**BOOK 33**

**VIRGINIA:**

At a regular meeting of the Board of Supervisors of Amherst County and held at the Administration Building thereof on Tuesday, the 20th day of December 2011 at 7:00 p.m. at which the following members were present and absent:

BOARD OF SUPERVISORS:

 PRESENT: Ms. C. Tucker ABSENT: None

 Mr. F. Campbell

 Mr. D. Kidd

 Mr. R. Curd

 Ms. J. Roberson

Ms. C. Tucker, Chair, called the meeting to order.

Mr. R. Curd opened with prayer and led in the pledge of allegiance.

Ms. C. Tucker informed the audience that this was Ms. J. Roberson’s last official meeting and she wanted to thank her for all of her hard work and efforts and for helping them to think outside the box.

Ms. C. Tucker requested that Mr. Clarence Monday say a few words

Mr. C. Monday introduced himself and his family and stated he was looking forward to working for the County.

**IN RE: CITIZEN COMMENTS**

The Chair asked for citizen comments. There were none.

**IN RE: APPROVAL OF AGENDA**

Ms. E. Bowyer requested that under Public Hearing, Item c, regarding Ordinance 2011-0007, be removed from the agenda.

Mr. D. Kidd moved approval of the agenda as amended.

AYE: Ms. C. Tucker, Mr. F. Campbell, Mr. D. Kidd, Mr. R. Curd, Ms. J. Roberson

NAY: None

ABSENT: None

**AGENDA**

**TUESDAY, December 20, 2011, 7:00 P.M.**

**ADMINISTRATION BUILDING – 153 WASHINGTON STREET**

**SCHOOL BOARD ROOM**

1. **Call to Order**
2. **Invocation and Pledge of Allegiance**
3. **Citizen Comments**
4. **Approval of Agenda**
5. **Appointment of County Administrator**
6. **Public Hearings**
7. 2011-23 Request by Corner Stone Baptist Church for a special exception in the A-1 Agricultural Residential District. The purpose of the special exception is to allow the construction of a multi-purpose center that will serve the needs of the existing church. The property is located at 106 Williams Store Road and is further identified as tax map number 103-A-63.
8. Ordinance 2011-0002: Modifying County Code § 12-26 to clarify that persons are prohibited from bringing into a County park or launching from park property a boat equipped with wake-enhancing devices and from employing in such boat any tactics intended to manipulate bow height, to clarify that wading is permissible when required to launch a watercraft, including inner tubes, or while fishing, to eliminate restrictions on dressing or undressing and on boating in park waters, to strengthen restrictions relating to blocking boat ramps, to clarify the prohibitions on weapons, and to make technical corrections to the text of the Code section.
9. ~~Ordinance 2011-0007: Amending sections 302, 706, 707, and 708 of Appendix A to the Code of the County of Amherst to (i) define pawnbrokers and add them as a special exception use in the B-2 district, and (ii) authorize the Planning Director to approve in the village center, general commercial, and industrial districts other uses that are consistent with and of the same general character as permitted uses in those districts.~~
10. Ordinance 2011-0008: Amending Appendix A of the Amherst County Code by amending § 501, and adding §§711 and 1304, for the purpose of establishing a Mixed Use/Traditional Neighborhood Development District, and specifying the standards for development in such a District.
11. Ordinance 2011-0010: Authorizing a one-time bonus in calendar year 2011, of $1,500 to all full-time County employees eligible for fringe benefits, and $500 to all regular part-time County employees eligible for fringe benefits.
12. **Presentation - Amherst Education Association**
13. **Resolution 2011-0049-R - Kathleen C. Wood**
14. **County Attorney**
15. Radio Board Agreement: Resolution 2011-0048-R
16. Overview of Personal Wireless Service Facilities Ordinance 2011-0005
17. **Appropriation**
18. **Department Reports**
19. Building Department November Report
20. Planning Commission Monthly Report
21. **Citizen Comments**
22. **Matters from Members of the Board of Supervisors**
23. **Closed Session under § 2.2-3711 (A)(7) of the Code of Virginia, to consult with the County Attorney regarding the application to correct assessments filed by Green Leaf Golf Club of Amherst, LLC.**
24. **Adjourn**

**IN RE: APPOINTMENT OF COUNTY ADMINISTRATOR**

Mr. S. Crosby presented information regarding Mr. Clarence C. Monday to the Board.

Ms. C. Tucker motioned to appoint Clarence Monday as County Administrator and for Chair to sign employment agreement.

AYE: Ms. C. Tucker, Mr. F. Campbell, Mr. D. Kidd, Mr. R. Curd, Ms. J. Roberson

NAY: None

ABSENT: None

**IN RE: ZONING PUBLIC HEARING**

2011-23 Request by Corner Stone Baptist Church for a special exception in the A-1 Agricultural Residential District. The purpose of the special exception is to allow the construction of a multi-purpose center that will serve the needs of the existing church. The property is located at 106 Williams Store Road and is further identified as tax map number 103-A-63.

Mr. J. Bryant presented the case with the following recommendations from the Planning Commission:

1. The applicant shall contact the Virginia Department of Transportation (VDOT) to ensure that the existing entrance is adequate. A zoning permit shall not be issued unless VDOT determines that the existing entrance is satisfactory.
2. All outdoor lighting will be glare-shielded and directed to prevent illumination across the property line.

3. The applicant must receive approval from the Virginia Department of Health prior to the issuance of a zoning permit.

Mr. J. Bryant answered Board questions.

Ms. C. Tucker called the Public Hearing to order.

Proponents:

* Mr. Thomas Brooks, Sr, representing the Corner Store Baptist Church, presented information to the Board.

Opponents:

* None

There were no other speakers. Public Hearing was closed.

**BOARD OF SUPERVISORS’ ACTION**

Mr. D. Kidd moved to approve Zoning Case #2011-23 with the following conditions as recommended by the Planning Commission:

1. The applicant shall contact the Virginia Department of Transportation (VDOT) to ensure that the existing entrance is adequate. A zoning permit shall not be issued unless VDOT determines that the existing entrance is satisfactory.
2. All outdoor lighting will be glare-shielded and directed to prevent illumination across the property line.

3. The applicant must receive approval from the Virginia Department of Health prior to the issuance of a zoning permit.

AYE: Ms. C. Tucker, Mr. F. Campbell, Mr. D. Kidd, Mr. R. Curd, Ms. J. Roberson

NAY: None

ABSENT: None

**IN RE: PUBLIC HEARING – ORDINANCE 2011-0002**

Ms. E. Bowyer presented the ordinance to the Board and answered Board questions.

After Board discussion, Ms. E. Bowyer to change the word “boat” to “watercraft” in subdivision 5 and 8.

Ms. C. Tucker called the Public Hearing to order.

There were no speakers and the Public Hearing was closed.

**BOARD OF SUPERVISORS’ ACTION**

Mr. R. Curd moved to approve Ordinance 2011-0002 as amended.

Amherst County Board of Supervisors

County Ordinance No. 2011-0002

**AN ORDINANCE, NO. 2011-0002**

Modifying County Code § 12-26 to clarify that persons are prohibited from bringing into a County park or launching from park property a watercraft equipped with wake-enhancing devices and from employing in such watercraft any tactics intended to manipulate bow height, to clarify that wading is permissible when required to launch a watercraft, including inner tubes, or while fishing, to eliminate restrictions on dressing or undressing and on boating in park waters, to strengthen restrictions relating to blocking boat ramps, to clarify the prohibitions on weapons, and to make technical corrections to the text of the Code section.

**\_\_\_\_\_\_\_\_\_\_\_\_\_\_**

Approved as to form and legality by the County Attorney

**\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**

**READING: Board of Supervisors, December 6, 2011**

**PUBLIC HEARING: Board of Supervisors, December 20, 2011**

**THE COUNTY OF AMHERST HEREBY ORDAINS:**

**§ 1. That Sec. 12-26 of the Code of the County of Amherst be and hereby is amended, as follows:**

Sec. 12-26.  Prohibited uses of parks.

~~No person in a park shall:~~ A. General Prohibitions.

Persons entering and occupying County parks shall not:

(1)   *~~Distribution or display.~~*Post, paint, affix, distribute, handout, deliver, place, cast or leave about any bill, billboard, placard, ticket, handbill, circular, or advertisement; display any flag, banner, transparency, target, sign, placard, or any other matter for advertising or promotional purposes~~;~~ , nor, except where authorized in writing by the director, shall any person operate any musical instrument for advertising or promotional purposes or for the purpose of attracting attention to any exhibit, show, performance, or other display~~, unless expressly authorized through permit by the director~~.

(2)   *~~Contributions.~~*  Solicit contributions for any purpose.

(3)   *~~Bathing and swimming.~~*

~~a.~~   Swim, bathe, or wade in any waters or waterways in or ~~adjacent~~ contiguous to any park, except as required to launch a watercraft, including inner tubes, or while fishing.

~~b.~~*~~Bath houses.~~* ~~Dress or undress in any vehicle, toilet, or other place, except in such bathing houses or structures as may be provided for that purpose.~~

~~(4)~~*~~Boating.~~*

~~a.~~*~~Designated areas.~~* ~~Operate or occupy any boat, raft, or other watercraft, whether motor powered or not, upon any waters, except at places designated for boating by the director. Such activity shall be in accordance with applicable regulations adopted by the department.~~

~~b.~~*~~Operation of boats.~~*  (4) Navigate, operate, direct, or handle any ~~boat~~ watercraft, whether motor powered or not in violation of applicable federal, state, or local laws ~~pertaining to the operation of boats~~ or regulations, or in an unsafe or reckless manner.

~~c.~~*~~Prohibition of wake-enhancing devices.~~*~~No person shall use~~ (5) Bring into the park or launch from park property any watercraft equipped with wake-enhancing devices, including ballast tanks, wedges, hydrofoils, or other mechanical devices, ~~or uneven loading of persons or gear,~~ nor shall any person employ in watercraft launched from park property tactics intended to ~~artificially~~ ~~operate/manipulate~~ manipulate bow height, including distributing persons or gear in an uneven manner within the boat.

~~d.~~*~~Prohibition during closing hours.~~* (6) Launch, dock, operate, or remain on or in any boat of any kind on any park waters ~~during the closed hours, or except during such hours as shall be designated by the director for such purpose~~ after the park has closed, except where such action is done attendant to night fishing pursuant to a valid license or permit.

~~e.~~*~~Boating restrictions.~~*  (7) Moor, tie, beach, or otherwise secure a boat to any structure, dock, beach, tower, dam, or bank ~~except those areas or structures allowed for this purpose by the director~~ not designated by the director for that purpose.

(8) Use a boat ramp for any purpose other than launching a watercraft or retrieving it from the water, or make any other use of a boat ramp in such a manner as to unreasonably bar access by others.

~~f.~~*~~Aquatic safety.~~*~~Use or operate any boat in violation of any boating laws or regulations~~ ~~contained in the Virginia State Code; or, operate any boat in a reckless or unsafe manner~~.

(9)   Set up tents, shacks, or any other temporary shelter for the purpose of camping, nor shall any person leave any equipment, structure or vehicle that could be used for camping in the park after closing.

(10)  Take part in or organize any recreational activity or game, including but not limited to golf, except in areas designated for such recreational activity or game.

(11)  Ride, drive, or lead a horse except on park drives or trails designated by the director, or allow a horse to graze or go unattended, or hitch a horse to any rock, tree, or shrub.

(12) Carry, shoot, fire, explode, discharge, or throw any fireworks, firecrackers, rockets, torpedoes, explosives, or missiles without prior written authorization from the director.

(13)  Make still or moving pictures that involve the use of special settings, structures, lighting or apparatus, or the performance of a cast of persons, either amateur or professional, or the posing of professional models, without prior written authorization from the director.

(14) Operate a remote-control plane, glider, or motor-propelled aircraft in any park without prior written authorization from the director.

~~g.~~   *~~Enforcement by the Virginia Department of Game and Inland Fisheries.~~*~~Virginia Department of Game and Inland Fisheries' officers, and their agents or designees, shall be empowered and expressly permitted by the county to enforce any and all regulations, rules, and ordinances in this section, including but not limited to, boating.~~

B. Fishing and Hunting.

~~(5)~~*~~Fishing.~~*

~~a.~~*~~Commercial fishing.~~*~~Commercial fishing, buying, or selling~~ (1) The purchase or sale of fish caught in any park waters is ~~forbidden~~ prohibited.

~~b.~~*~~Designated areas.~~*~~Fish in any park waters, whether by the use of hook-and-line, net trap, spear, gig, or other device, except in such waters thereof as have been designated by the director for that use and under such regulations and restrictions as have been prescribed by said director.~~

~~c.~~*~~Fishing permits.~~*~~It shall be unlawful for any person to fish in or on the lands or inland water of any park without first obtaining a state license or permit.~~ (2) Park visitors may fish in any park waters if they hold a valid state fishing license. Any person ~~issued a license or permit to fish~~ fishing within ~~the~~ a park (i) shall conform ~~any fishing~~ to the rules and regulations published by the Virginia Department of Game and Inland Fisheries and the posted rules and regulations of the park~~. Fishing within the park shall be confined only to those areas designated by the director.~~ ~~Every person of whom a license is required must~~ and (ii) shall carry ~~such~~ on his person his valid state fishing license and shall show the same immediately upon demand of any law enforcement officer ~~whose duty it is to enforce the game and inland fish laws~~.

Failure to exhibit such license upon demand of any ~~conservation police officer or other~~ law-enforcement officer shall be *prima facie* evidence that such person is fishing without a license. ~~It shall be unlawful for any person to make a false statement in order to secure a license, or to alter, change, or lend a license.~~

~~(6)~~*~~Hunting.~~*~~Hunt,~~ (3) Park visitors shall not hunt, trap, or pursue wildlife ~~at any time~~ while within the park. ~~Hunting and trapping may be authorized, by permit, when it is deemed by the director that said activity is~~ The director may authorize hunting and trapping of wildlife in writing prior to the hunting or trapping if the director determines that to be in the best interest of public health, safety ~~and/or~~ or welfare.

C. Weapons.

~~(7)~~*~~Firearms, knives, and weapons~~.*

~~a.~~ ~~It shall be unlawful for any person to~~  Due to the presence of children and in light of the expectation of safety that County citizens and others have upon entering parks for entertainment and recreational activities, the use or carrying of weapons in County parks is limited as follows:

1. Only law enforcement officers engaged in professional duties, may discharge in any park any pistol, revolver, shotgun, BB gun, air gun, slingshot, bow and arrow, dart device, or other weapon in which the propelling force is gunpowder, a spring, or air~~, except as may be carried by a duly authorized law enforcement officer~~.

~~b.~~ ~~It shall be unlawful for any person to~~  (2) No person while in a park shall use, carry or have in his possession any knife with a blade of more than three (3) inches except where such knife is necessary for preparation of food within ~~any~~ the park or is being used in connection with any other lawful purpose in the park.

~~c.~~  (3)  Any person who has a permit to carry a concealed handgun which is valid in the Commonwealth, and who has on his person that valid permit, may ~~possess~~ carry a concealed handgun in a park.

~~d.~~   (4) Shooting into park areas from beyond park property boundaries is ~~forbidden~~ prohibited.

~~e.~~   (5) The director may ~~permit authorization for~~ authorize in writing the use of a firearm or other potentially dangerous instrument~~, to be used in a park for a special event or county-managed activity~~ within a County park.

~~(8)~~*~~Picnic areas and use.~~*

D. Picnic Areas and Athletic Fields

~~a.~~*~~Regulated.~~*~~Picnic in a place other than those~~ (1) Park visitors may picnic in areas designated for that purpose. Park attendants shall have the authority to regulate picnic activities in such areas when necessary to prevent congestion and to secure the maximum use for the comfort and convenience of all. No visitor shall fail to comply with any directions given by park attendants to achieve this end.

~~b.~~*~~Availability.~~*~~Fail to observe~~ ~~the policy that use~~ ~~of the individual fireplaces, as well as tables and benches, shall follow the rule of "first come, first served."~~ (2) Fireplaces, tables, and benches cannot be reserved and are available to the park visitors who first secure them. Visitors shall not make unreasonable use of such facilities, or of any park area or picnic shelters, when others are awaiting their turn.

~~c.~~*~~Duty of picnicker.~~*  ~~Leave~~ (3) Park visitors shall ensure before leaving a picnic area ~~before~~ that the fire is completely extinguished and ~~before~~ all trash in the nature of boxes, papers, cans, bottles, garbage, and other refuse is placed in the disposal receptacles where provided. If no such trash receptacles are available, all refuse and trash shall be ~~carried away~~ removed from the park area by the picnicker ~~to be properly disposed of elsewhere~~.

~~d.~~*~~Nonexclusive.~~*  ~~Use any portion of the park areas or of any of the buildings or structures therein without a permit issued by the director, for the purpose of holding activities to the exclusion of other persons, nor shall any person use such area and facilities for an unreasonable time if the facilities are crowded.~~

~~e.~~*~~Reservations.~~*~~At the discretion of the parks, recreation, and cultural development board, or the director, reservations for shelters may be obtained by paying a fee, as determined by the department of parks, recreation, and cultural development for exclusive use during said time period. Permits will~~ (4) Park visitors shall not make exclusive use of a park area or picnic shelter except pursuant to a written reservation issued by the director. Such written reservation may be issued upon payment of a fee and must be in the possession of users to be valid. Reservations for shelters shall be made and held on a "first come, first served basis." ~~No~~ Any person or group occupying a shelter without a written reservation shall ~~fail to~~ relinquish the shelter to a party or group holding a written reservation ~~from the department of parks, recreation, and cultural development~~. Pursuant to restrictions contained in Amherst County's lease with Appalachian Power Company for Monacan Park, no fee or license will be charged by Amherst County for use ~~of~~ by the public of any of the dedicated facilities in Monacan Park.

~~(9)~~*~~Athletic fields.~~*~~Use any county owned or maintained ball field until first securing a field rental contract for field use from the department. This requirement applies to all sanctioned or non-sanctioned teams or organized groups. Field rental contracts may cover league teams for a specific sport and may include multiple fields; however, copies of such contracts shall be in the possession of a responsible individual for each non-sanctioned team or organized group using any such ball field.~~  (5) Athletic facilities not reserved for exclusive use shall be generally available to park visitors.

~~(10)~~*~~Camping.~~*~~Set up tents, shacks, or any other temporary shelter for the purpose of camping. During closed hours, no person shall leave any equipment, structure or vehicle to be used, or that could be used, for such purposes, such as a house trailer, camp trailer, camp wagon or the like. During closed hours, no person shall camp in any public park without the express written permission of the director.~~

~~(11)~~*~~Games.~~*~~Take part in or organize any inappropriate recreational activity or the playing of any inappropriate games, including but not limited to golf, except in areas set apart therefore.~~

~~(12)~~*~~Horseback riding.~~*~~Ride, drive, or lead a horse except on park drives or trails, as designated by the director. Where permitted, horses shall be thoroughly broken and properly restrained, ridden with due care, and shall not be allowed to graze or go unattended, nor be hitched to any rock, tree, and shrub. No hoofed animals will be allowed on turf areas.~~

~~(13)~~*~~Missiles, fireworks, and explosives.~~*~~Carry, shoot, fire, explode, discharge, or throw any fireworks, firecrackers, rockets, torpedoes, explosives, or missiles of any kind in any park without a permit from the director.~~

~~(14)~~*~~Photography.~~*~~Make still or moving pictures that involve the use of special settings, structures, lighting or apparatus, or the performance of a cast of persons, either amateur or professional, or the posing of professional models without prior written authorization by the director; said written permission may be issued only when such activities will permit normal use of park facilities by other visitors. However, the provisions of this section do not in any way restrict the ordinary use of cameras by amateur photographers.~~

~~(15)~~*~~Remote control planes.~~*~~Operate a remote control plane, glider, or motor propelled aircraft in any park without a permit from the director.~~

E. Enforcement by the Virginia Department of Game and Inland Fisheries*.*  The County authorizes and expressly permits officers of the Virginia Department of Game and Inland Fisheries to enforce the provisions of this section relating to hunting, fishing, and boating.

**§2. That this ordinance shall be in force and effect upon adoption.**

Adopted this 20th day of December, 2011.

 \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

 Claudia D. Tucker, Chair

 Amherst County Board of Supervisors

**ATTEST:**

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Steve Crosby, Clerk

Amherst County Board of Supervisors

**Ayes \_\_\_\_ No’s\_\_\_\_\_ Abstentions \_\_\_\_**

AYE: Ms. C. Tucker, Mr. F. Campbell, Mr. D. Kidd, Mr. R. Curd, Ms. J. Roberson

NAY: None

ABSENT: None

**IN RE: PUBLIC HEARING - ORDINANCE 2011-0008**

Mr. E. Bowyer presented the ordinance to the Board.

Ms. C. Tucker called the Public Hearing to order.

There were no speakers and the Public Hearing was closed.

**BOARD OF SUPERVISORS’ ACTION**

Mr. D. Kidd moved to approve Ordinance 2011-0008.

**AN ORDINANCE, NO. 2011-0008**

Amending Appendix A of the Amherst County Code by amending § 501, and adding §§711 and 1304, for the purpose of establishing a Mixed Use/Traditional Neighborhood Development District, and specifying the standards for development in that District.

**\_\_\_\_\_\_\_\_\_\_\_\_\_\_**

Approved as to form and legality by the County Attorney

**\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**

**PUBLIC HEARING: Planning Commission November 17, 2011**

**FIRST READING: Board of Supervisors December 6, 2011**

**PUBLIC HEARING: Board of Supervisors December 20, 2011**

**THE COUNTY OF AMHERST HEREBY ORDAINS:**

**§ 1. That Section 501 of Appendix A of the Code of the County of Amherst, be and hereby is amended, as follows:**

**501. - Division of Amherst County into Districts.**

For the purposes of this ordinance, Amherst County is divided into ~~ten (10)~~ eleven (11) Districts as follows:

P-1 Public Lands District

A-1 Agricultural Residential District

R-1 Limited Residential District

R-2 General Residential District

R-3 Multi-Family Residential District

V-1 Village Center District

B-2 General Commercial District

M-1 Industrial District

FH Flood Hazard District

WS Watershed District

MU/TND Mixed Use/Traditional Neighborhood Development District

**§ 2. That Section 711, specifically subsections 711.01 through 711.22, be and hereby are added to Article VII of Appendix A of the Code of the County of Amherst, as follows:**

711. Mixed Use/ Traditional Neighborhood Development (MU/TND) District.

##### 711.01 Intent of the Mixed Use - Traditional Neighborhood Development District. This section establishes the Mixed Use/Traditional Neighborhood Development District (“District” or “MU/TND District”). This section will facilitate development of projects that feature a mix of land uses and building types closely linked by a network of streets, sidewalks, formal and informal open spaces, and trails. Projects developed in a MU/TND District will reflect the following characteristics:

1. Compact development with defined edges and a distinct neighborhood center.
2. Human scale buildings and streets that are pedestrian- and public transit-oriented.
3. A mix of residential, commercial, civic, and open space uses located close to one another to reduce traffic congestion, travel demand and dependence on automobiles.
4. A mix of housing styles, types, and sizes to accommodate households of all ages, sizes and incomes.
5. A system of narrow, interconnected streets with sidewalks and bikeways.
6. Public transit as a viable alternative to the automobile by organizing appropriate building densities.
7. Preservation of significant environmental features and incorporation of such features into the design of new neighborhoods.
8. Design and development consistent with the County’s County Comprehensive Plan.

##### 711.02 Development Standards. MU/TND District projects benefit from flexible development standards as a matter of right. The development standards set forth in this section shall supersede any conflicting requirements contained in Appendix A, Zoning and Subdivisions, of the County Code.

##### 711.03 Qualifying Lands. Lands qualifying for inclusion in the MU/TND District shall be limited to tracts within the Designated Growth Area that are mapped as Urban Development Areas on the future land use map and that are served by, or planned for service by, public water and sewer sufficient to accommodate the proposed development at full build out.

##### 711.04 MU/TND Designation. A tract of land shall be designated a MU/TND District only when it meets all of the requirements of § 711 and has been rezoned in accordance with Article X, Administration, Section 1004 Procedure for Requesting a Zoning Amendment.

##### 711.05 Area Requirements. The optimal minimum size for a MU/TND District is 40 contiguous acres of land; however sites containing less acreage are permissible if identified in the Development Plan submitted at the time of rezoning approval. The tract of land to be rezoned and developed shall be under single ownership, or shall be the subject of an application filed jointly in accordance with subsection 711.21, Development Plan Review and Approval.

##### 711.06 Required Subareas within a MU/TND Project.

1. A MU/TND project shall contain a mix of residential uses and unit types, a neighborhood center and open space.
2. Each MU/TND District master plan shall identify subareas as follows:

|  |  |  |
| --- | --- | --- |
| **Sub-Area** | **Min. Land Allocation** (% of gross land area) | **Max. Land Allocation** (% of gross land area) |
| **Neighborhood Center** | 10% | 30% |
| **Residential Neighborhoods** | -- | 80% |
| **Open Space** | 10% | -- |

1. Subareas include:

*Neighborhood Center.* The Neighborhood Center shall be a distinct, centralized area contiguous to surrounding residential neighborhoods and open space and shall be the designated focal point of a MU/TND. The Neighborhood Center shall extend no further than 1,400 linear feet in any direction from its center point and shall comprise not less than ten percent (10%) nor more than thirty percent (30%) of the net developable area of the MU-TND District. The Neighborhood Center shall contain residential, civic, commercial and open space uses.

*Residential Neighborhood.* The primary subarea of a MU/TND District shall be a Residential Neighborhood or series of such neighborhoods that provide a mix of housing types. Residential Neighborhoods shall surround the Neighborhood Center on at least two sides and shall contain only residential uses, civic uses and open space areas. Residential Neighborhoods shall comprise not more than eighty percent ( 80%) of the net developable area of a MU/TND District.

*Common Open Space.* Common open space shall be distributed throughout the development and accessible to all residents. Open space shall include formal squares, plazas, and greens, and less formal parks, recreation areas, greenbelts and natural areas. Open Space shall comprise not less than ten percent (10%) of the net developable area of a MU/TND District.

##### 711.07 MU/TND District Standards by Subarea.

1. Neighborhood Center Subarea Standards.

Land uses are permitted within the Neighborhood Center either by-right or by special exception as delineated in subsection 711.08.

The mix of uses within a Neighborhood Center shall be in accordance with the recommendations of Chapter VII of the County Comprehensive Plan, and shall include: (i) a mix of commercial retail, professional office and service uses; (ii) civic or institutional uses; (iii) residential uses; and (iv) open space.

No more than eighty percent (80%) of the net development area of a Neighborhood Center shall be allocated to residential uses.

Individual buildings shall not exceed 20,000 square feet of gross floor area, or 10,000 square feet of floor area per floor, or 40,000 square feet of gross floor area for a mixed use or multi-tenant buildings.

Clear pedestrian pathways that meet all requirements of the American Disabilities Act (ADA) shall be provided between buildings on the same lot and between buildings on adjacent lots.

Crosswalks shall be incorporated within the project at intersections where new streets are proposed, within parking lots, or other needed pedestrian connections.

The timing of construction of the non-residential portions of the Neighborhood Center shall be left to the discretion of the applicant so long as the approved development plan reserves an area for such uses and provided not more than seventy-five percent (75%) of the total approved residential units for the entire MU/TND District may be built prior to construction of at least fifty percent (50%) of the approved non-residential floor area of the Neighborhood Center.

Street furnishings, which may include pedestrian scale street lights twelve feet (12’) to fifteen feet (15') in height, street signs, benches, trash receptacles, and water fountains, shall be provided in the Neighborhood Center subarea.

Additional Provisions for Neighborhood Center Uses:

1. Mixed use buildings shall not contain ground floor residential uses.
2. Notwithstanding other buffer, landscaping and screening requirements located elsewhere in this section, outside storage areas for materials, equipment or trash receptacles shall not exceed forty percent (40%) of the ground floor building area, shall be located in rear or side yards adjacent to the principal building, and shall be screened from view of abutting streets or lands.
3. Outdoor seating areas shall have a minimum sidewalk width of eight (8) feet between the limits of the outdoor seating area and the roadway edge of the sidewalk.
4. Residential Neighborhood Subarea Standards.

Land uses are permitted within the Residential Neighborhood Subarea either by-right or by special exception as delineated in subsection 711.08.

The mix of uses within a Residential Neighborhood shall accord with the recommendations of Chapter VII of the County Comprehensive Plan and shall include a mix of single-family and multi-family residential uses, civic or institutional uses and open space.

Each Residential Neighborhood shall include a minimum of two different housing types and no more than seventy percent ( 70%) of the total number of units in a neighborhood shall be of any one housing type (e.g. single family detached, single family attached, multi-family).

High density housing types (i.e., multi-family and single family attached) shall be located closest to the core of the community and within one-quarter (1/4) mile of the Neighborhood Center.

Street furnishings including, but not limited to, pedestrian scale street lights twelve feet (12’) to fifteen feet (15') feet in height and street signs, shall be provided in Residential Neighborhoods.

3. Open Space Subarea Standards.

Land uses are permitted within Open Space either by-right or by special exception as delineated in subection 711.08 below

Open Space requirements may be met by open space areas designated within the Neighborhood Center and Residential Neighborhood subareas.

A minimum of ten percent (10%) of the net developable area of the MU/TND District shall be designated as Open Space. At least fifteen percent (15%) of the designated Open Space shall be formal parks or recreational fields. The balance may be greenways, paths, and trails, but shall not include existing or proposed street rights-of-way, parking areas, or driveways.

All residential dwellings shall be located within one-quarter mile (1/4 mile) of dedicated Open Space, including public spaces.

Open Space structured as large outdoor recreation areas shall be located at the periphery of neighborhoods rather than central locations.

##### 711.08 Permitted Uses within the MU/TND District.Land uses within a MU/TND District shall be permitted either by right (“P”) or by special exception (“SE”), or are prohibited (“X”) as follows:

|  |
| --- |
|  |
| **Use/Activity** | **Neighborhood Center** | **Residential Neighborhoods** | **Open Space** |
| Drive-through windows serving or associated with permitted uses provided such facilities are located at the rear or side of the structure and do not conflict with pedestrian travel ways. In no case shall the drive through lane or window abut or face a public street | SE | X | X |
| Outdoor storage, display and/or sales serving or associated with a by-right permitted use, if any portion of the use would be visible from a travel way | SE | X | X |
| Individual buildings over 20,000 total square feet in gross floor area, or greater than 10,000 square feet per floor | SE | X | X |
| Fuel sales with pumps located at the rear or side of the associated retail structure and which do not conflict with pedestrian travel ways or interrupt street frontage. In no case shall the gas pump canopy abut a public street | SE | X | X |
| Outdoor seating associated with restaurants is permitted  | P | X | X |
| Mixed use buildings  | P | X | X |
| **Residential** |  |  |  |
| Single-family detached dwellings | X | P | X |
| Single-family attached dwellings, including two-family dwellings or duplexes, townhouses, row houses | P | P | X |
| Multifamily dwellings  | P | SE | X |
| Live/work units  | P | X | X |
| Accessory structures associated with single-family dwellings | X | P | X |
| Home occupations are permitted, in accordance with Sections 703.02.3 and 905. | X | P | X |
| Accessory parking structures, lots or areas associated with permitted multifamily or open space uses | P | P | X |
| Senior living facility | P | SE | X |
| Short-term tourist rental of a dwelling per Article IX, Special Provisions, Section 916 | P | SE | X |
| **Commercial** |  |  |  |
| Antique shops for the sale of antiques, except that no auctions are permitted, and no items can be stored outdoors | P | X | X |
| Bed and breakfast lodging | P | X | X |
| Museums and art galleries | P | X | X |
| Retail sales and services including, but not limited to the following:Studios and shops for artists, photographers, writers, teachers, jewelers, tailors and dressmakers, taxidermists, weavers and other craftsmen, sculptors and musicians and consignment shops, provided no such studio or shop shall contain more than 7,500 square feet | P | X | X |
| Grocery and convenience stores and general stores without fuel sales and provided that no individual store shall contain more than 20,000 square feet of floor area | P | X | X |
| Barbershops, beauty parlors and shoe shops | P | X | X |
| Bicycle sales and repair shops provided no items can be stored outdoors | P | X | X |
| Bakeries, catering establishments and meal delivery services | P | X | X |
| Florist and flower shops | P | X | X |
| Furniture, television and appliance sales, service and repair, including service and repair of any type of home appliance provided that no items may be stored outdoors | P | X | X |
| Restaurants | P | X | X |
| Financial institutions  | P | X | X |
| Hotels and inns  | P | X | X |
| Office, administrative, business or professional | P | X | X |
| Medical offices and clinics: medical, dental and optical, provided that no single clinic shall contain more than 20,000 square feet of floor area | P | X | X |
| Day care center, babysitting services | P | X | X |
| Funeral home | P | X | X |
| Conference or training center | P | X | X |
| Public or private parking structures, areas, and lots that are accessory to any permitted or permissible commercial, residential, civic, institutional or open space use | P | SE | X |
| **Civic** |  |  |  |
| County-owned or leased buildings and properties of a conservation, cultural, administrative, or public service type and publicly-owned or leased buildings of a recreational type, with approval of a development plan in accordance with Article XI, Site Plan Review Requirements, by the Board of Supervisors | P | P | X |
| Public facilities such as schools, emergency services, police and fire stations, libraries, museums, community meeting facilities, community centers, and post offices | P | SE | X |
| Transit shelters | P | X | X |
| Churches and parish houses (except rescue missions and revival tents) | P | P | X |
| Schools, including child care, charitable, cultural, and other community service activities on school property | P | SE | X |
| Colleges and universities, including educational, scientific and related research facilities | P | X | X |
| Civic club | P | X | X |
| Personal wireless service facilities (In accordance with Section 914) | P | X | X |
| **Open Space** |  |  |  |
| Natural areas including environmental corridors, greenways, protected natural areas and reserves | P | P | P |
| Parks, squares, greens and plazas | P | P | P |
| Ball fields and playgrounds | P | P | P |
| Community gardens, including plots that are made available with or without a fee to residents | P | P | P |
| Streams, ponds and other water bodies | P | P | P |
| Stormwater detention/retention facilities | P | P | P |
| Accessory parking areas or lots located within and designated solely for public parks or publicly accessible natural areas  | P | P | P |

##### 711.09 Development Density. The permitted minimum development densities are as follows:

1. Residential Densities: a minimum of four (4) single-family detached dwellings or six (6) townhouses (two-family and row houses included), or twelve (12) multi-family units per net residential acre.

2. Non-Residential Densities: non-residential gross floor area ratios shall be a minimum of 0.4 F.A.R. (excluding designated Open Space).

3. Calculating Density for Mixed Use Buildings: the residential floor area of mixed use buildings shall not be used when calculating the maximum non-residential floor area permitted. Multi-family residential uses up to ten (10) units per net acre maximum shall be permitted if included on the upper floors of a building with ground floor commercial use.

##### 711.10 Lot and Building Requirements.

1. Residential lot and building standards.

* 1. Minimum lot area.
		1. Single-family detached dwellings: Ten thousand (10,000) square feet.
		2. Two-family dwellings: Twelve thousand (12,000) square feet .
		3. Single-family attached dwellings: as provided in Section 912.
		4. Multi-family structures: as provided in Section 801.

b. Minimum lot width.

1. Single-family detached dwellings: Seventy-five (75) feet.
2. Two-family dwellings: Seventy-five (75) feet.
3. Single-family attached dwellings: as provided in Section 912
4. Multi-family structures: One hundred ten (110) feet

c. Maximum lot coverage. Seventy-five (75)%.

d. Required yards.

1. Front.
* Single-family detached and two-family dwellings:
* Minimum: six (6) feet in the Neighborhood Center; ten (10) feet in Residential Neighborhoods
* Maximum: fifteen (15) feet in the Neighborhood Center; 25 feet in Residential Neighborhoods, except no maximum setback for any residential lot of 20,000 square feet or greater.
* Single-family attached and multi-family dwellings:
* Minimum: six (6) feet in Neighborhood Center; ten (10) feet in the Neighborhood Residential area.
* Maximum: fifteen (15) feet.
1. Side.
* Single-family detached and two-family dwellings:
* Minimum: Ten (10) feet
* Maximum: None.
* Single-family attached and multi-family dwellings:
* Minimum: Five (5) feet
* Maximum: None.
1. Rear.
* Single-family detached and two-family dwellings:
* Minimum: Thirty ( 30) feet; may include alley.
* Maximum: None.
* Single-family attached and multi-family dwellings:
* Minimum: Thirty (30) feet; may include alley.
* Maximum: None.

e. Separation of structures. Groups of single-family attached dwellings and multi-family structures shall be separated from each other by a minimum of fifteen (15) feet.

2. Non-residential and mixed use lot and building standards.

Minimum lot area for commercial uses: 8,500 square feet.

Minimum lot width for commercial uses. Forty (40) feet at the minimum front setback line.

Maximum lot coverage for commercial uses. Seventy-five percent (75%). The areas of contiguous lots may be combined for the purpose of calculating impervious surface requirements.

Required yards for commercial uses.

1. Front.
* Minimum: None. A sidewalk of at least five (5) feet shall be provided along all lot frontages.
* Maximum: None.
1. Side.
* Minimum: Minimum allowed under the Virginia Statewide Fire Prevention Code.
* Maximum: None.
1. Rear.
* Minimum: Minimum allowed under the Virginia Statewide Fire Prevention Code. Maximum: None.

3. Accessory buildings, structures and garages shall meet the following requirements:

Accessory buildings and garages shall meet the minimum side, and rear yard requirements stipulated in this subsection, and shall not be constructed in front of the principal buildings on site.

Accessory buildings and garages shall not block or limit ingress to or egress from the site itself or any buildings on site, and must comply with applicable building code, fire safety, ADA.

Garages serving single-family detached dwellings and accessed from an alley at the rear of a lot shall be set back a minimum of ten (10) feet from the rear lot line.

##### 711.11 Building Height.

1. Maximum Building Height. New structures within a MU/TND District shall be no more than 35 feet or three (3) stories for single-family residential uses, or 50 feet or four (4) stories for non-residential, multifamily residential or mixed used structures.

2. Minimum Building Height*.* The optimal minimum height for structures located in the MU/TND Neighborhood Center subarea is two (2) stories. Shorter structures are permissible if identified in the Development Plan submitted at the time of rezoning approval.

##### 711.14 Street Design, Block Size and Sidewalks.

1. Public streets. All streets within a MU/TND District shall be designed and constructed according to VDOT Secondary Street Acceptance Requirements, and the applicant shall ensure that the public streets will be accepted into the public street system by VDOT, and shall supply such surety as the County may require pursuant to Section 1010.

2. Grid network.The transportation system in the MU/TND District shall be generally in the form of a grid of interconnected streets, alleys and paths, modified as necessary to accommodate topography and parcel shape.

Proposed streets within the MU/TND District shall be extended to the boundary lines of the parcel being developed and terminated with stub outs to provide access to adjacent tracts not presently being subdivided or developed.

Cul-de-sac streets shall not comprise more than ten percent (10%) of the total street length in the MU/TND District, nor shall any individual cul-de-sac street exceed five hundred (500) feet in length. Alleys are exempt from this calculation.

3. Block size. Blocks shall be in conformance with subsection 1301.03.

4. Street design.

Street sections shall be designed to meet VDOT standards and shall be built to the narrowest dimensions permitted by VDOT.

Dead end alleys are permissible if identified in the Development Plan submitted at the time of rezoning approval, but in no circumstances shall an alley have a dead end length of over one hundred feet (100’). Dead end alleys shall have hammerhead turnarounds.

Bicycle accommodations shall meet VDOT requirements.

Within the Neighborhood Center an existing or planned roadway must be designated as a main street which would be subjected to the following conditions:

1. On main streets within the Neighborhood Center, at least seventy-five percent (75)% of the total first floor area of new development fronting the street on any parcel shall be devoted to non-residential uses.
2. A sidewalk with a minimum width of eight (8) feet shall be provided across the front of principal buildings facing both sides of the main street.

5. Accommodation for pedestrians and bicycles.

Accommodations for pedestrians and bicycles within the VDOT right of way shall be designed and constructed according to VDOT Secondary Street Acceptance Requirements.

Sidewalks shall be provided on both sides of the street in the Neighborhood Center and Residential Neighborhood subareas and separated from the roadway by a planting strip or designated parallel parking.

In the Neighborhood Center, the paved area of sidewalks shall be not less than eight (8) feet wide. If a planting strip is provided, it shall be a minimum of six (6) feet in width.

In the Residential Neighborhood, the paved area of sidewalks shall be not less than five (5) feet wide. If a planting strip is provided, it shall be a minimum of four (4) feet in width.

6. Lot Access.

All lots shall front on a public street or on a square or plaza.

Alleys shall serve only the rear or sides of lots or uses.

##### 711.15 Parking.

1. Except as otherwise provided by this subsection, off-street parking requirements shall be in accordance with Sections 602 and 603.

2. Shared parking shall be permitted upon approval of a shared parking plan by the Zoning Administrator.

3. On-street parking is permitted, provided that the design and placement of such spaces are approved by the Virginia Department of Transportation (VDOT).

a. On-street as well as off-street parking spaces shall be counted toward satisfying the use-based parking requirements contained within subsection 602.03 .

Where on-street parking is provided, requirements for off-street parking shall be reduced accordingly.

On-street parking spaces assigned to a building or use shall be those spaces that abut the lot containing that building or use.

On-street parking shall be provided on streets abutting squares, small parks or other open spaces in the Neighborhood Center.

4. Off-street parking and loading spaces for commercial and mixed-use structures shall be located to the rear of principal structures with the exception of required handicapped parking or loading spaces which may be located to the sides of the principal structure.

5. Parking for retail and service uses in the Neighborhood Center shall not require on-site parking provided that:

On-street or off-street parking is available within a six-hundred-foot radius of the activity.

The total floor space for the individual uses does not exceed 2,500 square feet of gross floor area.

##### 711.16 Transit Provisions. All new developments within a MU/TND greater than forty (40) acres in area and that meet any one of the following qualifications shall include a suitable location for a transit stop or commuter parking facility within their Development Plan:

1. Contains fifty (50) or more dwelling units.

2. Contains five (5) or more dwellings per acre.

3. Contains thirty thousand (30,000) square feet of commercial development.

##### 711.17 Landscaping and Buffering.

1. Except as otherwise provided by this subsection, landscaping requirements for all uses shall be in accordance with Article XVI of Appendix A, County Code.

2. Canopy street trees shall be planted along both sides of all streets at an average center to center spacing based on the mature spread of the particular street tree, with a goal of achieving tree canopy coverage of between thirty percent (30%) and seventy percent (70)%.

3. Street trees shall be native species; no understory trees shall be used as street trees.

##### 711.18 Pedestrian Scale Lighting.

1. The provisions of this subsection shall apply to any non-residential project in a MU/TND District as follows:

a. Site lighting shall be located and designed so as to illuminate only the intended lot; light shall be directed downward to the immediate area being lighted and away from any living quarters.

b. Floodlights or directional lights (maximum 100-watt metal halide bulbs) may be used to illuminate alleys, parking garages and working (maintenance) areas, but shall be shielded or aimed in such a way that they do not shine into other lots, the street, or direct light out of the MU/TND District. Floodlighting shall not be used to illuminate building walls (i.e. lights should not be placed on the ground so that a beam of light is directed upward).

c. Pedestrian scale decorative street lights (12' to 15' in height) shall be installed by the developer on both sides of streets throughout the District with a maximum average spacing of seventy-five (75’) feet on center.

##### 711.19 Utilities.

1. All development within a MU/TND District shall be served by public water and sewer facilities.

2. Utilities (and associated pedestals, cabinets, junction boxes and transformers) including electric, cable TV, telephone and natural gas service shall be located underground and to the rear of properties in alley rights-of-way (ROW) or the ROW of minor streets, and all utilities shall be located within a public utility easement. Above-ground utilities are permissible if identified in the Development Plan submitted at the time rezoning is approved.

##### 711.20 Property Owners Association to be Established.

1. A property owners association (POA) shall be established by the developer at the time of zoning approval of a MU/TND District.

2. Membership in a POA shall be mandatory for all property owners within the MU/TND, and shall be required as a covenant in all deeds to property in the MU/TND District granted after development plan approval.

3. The developer shall prepare documents which provide at a minimum that the POA shall accept title to any common elements including, but not limited to, open space, recreation, plazas, roads, parking, sewer, water, and stormwater management facilities which will not be publicly owned, and shall provide for the maintenance of any common area improvements or other property owned by the POA.

##### 711.21 Development Plan Required.

#####  1. All Development Plans submitted for a rezoning application shall be in conformance with the minor site plan requirements set forth in Section 1103.

#####  2. If the property is approved for rezoning for a MU/TND District, a major site plan shall be submitted in accordance with Section 1103.

#####  3. The applicant shall demonstrate to the satisfaction of the Planning Commission and Board of Supervisors that there is sufficient available water and sewer capacity to accommodate the proposed development at full build out or provide a plan demonstrating that such improvements will be phased to accommodate projected development as it occurs.

##### 711.22 Additional Definitions. For projects developed within the MU/TNDDistrict the following definitions will apply:

*Alley*. A private right-of-way, not less than 18 feet nor that provides secondary and/or service access for vehicles to the side or rear of abutting properties having principal frontage on another street or on a plaza, square or green. All alleys shall be paved or surface treated to eliminate dust.

*Building, principal.* The principal or main structure or one of the principal buildings on a lot or the building or one of the principal buildings containing the principal use on the lot. The terms main and principal have the same meaning in this ordinance when referring to structures, buildings and uses.

*Common Open Space.* Common Open Space consists of a parcel or parcels of land and/or an area of water within a development project site that are held in some form of common ownership and designated, designed and intended for benefit, use or enjoyment of the occupants of the development. It may contain such complementary structures and improvements as necessary and appropriate for the benefit and enjoyment of the occupants. Common Open Space may include environmentally sensitive areas not suitable for development.

*County Comprehensive Plan.* Amherst County Comprehensive Plan.

*Developable area, gro*ss. The total amount of land on the site or lot.

*Developable area, net*. The amount of land on a site or lot less floodplain, steep slopes in excess of twenty-five percent (25)%, public right-of-way, and any non-residential use areas in residential or mixed-use developments.

*Dwelling.* A building or portion thereof used for residential purposes, including one-family, two-family and multifamily dwellings, and bed and breakfast establishments, but not including hotels, motels, boardinghouses, dormitories, fraternity/sorority houses, tourist cabins, or automobile trailers (also see "Dwelling unit").

*Dwelling, accessory.* A subordinate dwelling located on the same lot as the principal dwelling, and which may be within the same structure as the principal dwelling, or which may be a detached structure, but which shall not include duplex or two-family dwellings.

*Dwelling, single-family attached.* One (1) of two (2) or more residential buildings, each being used or intended for use by one (1) family, each unit having separate ground floor access, and having a common or party wall separating the dwelling units, such party walls having no openings. For purposes of this definition, living space on the ground floor may include a garage or porch. Includes duplex, triplex, quadraplex, row house and townhouse units (also see "Townhouse").

*Dwelling, single-family detached.* A single-family dwelling unit which is entirely surrounded by open space or yards on the same lot.

*Floor area ratio (FAR).* A number or percentage, derived by dividing the gross floor area of the buildings on any lot by the total lot area less the area within the one hundred (100)-year floodplain (net lot area). The floor area ratio multiplied by the net lot area produces the maximum amount of gross floor area that may be constructed on a lot.

*Green*. An open space available for unstructured recreation, its landscaping consisting of grassy areas and trees. A Green should be designed for passive and unstructured active recreation. Improvements to the green may consist of paths, benches, landscaping, and other improvements.

*Live/Work Unit.* A building in single ownership that provides limited commercial space on the first floor and a dwelling unit on the upper floor(s).  The operator of the commercial use may reside in the dwelling unit, or either the commercial space or the dwelling unit may be leased or rented.

*Mixed use building.* A single building occupied with two or more of the following uses: retail, office, professional services, personal services, lodging, restaurants or dwelling unit(s). Uses within a mixed use building may be divided either vertically or horizontally.

*Mixed Use / Traditional Neighborhood Design (MU/TND) District*. A mixed use zoning District that provides exceptional flexibility as a matter of right to affect compact development and meet the intent described in subsection 711.01 of Appendix A of the the Amherst County Code.

*Natural Area/Preserve*. Open space that preserves or protects endangered species, a critical environmental feature, or, other natural feature. Access to a Preserve may be controlled to limit impacts on the environment. Development of the Preserve is generally limited to trails, educational signs, and similar improvements.

*Park*. An open space, available for recreation, it*s* landscape consisting of paved paths and trails, open lawn, trees, open shelters, or recreational facilities. Facilities may range from simple picnic tables, benches, or a playground in a small park, to a recreation center, swimming pool, or sport field in a larger park. Other facilities may include playgrounds, shelters, sport courts, drinking fountains, parking lots, or restrooms. Park grounds are usually grassy and maintained on a regular basis for recreational activity, but may include some natural or formally landscaped areas.

*Plaza*. Open space usually at the intersection of important streets, set aside for civic purposes and commercial activity, including parking, its landscape consisting of durable pavement and formal tree plantings. A Plaza is usually bordered by civic or private buildings. Plazas may range from very active places with adjacent complimentary uses such as restaurants and cafes, to quiet areas with only seating, formal landscape plantings, and amenities such as fountains or public art.

*Senior living facilities.* This broad category of housing accommodation includes the following types of facilities:

1. *Senior housing facility:* A residential facility for independent living, containing dwellings where the occupancy is restricted to persons fifty-five (55) years of age or older or couples where either the husband or wife is fifty-five (55) years of age or older. This does not include a development that contains convalescent or nursing facilities.
2. *Congregate care living facility:* A residential facility for semi-dependent living, containing two (2) or more dwelling units for four (4) or more persons fifty-five (55) years of age or older or couples where either the husband or wife is fifty-five (55) years of age or older, within which are provided living and sleeping facilities, as well as various other services such as meal preparation, laundry services and the like.
3. *Life care facility:* A facility which may include a full range of living arrangements, for elderly and/or disabled persons, progressing from independent living in single-family units to congregate apartment living where semi-dependent residents share various common facilities and services, to a nursing home facility for dependent residents providing a full range of support services and nursing care (also see "Nursing home").

*Square*. Square means open space that may encompass an entire block, is located at the intersection of important streets, and is set aside for civic purposes, with landscape consisting of paved walks, lawns, trees, and civic buildings. A Square is bordered by streets and may have Major Civic uses located on or adjacent to the Square. The Square is intended as a central place for the community and should accommodate a wide variety of formal and informal gatherings; it does not actually have to form a perfect square.

*Stub out.* Stub out means a transportation facility (i) whose right-of-way terminates at a parcel abutting the development, (ii) that consists of a short segment that is intended to serve current and future development by providing continuity and connectivity of the public street network, (iii) that based on the spacing between the stub out and other streets or stub outs, and the current terrain there is a reasonable expectation that connection with a future street is possible, and (iv) that is constructed to the property line.

**§ 3. That Section 1304 be and hereby is added to Article XIII of Appendix A of the Code of the County of Amherst, as follows:**

1304. Mixed Use/Traditional Neighborhood Development (MU/TND) Subdivision Design Standards

##### 1304.01 Intent. Mixed Use/Traditional Neighborhood District Subdivisions allow the development of urban neighborhoods that produce new development consistent with the patterns of historic or traditional parts of Amherst County, with appropriate civic space; or provide for the recreation of neighborhoods that follow the patterns of traditional towns within the region. Approval of a MU/TND subdivision requires submission of a specific plat subject to the following standards.

##### 1304.02 Subdivision Standards. MU/TND subdivisions shall comply with the standards and requirements of Article XIII of Appendix A, County Code, subject to the following standards and variations:

1. The overall density of the subdivision complies with the MU/TND zoning District in accordance with subsection 711.09. A subdivider may apply for a rezoning simultaneously with the plat approval process.
2. All streets within a MU/TND subdivision shall connect to other public streets within the District.
3. All streets and alleys within a MU/TND shall be public streets designed and constructed according to VDOT standards for subdivision street design.
4. Articles of incorporation and/or covenants for a homeowners' association or other provision assuring maintenance or operation of all common spaces shall be submitted with subdivision application.

**§4. That this ordinance shall be in force and effect upon adoption.**

Adopted this 20th day of December, 2011.

 \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

 Claudia D. Tucker, Chair

 Amherst County Board of Supervisors

**ATTEST:**

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Steve Crosby, Clerk

Amherst County Board of Supervisors

**Ayes \_\_\_\_ No’s\_\_\_\_\_ Abstentions \_\_\_\_**

AYE: Ms. C. Tucker, Mr. F. Campbell, Mr. D. Kidd, Mr. R. Curd, Ms. J. Roberson

NAY: None

ABSENT: None

**IN RE: PUBLIC HEARING - ORDINANCE 2011-0010**

Mr. S. Crosby presented the ordinance to the Board.

Ms. C. Tucker addressed the audience regarding the ordinance.

Ms. C. Tucker called the Public Hearing to order.

Dr. B. Ratliff told the Board that he supported the ordinance and applauded the Board’s efforts. He also stated that he hoped the Board would consider entertaining something similar for the School Board.

Sheriff Ayers spoke in favor of the ordinance. He told the Board that his staff was dedicated to Amherst County.

There were no other speakers and the Public Hearing was closed.

**BOARD OF SUPERVISORS’ ACTION**

Ms. C. Tucker moved to approve Ordinance 2011-0010.

**AN ORDINANCE, NO. 2011-0010**

Authorizing a one-time bonus in calendar year 2011, of $1,500 to full-time County employees eligible for fringe benefits, and $500 to regular part-time County employees eligible for fringe benefits.

 **\_\_\_\_\_\_\_\_\_\_\_\_\_\_**

Approved as to form by the County Attorney

**\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**

**READING: Board of Supervisors, December 6, 2011**

**PUBLIC HEARING: Board of Supervisors, December 20, 2011**

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

 **§1. That the Amherst County Board of Supervisors authorizes a one-time bonus in calendar year 2011, of $1,500 to all full-time County employees eligible for fringe benefits, and $500 to all regular part-time employees eligible for fringe benefits, as follows:**

**WHEREAS**, Virginia Code §15.2-1508 authorizes local governments to award bonuses to employees of the locality; and

**WHEREAS,** County employees last received an increase in their compensation in 2008, which increase was one percent of their salary; and

**WHEREAS,** since that time, insurance premiums have increased as has the overall cost of living; and

**WHEREAS**, the total amount of the bonuses authorized by this ordinance is less than the amount of funds that the County departments returned unspent at the end of fiscal year 2011; and

**WHEREAS**, the Board of Supervisors has given proper public notice of the proposed adoption of this ordinance and held a public hearing on adoption on December 20, 2011.

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

1. That for the purposes of this ordinance, the term “bonus” shall mean a lump-sum supplement to compensation that is not part of an employee’s base salary.

2. That for the purposes of this ordinance, the term “employees” shall include (i) the County Attorney and those staff under her supervision; (ii) those staff under the supervision of the County Administrator, (iii) the constitutional officers and staff under their supervision, (iv) the Director of Public Utilities, Amherst County Service Authority, and staff under his supervision, (v) the Director of the Amherst County Department of Social Services and staff under his supervision, and (vi) the Registrar and staff under his supervision.

3. That on or before December 31, 2011, a one-time bonus of $1,500 shall be paid to full-time employees eligible for fringe benefits.

4. That on or before December 31, 2011, a one-time bonus of $500 shall be paid to part-time employees eligible for fringe benefits.

5. That both bonuses shall be paid out separately from the normal payroll schedule.

6. That both bonuses shall be disbursed in calendar year 2011 only and shall not pursuant to this ordinance be paid thereafter.

7. That the County budget is amended and $347,000 is appropriated from the unobligated general fund to support the cost of the bonuses paid to employees other than the Director of Public Utilities and staff under his supervision.

8. That the Board asks that the Amherst County Service Authority Board appropriate $33,995 to support the cost of the bonuses for the Director of Public Utilities and staff under his supervision.

**§2. That this ordinance shall be in force and effect upon adoption.**

Adopted this 20th day of December, 2011.

 \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

 Claudia D. Tucker, Chair

 Amherst County Board of Supervisors

**ATTEST:**

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Steve Crosby, Clerk

Amherst County Board of Supervisors

**Ayes \_\_\_\_ No’s\_\_\_\_\_ Abstentions \_\_\_\_**

AYE: Ms. C. Tucker, Mr. F. Campbell, Mr. D. Kidd, Mr. R. Curd, Ms. J. Roberson

NAY: None

ABSENT: None

**N RE: PRESENTATION – AMHERST EDUCATION ASSOCIATION**

Ms. Melanie Lewis presented information to the Board and requested the Board consider a pay raise during budget time.

**IN RE: RESOLUTION 2011-0049-R – KATHLEEN C. WOOD**

Ms. C. Tucker presented the resolution to the Board.

Mr. F. Campbell motion to adopt Resolution 2011-0049-R.

Amherst County Board of Supervisors

County Resolution No. 2011-0049-R

**For consideration on December 20, 2011**

**A RESOLUTION, NO. 2011-0049-R**

Commemorating Kathleen C. Wood upon her retirement after 40 years of service 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 recognizes Kathleen C. Wood for her faithful service to Amherst County, as follows:**

 **WHEREAS**, Mrs.Woodwas hired in November of 1971 as the first person to serve as secretary to the County Administrator; and

 **WHEREAS,** Mrs.Woodworked for six different County Administrators; and

 **WHEREAS,** Mrs. Woodmade continual improvements to the office and assisted the organization in becoming more efficient; and

 **WHEREAS,** Mrs. Woodmade a significant contribution in implementing a new telephone service and other telecommunication upgrades; and

 **WHEREAS,** Mrs. Wooddisplayed her loyalty to the County by agreeing to delay her retirement to help during a transition period; and

 **WHEREAS,** Mrs. Woodis known as an avid reader, excellent cook and supporter of the community.

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

 That the Board expresses it gratitude and appreciation to Kathleen C. Woodfor 40 years of loyal and dedicated service to Amherst County, and congratulates her on her well-deserved retirement, and sincerely extends best wishes for a healthy and happy retirement.

 **BE IT FURTHER RESOLVED:**

That the Clerk of the Board of Supervisors is directed to prepare a copy of this resolution for presentation to Kathleen C. Wood as an expression of the Board’s appreciation for her 40 years of service.

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

Adopted this 20th day of December, 2011.

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 Claudia D. Tucker, Chair

 Amherst County Board of Supervisors

**ATTEST:**

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Steve Crosby, Clerk

Amherst County Board of Supervisors

AYE: Ms. C. Tucker, Mr. F. Campbell, Mr. D. Kidd, Mr. R. Curd, Ms. J. Roberson

NAY: None

ABSENT: None

**IN RE: RESOLUTION 2011-0048-R**

Ms. E. Bowyer presented the resolution to the Board.

Mr. Gary Roakes presented information to the Board regarding the updating and overview of the radio system.

Mr. F. Campbell motioned for the Board to adopt 2011-0048-R.

Amherst County Board of Supervisors

County Resolution No. 2011-0048-R

 **For consideration on December 20, 2011**

**A RESOLUTION, NO. 2011-0048-R**

A resolution, approving the Region 2000 Emergency Communications Regional Cooperative Agreement, and authorizing the Chair of the Amherst County Board of Supervisors to sign such Agreement on the County’s behalf.

**\_\_\_\_\_\_\_\_\_\_\_\_\_\_**

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 approves the Region 2000 Emergency Communications Regional Cooperative Agreement, and authorizes the Chair of the Amherst County Board of Supervisors to sign such Agreement on the County’s behalf, as follows:**

 **WHEREAS,** since 1996, Amherst County, Bedford County, the City of Bedford and the City of Lynchburg (“member jurisdictions”) have operated a regional emergency communication system under the auspices of the Central Virginia Radio Communications Board (“CVRCB”) pursuant to the Intergovernmental Agreement; and

 **WHEREAS,** the bonds issued in 1996 through the Industrial Development Authority of the Town of Amherst to establish the original regional emergency communication system have been paid, and the original emergency communications equipment has reached its useful life, and

 **WHEREAS**, the member jurisdictions have determined that the best way to continue operation of the regional emergency communication system is to dissolve the CVRCB and replace it with a new Region 2000 Radio Communications Board which will manage and operate the regional emergency communication system while the Region 2000 Local Government Council (“Council”) acts as fiscal agent; and

**WHEREAS**, the member jurisdictions have determined that the best way to finance the purchase of new emergency communications equipment is to have the Council issue the bonds for the purchase of that equipment.

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

 That the Amherst County Board of Supervisors approves the Region 2000 Emergency Communications Regional Cooperative Agreement, a true copy of which is attached as Exhibit A, and authorizes the Board Chair to sign that Cooperative Agreement on behalf of Amherst County.

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

Adopted this 20th day of December, 2011.

 \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

 Claudia D. Tucker, Chair

 Amherst County Board of Supervisors

**ATTEST:**

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Steve Crosby, Clerk

Amherst County Board of Supervisors

**Ayes \_\_\_\_\_ No’s \_\_\_\_\_\_ Abstentions \_\_\_\_\_\_**

**Resolution No. 2011-0048-R**

**EXHIBIT A**

**(22 pages)**

**REGION 2000 EMERGENCY COMMUNICATIONS**

**REGIONAL COOPERATIVE AGREEMENT**

This Agreement is entered into by and between Amherst County, Virginia (“Amherst County”), Bedford County, Virginia (“Bedford County”), the City of Bedford, Virginia (“Bedford City”), and the City of Lynchburg, Virginia (“Lynchburg”), collectively the “Member Jurisdictions”, and Virginia’s Region 2000 Local Government Council (“Council”), all political subdivisions or public bodies corporate and politic of the Commonwealth of Virginia, and all of which collectively may be referred to as the “Parties”.

**RECITALS**

 WHEREAS, the Member Jurisdictions have been jointly operating a Regional Emergency Communications System (“System”) under the auspices of the Central Virginia Radio Communications Board (“CVRCB”), which the Member Jurisdictions formed pursuant to the May 1, 1996 Intergovernmental Agreement (“Intergovernmental Agreement”); and

 WHEREAS, the System was financed primarily through a 1996 bond issuance by the Industrial Development Authority of the Town of Amherst, Virginia (“Amherst IDA”) in the amount of $9,931,000.00 as described in the Intergovernmental Agreement; and

 WHEREAS, the Member Jurisdictions have paid the interest and principal on the 1996 Bonds pursuant to the May 1, 1996 Lease Agreement (“Lease Agreement”) between the Amherst IDA and the Member Jurisdictions, with the final payment having occurred and such bonds having been fully paid; and

 WHEREAS, the Member Jurisdictions have determined that the System is in need of significant upgrades or replacement before January 1, 2014 (the “Project”) in order to maintain or improve the level of emergency services currently provided by the Member Jurisdictions and expected by the residents of the community before the current System becomes unserviceable and obsolete; and

 WHEREAS, the Project will require debt financing in an amount similar to the debt issued in 1996, which financed the current System; and

 WHEREAS, the Member Jurisdictions and the Council have determined that in order to manage the Project operations and maintenance in an efficient and cost effective manner, the CVRCB should be dissolved upon repayment of the 1996 Bonds and replaced by a new Region 2000 Radio Communications Board (“Board”), established as a committee by the Council and consisting of representatives from each of the Member Jurisdictions; and

 WHEREAS, the Parties have determined that the Council will finance the Project through the issuance of debt to be paid by the Council through payments received from the Member Jurisdictions; and

WHEREAS, the Council’s purpose under §15.2-4207 of the Act is to encourage and facilitate local government cooperation, including physical infrastructure development, criminal justice and emergency management through regional cooperative arrangements for the facilitation of revenue sharing, joint service delivery, and joint government purchasing, such as is set forth in this Agreement.

 NOW THEREFORE, for and in consideration of the mutual and reciprocal benefits inuring to the Parties, and in further consideration of the duties imposed upon the Parties hereby, the Parties covenant and agree as follows:

**ARTICLE I**

**DEFINITIONS**

 Unless otherwise defined, each capitalized term in this Agreement shall have the meaning set forth below.

“1996 Assets” means all System assets and equipment financed jointly with the 1996 Bonds.

 “1996 Bonds” means the Series 1996 Bonds issued by the Amherst IDA in the original principal amount of $9,931,000.00, as described in the Intergovernmental Agreement, for the original financing of the System.

 “Act” means the Regional Cooperation Act, Chapter 42, Subtitle IV, Title 15.2, Code of Virginia, 1950, as now in effect or as hereafter amended.

 “Agreement” means this agreement entered into by the Parties.

 “Annual Budget” means the budget adopted each fiscal year by the Board to cover the annual Operating and Capital Costs associated with the Project and System.

 “Annual Deficit” means any actual deficit at the end of a Fiscal Year consisting of an excess of Operating and Capital Costs over Operating Revenues for such Fiscal Year incurred by the Council acting pursuant to the Annual Budget and any amendments.

 “Applicable Law” means any law, regulation, requirement (including but not limited to permit and governmental approval requirements) or order of any local, state or federal agency, court or other governmental body, applicable from time to time to the acquisition, design, construction, equipping, testing, start-up, financing, ownership, possession or operation of any of the Facilities, the System or the performance of any obligations under any agreement entered into in connection therewith.

 “Board” means the Region 2000 Radio Communications Board as set forth herein.

 “Bonds” means any bonds, notes, financing leases or other obligations issued by the Council to finance the acquisition, construction and equipping of the Project, including any bonds issued to refund such bonds.

 “Capital Costs” means all capital-related costs associated with the Project and System, including but not limited to Debt Service Payments and Capital Expenditures necessary for compliance with Applicable Law, necessary for normal maintenance and reasonable periodic expansion of improvements to the Facilities, or incurred in connection with Uncontrollable Circumstances.

 “Capital Expenditure” means any expenditure of a capital nature made directly to support the Project or System, and which will be amortized or depreciated over more than one Fiscal Year.

“Chairman” means chairman of the Board.

 “Council” means Virginia’s Region 2000 Local Government Council, a planning district commission and a public body corporate and politic, organized under the Act.

 “Debt Service Payments” means the payments of principal, premium, if any, and interest required to be made by Council but funded from the Member Jurisdictions by the terms of any Bonds. It shall also include any payments to Member Jurisdictions that have advanced funding for the Project pursuant to a reimbursement resolution for such payments as may be approved by the Board and Council.

 “Event of Default” means any of the events of default set forth in Article VIII of this Agreement.

 “Executive Director” means Executive Director of the Council.

 “Facility” or “Facilities” means all hardware, software, infrastructure, terminal equipment, and other tangible equipment comprising the System or associated with the Project, including all radio frequency licenses necessary for the operation of the System.

 “Fiscal Year” means the period from July 1 of one year to June 30 of the next year.

 “Indenture” means any Indenture of Trust, loan or financing agreement, financing lease or other agreement entered into between the Council and a corporate trustee or lender, pursuant to which the Bonds are issued.

“Member Jurisdiction” means each political subdivision that enters into this Agreement as of its effective date, and any additional political subdivision that subsequently enters into this Agreement as a Member Jurisdiction.

 “Operating Costs” means all costs approved by the Board as properly allocable to acquiring, constructing, equipping, maintaining and operating the Facilities, other than any costs qualifying as Capital Costs, including, but not limited to:

(1) Salaries and fringe benefits of employees;

(2) Utilities, fuel, equipment (including but not limited to trucks and heavy equipment) tools and supplies;

(3) All costs incurred for engineering services, and other services, which may include design, permitting, operation, testing, and monitoring;

(4) All costs for compliance with all permit conditions and compliance with Applicable Law;

(5) All costs incurred for legal services, which may include zoning, permitting, financing, issues related to the operation of the Facilities, and defense of claims related to the operation of the Facilities;

(6) Insurance costs and the costs of bonds, letters of credit, escrows or other financial assurance or allowance for environmental assessments or property value guarantees, or for compliance with Applicable Law;

(7) Purchase and maintenance costs of equipment and maintenance of the Facilities;

(8) All accounting, bookkeeping and financial advisory fees and charges;

(9) All costs associated with uncollectible accounts;

(10) All amounts necessary to create funds required by an Indenture, or to replenish deficits in any such funds;

(11) Any payments made by the Member Jurisdictions to the Council or any other governmental entity for Project-related services;

(12) Amounts paid to reserve accounts created by the Board pursuant to Section 4.11 of this Agreement; and

(13) Amounts paid to maintain Facilities, including but not limited to costs for generator maintenance and fuel, pest control, and fire suppression.

 “Operating Revenues” means all income and revenues resulting from the ownership or operation of the Facilities and the System, including any payments of a Member Jurisdiction’s Pro Rata Share.

 “Parties” means Amherst County, Bedford County, the City of Bedford, the City of Lynchburg, Virginia’s Region 2000 Local Government Council (“Council”), and any political subdivision that may join this Agreement subsequent to the Effective Date.

 “Pro Rata Share” means each Member Jurisdiction’s proportional share of the Annual Deficit, Capital Costs and Operating Costs.

“Project” means the Facilities financed with Bonds, and any interest in real estate and equipment that are common facilities required to upgrade, manage and operate the System.

 “Shortfall” means an expected lack of funds required for any Debt Service Payment pursuant to Section 6.1(c) of this Agreement.

 “System” means the regional emergency communications system operated and managed by the Board.

 “System Customer” means a non-Member Jurisdiction entity authorized to access and utilize the System pursuant to an agreement with the Board.

 “Uncontrollable Circumstance” means any event or condition, whether affecting the Facilities, any Member Jurisdiction or the Council, that interferes with the acquisition, design, construction, equipping, start-up, operation, ownership or possession of the Facilities or the System, or other performance required hereunder, if such event or condition is beyond the reasonable control, and not the result of willful action of the party relying thereon as justification for any nonperformance including but not limited to an act of God, storm, flood, landslide, earthquake, fire or other casualty, war blockade, insurrection, riot, the order or judgment of any local, state, or federal court, administrative agency or governmental officer or body (other than such an officer or body of the party relying thereon), a strike, lockout or other similar labor action.

**ARTICLE II**

**EFFECTIVE DATE AND DURATION OF AGREEMENT**

**Section 2.1.** **Effective Date.** This Agreement shall become effective upon its execution by authorized officers of all Member Jurisdictions and the Council (“Effective Date”), subject to the terms and conditions contained herein. The initial term of this Agreement shall be 20 years following the Effective Date; provided, however, that the initial term may be extended by unanimous agreement of the Parties.

**Section 2.2. Withdrawal of Member Jurisdiction.** In the event a Member Jurisdiction withdraws from this Agreement while there is outstanding Project or System related debt, such withdrawal shall require unanimous consent of the other Parties. In the event a Member Jurisdiction withdraws from this Agreement while there is no outstanding debt, then such withdrawal shall not require the consent of the other Parties. In the event of any withdrawal from this Agreement, the withdrawing Member Jurisdiction shall have no right to any portion of the System or the Facilities without the consent of the other Member Jurisdictions. In order to be effective, any withdrawal shall require at least one year advance written notice to the Parties, and shall be approved by the resolution or ordinance of the governing body.

**Section 2.3. Dissolution.** In the event that the Member Jurisdictions unanimously agree, prior to the end of the term of the Agreement, to voluntarily dissolve the Board and discontinue joint ownership and operation of the System, or in the event that, at the end of the Term of the Agreement, the Member Jurisdictions determine not to extend the Agreement for another term, the Council shall, after the payment of all debts relating to the System that have been approved by the Board, transfer title to all System Facilities to the Member Jurisdictions in proportion to the respective shares of capital costs established in Section 4.7 of this Agreement.   The consent of Council to the dissolution shall be required if there is any outstanding indebtedness attributable to the Bonds at the time dissolution is proposed. The determination as to which specific assets of the System or the Facilities shall be given to each Member Jurisdiction shall be determined by agreement of all of the Member Jurisdictions, or if there is no agreement, then the assets shall be sold and the funds transferred to the Member Jurisdictions in proportion to the respective shares of capital costs established in Section 4.7 of this Agreement. In the event that any portion of the System or Facilities is sold prior to Dissolution, the proceeds from such sale shall be divided among the Member Jurisdictions in the same manner as provided in the event of Dissolution.

**Section 2.4. Termination of Intergovernmental Agreement.** As of the Effective Date of this Agreement, the Member Jurisdictions agree that the Intergovernmental Agreement shall terminate.

**ARTICLE III**

**EFFECTIVE DATE OF CERTAIN PROVISIONS**

**Section 3.1. Cost Allocation: Member Jurisdictions’ Pro Rata Share.** Notwithstanding any provision herein to the contrary, for the purposes of determining the proportional amounts owed by each Member for annual Capital Costs, Operational Costs, and any Annual Deficit, the provisions of Section 4.7 shall not take effect until July 1, 2013. Until that time, the Member Jurisdictions shall be responsible for such costs pursuant to the terms and conditions of the Intergovernmental Agreement and the Lease Agreement, such terms being incorporated herein solely for the purposes of this section and which establish the following percentages for which each Member Jurisdiction is responsible:

 Amherst County 24.8%

 Bedford County 38.2%

 City of Bedford 3.9%

 City of Lynchburg 33.1%

**Section 3.2. Reserved**.

**ARTICLE IV**

**CENTRAL VIRGINIA RADIO COMMUNICATIONS BOARD; MEMBER JURISDICTION RIGHTS AND DUTIES**

**Section 4.1. Creation of Board**. As authorized by the Act, the Council hereby creates with the agreement of the Member Jurisdictions, the Region 2000 Radio Communications Board (“Board”) as a committee of the Council to manage the Facilities, the Project and the System as provided herein. Original membership shall consist of the Member Jurisdictions as defined herein as of the Effective Date. The principal office of the Board shall be at the office of the Executive Director of the Council, unless otherwise designated by the Member Jurisdictions. The Board is authorized to manage the day to day operations of the Facilities, the Project and the System as set forth herein.

**Section 4.2. Board Membership; Bylaws.** The members of the Board shall consist of one representative from each of the Member Jurisdictions who shall be the chief public safety communications officer for that jurisdiction. If a Member Jurisdiction does not have a chief public safety communications officer, then the Board member from such jurisdiction shall be its chief law enforcement officer. Each Member Jurisdiction shall appoint an alternate Board member, who shall be the jurisdiction’s chief administrative officer or his or her designee, to attend meetings in the absence of the primary Board member. Alternates shall be entitled to vote on any matter before the Board in the absence of the primary member. The Board may establish bylaws or procedures governing the election of officers, the scheduling of meetings and notice thereof, and other procedural matters.

**Section 4.3. Powers and Duties of Board.** The Board shall be responsible for overseeing the management, operation and administration of the Facilities, the Project and the System. Approval of the Board shall be required prior to the incurrence of Bonds related to the Project, the Facilities or the System.

**Section 4.4. Reserved.**

**Section 4.5. Procedures to Add New Member.** Any eligible local government entity or other political subdivision in Virginia may, with the approval of its governing body and with the consent of all of the Member Jurisdictions, join and participate in the use, management and operation of the Project and the System as a Board member under the provisions of this section and pursuant to any additional terms and conditions for membership as may be prescribed by the Board. New members shall be responsible for all costs associated with connecting their existing emergency communications infrastructure to the System, for purchasing their own portable and mobile radio equipment, and for other all applicable costs under this Agreement. The Board reserves the right to examine and test any equipment prior to connection to the System, and may, in its sole discretion, refuse to connect any such equipment to the System. Unless otherwise agreed to by the Board, legal title to any infrastructure being contributed and connected to the System by the new member shall be transferred to the Council and committed to use as a part of the System. A new member shall be responsible for providing and contributing any required infrastructure and equipment needed in such new member’s jurisdiction, and in no event shall the Council or Member Jurisdictions be required to compensate a new member for the value of any infrastructure owned by the new member or transferred by the new member to the Council.

**Section 4.6. Decisions Requiring Consent of Member Jurisdictions.** None of the following decisions may be taken by the Board without the unanimous consent of all the Member Jurisdictions:

1. Any amendment of this Agreement;
2. Any change in the Cost Allocation Methodology used to determine the Pro Rata Share owed by any Member Jurisdiction; and
3. The addition of a Member Jurisdiction.

**Section 4.7. Allocation of Annual Deficit, Capital Costs and Operating Costs: Member Jurisdictions’ Pro Rata Share.** Beginning July 1, 2013, Each Member Jurisdiction shall pay its share of (i) any Annual Deficit, (ii) Capital Costs and (iii) Operating Costs associated with the Project and the System, as determined pursuant to the following Cost Allocation Methodology:

A. Capital Costs. Each Member Jurisdiction’s share of Capital Costs shall be as follows:

Amherst County: 28.0%

 Bedford County: 36.8%

 City of Bedford: 5.1%

City of Lynchburg: 30.1%

B. Operating Costs. Each Member Jurisdiction’s share of Annual Operating Costs shall be based on the number of radios on the System attributable to the Member Jurisdiction as a percentage of total Member Jurisdiction radios on the System.

1. Annual Deficit. Each Member Jurisdiction’s share of any Annual Deficit shall be based on the formulas for determining its share of Capital Costs or Operating Costs, or a combination of both formulas as appropriate, depending on the type of costs constituting the Annual Deficit. Any unforeseen Operating Costs not included in the Annual Budget shall be treated as part of the Annual Deficit.
2. The total share of annual Capital Costs, Operating Costs, and Annual Deficit attributable to each Member Jurisdiction pursuant to the formulas set forth in this section shall constitute each Member Jurisdictions’ respective “Pro Rata Share”, which shall be set forth in the Annual Budget.
3. The Pro Rata Shares shall be re-calculated each fiscal year based on the methodology set forth in this section. However, if the Pro Rata Shares are not re-calculated in any particular fiscal year, then the Pro Rata Shares from the prior fiscal year shall continue to remain in effect.
4. For the purposes of determining each Member Jurisdiction’s share of Operating Costs in subsection B, the number of radios shall be based on the total number attributable to each Member Jurisdiction as of July 1, in the fiscal year prior to the fiscal year for which the Annual Budget is being adopted.
5. Hand held and mobile radios for use on the System shall be purchased and owned separately by each respective Member Jurisdiction, unless otherwise agreed to by the Parties.

**Section 4.8.**  **System Customers.** With approval of the Board, the Council may contract with System Customers for the use of the System. System Customers shall pay a proportional share of the Board’s annual Operating Costs, based on the number of radios the System Customer uses on the System as a percentage of the total number of radios on the System, or as may otherwise be required by the Board. Any amounts received from System Customers shall be used for the Project or System. Such amounts may be used to offset Member Jurisdiction’s Pro Rata Shares or any other payment obligations or expenses under this Agreement. However, such amounts shall in no way relieve any Member Jurisdiction of its obligations under this Agreement.

Unless otherwise agreed to in writing by the Board, individual hand held and mobile radios shall be purchased directly by each System Customer and shall remain the property of the System Customer.

**Section 4.9. Annual Budget.** On or before November 1 of each year theBoard shall adopt a budget to cover all anticipated Operating Costs, Capital Costs and Annual Deficit for the ensuing fiscal year (“Annual Budget”), and communicate to each Member Jurisdiction the respective Pro Rata Shares due for the ensuing fiscal year. The Board shall itemize each Member Jurisdiction’s Pro Rata Share by category of costs (Capital, Operating, Annual Deficit). Each Member Jurisdiction shall include its Pro Rata Share, as adopted in the Annual Budget and communicated by the Board, in its proposed annual budget for consideration by its governing body.

**Section 4.10. Member Jurisdiction Payments.**  Each Member Jurisdiction agrees to pay its Pro Rata Share to the Council by July 30 each year.

**Section 4.11. Reserve Accounts.** Member Jurisdictions agree to appropriate monies into and maintain reserve accounts as may be required by the terms of any financing for the Project, to cover a certain percentage of Capital Costs, Operating Costs or other Project expenses as determined by the Board to be appropriate.

**Section 4.12. City of Bedford; Reversion to Town Status.** As of the execution of this Agreement, the City of Bedford has plans to revert to town status. Such reversion shall not affect the rights and obligations hereunder or any other agreement related to the Project or the System to which the City of Bedford is a party as of the date such Reversion becomes effective, unless agreed to in writing by the Parties. As long the Pro Rata Share attributable to the County and Town of Bedford combined continues to be paid in full (by either or both of such county and town), then the Parties agree to amend this Agreement in the event of the City of Bedford reverting to town status in order for this Agreement to be consistent with relevant terms and conditions of any reversion agreement(s) between Bedford County and City/Town of Bedford.

**Section 4.13. Lease of tower space or radio spectrum.** The Board, by majority vote and with the approval of the member of the Board from the jurisdiction where the tower is located, may lease space for the collocation of equipment on any System tower by entities that are not Member Jurisdictions or System Customers. Additionally, the Board may lease available radio spectrum to entities that are not Member Jurisdictions or System Customers. The Council agrees that in the event the System tower or System radio spectrum is owned by the Council, that it shall enter into any lease or co-location agreement approved by the Board pursuant to this section.

**Section 4.14. Distribution of revenues from tower co-location or spectrum leases**. Any revenues generated from the lease of System tower space or radio frequency spectrum shall either be used directly for the Project and System, or the Board may vote to divide such revenues according to the respective shares of Capital Costs set forth in Section 4.7.A and distribute them accordingly to the Member Jurisdictions. If there is outstanding indebtedness attributable to the Bonds at the time of the distribution, then such distribution shall be subject to the terms and conditions of the Bonds and any security therefor.

**Section** **4.15. Distribution of Operating Revenues.** Operating revenues shall be used to pay Operating Costs, and to the extent appropriate be used as a credit towards Member Jurisdictions’ respective Pro Rata Shares, once apportioned, or any other payment obligations or expenses under this Agreement. However, such amounts shall in no way relieve any Member Jurisdiction of its obligations under this Agreement.

**ARTICLE V**

**REGION 2000 LOCAL GOVERNMENT COUNCIL**

**RIGHTS AND DUTIES; OWNERSHIP OF SYSTEM**

**Section 5.1. Fiscal Responsibilities.** The Council shall be the fiscal agent with regard to the Project and the System unless the Member Jurisdictions exercise their authority under Section 5.6. The Council shall deposit all Operating Revenues to a separate account or accounts established solely for the purposes of paying for all costs associated with the Project and the System. The Council shall not be liable or responsible for costs or other payments that are the responsibility of the Member Jurisdictions. The Executive Director is authorized to act on behalf of the Council in order to fulfill the responsibilities set out in this section. Pursuant to the Council’s responsibilities as fiscal agent under this Agreement, the Council shall:

1. Procure, upon approval by the Board, all contracts with vendors, service providers, contractors, engineers, attorneys, governmental agencies or other entities related to the Project and the System;
2. Provide professional, technical and clerical support to the Board on all matters related to planning, operations, monitoring, oversight, and evaluation of the Radio Board programs, activities and services as directed by the Board;
3. Assist the Board in developing an operations budget for the Board’s approval and submission to the Member Jurisdictions;
4. Receive, account for and manage all of the Board’s finances, including but not limited to accounts payables and receivables, audits and bond-related finances;
5. Provide grant writing and management services;
6. Provide administrative staffing services for Board meetings; and
7. Perform such other duties as may be assigned by the Board from time to time.

**Section 5.2. Ownership and Disposal of System and Project Facilities.** Upon the Effective Date, the Member Jurisdictions shall transfer to the Council title to all 1996 Assets. The Council shall be the owner of and hold title to the System Facilities purchased with the Bonds, including the 1996 Assets, until such time as the Bonds are fully paid. Upon repayment of the Bonds, ownership of the System Facilities purchased with the Bonds and the 1996 Assets shall transfer to the Member Jurisdictions, who shall own jointly own such assets in proportion to the respective shares of Capital Costs set forth in Section 4.7. However, the Board, by unanimous vote, may agree for the Council to continue holding title to such assets.

Except as otherwise provided in the event of dissolution under Section 2.3, unanimous approval of the Board shall be required for the Council to sell, transfer or otherwise dispose of any of the System or Facilities to which it holds title. Upon such sale or disposal, any income derived therefrom shall be distributed to the Member Jurisdictions in proportion to the respective shares of Capital Costs set forth in Section 4.7.

**Section 5.3. Continued access to towers.** In the event that a Member Jurisdiction owns the land on which a System tower is located, or owns the land and the tower, then such Member Jurisdiction shall allow access over and across such property, at no cost, to the Board, the other Member Jurisdictions, the Council and any employee, contractor or agent thereof for the purposes of accessing such tower in the course of operating and maintaining the System.

**Section 5.4. Ownership of Portable and Mobile Radios.** Individual hand held and mobile radios shall be purchased directly from the vendor by each Member Jurisdiction and shall remain the property of the purchasing locality. Notwithstanding the above, the parties may agree to finance such equipment through Council-issued debt. In that case, such hand held and mobile radios shall be owned by the Council until such time as the debt is paid in full at which point such ownership of such equipment shall transfer to the appropriate Member Jurisdiction. Any Member Jurisdiction financing radios through the Council shall be solely responsible to the Council for the repayment of all associated debt and other expenses.

**Section 5.5. Decisions Requiring Consent of Council.**

1. Any amendment of this Agreement.
2. Any issuance of Bonds by the Council in relation to the Project, if the funds to cover such obligation have not previously been appropriated to the Board as a part of its Annual Budget or otherwise.

**Section 5.6. Discharge of Fiscal Agent.** The Member Jurisdictions, by majority vote, may discharge the Council as fiscal agent at any time during the initial term of this Agreement or during any extended term. Such discharge shall not affect Council’s rights and obligations as the issuer of the Bonds.

**ARTICLE VI**

**PROJECT FINANCING**

**Section 6.1. Project Financing.**

1. **General.** As soon as practicable after the retirement of the 1996 Bonds, the Council shall proceed to secure financing for the costs of the Project and its acquisition, construction and equipping. The Council shall, with all reasonable dispatch after Project costs are established, issue and sell the Bonds pursuant to the authority granted to it under the Act in an amount, together with other available funds, which will be sufficient to pay the costs of the Project, including the repayment of any interim financing; provided, however, that nothing contained in this Agreement shall require the Council to issue the Bonds other than upon terms deemed reasonable by it and in accordance with the terms of this Agreement, or other agreement relating to the Bonds. Any issuance of Bonds for the Project shall require unanimous approval by the Board in addition to approval of the Council.
2. **Moral Obligation.** Each Member Jurisdiction hereby agrees that it has a moral, but non-binding, obligation to pay the Debt Service Payments in the event that the Council fails to make such payments. As such, each Member Jurisdiction agrees to direct its chief administrative officer to include in each proposed annual general fund budget submitted to the governing bodies for the Member Jurisdictions an amount equal to its share of the Debt Service Payments, as a component of Capital Costs, determined pursuant to section 4.7. Each Member Jurisdiction agrees to consider whether to include such amounts in its final general fund budget for the ensuing fiscal year.

Further, each Member Jurisdiction agrees to direct their chief administrative officer to submit a budget amendment or other appropriate ordinance or resolution to the respective governing body whenever the chief administrative officer receives a notice from the Council that there is a Shortfall as described in paragraph (c) below. Each Member Jurisdiction agrees to consider whether to make an appropriation to the Council in the amount requested each time that such a budget amendment or other appropriate ordinance or resolution is presented to it.

The obligation of the respective governing bodies to consider making any such appropriations constitutes neither a debt of the Member Jurisdictions within the meaning of any constitutional or statutory limitation nor a lien or charge upon any property or funds of such Member Jurisdiction. The governing body for each Member Jurisdiction has full discretion as to whether it wishes to make any such appropriation.

1. **Notification of Shortfall to Member Jurisdictions.** Until the Bonds have been paid in full, the Council will ascertain whether it has or is likely to have on hand Operating Revenues sufficient to pay the principal of and interest due on the Bonds during the next succeeding Fiscal Year. If sixty (60) days prior to a Debt Service Payment being due, the Council determines that it does not and will not have on hand an amount sufficient to make such payment, then it will immediately notify the chief administrative officer of each Member Jurisdiction of the amount of any expected shortfall (“Shortfall”) and request each to submit to their respective governing bodies immediately a budget amendment or other appropriate ordinance or resolution described in paragraph (b) above in an amount equal to the amount of the deficiency. When ascertaining whether it has or will have a sufficient amount on hand, the Council may take into account moneys in the Board accounts created pursuant to this Agreement, to extent such moneys have not been and need not be allocated to other expenditures on the Project or System.
2. **Payment upon Appropriation.** If any Member Jurisdiction agrees to make a payment under this section, then it shall make such payment directly to the Council. The Council agrees that once it has received a payment from the Member Jurisdiction pursuant to its Moral Obligation Agreement, it shall immediately transfer the amount of such payment to the holder or holders of the Bonds, as appropriate, to be applied to the payment of the principal of and interest on the Bonds.
3. **Council not bond issuer after debt retired.** Notwithstanding any other provision herein to the contrary, once the Bonds are paid in full, the Council’s rights and duties as the Bond issuer shall terminate and shall be assumed by the Member Jurisdictions.

**Section 6.2. Reimbursement Resolution.** Member Jurisdictions and Council agree that any funds advanced by Member Jurisdictions for Capital Expenditures, Operating Costs or other costs related to the Project in advance of the Bonds being issued may be reimbursed out of the proceeds of the Bonds to such Member Jurisdiction. The Council may execute a Resolution or other agreement required to effectuate this provision.

**ARTICLE VII**

**SYSTEM USE AND OPERATION**

**Section 7.1. Use of Emergency Communications System by Member Jurisdictions.** Member Jurisdictions shall have exclusive rights to use the System; except that other entities, including System Customers shall be entitled to use the System pursuant to terms and conditions as may be established by the Board. Each Member Jurisdiction shall use the System as its primary emergency communications network as long as this Agreement is in effect, and as long as there are any outstanding Bonds on the Project. Failure to utilize the System as its primary emergency communications network shall not relieve any Member Jurisdiction of its duties and obligations under this Agreement unless agreed to in writing by all Parties. Notwithstanding the above, Member Jurisdictions may utilize other emergency communications network in emergency situations or as otherwise required to meet the public safety needs of such Member Jurisdiction, as long as the Member Jurisdiction continues to use the System as its primary emergency communications network.

**Section 7.2. Reserved.**

**Section 7.3. Liability of Council.** The financial obligations of the Council with regard to the Project and the System are not general obligations of the Council but are limited obligations payable solely from payments from the Member Jurisdictions. No director, officer, employee or agent of the Council shall be personally liable for the Council’s obligations hereunder. The Council shall not be liable for the actions of any Member Jurisdiction.

**ARTICLE VIII**

**DEFAULT AND REMEDIES**

**Section 8.1. Default by Council.** Notwithstanding the provisions of Section 7.3 or any other provisions to the contrary, the occurrence of any one or more of the following events will constitute an “Event of Default” by the Council (“Council Default”) and the Member Jurisdictions may pursue any appropriate legal or equitable action against the Council as a result of any such default that is not cured as provided below:

1. Failure of the Council to pay principal or interest when due on any Bonds or other temporary or permanent financing for the Project issued or obtained by the Council pursuant to this Agreement when all required monies for such payment have been paid to the Council by the Member Jurisdictions;
2. The Council is for any reason rendered incapable of performing any of its material obligations under this Agreement;
3. The Council makes an assignment of all or a portion of its obligations under this Agreement without the prior consent of the Member Jurisdictions;
4. The Council defaults on any of its material obligations under any agreement pursuant to which any Bonds, or other temporary or permanent financing for the Project are issued or obtained by the Council pursuant to this Agreement and such default is not cured within the applicable cure period;
5. Any proceeding is instituted, with the consent or acquiescence of the Council, for the purpose of effecting a compromise between the Council and its creditors or for the purpose of adjusting the claims of such creditors pursuant to any federal or state statute now or hereafter enacted, if the claims of such creditors are under any circumstances payable from the funds of the Council; or

(f) The Council defaults in the due and punctual performance of any other of the covenants, conditions, agreements and provisions contained in this Agreement, and the default continues for 30 days after written notice specifying the default and requiring it to be remedied has been given to the Council by any Member Jurisdiction, unless the curing of such default is being diligently pursued, but in no event more than 60 days following such notice of default.

**Section 8.2. Default by Member Jurisdictions.** The occurrence of any one or more of the following events will constitute an “Event of Default” by any Member Jurisdiction (“Member Jurisdiction Default”):

1. Failure of any Member Jurisdiction to pay its Pro Rata Share when due under this Agreement;
2. Any Member Jurisdiction is for any reason rendered incapable of performing any of its material obligations under this Agreement;
3. Any proceeding is instituted, with the consent or acquiescence of any Member Jurisdiction, for the purpose of effecting a compromise between such Member Jurisdiction and its creditors or for the purpose of adjusting the claims of such creditors pursuant to any federal or state statute now or hereafter enacted, if the claims of such creditors are under any circumstances payable from the funds of such Member Jurisdiction; or
4. Any Member Jurisdiction defaults in the due and punctual performance of any of the other covenants, conditions, agreements, and provisions contained in this Agreement, and the default continues for 30 days after written notice specifying the default and requiring it to be remedied has been given to such Member Jurisdiction by another Member Jurisdiction or by the Council, unless the curing of such default is being diligently pursued, but in no event more than 60 days following such notice of default.

Any Member Jurisdiction in default of this Agreement shall not be entitled to vote on the Board. Moreover, upon a majority vote of the non-defaulting members of the Board, access to and use of the System by the defaulting Member Jurisdiction may be limited or discontinued until such default is cured.

**Section 8.3. Remedies of Member Jurisdictions.** Upon the occurrence of any default, any party, after giving notice of such default to all parties, may bring suit by mandamus or other appropriate proceeding to require the defaulting party to perform its duties under the Act and this Agreement or to enjoin any acts in violation of the Act or this Agreement.

**Section 8.4. Remedies of Council.** Upon the occurrence of a Member Jurisdiction Default, the Council, after giving notice of such Member Jurisdiction Default to all parties, may bring suit by mandamus or other appropriate proceeding to require the Member Jurisdiction to perform its duties under the Act and this Agreement or to enjoin any acts in violation of the Act or this Agreement.

**Section 8.5. Remedies Not Exclusive.** No remedy in this Agreement conferred upon or reserved to the parties is intended to be exclusive of any other remedy, and each remedy is cumulative and in addition to every other remedy given under this Agreement or now or hereafter existing at law, in equity or by statute.

**ARTICLE IX**

**MISCELLANEOUS**

**Section 9.1. Entire Agreement; Modification.** This Agreement represents the entire agreement between the Member Jurisdictions and the Council and supersedes all prior negotiations, representations or agreements, either written or oral. This Agreement shall govern the relations between the Council and the Board, and shall supersede all other representations or agreements, either written or oral, unless otherwise agreed to by the Parties or required by law.

**Section 9.2. Assignment.** No assignment of this Agreement, or any right occurring under this Agreement, shall be made in whole or part by any Member Jurisdiction without the Parties’ express written consent.

**Section 9.3. Partnership.** Nothing herein shall be construed to constitute a joint venture between the Council and any Member Jurisdiction or the formation of a partnership.

**Section 9.4. Severability.** If any clause, provision or section of this Agreement is held to be illegal or invalid by any court, the invalidity of the clause, provision or section will not affect any of the remaining clauses, provisions or sections, and this Agreement will be construed and enforced as if the illegal or invalid clause, provision or section had not been contained in it.

**Section 9.5. Notices.** All notices, certificates, requests or other communications under this Agreement must be in writing and will be deemed given, unless otherwise required, when either mailed by first-class U.S. Mail, postage prepaid, or delivered by hand, to the address set forth below:

 If to Council: Region 2000 Local Government Council

 Executive Director

 828 Main Street – 12th Floor

 Lynchburg, VA 24504

 If to City of Bedford: Bedford, Virginia

 City Manager

 P.O. Box 807

 Bedford, VA 24523

 If to City of Lynchburg: Lynchburg, Virginia

 City Manager

 900 Church Street

 Lynchburg, VA 24504

If to County of Amherst: Amherst County, Virginia

 County Administrator

 PO Box 390

Amherst, VA  24521

If to County of Bedford: Bedford County, Virginia

 County Administrator

 122 East Main Street, Suite 202

Bedford VA 24523

 The parties may by notice given under this Section designate such other addresses as they may deem appropriate for the receipt of notices under this Agreement. If, by reason of the suspension of or irregularities in regular mail service, it is impractical to mail notice of any event when notice is required to be given, then any manner of giving notice which is satisfactory to the intended recipient will be deemed to be sufficient.

**Section 9.6. Representations as to Ability to Perform.**  The Council is not a party to any legal, administrative, arbitration or other proceeding or controversy pending, or, to the best of the Council’s knowledge threatened, which would materially adversely affect the Council’s ability to perform under this Agreement. Each Member Jurisdiction represents as to itself that it is not a party to any legal, administrative, arbitration, or other proceeding or controversy pending, or, to the best of its knowledge, threatened, which would materially and adversely affect its ability to perform under this Agreement.

**Section 9.7. Further Documents and Data.** The parties to this Agreement will execute and deliver all documents and perform all further acts that may be reasonably necessary to perform the obligations and consummate the transactions contemplated by this Agreement.

**Section 9.8. Counterparts.** This Agreement may be executed in any number of counterparts, each of which, when so executed and delivered, will be an original, and the counterparts taken together will constitute one and the same instrument.

**Section 9.9. Tax Exemption Covenant.**

1. General. Each Member Jurisdiction understands and acknowledges that the Council may issue Bonds or other obligations the interest on which will be treated as tax exempt under Federal income laws and regulations, including but not limited to the Internal Revenue Code of 1986, as amended (the “Tax Code”). In reliance on the financing provided by the issuance of such Bonds, each Member Jurisdiction agrees that it will not directly or indirectly use or permit the use of any of the proceeds received pursuant to the Bonds, in such manner as would, or enter into, or allow any other person or entity to enter into, any arrangement, formal or informal, that would, or take or omit to take any other action that would, cause interest on the Bonds to be includable in gross income for federal income tax purposes or to become a specific item of tax preference for purposes of the federal alternative minimum tax imposed on individuals and corporations.
2. Use of Proceeds. Neither the Council nor any Member Jurisdiction shall knowingly (a) take any action, or approve the making of any investment or use of the proceeds of the Bonds (including failure to spend the same with due diligence) or taking any other action, which would cause the Bonds to be “arbitrage bonds” within the meaning of Section 148 of the Code or (b) barring unforeseen circumstances, approve the use of the proceeds from the sale of the Bonds otherwise than in accordance with the Authority’s “non-arbitrage” certificate given immediately prior to the issuance of such Bonds.

1. **Preservation of Tax Exempt Status of Interest, Representation, Warranties and Covenants.** The Council and each of the Member Jurisdictions agree that neither of them shall allow the use by or lease or sublease of the Project, the Facilities or the System, or any portion thereof, to any entity other than the Commonwealth of Virginia, a city, a county or a town, or any agency or political subdivision thereof, without an opinion of Bond Counsel that such sublease or other availability would not adversely affect the status of the interest on the Bonds for federal income tax purposes. The Council and each Member Jurisdiction covenant that the Project, the Facilities and the System shall not be used in a manner that would permit the proceeds of the Bonds to be used in any manner that would result in (a) 10% or more of such proceeds being used in a trade or business carried on by any person other than a governmental unit, as provided in Section 141(b) of the Tax Code, provided that no more than 5% of such proceeds may be used in a trade or business unrelated to the Council’s or any Member Jurisdiction’s use of the Project, Facilities or System, (b) 5% or more of such proceeds being used with respect to any “output facility” (other than a facility for the furnishing of water), within the meaning of Section 141(b)(4) of the Tax Code, or (c) 5% or more of such proceeds being used directly or indirectly to make or finance loans to any persons other than governmental unit, as provided in Section 141(c) of the Tax Code; provided, however, that if the Council receives an opinion of nationally recognized bond counsel that any such covenants need not be complied with to prevent the interest on the Bonds from being includable in the gross income for Federal income tax purposes of the registered owner thereof under existing law, the Council and the Member Jurisdictions need not comply with such covenants.
2. **Financial Records and Statements**. The Council and the Member Jurisdictions shall maintain proper books of record and account in which proper entries shall be made in accordance with generally accepted accounting principles, consistently applied, of all its business and affairs. The Council and each of the Member Jurisdictions shall have an annual audit of their respective financial conditions made by an independent certified public accountant within 180 days after the end of each Fiscal Year and shall furnish to Council, in an electronic format, copies of the report of such accountant immediately after such report is submitted to each Member Jurisdiction. Such report shall include statements in reasonable detail, certified by such accountant, reflecting the Member Jurisdiction's financial position as of the end of such Fiscal Year and the result of its operations and changes in the financial position of such Member Jurisdiction's funds for the Fiscal Year.
3. **Continuing Disclosure.** Each Member Jurisdiction agrees that so long as any Bonds are outstanding, if required under any Indenture or other agreement related to the issuance of the Bonds, to provide financial and event information to the Council for submission to a national municipal securities information repository (NMSIR) which is required to be disclosed on a continuing basis, within the time frames required for such disclosure under Rule 15c2-12, as it may be amended from time to time, under the Securities Exchange Act of 1934, as amended and any similar rules of the Securities and Exchange Commission relating to disclosure requirements in the offering and sale of municipal securities, all as in effect from time or that may be promulgated by the Municipal Securities Rulemaking Board.

**Section 9.10. Litigation.** Any litigation involving this Agreement or the operation of the Council or the Member Jurisdictions shall be brought only in the Circuit Court or District Court for one of the Member Jurisdictions.

**Section 9.11. Representations and Warranties.** Each of the parties hereto makes the following representations and warranties, all of which shall continue for the duration of this Agreement:

1. It has the full power and authority to enter into this Agreement and to consummate and carry out the transaction contemplated herein. It has taken or will take all necessary action required by this Agreement and other applicable agreements and laws in connection therewith.
2. It has duly authorized the execution and delivery of this Agreement.

**Section 9.12. Headings.** The headings of sections throughout this Agreement are intended solely to facilitate reading. Such captions shall not affect the meaning or interpretation of this Agreement.

IN WITNESS WHEREOF, the parties have each caused this Agreement to be signed as dated below.

Amherst County, Virginia

By:\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

 Chair, Board of Supervisors

Bedford County, Virginia

By: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

 Chairman, Board of Supervisors

City of Bedford, Virginia

By: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

 Mayor

City of Lynchburg, Virginia

By: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

 Mayor

Region 2000 Local Government Council

By: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

 Executive Director

AYE: Ms. C. Tucker, Mr. F. Campbell, Mr. D. Kidd, Mr. R. Curd, Ms. J. Roberson

NAY: None

ABSENT: None

**IN RE: ORDINANCE 2011-0005**

Ms. E. Bowyer presented a proposed draft of the wireless ordinance and answered Board questions.

**IN RE: APPROPRIATION**

On motion of Mr. F. Campbell and with the following vote, the Board approved the following appropriation.

|  |
| --- |
| **COUNTY OF AMHERST** |
| **APPROPRIATION/TRANSFER REQUESTS** |
| **December 20, 2011** |
|  |  |  |  |  |  |
| The following requests for appropriations, transfers or disbursements have been received: |
|  |  |  |  |  |  |
| **Appropriations:** |  |  |  |  |
|  |  |  |  |  |  |
| **Department** | **Dept Number** | **Line #** | **Description** | **Amount** |  |
| Public | 35050 | 3010 | Radio Maintenance | $4,000.00 |  |
| Received check from the City of Lynchburg for reimbursement of the 2011 Regional Assistance to Firefighters Grant for mobile and portable radios. | **TOTAL** | **$4,000.00** |

AYE: Ms. C. Tucker, Mr. F. Campbell, Mr. D. Kidd, Mr. R. Curd, Ms. J. Roberson

NAY: None

ABSENT: None

**IN RE: DEPARMENT REPORTS**

The Board reviewed the Department Reports.

**IN RE: CITIZENS COMMENTS**

Jones Stanley, Lynchburg Air Show – Informed the Board that the Blue Angels would return Memorial Day 2013.

**MATTERS FROM MEMBERS OF THE BOARD OF SUPERVISORS**

Ms. C. Tucker motioned to reappoint Ms. Veronica Tuggle to the Amherst County Parks, Recreation, Cultural Development Board.

AYE: Ms. C. Tucker, Mr. F. Campbell, Mr. D. Kidd, Mr. R. Curd, Ms. J. Roberson

NAY: None

ABSENT: None

Mr. D. Kidd motioned to reappoint Mr. Jack Hamilton to the Department of Social Services Board.

AYE: Ms. C. Tucker, Mr. F. Campbell, Mr. D. Kidd, Mr. R. Curd, Ms. J. Roberson

NAY: None

ABSENT: None

Mr. F. Campbell wished everyone a Merry Christmas.

Mr. R. Curd thanked Ms. Roberson for making them think outside of the box and wished everyone a Merry Christmas.

Ms. J. Roberson thanked the other Board members for helping her to learn.

**CLOSED SESSION**

Ms. J. Roberson moved that the Amherst County Board of Supervisors convene in closed session pursuant to the exemption at § 2.2-3711 (A)(7) of the Code of Virginia, to consult with the County Attorney regarding the application to correct assessments filed by Green Leaf Golf Club of Amherst, LLC.

AYE: Ms. C. Tucker, Mr. F. Campbell, Mr. D. Kidd, Mr. R. Curd, Ms. J. Roberson

NAY: None

ABSENT: None

Mr. F. Campbell moved to come out of closed session, seconded by Mr. D. Kidd and approved with the following vote:

AYE: Ms. C. Tucker, Mr. F. Campbell, Mr. D. Kidd, Mr. R. Curd, Ms. J. Roberson

NAY: None

ABSENT: None

**CERTIFICATION OF CLOSED MEETING**

Ms. J. Roberson moved that the Amherst County Board of Supervisors certify by a recorded vote that, to the best of each Board member's knowledge, only public business matters lawfully exempted from 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.

 Ms. C. Tucker AYE

 Mr. F. Campbell AYE

 Mr. R. Curd Aye

 Mr. D. Kidd AYE

 Ms. J. Roberson AYE

**IN RE: ADJOURNMENT**

On motion of Mr. R. Curd and seconded by Mr. F. Campbell and with the following vote, the Board moved to adjourn.

AYE: Ms. C. Tucker, Mr. F. Campbell, Mr. D. Kidd, Mr. R. Curd, Ms. J. Roberson

NAY: None

ABSENT: None

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 Claudia Tucker, Chair

 Amherst County Board of Supervisor

 \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

 Steve Crosby, Interim County Administrator