor Ayers said he recused himself concerning Runk & Pratt and Winton; and Supervisor Ayers stated he assumed Runk & Pratt will come back to discuss with the EDA.
- Supervisor Ayers responded regarding the April 10, 2017 memorandum and stated this came from members of County staff and they could release that memorandum if they so desire.
- Supervisor Ayers stated that if the County can find a viable use for that property other than selling it, he believes that is what should be done with the Winton property.
- Supervisor Ayers stated he cannot confirm the price.
- Supervisor Ayers commented on emails regarding Runk & Pratt and stated he could not control what hits his County email account; therefore, his email account was terminated and he used his personal email address instead.

Supervisor Marks made a request that the April 10, 2017 memorandum be released. He then made a motion that the Board of Supervisors waive its privilege to the April 10, 2017 memorandum from the County Attorney and outside counsel that Supervisor Ayers referred to in his comments of April 18, 2017. **(See Attachment 8)**

Roll Call Vote

Supervisor Marks	Aye
Supervisor Campbell	Aye
Supervisor Ayers	Aye
Vice-Chair Pugh	Aye
Chair Tucker	Aye

Supervisor Marks stated he did not believe Supervisor Ayers answered his question concerning his opinion regarding a selling price of the property for less than fair market value.

Chair Tucker stated that it would be ethically wrong for the County to make a profit on that gift. If the County can find a purchaser or developer to assist with this property to bring people to this County, allow retirees to stay there, allow the Winton Manor and the golf course to

flourish, she stated “yes” she would be willing to accept less than what that property is assessed at.

Supervisor Campbell had no matter to discuss.

Supervisor Ayers had no matter to discuss.

Vice-Chair Pugh commented on several issues regarding Winton concerning the fair market value, restriction of Winton and the issue of obtaining new legal counsel.

Vice-Chair Pugh made a request to revisit the issue that specific legal guidance be released to the public regarding Winton.

Chair Tucker stated she believes it would set a dangerous precedent to start releasing legal guidance and voiding that privilege on specific instances. Chair Tucker asked the County Attorney to opine.

County Attorney Bowyer advised that the Board, as the elected representatives of Amherst County, holds the privilege for the County. The Board’s decision to waive privilege with respect to one or more specific documents or items does not necessarily imply wholesale waiver.

Chair Tucker responded to Vice-Chair Pugh that she had no issue with his request and invited him to bring back to the Board a list of the documents that he wished to waive the Board's privilege.

Chair Tucker remarked that sometimes the legislative process is “messy” and the more transparent we are as a body, and the more citizens know, the better off everyone is.

Chair Tucker had no other matter to discuss.

XIII. Closed Session

A. Pursuant to § 2.2-3711(A)(7) of the Code of Virginia, to consult with legal counsel retained by a public body regarding specific legal matters requiring the provision of legal advice by such counsel.

~~B. Pursuant to § 2.2-3711(A)(3) of the Code of Virginia, to discuss the disposition of publicly held real property, where discussion in open session would adversely affect the County's bargaining position or negotiating strategy.~~

C. Pursuant to § 2.2-3711(A)(7) of the Code of Virginia, to consult with the County Attorney regarding the litigation involving the Phelps Road School building.

Supervisor Marks moved that the Amherst County Board of Supervisors convene in closed session pursuant to § 2.2-3711 (A)(7) of the Code of Virginia, to consult with legal counsel retained by a public body regarding specific legal matters requiring the provision of legal advice by such counsel; and § 2.2-3711 (A)(7) of the Code of Virginia, to consult with the County Attorney regarding the litigation involving the Phelps Road School building.

AYE: Mrs. Tucker, Mr. Pugh, Mr. Ayers. Mr. Campbell and Mr. Marks
NAY: None
ABSTAIN: None

Supervisor Marks motioned to come out of closed session and was approved with the following vote:

AYE: Mrs. Tucker, Mr. Pugh, Mr. Ayers. Mr. Campbell and Mr. Marks

NAY: None
ABSTAIN: None

CERTIFICATION OF CLOSED MEETING

Supervisor Marks moved that the Amherst County Service Authority Board certify by a recorded vote that, to the best of each Board member's knowledge, only public business matters lawfully exempted from the open meeting requirements of the Virginia Freedom of Information Act and identified in the motion authorizing the closed session were heard, discussed, or considered in the closed session.

Mrs. Tucker	AYE
Mr. Pugh	AYE
Mr. Ayers	AYE
Mr. Campbell	AYE
Mr. Marks	AYE

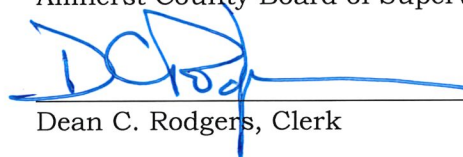
XIV. Adjournment

By motion of Supervisor Ayers and with the following vote, the Board adjourned at 2:25 p.m.

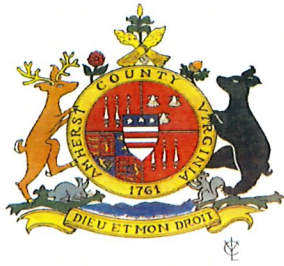
AYE: Mrs. Tucker, Mr. Pugh, Mr. Ayers, Mr. Campbell and Mr. Marks
NAY: None
ABSTAIN: None



Claudia D. Tucker, Chair
Amherst County Board of Supervisors



Dean C. Rodgers, Clerk



Meeting Date:

May 2, 2017

ATTACHMENTS



Amherst County Board of Supervisors
County Commemorative Resolution No. 2017-0004-CR

For consideration on May 2, 2017

A COMMEMORATIVE RESOLUTION, NO. 2017-0004-CR

Commemorating and celebrating the service of Trenton ("Trent") Richie Jr. to Amherst County.

Approved as to form by the County Attorney

BE IT RESOLVED BY THE BOARD OF SUPERVISORS OF THE COUNTY OF AMHERST, VIRGINIA:

I. That the Amherst County Board of Supervisors expresses its profound thanks to Trenton ("Trent") Richie Jr. for his dedicated and unstinting decades of service to Amherst County, as follows:

WHEREAS, Trenton Richie, Jr. retired from service with the Amherst Fire Department ("AFD") on April 13, 2017; and

WHEREAS, Chief Richie began his career in the public safety arena when he started working with the Babcock & Wilcox fire team in 1983; and

WHEREAS, Chief Richie began volunteering with AFD in 1990, serving as a firefighter as well as in various line officer positions during his career, and

WHEREAS, Chief Richie was first elected as AFD Chief in 2007, and served in that position intermittently for nine years, with his last year of being elected Chief beginning on January 1, 2016, and ending on December 31, 2016; and

WHEREAS, Chief Richie graduated with an Associate of Applied Science Degree in Fire Science from Central Virginia Community College in 1998; and

WHEREAS, Chief Richie was certified as an Adjunct Fire Instructor with the Virginia Department of Fire Programs, and as an Emergency Medical Technician by the Virginia Office of Emergency Medical Services; and

WHEREAS, Chief Richie instructed many firefighting students during his career, was instrumental in forming the Amherst County Fire Academy in 2014, and has supported the growth of the fire service by supporting and mentoring young people; and

WHEREAS, Chief Richie was a valuable member and Chairman of the Amherst County Emergency Services Council during his tenure as Chief, especially in his work assisting the development of the emergency services system for Amherst County; and

WHEREAS, during the course of the twenty-seven years that he served with AFD, Chief Richie has run innumerable calls at all hours of the night and day, and has witnessed tremendous changes in the requirements for training and equipment; and

WHEREAS, Chief Richie continuously sought out and enjoyed fire training and education for the insights they provided into problem-solving on site at a conflagration, and in developing strong skills in new firefighters; and

WHEREAS, Chief Richie has always supported the volunteers he led, including lobbying for them to receive incentives and other benefits from the County, seeking to obtain additional training and education for them, and modeling good leadership and fire-fighting practices; and

WHEREAS, Chief Richie also helped facilitate the relationships between the volunteers and County staff to help further development of more holistic and effective responses to crisis situations in the County; and

WHEREAS, Chief Richie is prepared to enjoy his well-earned retirement with his family; however, the County still hopes he may yet be willing to teach some fire safety classes, and thereby help impart to new volunteers his love for the County and his faithful commitment to public safety.

NOW THEREFORE, BE IT RESOLVED BY THE BOARD OF SUPERVISORS OF THE COUNTY OF AMHERST:

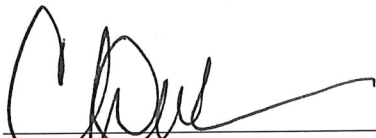
That the Amherst County Board of Supervisors hereby recognizes Trenton "Trent" Richie, Jr. as an admired longtime volunteer firefighter, and commends him for the exceptional service and dedication he has demonstrated to Amherst County and the Commonwealth of Virginia.

BE IT FURTHER RESOLVED:

That the Clerk of the Board of Supervisors is directed to prepare a copy of this Commemorative Resolution 2017-0004-CR for presentation to Chief Richie as an expression of the Board's appreciation for his generous dedication and commitment to the citizens of Amherst County in their most vulnerable moments of loss and desolation.


II. That this resolution shall be in force and effect upon adoption.

Adopted this 2nd day of May, 2017.



Claudia D. Tucker, Chair
Amherst County Board of Supervisors

ATTEST:



Dean Rodgers, Clerk
Amherst County Board of Supervisors

Ayes 5

Nays 0

Abstentions 0



Amherst County Board of Supervisors
County Resolution No. 2017-0017-R

For consideration on May 2, 2017

A RESOLUTION, NO. 2017-0017-R

A resolution, adopting and appropriating the General Fund Budget as a part of the Amherst County Budget for Fiscal Year 2017-2018.

Approved as to form by the County Attorney

BE IT RESOLVED BY THE BOARD OF SUPERVISORS OF THE COUNTY OF AMHERST, VIRGINIA:

I. That the Amherst County Board of Supervisors ("Board") adopts and appropriates the fiscal year 2017-2018 County General Fund budget with expenditures in the amount of \$41,095,298, as follows:

WHEREAS, the County Administrator has submitted to the Board a proposed annual budget for the County for fiscal year 2017-2018 ("County Budget"), beginning July 1, 2017; and

WHEREAS, the Board has reviewed the proposed County Budget and has been apprised of the availability of revenues to support the proposed expenditures; and

WHEREAS, it is necessary to adopt the County Budget and appropriate funds to support the requirements therein; and

WHEREAS, the Board held a public hearing, properly noticed in accordance with Virginia law, on the proposed fiscal year 2018 County Budget, on April 18, 2017; and

WHEREAS, the Board now intends to adopt as part of the County Budget the fiscal year 2017-2018 General Fund budget, and appropriate the funds therein on an annual basis and by department.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF SUPERVISORS OF THE COUNTY OF AMHERST, VIRGINIA:

That the Amherst County Board of Supervisors adopts the 2017-2018 County General Fund budget as the annual operating budget of Amherst County for fiscal year 2018, and said funds appropriated are as follows:

General Fund Revenue	FY 2018
REAL PROPERTY TAXES	\$ 14,200,000
PUBLIC SERVICE TAXES	760,000
PERSONAL PROPERTY TAXES	5,875,000
MACH & TOOL TAXES	2,100,000
MERCHANT'S CAPITAL TAXES	300,000
PENALTIES AND INTEREST	275,000
REAL ESTATE SALE FOREFITURES	
LOCAL SALES & USE TAXES	2,600,000
CONSUMER UTILITY TAXES	2,015,000
BUSINESS LICENSE TAXES	380,000
MOTOR VEHICLE LICENSES	725,000
BANK STOCK TAX	91,000
TAXES ON RECORDATION & WILLS	190,000
LODGING TAX	80,000
MEALS TAX	1,000,000
ANIMAL LICENSES	13,000
PERMITS, FEES & LICENSES	156,000
FINES & FORFEITURES	-
REIMBURSEMENT ACCOUNT	19,300
INTEREST ON BANK DEPOSITS	32,000
REVENUE FROM USE OF PROPERTY	87,947
CHARGES FOR SERVICES	1,384,677
MISCELLANEOUS REVENUE	126,700
RECOVERED COSTS	162,050
NON-CATEGORICAL AIDE	2,382,018
SHARED EXPENSES	2,520,000
WELFARE	1,100,000
STATE REIMB FOR CRIMINAL JURORS	8,000
OTHER CATEGORICAL AIDE	437,098
FEDERAL REVENUE	946,758
FEDERAL GRANT REVENUE	-
NON REVENUE RECEIPTS	-
RECOVERED REVENUE	17,500
USE OF UNASSIGNED FUND BALANCE	1,111,250
REVENUE TRANSFER ACCOUNT	-
TOTAL	\$ 41,095,298
General Fund Expenses	FY 2018
BOARD OF SUPERVISORS	199,346
COUNTY ADMINISTRATOR	265,828
HUMAN RESOURCES	86,930
COMISSIONER OF THE REVENUE	343,078
TREASURER	417,520
FINANCE	275,105

PURCHASING	179,703
INFORMATION TECHNOLOGY	360,078
ELECTORAL BOARD	83,850
REGISTRAR	115,918
CIRCUIT COURT	76,005
GENERAL DISTRICT COURT	13,968
MAGISTRATE	490
J&D COURT	17,480
CIRCUIT COURT CLERK	458,018
VJCCA	73,301
CRIMINAL JURORS	6,000
COMMONWEALTH ATTORNEY	577,249
COUNTY ATTORNEY	175,807
VICTIM WITNESS	116,581
SHERIFF	3,911,393
VOLUNTEER EMERGENCY SERVICE	303,644
VOLUNTEER RESCUE	224,064
EMS COUNCIL	279,442
EMERGENCY MEDICAL SERVICES	1,894,779
BUILDING SAFETY & INSPECTIONS	209,400
ANIMAL CONTROL	132,731
EMERGENCY SERVICES	473,670
COMMUNICATIONS/DISPATCH	843,313
ANIMAL SHELTER	155,485
OTHER PUBLIC SAFETY	146,500
BUILDING MAINTENANCE	318,377
UTILITIES	192,500
GROUNDS MAINTENANCE	251,681
BUILDING JANITORIAL SERVICES	80,840
WELFARE	2,170,766
PUBLIC ASSISTANCE	410,867
CSA	522,652
RECREATION	353,778
MUSEUM	52,818
LIBRARY	778,678
PLANNING	282,725
PLANNING COMMISSION	24,209
ZONING BOARD	3,160
COMMUNITY DEVELOPMENT PROJECTS	271,060
EDA BOARD	4,526
TOURISM	43,080
EXTENSION SERVICE	86,537
EXTERNAL PROVIDERS	2,482,207
NONDEPT/INTERNAL SERVICES	1,689,015
DEBT SERVICE	3,186,005
TRANSFERS	15,473,140
TOTAL	41,095,298

II. That this resolution shall be in force and effect upon adoption.

Adopted this 2nd day of May, 2017.



Claudia D. Tucker, Chair
Board of Supervisors of the County of Amherst, Virginia

ATTEST:



Dean C. Rodgers, Clerk
Board of Supervisors of the County of Amherst, Virginia

Ayes 3

Nays 2

Abstentions 0

ADOPTED

5 / 2 / 17



Amherst County Board of Supervisors
County Resolution No. 2017-0018-R

For consideration on May 2, 2017

A RESOLUTION, NO. 2017-0018-R

A resolution, adopting the Fiscal Year 2018-2022 Capital Improvement Plan and assigning fiscal year 2018 Capital Improvement Plan funds within the General Fund Reserve.

Approved as to form by the County Attorney

BE IT RESOLVED BY THE BOARD OF SUPERVISORS OF THE COUNTY OF AMHERST, VIRGINIA:

I. That the Amherst County Board of Supervisors ("Board") adopts the Fiscal Year 2018-2022 Capital Improvement Plan ("CIP") with expenditures in the amount of \$769,000, for fiscal year 2018, as follows:

WHEREAS, the County Administrator has submitted to the Board a proposed Fiscal Year 2018-2022 CIP for the County; and

WHEREAS, the Board has reviewed the proposed CIP and has been apprised of the availability of funds to support the proposed expenditures; and

WHEREAS, it is necessary to adopt the CIP and assign funds to support the requirements therein; and

WHEREAS, the Board held a public hearing, properly noticed in accordance with Virginia law, on the proposed Fiscal Year 2018-2022 CIP, on April 18, 2017; and

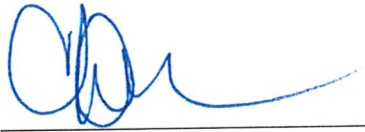
WHEREAS, the Board now intends to adopt the Fiscal Year 2018-2022 CIP, and assign funds for fiscal year 2018 CIP funds within the General Fund Reserve.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF SUPERVISORS OF THE COUNTY OF AMHERST, VIRGINIA:

That the Amherst County Board of Supervisors adopts the Fiscal Year 2018-2022 CIP and assigns funds for fiscal year 2018 CIP projects in the amount of \$769,000.

II. That this resolution shall be in force and effect upon adoption.

Adopted this 2nd day of May, 2017.



Claudia D. Tucker, Chair
Board of Supervisors of the County of Amherst, Virginia

ATTEST:



Dean C. Rodgers, Clerk
Board of Supervisors of the County of Amherst, Virginia

Ayes 3

Nays 2

Abstentions 0

ADOPTED

5 / 2 / 17



Amherst County Board of Supervisors
County Resolution No. 2017-0019-R

For consideration on May 2, 2017

A RESOLUTION, NO. 2017-0019-R

A resolution, adopting and appropriating the School Budget as a part of the Amherst County Budget for
Fiscal Year 2017-2018.

Approved as to form by the County Attorney

**BE IT RESOLVED BY THE BOARD OF SUPERVISORS OF THE COUNTY OF
AMHERST, VIRGINIA:**

I. That the Amherst County Board of Supervisors ("Board") adopts and appropriates the fiscal year 2017-2018 budget for Amherst County Schools with expenditures in the amount of \$47,006,670, of which \$44,792,036, is for the regular operating budget and \$2,214,634, in Child Nutrition, which expenditures are supported with \$4,108,334 in federal funds, \$26,912,611 in state funds, and \$15,985,725 in local funds, as follows:

WHEREAS, the County Administrator has submitted to the Amherst County Board of Supervisors a proposed annual budget for the County for fiscal year 2018 ("County Budget"), beginning July 1, 2017; and

WHEREAS, the County fiscal year 2018 budget includes funding to support Amherst County Schools ("School Budget"); and

WHEREAS, the School Superintendent presented the proposed School Budget on March 7, 2017, and the Board has reviewed the proposed School Budget and has been apprised of the availability of funds to support the proposed expenditures; and

WHEREAS, the Board held a public hearing, properly noticed in accordance with Virginia law, on the proposed fiscal year 2018 County Budget, on April 18, 2017; and

WHEREAS, it is necessary to adopt the School Budget and appropriate funds to support the requirements therein; and

WHEREAS, the Board now intends to adopt as part of the County Budget the fiscal year 2017-2018 School Budget and appropriate the funds therein on a lump sum basis by category.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF SUPERVISORS OF THE COUNTY OF AMHERST, VIRGINIA:

That the Amherst County Board of Supervisors adopts the fiscal year 2017-2018 School Budget with expenditures in the amount of \$47,006,670, of which \$44,792,036 is for the regular operating budget and \$2,214,634 in Child Nutrition, which expenditures are supported with \$4,108,334 in federal funds, \$26,912,611 in state funds, and \$15,985,725 in local funds.

BE IT FURTHER RESOLVED:

That the Amherst County Board of Supervisors appropriates the fiscal year 2017-2018 School Budget in the same categories and amounts as indicated above.

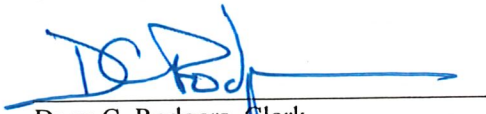
II. That this resolution shall be in force and effect upon adoption.

Adopted this 2nd day of May, 2017.



Claudia D. Tucker, Chair
Board of Supervisors of the County of Amherst, Virginia

ATTEST:



Dean C. Rodgers, Clerk
Board of Supervisors of the County of Amherst, Virginia

Ayes 3

Nays 2

Abstentions 0

ADOPTED

5 / 2 / 17



Amherst County Board of Supervisors
County Resolution No. 2017-0020-R

For consideration on May 2, 2017

A RESOLUTION, NO. 2017-0020-R

A resolution, adopting and appropriating the Amherst County Solid Waste Budget as a part of the Amherst County Budget for Fiscal Year 2017-2018.

Approved as to form by the County Attorney

BE IT RESOLVED BY THE BOARD OF SUPERVISORS OF THE COUNTY OF AMHERST, VIRGINIA:

I. That the Amherst County Board of Supervisors ("Board") adopts and appropriates the 2017-2018 County Solid Waste budget with expenditures in the amount of \$1,613,305, as follows:

WHEREAS, the County Administrator has submitted to the Amherst County Board of Supervisors a proposed annual budget for the County for fiscal year 2017-2018 ("County Budget"), beginning July 1, 2017; and

WHEREAS, the Board has reviewed the proposed County Budget and has been apprised of the availability of funds to support the proposed expenditures; and

WHEREAS, it is necessary to adopt the County Budget and appropriate funds to support the requirements therein; and

WHEREAS, the Board held a public hearing, properly noticed in accordance with Virginia law, on the proposed fiscal year 2018 County Budget, on April 18, 2017; and

WHEREAS, the Board now intends to adopt as part of the County Budget the fiscal year 2017-2018 Solid Waste budget, and appropriate the funds therein on a quarterly basis and by line.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF SUPERVISORS OF THE COUNTY OF AMHERST, VIRGINIA:

That the Amherst County Board of Supervisors adopts the 2017-2018 County Solid Waste budget as part of the County Budget and said funds are appropriated as follows:

Solid Waste Fund	FY 2018
Revenues	
User Fees	\$328,500
Recycling	10,000
Litter Grant	11,000
Transfer from General Fund	1,263,805
Total Revenues	1,613,305
Greenbox Container	530,791
Solid Waste Administration	138,045
Recycling	41,750
Landfill Operations	842,719
Closure	60,000
Total Expenditures	1,613,305

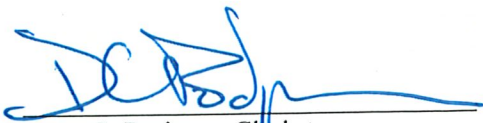
II. That this resolution shall be in force and effect upon adoption.

Adopted this 2nd day of May, 2017.



Claudia D. Tucker, Chair
Board of Supervisors of the County of Amherst, Virginia

ATTEST:



Dean C. Rodgers, Clerk
Board of Supervisors of the County of Amherst, Virginia

Ayes 5

Nays 0

Abstentions 0

ADOPTED

5 / 2 / 17



Amherst County Board of Supervisors
County Resolution No. 2017-0021-R

For consideration on May 2, 2017

A RESOLUTION, NO. 2017-0021-R

A resolution, establishing County tax rates for Fiscal Year 2017-2018.

Approved as to form by the County Attorney

BE IT RESOLVED BY THE BOARD OF SUPERVISORS OF THE COUNTY OF AMHERST, VIRGINIA:

I. That the Amherst County Board of Supervisors ("Board") establishes the tax rates for the 2017-2018 fiscal year, as follows:

WHEREAS, the County Administrator has submitted to the Amherst County Board of Supervisors a proposed annual budget for the County for fiscal year 2017-2018 ("County Budget"), beginning July 1, 2017; and

WHEREAS, the County Budget contains both estimated expenditures and projected revenues; and

WHEREAS, the County annually establishes applicable tax rates as part of development of the County Budget; and

WHEREAS, the Board has reviewed the proposed County Budget and has been apprised of the availability of funds to support the proposed expenditures; and

WHEREAS, the Board held a public hearing, properly noticed in accordance with Virginia law, on the proposed fiscal year 2018 County Budget, including the proposed tax rates, on April 18, 2017; and

WHEREAS, the Board now intends to adopt the fiscal year 2017-2018 General Fund budget and establish the tax rates for fiscal year 2017-2018.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF SUPERVISORS OF THE COUNTY OF AMHERST, VIRGINIA:

That the Amherst County Board of Supervisors establishes the fiscal year 2017-2018 tax rates as follows:

Real Estate	\$.61 per \$100 of assessed value.
Personal Property	\$3.45 per \$100 assessed value
Machinery & Tools	\$2.00 per \$100 assessed value
Merchants Capital	\$3.95 per \$100 assessed value

Consumer Utility
Electric

Residential	20% of the minimum monthly charge plus \$.015508 per kWh consumed not to exceed \$3.00 monthly
Commercial	20% of the minimum monthly charge plus \$.014214 per kWh consumed not to exceed \$20.00 monthly

Natural Gas

Residential	20% of the minimum monthly charge plus \$0.1867 per CCF consumed not to exceed \$3.00 monthly
Commercial	20% of the minimum monthly charge plus \$0.15566 per CCF consumed not to exceed \$20.00 monthly

Meals Tax	4%
Lodging Tax	5%

Motor Vehicle License Fee:

Auto	\$25.00
Motorcycle	\$11.00
Trailers	\$ 8.00

National Guard License Fee \$12.50

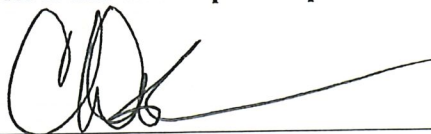
Consumer Communication Tax: 5% of monthly charge

BE IT FURTHER RESOLVED:

That such tax rates shall be applied and such charges assessed consistently and pursuant to Virginia law within the County, and that the revenues derived shall be appropriated by the Board in accordance with Virginia law.

II. That this resolution shall be in force and effect upon adoption.

Adopted this 2nd day of May, 2017.



Claudia D. Tucker, Chair
Board of Supervisors of the County of Amherst, Virginia

ATTEST:



Dean C. Rodgers, Clerk
Board of Supervisors of the County of Amherst, Virginia

Ayes 5

Nays 0

Abstentions 0

ADOPTED

5 / 2 / 17



Amherst County Board of Supervisors
County Resolution No. 2017-0023-R

For consideration on May 2, 2017

A RESOLUTION, NO. 2017-0023-R

A resolution, regarding best purposes for property now under lease to Winton Country Club and Golf Course, Inc.

Approved as to form by the County's Special Counsel

BE IT RESOLVED BY THE BOARD OF SUPERVISORS OF THE COUNTY OF AMHERST, VIRGINIA:

I. That the Board of Supervisors of Amherst County, Virginia, (the "County") having thoroughly reviewed the status of its property now under lease to Winton Country Club and Golf Course, Inc. (the "Property") and having thoroughly considered the needs of the County and the best purposes for the use of said Property, does hereby adopt the following Resolution:

WHEREAS, heretofore in 1967 the County accepted an anonymous gift of \$102,000 given for the purpose of purchasing the 286 acre farm identified by the donor (the "Property") to enable the County to lease the Property to Winton Country Club and Golf Course, Inc., a Virginia non-stock, non-profit corporation (the "Corporation") and to be used by said corporation to operate a country club and golf course available to the citizens of Amherst County, Virginia; and

WHEREAS, the County and its counsel and advisors have been uncertain about the alienability of the Property and whether or not it is bound or restricted by the terms of the gift or other trust doctrine or limitation; and

WHEREAS, it is apparent to all concerned that the continued operation of a country club and golf course by the Corporation is economically untenable given the reduced usage, diminished fees and revenues, and increasing debt; and

WHEREAS, the Board of Supervisors wishes to remove itself from the role of principal negotiator with potential buyers or developers of the Property and place the County's Economic Development Authority, respected for its business acumen and ability to pursue the best long term interests of the County, in the role of the County's agent with regard to the future of the Property; and

WHEREAS, the Economic Development Authority is already vested with the authority to negotiate with businesses or individuals and to provide certain economic incentives as it promotes economic development within the County; and

WHEREAS, the County has determined to ask the Economic Development Authority of Amherst County, Virginia (the "EDA"), to go forward and ascertain and determine the best use of the

Property, to the extent, if necessary, of bringing a *cy pres* or other court proceeding for a judicial determination of the alienability of the Property and the terms thereof; and

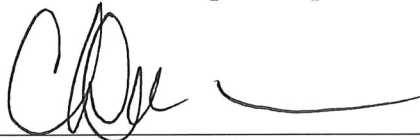
WHEREAS, the Board of Supervisors has sought and retained special counsel in the Roanoke, Virginia, law firm of Glenn, Feldmann, Darby & Goodlatte and, in particular, Harwell M. Darby, Jr. of said firm to represent the County and the EDA for such purposes.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF SUPERVISORS OF THE COUNTY OF AMHERST, VIRGINIA, THAT:

1. The EDA take responsibility for a twenty-four (24) month period beginning the date of adoption of this Resolution the task of discerning and negotiating an appropriate use, application, lease or conveyance of the Property; provided, however, that the EDA shall not have power or obligation to operate the Property as a business, other than as a lessor;
2. The County and/or the EDA, as appropriate, initiate such legal proceedings as shall be necessary and convenient to bring the matter before the appropriate court, notifying the Attorney General of Virginia and any other interested parties and stakeholders and, in particular, advertising the suit as required by law, and taking such further action as shall be necessary or convenient to determine the alienability of the Property and the terms upon which it can be leased or otherwise conveyed;
3. The EDA, with the County Administrator's assistance, proceed apace with negotiations with whatever developers or purchasers as may be interested in the Property;
4. The negotiation by the EDA of the disposition or other application of the Property be coordinated with the court proceeding so as to request the minimum possible revision of the original conditions of the gift, if any, and at the same time the maximum benefit to the County and to its citizens for the use and application of the Property; and
5. The County Administrator does hereby hire the law firm of Glenn, Feldmann, Darby & Goodlatte and approve of its engagement letter signed by the County Administrator on April 24, 2017, and does authorize and direct Glenn, Feldmann, Darby & Goodlatte, the County Administrator, the Economic Development Authority of Amherst County, Virginia, as well as County administrative staff to move forward as expeditiously and economically as possible to achieve and attain the ends this Resolution.

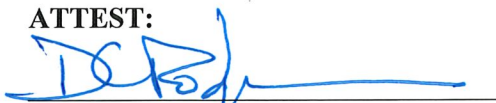
II. That this resolution shall be in force and effect upon adoption.

Adopted this 2nd day of May, 2017.



Claudia Tucker, Chair
Amherst County Board of Supervisors

ATTEST:



Dean C. Rodgers, Clerk
Amherst County Board of Supervisors

Ayes 3

Nays 2
2

Abstentions 0

MATTERS FROM MEMBERS OF THE BOARD

May 2nd, 2017

Madam Chair: I would like to address the Board in response to Mr. Ayers' comments at the April 18th, meeting of this Board, and I also have some questions for Mr. Ayers as a result of those comments.

I will provide Mrs. Rice an electronic copy of my comments and a hard copy of Mr. Ayers' April 18th, 2017 comments and request that they be included as part of the official minutes for this May 2nd, 2017 Board of Supervisors meeting.

On page one of Mr. Ayers comments he makes the statement "I have firsthand knowledge of how some of our surrounding localities work with businesses wishing to locate or sometimes being asked to locate in their respective jurisdictions. By comparison to these other localities, we are broken." I think it would be helpful if Mr. Ayers would provide some specifics to this statement. Currently the county provides \$400,000 to the Economic Development Authority (EDA) to handle such matters. Is he saying this is not working? If so I would be interested in what other recommendations he has. I would also like to remind people that new business opportunities are not abundant. If one will recall the report from the Lynchburg Regional Business Alliance several months ago indicated there were only nine inquiries received by this organization the past year. When asked if the nine were for Amherst County the response was the nine was for the entire region. I guess one can always look at the glass and ask is it half full or half empty. I would like to think the fact that one of the largest employers in the county is undertaking a 50 million dollar upgrade to their facility and

another large employer is advertising for workers indicates some faith in the county.

On page two of Mr. Ayers' comments he states "The decline of students in our school system only tells us that young families are leaving and perspective families are not choosing our community as their home." I believe that with a little research Mr. Ayers could have determined that this situation of declining enrollment is not unique to Amherst County. As a matter of fact the state has recognized this situation and localities are being compensated to adjust for the decline in student enrollment. I believe that for the past school year Amherst received in excess of \$200,000 per this plan. I would also point out that our neighbor to the west of us recently closed two elementary schools. I also would tend to disagree with the statement that this loss of students indicates families are leaving our community. I personally know of four families, including Mr. Ayers', that live in the county and send their children to private schools. This is certainly their right to utilize private schools , but they choose to remain in the county.

On page two Mr. Ayers states that Runk and Pratt's withdrawal allows him to be involved in discussions pertaining to the future of Winton. Is there any possibility that Runk and Pratt will again seek to become involved in Winton. If that happens at what point will Mr. Ayers recuse himself from Board involvement in this process?

On page three of his comments Mr. Ayers makes reference to an April 10th, 2017 memorandum from a member of county staff. Mr. Ayers goes on to say there is one sentence that "tells me that we do not have the competence needed to make such decisions as to the future of Winton." This is probably the only statement in Mr. Ayers' comments

that I agree with, but probably not for the same reason. First, I would ask Mr. Ayers if he would be willing to release to the public domain the April 10th, 2017 memorandum he referenced in his comments? Second I would like to review for the public how this process unfolded. From the very beginning the Board received an opinion from the County Attorney that Winton was a restricted gift or trust and that opinion has not changed. This opinion had previously been expressed by the Virginia Attorney General in 1982. The County Attorney had this opinion verified by two prominent law professors that specialize in this field. The Board then hired outside counsel that is versed in this field, plus experienced in the field of law regarding commercial real estate, which the Board considered important at the time. This outside counsel expressed the same opinion. This was a restricted gift or trust. A plan of action was agreed upon. During this time the County Administrator was working with Runk and Pratt to provide an unsolicited proposal to the County regarding Winton, which never came. It was recognized that some justification was needed for the legal team to ask the AG and Court to provide some relief from the restrictions on the gift. That opportunity came when Winton asked the Board of Supervisors to submit an RFP. On April 13th, 2017 the Chair of the Board of Supervisors, the County Administrator, the County Attorney and I met with the Winton Board to discuss the RFP and how the Winton people would be an integral part of the process. However, on April 18th, the Board of Supervisors made the decision to fire our outside counsel, junk the proposed plan for moving forward, and authorize the County Administrator to hire new counsel, plus have the EDA become the source for "securing the future of the Winton property". So here we sit today with the new counsel telling us the

same thing that the County Attorney told us at the very beginning of the process, approximately six months and \$27,000 of taxpayer's money ago, and having the responsibility for this county asset removed from the Board of Supervisors, who are elected, and who answer to the voters, and handed over to an appointed Board, who do not answer to the voters. Let the citizens decide where the incompetence lies in this process.

On page four Mr. Ayers presumption of our benefactor's desire is beyond belief. My second comment would deal with the statement "When we think of the gift of \$102,000 to purchase Winton, I am very certain at no time was his intentions for this County to have a direct cash financial gain from the disposal of the Winton property. To me, if any of us as Board members have any thought of doing this, we are ethically wrong." My first question is how in the world can Mr. Ayers be "very certain" of what our benefactors' intentions would be? My second question is why would Mr. Ayers consider it ethically wrong for the County to receive a financial gain from Winton? Perhaps Mr. Ayers should read the Virginia Attorney General's opinion offered in 1982 concerning the property, which I quote:

"While the decision to sell real estate and the price thereof is a function involving discretion and judgment, the sale of the real estate in question for a price far below fair market value raises a question of propriety that may impose liability upon members of the board of supervisors. I believe this is a proper question to be presented to the judiciary."

If Mr. Ayers has another later opinion from the Attorney General which caused him to take his current position, or some other legal precedence, he should share it with the remainder of the Board.

Mr. Ayers states on page 4 that the financial debt of the Winton Board needs to be considered as discussions move forward regarding the Winton property. The November 9th, 2016 memorandum from Rich Gilman, legal counsel to Runk and Pratt, indicates that the only cash Runk and Pratt wanted to pay to obtain the Winton property was the \$450,000 to pay off Winton's debt, which would have been paid to Winton's debtors, not to the County. Will Mr. Ayers confirm that the only cash Runk and Pratt expected to pay to obtain Winton was that \$450,000?

On page two of Mr. Ayers' comments he states "and as the process got started I recused myself because of the conflict of interest guidelines set forth in the Virginia code. From that point I remained to the sidelines and was not involved in any further discussions regarding Winton and Runk and Pratt."

As a result of a recent FOIA request the county was obligated to release a considerable number of emails that involved discussions concerning the Winton Country Club. Some of these emails, at least on the surface, appear to contradict Mr. Ayers' statement of non involvement. There are emails indicating Mr. Ayers' communication with the County Administrator, with the President of Winton Country Club and the Director of the EDA after the process started. There is one email from the Winton Country Club president to the County Administrator questioning Mr. Ayers "participation in these discussions because of his association with Runk and Pratt." In view of this, the question one

would ask is how can these two, apparently different, interpretations be reconciled?

I will provide Mr. Ayers a list of my questions. If he is unable to respond today, I will certainly accept his response at our next Board meeting.

Here is the list of questions for Mr. Ayers:

Is there any possibility that Runk and Pratt will seek again to purchase Winton? If so at what point will you recuse yourself from Board involvement? How will this Board know when that time comes that Runk and Pratt is ready to be involved again?

Will you agree to the release of the April 10th, 2017 memorandum that you refer to in your comments?

Would you confirm that you are willing to sell a County asset, which is held in trust for all County citizens, for less than fair market value because it is your opinion that requiring someone, or some organization, to pay fair market value is as you put it “ethically wrong”?

Can you confirm that the only cash that Runk and Pratt wanted to pay for the Winton property was the \$450,000 that would go to Winton’s debtors and not to the County?

How does one reconcile the apparent two different interpretations regarding your involvement/non involvement in the Winton/Runk and Pratt discussions?

Fellow Board Members: As of today, I have spent 54 years, my entire life as a resident of Amherst County. I have always been honored to call Amherst my home. I attended public schools, graduating in 1981. While in High school, and until October of 1985 I worked a retail job in a local auto parts store until being hired by the Sheriff's Office October 22, 1985. I was honored to serve as a public servant for this County for 30 years and 2 months as a law enforcement officer. Several months prior to my retirement, several citizens asked me to run for the district 3 board seat and again, I was honored with the citizens trust by bestowing me with this position. I have been serving as a board member now for a year and 4 months.

Prior to becoming a supervisor I had noticed that Amherst County was and has been suffering when it comes to new growth, business, industry and even residential development. During my short tenure as a board member I have come to realize that we, this board, should assume much of the responsibility for the lack of such development. Since being employed in the private sector, I have first-hand knowledge of how some of our surrounding localities work with businesses wishing to locate or sometimes being asked to locate in their respective jurisdictions. By comparison to these other localities, we are broken. We are averaging the loss of 50 students a year in our public school system just as recent as in the last 6 weeks, another long time business, Long John Silvers, has closed it's doors. If we do not fix our issues, we can only expect this trend to continue. Our citizens cannot continue to be burdened with additional taxation to fulfill these voids being created as businesses leave our community.

The decline of students in our school system only tells us that young families are leaving and perspective families are not choosing our community as their home. With all of this in mind, it brings me to a point. One early July morning of last year, while sitting on my porch Winton Country Club came to my mind. Obviously Winton has been struggling financially for the last several years threatening closure, and it came to my mind that possibly Runk & Pratt Senior Living Communities, the company that I am a part time employee for, would possibly consider looking at the Winton property as a place to develop a Senior Living Community. Before speaking to the owners of the company I contacted the County Attorney asking if she thought this could be done. After a couple days, she communicated back to me and said she felt that it was possible. I then spoke to the County Administrator making him aware of my thoughts. I then spoke with Brian Runk, President of the Company, asking if they would consider such a development in our County.

After he spoke with his wife who is his business partner, he came back to me and said they would possibly consider it. My fellow Board Members, you were made aware at that time, discussions began with the Winton Board of Directors and as the process got started I recused myself because of the conflict of interest guidelines set forth in the Virginia code. From that point I remained to the sidelines and was not involved in any further discussions regarding Winton and Runk & Pratt. Recently Runk & Pratt made the county aware that at the present time, they are not interested in any further discussions, therefore affording me the ability to be involved in discussions pertaining to the future of Winton Country Club.

On April 10, 2017 we as Board Members were forwarded a memorandum from a member of County Staff. This memorandum outlined many issues that have taken place with the Winton property thus far. I will have to say there were several things in this writing that I found to be quite disheartening, one of which there was a paragraph that discussed emails which had been requested under FOIA for a time period of August 2016 to March of 2017. The last sentence in this paragraph I find to be quite appalling when it comes to this Board and County Staff. And it simply states, if the reporter chooses to report on these emails, the County's decision-making processes on Winton may not appear in a favorable light. This one sentence tells me that we do not have the competence needed to make such decisions as to the future of Winton. There were further discussions throughout this document speaking of how we need to take action pretty much immediately. The question I must ask is why has this NOT been the approach since Day one.

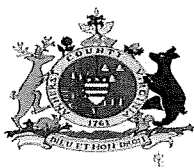
In 1967 an anonymous donor who has been identified as Mr. Keene Brown, gave to this County \$102,000 to purchase the Winton property from Mr. and Mrs. Snead to be used for "the development of a golf course for the citizens of Amherst County". I had the very distinct pleasure of meeting and knowing Mr. Brown when I was a young deputy. Even though he was limited in his ambulatory abilities and the ability to verbalize clearly he was a sharp businessman. He was successful in his farming endeavors and he was continually giving to this Community when there were needs such as the Fire Dept and Rescue Squads, just to name a few. Because of his limitations, he was often taken advantage of and this is how I came to know him when he

reported such incidents. It was on a Sunday morning in March of 1990 I was on duty and I was called to him home at which time I worked his death. I very clearly remember leaving his home that morning and looking over that beautiful farm and was simply amazed at the ability of a man with such limitations to have created such a beautiful farming operation.

When we think of the gift of \$102,000 to purchase Winton, I am very certain at no time was his intentions for this County to have a direct cash financial gain from the disposal of the Winton property. To me, if any of us as Board Members have any thought of doing this, we are ethically wrong. I simply put it, again, this man is being taken advantage of in death. It would be his desire if the golf course is no longer successful and not financially viable to maintain itself, that we as county government, attempt by whatever means possible to make this beautiful facility an economically sound, service-providing business or development that would continue giving to the citizens of this county for years to come. I have also been quite disheartened when I have heard comments made about the financial status of Winton when it comes to its Board of Directors. We fail to realize this Board of Directors has been very successful for fifty years in maintaining, building the golf course, swimming pool, banquet facilities and the general amenities that so many have enjoyed for so many years. Amherst County has not provided one cent of support to this Board for the development of such amenities. Therefore, I believe that the financial debt of the Winton Board needs to be considered as discussions move forward regarding Winton property.

I firmly believe that it was never Mr. Brown's intentions that the taxpaying citizens of Amherst County to be financially responsible for the maintenance needs of the Winton property. Fellow Board Members, I am about to make two motions tonight and I ask that you support me in such motions so that we can find a viable use for this property and minimize the County's expenses.

1. I, Jimmy Ayers, make a motion that the Amherst County Board of Supervisors relinquish the task of finding a perspective business and/or potential development for the Winton Country Club property. I request that at our first meeting of May, 2017, if possible, a resolution be drafted directing the Amherst County Economic Development Authority be the agent for such purpose for up to a 24-month period.
2. I, Jimmy Ayers, make a motion that the Amherst County Board of Supervisors direct the County Administrator to obtain private legal counsel to work with the EDA, it's Counsel and the Winton Board of Directors in drafting such resolution that would encompass all aspects necessary in securing the future of the Winton property. The retained counsel for the county would represent all legal interests of Amherst County throughout all processes regarding the Winton property. This too, would be for a period of up to 24 months.



COUNTY OF AMHERST

OFFICE OF THE COUNTY ATTORNEY
 AMHERST COUNTY ADMINISTRATION BUILDING
 153 WASHINGTON STREET
 P. O. Box 390
 AMHERST, VIRGINIA 24521

TELEPHONE (434) 946-9431
 FACSIMILE (434) 946-9370

County Attorney
 Ellen Bowyer

E-mail:
 eebowyer@countyofamherst.com
 racarton@countyofamherst.com

Executive Assistant
 Rachel Carton

Confidential attorney-client communication. Not subject to disclosure under FOIA or in response to discovery requests.

MEMORANDUM

TO: Members, Amherst County Board of Supervisors

FROM: Ellen Bowyer **Ellen Bowyer**

DATE: April 10, 2017

RE: Legal Counsel - Winton

Digitally signed by Ellen Bowyer
 DN: cn=Ellen Bowyer, o=County of
 Amherst, ou,
 email=eebowyer@countyofamherst.
 com, c=US
 Date: 2017.04.10 10:16:40 -04'00'

On April 1, 2017, Dean relayed Runk & Pratt's attorneys' complaints about Matt's and my approach to the Winton matter, including their belief that "enough legal factors exist to avoid the restriction or negate the gift altogether" and that Matt and I are "making this legally harder than it needs to be". He repeated Rich Gilman's suggestion that a "different legal team might find a different way forward". On April 3rd, Dean e-mailed Matt, stating that he wanted to "revisit" Matt's guidance. On April 4th, he e-mailed Matt again with further questions, which essentially amounted to another request to "revisit" Matt's earlier guidance.

I am surprised at the complaints. Matt and I have asked Rich at least twice to share any legal analysis he has on Winton, and he has not done so. I am also surprised at Dean's attempts to get us to reconsider the approach we have laid out. The approach Matt and I are suggesting actually is pretty simple. Trying to ignore the gift terms may be far more problematic and time-consuming, for reasons I will detail shortly.

Dean sent his e-mails at the same time as I have been conducting a review of Board e-mails about Winton for the time period August 2016 to March 2017, in order to respond to the FOIA request from *New Era Progress* reporter Nicole Steenburgh. There are numerous e-mails that I cannot withhold on any basis. If Nicole chooses to report on these e-mails, the County's decisionmaking processes on Winton may not appear in a favorable light.

I therefore think it is time for the Board to make some fundamental decisions about how to move forward relative to Winton. Matt and I continue to stand behind our original legal guidance: that the Winton property is in the form of a restricted gift; and that the Attorney General and the Circuit Court will require clear evidence supporting the County's arguments that the restrictions must be lifted to allow

redevelopment of the property. Our legal guidance is supported by an opinion from an Attorney General who later became Governor of Virginia, and two law professors, including one who co-authored the amici brief in the Sweet Briar case.

Any court petition will require evidence to support it – not mere assertions from us, from Winton, or from the County. Matt and I agreed with Dean's recommendation to use the PPEA process because we believe that we can very effectively use the process to develop that evidence. This is so whether or not the County receives any viable responses to the RFP. If the County wished to accept a proposal for the management or redevelopment of Winton, Matt and I would use that proposal to structure our request to the Circuit Court and Attorney General for modification of the gift restrictions.

Conversely, if the County did not receive any viable proposals in response to the RFP, and if the Winton Corporation could not continue to function, Matt and I would use that evidence to request relief from most if not all of the restrictions so that the County could have maximum flexibility relative to its asset. We believe that with evidence gathered from the competitive marketplace through the RFP process, the County's *cy pres* petition would have a reasonable probability of success. We continue to advise the County that from a legal perspective, the soundest course is to proceed with the RFP and then go to the Court either with a proposed deal or with the evidence that no deal is out there.

Neither Matt nor I can identify any feasible legal avenues that would allow the County to "avoid the restriction or negate the gift altogether". We believe that adopting a position that the gift restrictions don't exist or aren't binding carries at least two sets of significant legal risks, and we cannot recommend that the County adopt that position. At the same time, we recognize that the decision about how to proceed relative to the Winton matter rests exclusively with this Board of Supervisors, and we have no desire to substitute our judgment for that of the Board. We must, however, seek to ensure that the Board has a clear understanding of the risks.

First, if the County decides that there are no restrictions but the Attorney General later disagrees, the Attorney General could bring suit against the County for wasting or converting charitable assets. Remember that the Attorney General has already opined in writing that restrictions exist, and has recognized that Court intervention would be appropriate prior to any disposition. The County's ignoring his office's prior opinion might suggest to the Attorney General a certain wantonness in handling the Winton property. In that event, the Attorney General may ask the Court to appoint a receiver to manage Winton, depriving the County of control over its asset. The Attorney General also might attempt to enjoin the transaction. If the transaction had closed already, the Attorney General could seek to require the County to restore the value of the charitable bequest from its own funds—that is, to determine the value of the property diverted from the charitable use and to restore, from County general funds, an equivalent value for similar charitable purposes.

Second, Matt expects that the presence of the 1967 minutes will constitute a cloud on the title to the property, regardless of whether the restrictions actually have any binding effect. In other words, a purchaser of the property or a lender to that purchaser who takes a lien on the property is going to view the restrictions as an issue if the Court has not clarified whether or not they apply. Some guidance from the Circuit Court will be necessary at some point, or no one will buy the property. Matt also notes that in a real estate closing, the attorney for the seller of the property is typically required to certify to the purchaser's title company that the conveyance is proper. Neither Matt nor I are willing to make that certification at present.

Matt and I considered requesting another Attorney General opinion on the question of whether the restrictions apply. But it would take approximately six months to get such an opinion and the process of requesting an opinion requires us to supply our own opinion (which is that the restrictions do apply). For these reasons, obtaining an AG opinion probably is not practical and would not generate any new information. We also considered whether it is feasible to approach the Court now, in advance of any deal, as Runk & Pratt seems to prefer. In our best professional judgment, there is no significant chance of a Court ruling that the 1967 minutes do not create continuing restrictions on the property. Moreover, we do not believe that, today, there is sufficient evidence to persuade the Court to remove the restrictions in the abstract. And, if the County went to Court now and the Court rejected its position, that may make it more difficult later to approach the Court a second time, even after circumstances have changed. We will be retaining a golf course consultant. If at some point he or she is prepared to testify in court that it is impracticable for Winton to continue to operate, that may be useful information to support a request to the Court to lift the restrictions. It is critical, however, that the RFP process continue while the consultant is being retained and developing his or her positions, especially because, again, we may find that no feasible proposals are submitted.

I reiterate and emphasize that the Board retains the authority to make the decision about how to proceed. Our role is to advise the Board, and we have provided advice in accordance with our best professional judgment. We now need to know the course of action the Board wishes to take. The Board may choose to take a course of action that hews to the legal guidance we have offered, and issue the RFP as soon as possible while engaging the consultant as we have recommended. We would continue to act as lead staff relative to the RFP process under the PPEA and we will retain the consultant.

Or, having considered the risks and weighed our advice, the Board may take the position that there are no restrictions, or go into Court immediately. If the Board chooses to proceed in either manner, I think the County would be better served with new counsel, selected independently by the Board. I would expect to have no further involvement in the Winton matter under those circumstances, because I would not be able to represent the County effectively as it advanced arguments consistent with this new approach. Matt has indicated that under those circumstances, he also would ask to be released as counsel in order to give the Board a fresh start on its new approach.

I believe that matters are reaching a critical point, and that the Board needs to choose its direction and act quickly and decisively to implement that direction. Please let me know if you have any questions and how you would like to proceed. Thanks.