



AGENDA

REGULAR MEETING OF TOWN COUNCIL
CHRISTIANSBURG TOWN HALL
100 EAST MAIN STREET
OCTOBER 10, 2017 – 7:00 P.M.

REGULAR MEETING

I. CALL TO ORDER

- A. Moment of Reflection
- B. Moment of Silence in memory of the victims of the Las Vegas, Nevada shooting.
- C. Pledge of Allegiance

II. ADJUSTMENT OF THE AGENDA

III. PUBLIC HEARINGS

IV. CONSENT AGENDA

- A. Council meeting minutes of September 26, 2017.
- B. Resolution in Support of Extra Mile Day 2017.
- C. Approval of the Notice of Award for the Church, Rigby and Ellett Drainage Improvement Project and authorize the Interim Town Manager to enter into a construction contract on behalf of the Town with DCI/Shires, Inc. for the amount of \$1,193,415.00, contract form subject to approval by the Town Attorney.
- D. Approval of the Notice of Award for the Towne Branch Stream Restoration Project and authorize the Interim Town Manager to enter into a construction contract on behalf of the Town with Atkins Excavating for the amount of \$519,201.00, contract form subject to approval by the Town Attorney.
- E. Schedule Public Hearing on November 28, 2017 for a Rezoning Request by John Neel, Gay and Neel, Inc., agent for Sarah Crawford, for Tax Map Nos. 530-(2)-85B, 86A, 87A and Portions of Tax Map No. 530 (A) 1 located on the corner of Glade Drive SE and Curtis Drive SE from A, Agricultural to R-3, Multi-Family Residential. The property is designated as Residential on the Future Land Use Map of the 2013 Christiansburg Comprehensive Plan.
- F. Contingent upon the above Rezoning Request, schedule Public Hearing on November 28, 2017 for a Conditional Use Permit request by John Neel, Gay and Neel, Inc. for Tax Map Nos. 530-(2)-85B, 86A, 87A and Portions of Tax Map No. 530 (A) 1 located on the corner of Glade Drive SE and Curtis Drive SE for a Planned Housing Development consisting of up to 60 single-family dwellings in the R-3 Multi-Family Residential District.

V. CITIZEN COMMENTS

VI. INTRODUCTIONS AND PRESENTATIONS

VII. COMMITTEE REPORTS

- A. Street Committee report/recommendation on:
 - 1. Subdivision Plat of Clifton Phase I Planned Residential Development of Tax Map Number 435-A-40 located off of Quin W. Stuart Boulevard (82 Lots).
 - 2. Subdivision Plat of Tax Map Number 558-A-24 located west of Parkway Drive SE and north of Tanglewood Drive SE and Jones Street SE (2 lots).

VIII. DISCUSSION AND ACTION BY MAYOR AND COUNCIL

- A. Resolution Supporting the Amendment of Chapter 638 of 2010 Virginia Acts of Assembly Relating to the New River Valley Emergency Communications Regional Authority. (Carryover item from September 26, 2017.)

IX. STAFF REPORTS

- A. Town Manager
- B. Town Attorney
- C. Other Staff

X. COUNCIL REPORTS

XI. OTHER BUSINESS

- A. CLOSED MEETING
 - 1. Request for a Closed Meeting under Virginia Code Section 2.2-3711(A)(1) for the discussion, consideration, or interviews of prospective candidates for employment, assignment, appointment, promotion, performance, demotion, salaries, disciplining, or resignation of specific public officers, appointees, or employees of any public body. The Closed Meeting is in reference to the town manager position.
 - 2. Reconvene in Open Meeting.
 - 3. Certification.
 - 4. Council action on the matter.

XII. ADJOURNMENT

The next regular Town Council meeting will be held at Christiansburg Town Hall on Tuesday, October 24, 2017 at 7:00 P.M.

**CHRISTIANSBURG TOWN COUNCIL
CHRISTIANSBURG, MONTGOMERY CO., VA.
REGULAR MEETING MINUTES
SEPTEMBER 26, 2017 – 7:00 P.M.**

A REGULAR MEETING OF THE CHRISTIANSBURG TOWN COUNCIL, MONTGOMERY COUNTY, CHRISTIANSBURG, VA. WAS HELD AT CHRISTIANSBURG TOWN HALL, 100 EAST MAIN STREET, CHRISTIANSBURG, VIRGINIA, ON SEPTEMBER 26, 2017 AT 7:00 P.M.

COUNCIL MEMBERS PRESENT: Mayor D. Michael Barber; Vice-Mayor Samuel M. Bishop; Harry Collins; Steve Huppert; Henry Showalter; Bradford J. Stipes. ABSENT: R. Cord Hall.

ADMINISTRATION PRESENT: Town Manager Randy Wingfield; Clerk of Council Michele Stipes; Town Attorney Theresa Fontana; Director of Public Relations Melissa Demmitt; Finance Director/Treasurer Val Tweedie; Director of Engineering Wayne Nelson; Director of Planning Andrew Warren; Aquatics Director Terry Caldwell; Fire Chief Billy Hanks; Police Chief Mark Sisson; Public Works Director Jim Lancianese; WWTP Superintendent Ryan Hendrix; Public Works Facility Maintenance Supervisor Roger Leonard; Public Works Crew Supervisor - Right-of-Way Maintenance Micheal Huesman; Public Works Crew Supervisor - Streets Justin Shepherd.

I. CALL TO ORDER

- A. Moment of Reflection
- B. Pledge of Allegiance

II. ADJUSTMENT OF THE AGENDA

- A. Add a recommendation from the Street Committee on request to rename Shaffer Street to Schaeffer Street and Shaffer Drive to Schaeffer Drive to Discussions by Mayor and Council as Item D.
- B. Move Item F from the Consent Agenda to Discussions by Mayor and Council as Item E.

III. PUBLIC HEARINGS

- A. Conditional Use Permit request for an electronic readerboard in the B-2, Central Business District at 190 North Franklin Street (Pizza Inn) by J. Stuart and Jill Arbuckle. The property is designated as Downtown/Mixed Use on the Future Land Use Map of the 2013 Christiansburg Comprehensive Plan.

Richard Ballengee, 925 Maple Drive, addressed Council in support of the CUP request by Stuart Arbuckle for a digital sign outside Pizza Inn. Mr. Ballengee stated that Mr. Arbuckle was a great corporate citizen of Christiansburg who was charitable in the community and an active member of the Chamber of Commerce, which had identified him as an outstanding business leader. Mr. Arbuckle's restaurant helped to bring people to the downtown area, and Mr. Ballengee urged Council to enhance the business by approving the requested CUP.

Stuart Arbuckle, applicant, explained his plans for upgrading his restaurant sign and showed a sample photo of a digital sign that was similar to the one he had chosen. The digital sign would be used to advertise and promote his business, but would also be used to promote local events, as he has done with his current sign. The digital sign would not be a rolling or video sign, and would not be a distraction for motorists. Mr. Arbuckle agreed to comply with any guidelines set forth by the Town pertaining to his request. Councilman Huppert, who noted that in the past has not been in favor of digital signs, recognized Pizza Inn's efforts in advertising local community events, and expressed his support for the request. Planning Director Warren noted that the request was recommended for approval by the Planning Commission 8 – 0, with no conditions. Councilman Stipes made a motion to place the CUP request under Discussions by Mayor and

Council for discussion and action. Councilman Collins seconded the motion and Council voted as follows: Bishop – Aye; Collins – Aye; Hall – Absent; Huppert – Aye; Showalter – Aye; Stipes – Aye. The item was placed as Item F.

IV. CONSENT AGENDA

- A. Council meeting minutes of August 22, 2017 and September 12, 2017.
- B. Monthly Bills.
- C. NRV Cares letter of appreciation for FY 17-18 contribution.
- D. Purchase orders with Carter Machinery Company for Public Works as follows:
 - Backhoe Loader, \$138,139
 - Excavator, \$123,131
 - Wheel Loader, \$176,932
- E. Schedule Public Hearing on November 14, 2017 for a Conditional Use Permit request by Linda S. McMurray, agent for J & E Inc., for a Kennel (animal daycare/overnight boarding) at 569 North Franklin Street in the B-3 General Business District. The property is designated as Business/Commercial on the Future Land Use Map of the 2013 Christiansburg Comprehensive Plan.

Mr. Wingfield requested that the minutes of September 12, 2017 be amended to reflect, under Item VII Introductions and Presentations A. Christiansburg Aquatic Center Presentation, that following discussion Council agreed to allocate \$1,000 of tourism funds for the promotion. Councilman Bishop made a motion to approve the consent agenda with the change to the minutes, seconded by Councilman Collins. Council was polled on the motion as follows: Bishop – Aye; Collins – Aye; Hall – Absent; Huppert – Aye; Showalter – Aye; Stipes – Aye.

VI. CITIZEN COMMENTS

- A. Jared and Marie March, owners of Due South and Fatback Soul Shack, spoke to Council regarding a situation they experienced during a recent Saturday night, outdoor, live music event at Fatback Soul Shack. Mrs. March explained that during the event, they received two warnings from Police regarding a noise complaint from a nearby resident. The first officer arrived around 9:30 p.m., and the other shortly after. Although the officers expressed support for the event while issuing the warnings, Mrs. March stated that their presence raised concern with many of the customers who weren't aware of what was going on. The Marchs' reviewed with Council portions of the noise ordinance that pertained to General Business Districts and talked about the differences between business zonings and residential areas when addressing noise concerns. They requested that the ordinance be studied and amended to accommodate business and music venues, and recommended the Town consider including a tourism district as provided for in the State Code. According to the Marchs', the recent event was well-attended, and received support from local businesses; however, they agreed to postpone future outdoor, live music events until they hear back from the Town on this matter.
- B. Stacy Martin, 1645 N. Franklin St., spoke to Council in support of the Marchs' and their endeavor to establish their restaurant, Fatback Soul Shack, as a destination point by holding occasional outdoor music events. Regarding the noise complaint received during the recent live music event, Mr. Martin said he believed vague wording in the Town's noise ordinance contributed to confusion concerning guidelines pertaining to noise volumes. Mr. Martin shared portions of noise ordinances from nearby localities as examples of clarity, and he recommended the Town considering using Municode's codification services to rewrite a noise ordinance that would be more fair and supportive of small businesses. In closing, Mr. Martin recommended the Town postpone the hiring of a new town manager until after the local election in November.

A. Sherwood Wilson, Chairman of the NRV Emergency Communications Regional Authority, spoke to Council regarding the Resolution Regarding the Amendment of Chapter 638 of Virginia Acts of Assembly Relating to the New River Valley Emergency Communications Regional Authority that Council voted to deny on September 12, out of concerns that the Town's interests were not represented in the resolution. Dr. Wilson provided background on how the Authority came into being in response to the Virginia Tech shooting in 2006, with the goal of establishing a means for Montgomery County, Christiansburg, Blacksburg, and Virginia Tech to work together and to strengthen communication between the four localities. The Authority was established with representation from each locality and costs would be shared based on the number of calls from each locality. Dr. Wilson said he understood that Council had concerns about the specifics of the resolution, particularly as they pertained to call assignment. Dr. Wilson further noted that the Authority understood Christiansburg's concerns and was in the process of revising the resolution to be presented to the Virginia General Assembly. Dr. Wilson also noted his personal, and the Authority's, concern with the accuracy of the call data. Dr. Wilson said that a revised resolution would soon be presented to the Town, and the other three jurisdictional partners, outlining that the cost assignment for the Authority would require unanimous consent by all four partners.

VII. INTRODUCTIONS AND PRESENTATIONS

A. Introduction of New Town Employees:

1. Roger Leonard, Public Works Facility Maintenance Supervisor
 - Joey Griffith, Facility Maintenance Technician
2. Micheal Huesman, Public Works Crew Supervisor - Right-of-Way Maintenance
 - Luther "Max" Brown, Maintenance Worker, Right-of-Way
3. Justin Shepherd, Public Works Crew Supervisor - Streets
 - Adam Eagle, Maintenance Worker, Streets

B. Bethany Mott, Executive Director of Alliance for Better Childcare Strategies (ABCs) to provide an update on their recent strategies and accomplishments.

Bethany Mott, Executive Director of Alliance for Better Childcare Strategies (ABCs), introduced to Council the local ABCs program that was developed and launched through community/business partnerships in the New River Valley, including the Town of Christiansburg. Ms. Mott provided background on how the non-profit organization was initiated to address a shortage of affordable, quality childcare and early education, and she talked about the negative impact poor childcare had on community workforces and family stability. Through the ABCs program, parents have access to affordable, quality care for their children, which results in fewer missed days at work and better productivity, and children are nurtured in preparation for kindergarten. Ms. Mott explained how the Christiansburg community was being strengthened by the organization through the recruitment of childcare facilities to participate in the program, and through seminars to recruit new, licensed home providers and co-ops. The organization plans to soon launch the first regional symposium for early child care education, which will educate the community on the importance of kindergarten preparedness, noting that ABCs was working to launch a scholarship program that will focus on investing in early education for three and four-year olds. Council was shown a brief video of Craig Ramey of Virginia Tech speaking about the impact of early childhood education on individuals and communities. Ms. Mott thanked the Town for its past support and requested that ABCs be considered during FY 2018-2019 budget planning.

C. Recognition of Christiansburg Wastewater Treatment Plant staff for being awarded the 2016 Water Environment Federation - George W. Burke, Jr. Facility Safety Award for their work in establishing and maintaining an active and effective safety program.

Director of Public Relations, Melissa Demmitt, reported that the staff of the WWTP had been awarded the 2016 Water Environment Federation – George W. Burke, Jr. Facility Safety Award for their efforts in establishing and maintaining an active and effective safety program, and she presented each staff member with a certificate of recognition of the award on behalf of the Town, and thanked them for positively representing the Town. The award is presented annually, and awarded through a nomination and safety

audit process. Ryan Hendrix, WWTP Superintendent, provided background on the Water Environment Federation Facility Safety Award, and talked about the goal set by the WWTP in 2014 to create a safety culture at the plant, which was supported by the Town Administration and Department Heads over the past two years. That support, along with the dedication of the WWTP staff, resulted in the award and Mr. Hendrix expressed appreciation for the efforts of all who were involved in the achievement.

VIII. COMMITTEE REPORTS

IX. DISCUSSION BY MAYOR AND COUNCIL

- B. Rezoning request by the Montgomery County Economic Development Authority, agent for Cox Family Farms LLC, for an approximately 64.114-acre property, Tax Map No. 558-A 24. The applicant has requested Council consider the rezoning of a 57.114-acre portion of the property from the A Agricultural District to the I-2 General Industrial District. The property is designated as Mixed Use with Buffer (Industrial) on the Future Land Use Map of the 2013 Christiansburg Comprehensive Plan. (Carryover item from September 12). The proffer has been signed and submitted. Councilman Stipes made a motion to approve the rezoning, seconded by Councilman Showalter. Council voted on the motion as follows: Bishop – Aye; Collins – Aye; Hall – Absent; Huppert – Aye; Showalter – Aye; Stipes – Aye.
- C. Resolution proclaiming October 8 – 14, 2017 as Fire Prevention Week
Councilman Showalter made a motion to adopt the resolution, seconded by Councilman Huppert. Council voted on the motion as follows: Bishop – Aye; Collins – Aye; Hall – Absent; Huppert – Aye; Showalter – Aye; Stipes – Aye.
- D. Resolution Regarding the Amendment of Chapter 638 of 2010 Virginia Acts of Assembly Relating to the New River Valley Emergency Communications Regional Authority.

Councilman Stipes thanked Sherman Wilson for taking time out of his schedule to clarify the intent of the resolution regarding the proposed amendment to the Virginia Acts of Assembly by the NRV Emergency Communications Regional Authority, and for the Authority's willingness to revisit/modify the request, noting that his concerns have been satisfied and he was willing to revisit the matter. Councilman Stipes then made a motion to table the request with the intent to discuss a redraft once presented, seconded by Councilman Collins. Councilman Showalter and Councilman Collins expressed appreciation for Mr. Wilson's time and for the Authority's willingness to embrace the Town's concerns. Mayor Barber and Council thanked Mr. Wilson for speaking with them regarding this matter.

- E. Street Committee Recommendation on the renaming of Shaffer Street and Shaffer Drive in response to a request by Rita Irvin on August 22, 2017. Councilman Stipes reported that it was believed the intent was to name the streets after Captain Charles Schaeffer, who founded Schaeffer Memorial Baptist Church, and the Christiansburg Community Center, but that the name Schaeffer was misspelled on the street signs. As such, Council Stipes made a motion to change the sign spelling from Shaffer Street to Schaeffer Street and Shaffer Drive to Schaeffer Drive. Councilman Huppert seconded the motion and Council voted as follows: Bishop – Aye; Collins – Aye; Hall – Absent; Huppert – Aye; Showalter – Aye; Stipes – Aye.
- F. Council to set the personal property tax relief percentage at 37.85% as required by the Personal Property Tax Relief Act. Council is required to set the personal property tax relief percentage on an annual basis. Councilman Showalter made a motion to set the personal property tax relief percentage at 37.85%, as recommended by Finance Director/Treasurer Val Tweedie. Councilman Bishop seconded the motion and Council voted as follows: Bishop – Aye; Collins – Aye; Hall – Absent; Huppert – Aye; Showalter – Aye; Stipes – Aye.
- G. Conditional Use Permit request for an electronic readerboard in the B-2, Central Business District at 190 North Franklin Street (Pizza Inn) by J. Stuart and Jill Arbuckle. The property is designated as Downtown/Mixed Use on the Future Land Use Map of the 2013 Christiansburg Comprehensive Plan. Councilman Stipes made a motion to issue the CUP with no conditions as recommended by the Planning Commission, seconded by Councilman Collins. Council voted on the motion as follows: Bishop – Aye; Collins – Aye; Hall – Absent; Huppert – Aye; Showalter – Aye; Stipes – Aye.

X. STAFF REPORTS

A. Town Manager Wingfield:

- Provided Council with information on the transportation capital project options for grant funding for the FY 18-19 and FY 19-20 funding cycle that was presented as the Street Committee meeting.
- Reported that an estimated 9,000 – 10,000 people attended the recent Food Truck Rodeo. Credited DCI for organizing and thanked staff of Parks and Recreation, Public Works, and Police Department for assisting.
- Gave reminder for upcoming emergency services fundraiser, Battleship, at the aquatic center on September 29.
- Announced the Kenneth B. Gibson Memorial Park & Ride dedication on October 14 at 10:00 a.m.

B. Town Attorney:

C. Other Staff:

XI. COUNCIL REPORTS

- A. Councilman Collins recognized the award winning staff of the WWTP and expressed appreciation for their dedication to the Town.
- B. Councilman Bishop requested that Town Manager Wingfield work with the owners of certain properties along West Main Street that were in significant disrepair to clean-up and beautify the area, noting it was a gateway to Christiansburg.
- C. Councilman Stipes expressed appreciation for the manner in which the Marchs' presented their concerns to Council, and for the specific recommendations for Council to consider, further commenting that the Town should consider revisiting the noise ordinance in light of recent concerns by local businesses.
- D. Councilman Showalter echoed Councilman Stipes comments regarding the Marchs' impact on the community, and agreed that the Town needed to revisit its noise ordinance with the goal of creating guidelines that would be more supportive of local businesses that are bringing people together and enhancing tourism. He then reported on the recent Food Truck Rodeo and thanked DCI and Town Departments for their efforts in organizing the event.
- E. Councilman Huppert echoed the comments regarding the Marchs' and the success of the Food Truck Rodeo. He then reminded all of the Battleship fundraiser at the aquatic center on September 29.
- F. Mayor Barber reiterated Council's comments regarding the Food Truck Rodeo, noting the amount of work and expense to DCI in organizing the event. He expressed appreciation for the Marchs' and Mr. Martin for addressing Council, and agreed the noise ordinance should be reviewed. He and Councilman Huppert then reported on the ACCE meeting they attended at CHS, and talked about the importance of the program to the Christiansburg community.

XII. CLOSED MEETING:

1. Councilman Bishop made a motion to enter into a Closed Meeting in accordance with Code of Virginia § 2.2-3711(3) for the discussion or consideration of the acquisition of real property for a public purpose, or of the disposition of publicly held real property, where discussion in an open meeting would adversely affect the bargaining position or negotiating strategy of the public body. The Closed Meeting pertains to discussions regarding potential recreational property in Montgomery County. Councilman Collins seconded the motion and Council voted as follows: Bishop – Aye; Collins – Aye; Hall – Absent; Huppert – Aye; Showalter – Aye; Stipes – Aye.
2. Reconvene in Open Meeting. Councilman Bishop made a motion to reconvene in Open Meeting, seconded by Councilman Collins. Council voted on the motion as follows: Bishop – Aye; Collins – Aye; Hall – Absent; Huppert – Aye; Showalter – Aye; Stipes – Aye.
3. Certification. Councilman Bishop moved to certify that the Town Council of the Town of Christiansburg, meeting in Closed Meeting, to the best of each member's knowledge, discussed only the matters lawfully

exempt from open meeting requirements by Virginia Law and only such matters as are identified in the Resolution to enter into Closed Meeting. The motion was seconded by Councilman Stipes and Council voted as follows: Bishop – Aye; Collins – Aye; Hall – Absent; Huppert – Aye; Showalter – Aye; Stipes - Aye.

4. Council action on the matter. No action was taken by Council.

XIII. ADJOURN

There being no further business to bring before Council, Mayor Barber adjourned the meeting at 9:12 P.M.

Michele Stipes, Clerk of Council

D. Michael Barber, Mayor

TOWN OF CHRISTIANSBURG

Established November 10, 1792

Incorporated January 7, 1833



PROCLAMATION

EXTRA MILE DAY

WHEREAS, Christiansburg Virginia is a community which acknowledges that a special vibrancy exists within the entire community when its individual citizens collectively “go the extra mile” in personal effort, volunteerism, and service; and,

WHEREAS, Christiansburg, Virginia is a community which encourages its citizens to maximize their personal contribution to the community by giving of themselves wholeheartedly and with total effort, commitment, and conviction to their individual ambitions, family, friends, and community; and,

WHEREAS, Christiansburg, Virginia is a community which chooses to shine a light on and celebrate individuals and organizations within its community who “go the extra mile: in order to make a difference and lift up fellow members of their community; and,

WHEREAS, Christiansburg, Virginia acknowledges the mission of Extra Mile America to create 575+ Extra Mile cities in America and is proud to support “Extra Mile Day” on November 1, 2017.

NOW, THEREFORE, I Mayor of Christiansburg, Virginia do hereby proclaim November 1, 2017 to be Extra Mile Day. I urge each individual in the community to take time on this day to not only “go the extra mile” in his or her own life, but to also acknowledge all those who are inspirational in their efforts and commitment to make their organizations, families, community, country, or world a better place.

D. Michael Barber, Mayor

ATTEST:

Michele M. Stipes, Clerk of Council



**TOWN OF CHRISTIANSBURG
TOWN COUNCIL
AGENDA COVER SHEET**

AGENDA LOCATION:
Consent Agenda

Meeting Date:
October 10, 2017

ITEM TITLE: Church, Rigby and Ellett Drainage Improvements Project Notice of Award

DESCRIPTION: Notice of Award for the Church, Rigby and Ellett Drainage Improvements Project to DCI/Shires, Inc. in the amount of \$1,193,415.00. This construction contract provides for drainage improvements from Church Street, across Rigby Street, and extending to and along Ellett Road to King Street.

POTENTIAL ACTION: Approval of the Notice of Award and authorize the Interim Town Manager to enter into a construction contract on behalf of the Town with DCI/Shires, Inc. for the amount of \$1,193,415.00, contract form subject to approval by the Town Attorney.

DEPARTMENT: Engineering

PRESENTER: Wayne Nelson

ITEM HISTORY: Bids for this project were opened at 3:00 pm on September 22, 2017. DCI/Shires, Inc. was the apparent low bidder. The Engineer, Thompson & Litton, recommends award of this contract to DCI/Shires for construction of this project, subject to Council and Town Attorney approval. A Notice of Award to DCI/Shires, Inc. is attached.

Date: **Action Taken:**

Information Provided:

1. Cover Sheet
2. Bid Summary Sheet and Engineer's Recommendation Letter:
<https://christiansburg.box.com/s/04154dmuapagr4kxjkfp0djzdhfluqca>
3. Notice of Award: <https://christiansburg.box.com/s/xpit31n589lkcxplit7sh9h4cxxa7ssa>



**TOWN OF CHRISTIANSBURG
TOWN COUNCIL
AGENDA COVER SHEET**

AGENDA LOCATION:
Consent Agenda

Meeting Date:
October 10, 2017

ITEM TITLE: Towne Branch Stream Restoration Project Notice of Award

DESCRIPTION: Notice of Award for the Towne Branch Stream Restoration Project to Atkins Excavating in the amount of \$519,201.00. This construction contract provides for stream restoration and improvements of Towne Branch from Stone Street, through Depot Park and Skate Park, to Mill Lane.

POTENTIAL ACTION: Approval of the Notice of Award and authorize the Interim Town Manager to enter into a construction contract on behalf of the Town with Atkins Excavating for the amount of \$519,201.00, contract form subject to approval by the Town Attorney.

DEPARTMENT: Engineering

PRESENTER: Wayne Nelson

ITEM HISTORY: Bids for this project were opened at 2:00 pm on September 21, 2017. Atkins Excavating was the apparent low bidder. The Town of Christiansburg Engineering Department staff recommends award of this contract to Atkins Excavating for construction of this project, subject to Council and Town Attorney approval. A Notice of Award to Atkins Excavating is attached.

Date: **Action Taken:**

Information Provided:

1. Cover Sheet
2. Bid Summary Sheet: <https://christiansburg.box.com/s/04154dmuapagr4kxjkfp0djdhdfluqca>
3. Engineer's Recommendation Letter: <https://christiansburg.box.com/s/kgfnwxar9rwb8l0yujbyibf014smaejf>
4. Notice of Award: <https://christiansburg.box.com/s/k2croru7qvpw06j93xca6oo7ccbfucq2>



**TOWN OF CHRISTIANSBURG
TOWN COUNCIL
AGENDA COVER SHEET**

AGENDA LOCATION:

Discussion and Action by Mayor and Council

Meeting Date:

October 10, 2017

ITEM TITLE:

Resolution Supporting the Amendment of Chapter 638 of 2010 Virginia Acts of Assembly Relating to the New River Valley Emergency Communications Regional Authority

DESCRIPTION:

The New River Valley Emergency Communications Regional Authority Board of Directors has been discussing the funding of the Authority, which by Chapter 638 of 2010 Virginia Acts of Assembly, is set at 25% for each member (the Towns of Blacksburg and Christiansburg, Montgomery County, and Virginia Tech).

The Board originally proposed changing the funding formula to an “attributed” share as apportioned by the Board. The funding formula would utilize a 3-year rolling average of call data percentages with law enforcement, fire and rescue weighted calls for service from the previous calendar years (though the Board has discretion to exclude major capital expenditures or catastrophic events). Each discipline (law enforcement, fire, and rescue) would have been calculated and assigned separately (but not multiple units assigned from the same response agency) and multiplied by a priority scoring system (with a factor of 3 for high priority, 2 for medium priority and 1 for low priority). This proposed formula would likely result in increased cost to the Town of Christiansburg on an annual basis.

The Christiansburg Town Council denied the original request to support the “Resolution Supporting the Amendment of Chapter 638 of 2010 Virginia Acts of Assembly Relating to the New River Valley Emergency Communications Regional Authority” at its September 12, 2017 regular meeting. The Authority Board has since proposed an alternative wording which would require approval of all participating political subdivisions in order to amend the allocation formula, otherwise the allocations would remain at the 25% level for each member. Under the revised wording, the allocation formula may subsequently be amended by the Board with approval of all participating political subdivisions.

POTENTIAL ACTION:

Council discussion and potential vote.

DEPARTMENT:

NRV Emergency Communications Regional Authority

PRESENTERS:

Randy Wingfield, Interim Town Mgr.

Billy Hanks, Fire Chief/Fire Marshal

Information Provided:

- Resolution Supporting the Amendment of Chapter 638 of 2010 Virginia Acts of Assembly Relating to the New River Valley Emergency Communications Regional Authority
- Proposed Amendment to Chapter 638 of Virginia Acts of Assembly Relating to the New River Valley Emergency Communications Regional Authority – Authority Board proposal

TOWN OF CHRISTIANSBURG

Established November 10, 1792

Incorporated January 7, 1833



RESOLUTION SUPPORTING THE AMENDMENT OF CHAPTER 638 OF VIRGINIA ACTS OF ASSEMBLY RELATING TO THE NEW RIVER VALLEY EMERGENCY COMMUNICATIONS REGIONAL AUTHORITY

WHEREAS, the Virginia General Assembly enacted the New River Valley Emergency Communications Regional Authority Act, effective July 1, 2010 ("the Act"), enabling the County of Montgomery, the Town of Blacksburg, the Town of Christiansburg and Virginia Polytechnic Institute and State University to form a regional authority to provide the core responsibilities for governance of a consolidated public safety communications center with regional interoperable communications; and,

WHEREAS, the governing bodies of the Town of Blacksburg, the Town of Christiansburg, the County of Montgomery and the Board of Visitors for Virginia Polytechnic Institute and State University, by Resolution, approved, executed and delivered a Memorandum of Understanding supporting the formation of the New River Valley Emergency Communications Regional Authority (the "Authority") to provide 911 dispatch and emergency communications services for the people of Montgomery County and for Virginia Polytechnic Institute and State University's Blacksburg campus; and,

WHEREAS, the Authority was properly formed in 2010 and has successfully operated dispatch services for one (1) year; and,

WHEREAS, the Authority has agreed to study a funding formula for the allocation of its Annual Budget in Annual Contributions to be allocated among the Town of Blacksburg, the Town of Christiansburg, the County of Montgomery and the Board of Visitors for Virginia Polytechnic Institute and State University and payable quarterly to the Authority, subject, however, to appropriation; and,

WHEREAS, the Authority has suggested that certain amendments be made to the Act permitting the implementation of the funding formula and the allocation of Annual Contributions to the Authority's Annual Budget among the Town of Blacksburg, the Town of Christiansburg, the County of Montgomery and the Board of Visitors for Virginia Polytechnic Institute and State University; and,

WHEREAS, a copy of "Amendment of Chapter 638 of the 2010 Virginia Acts of Assembly (the "Act") relating to the New River Valley Emergency Communications Regional Authority" (the "Amendment to the Act") setting out the proposed amendments to the Act has been submitted to this meeting.

NOW, THEREFORE, BE IT RESOLVED, by the Council of the Town of Christiansburg, Virginia that the Christiansburg Town Council hereby approves the proposed Amendment to the Act and authorizes and directs the Authority to submit the same for approval by the Virginia General Assembly at its 2018 legislative session.

Upon a call for an aye and nay vote on the foregoing resolution at a regular meeting of the Council of the Town of Christiansburg, Virginia held _____, 2017, members of the Council stood as indicated opposite their names as follows:

AYE NAY ABSTAIN ABSENT

Samuel M. Bishop

Harry Collins

R. Cord Hall

Steve Huppert

Henry D. Showalter

Bradford J. Stipes

D. Michael Barber, Mayor*

*Votes only in the event of a tie.

D. Michael Barber, Mayor

ATTEST:

Michele M. Stipes, Clerk of Council

VIRGINIA ACTS OF ASSEMBLY -- 2010~~18~~ SESSION

CHAPTER 638

An Act to create Amendment of Chapter 638 of the 2010 Virginia Acts of Assembly (the "Act") relating to the New River Valley Emergency Communications Regional Authority.

[H 1002 _____]

Approved April 11, 2010 _____, 2018

Be it enacted by the General Assembly of Virginia hereby amends Chapter 638 of the 2010 Virginia Acts of Assembly by amending the Act as follows:

1. § 1. Title.

This Act shall be known and may be cited as the New River Valley Emergency Communications Regional Authority Act.

§ 2 Creation; public purpose.

If the governing bodies of the Towns of Blacksburg and Christiansburg, the County of Montgomery, and the Board of Visitors for Virginia Polytechnic Institute and State University (Virginia Tech) by resolution support the formation of a regional authority to provide 911 dispatch and emergency communications services to the people of each jurisdiction and campus, an authority known as the New River Valley Emergency Communications Regional Authority Act (hereinafter the Authority) shall thereupon exist for such participating entities and shall exercise its powers and functions as prescribed herein.

In any suit, action, or proceeding relating to or involving the validity or enforcement of any contract of the Authority, the Authority shall be deemed to have been created as a political subdivision and body corporate and to have been established and authorized to transact business and exercise its powers hereunder upon proof of the adoption of a resolution as aforesaid by the governing bodies of such towns, county, and university supporting the formation of such Authority. A copy of such resolution duly certified by the clerk or secretary of the governing body of the towns, county, and university by which it is adopted shall be admissible as evidence in any suit, action, or proceedings. Any political subdivision of the Commonwealth is authorized to join such Authority pursuant to the terms and conditions of this Act.

The ownership and operation by the Authority of emergency communications services and the exercise of powers conferred by this Act are proper and essential governmental functions and public purposes and matters of public necessity for which public moneys may be spent and private property acquired through the power of eminent domain as hereinafter provided. The purposes of such Authority shall be to develop a consolidated system for the receipt of and response to 911 emergency calls and communications that will improve response time, quality of service, and coordination of available resources for the citizens of the affected localities.

The Authority and its members, officers, employees, and agents shall all enjoy sovereign immunity for torts committed in exercise of its governmental and proprietary functions. Nothing in this Act shall be construed as a waiver of the sovereign immunity enjoyed by any of the participating political subdivisions.

The courts of the Commonwealth of Virginia shall have original jurisdiction of all actions brought by or against the Authority, which courts shall in all cases apply the law of the Commonwealth of Virginia.

§ 3 Definitions.

As used in this act, the following words and terms have the following meanings unless a different meaning clearly appears from the context:

"Act" means the New River Valley Emergency Communications Regional Authority Act.

"Annual deficitBudget" means the amount of budgeted expenditures ~~in excess of anticipated revenues from~~ necessary each fiscal year for the payment of operations or capital budgets.

"Annual Contribution" means the portion of the Annual Budget attributable to each Participating Political Subdivision each fiscal year.

"Authority" means the New River Valley Emergency Communications Regional Authority created by this Act.

"Board" means the governing body of the Authority.

"Bonds" means any bonds, notes, debentures, grant obligations, or other evidence of financial indebtedness issued by this Authority pursuant to this Act.

"Commonwealth" means the Commonwealth of Virginia.

"Facility" means any and all buildings, structures, or facilities purchased, constructed, or otherwise acquired or operated by the Authority pursuant to the provisions of this Act. Any facility may consist of or include any or all buildings or other structures, improvements, additions, extensions, replacements, machinery, or equipment, together with appurtenances, lands, rights in land, water rights, franchises, furnishings, landscaping, utilities, roadways, or other facilities necessary or desirable in connection therewith or incidental thereto.

"Participating political subdivisions" means the Towns of Blacksburg and Christiansburg, the County of Montgomery, and Virginia Polytechnic Institute and State University or any other political subdivision that may join or has joined the Authority pursuant to §§ 4 and 5 of this Act.

"Political subdivision" means a county, city, town, public body, public authority, institution (including an institution of higher education), or commission of the Commonwealth.

"University" means Virginia Polytechnic Institute and State University.

§ 4 Participating political subdivision.

At the time of creation of the Authority, each participating political subdivision shall have entered or shall enter into a memorandum of understanding by and among each of the participating political subdivisions setting forth the terms and conditions of the intended formation of the Authority.

No pecuniary liability of any kind shall be imposed upon any participating political subdivision because of any act, omission, agreement, contract, tort, malfeasance, misfeasance, or nonfeasance by or on the part of the Authority or any member thereof, or its agents, servants, or employees, except as otherwise provided in this Act with respect to contracts and agreements between the Authority and any other political subdivision.

§ 5 Joinder.

Membership in the Authority may be expanded only in accordance with the terms of a joinder agreement adopted by the governing bodies of all participating political subdivisions. Only another political subdivision may become a participating political subdivision of the Authority. The governing body of any locality wishing to become a member of the Authority shall by concurrent resolutions or ordinances and by agreement provide for the joinder of such locality. The agreement creating the expanded Authority shall specify the number and terms of office of members of the Board of the expanded Authority that are to be appointed by each of the participating political subdivisions and the names, addresses, and terms of office of initial appointments to Board membership.

§ 6 Appointment of members of the Board.

The powers of the Authority shall be vested in the members of the Board. The Board shall consist of five persons. Each participating political subdivision shall have the right to appoint one member of the Board and all participating political subdivisions shall jointly appoint the fifth member of the Board by unanimous approval of the participating political subdivisions. Each member of the Board shall be appointed for a term of four years, except that the initial members of the Board representing the participating political subdivisions shall be appointed for the following staggered terms to be selected by lot by the members of the Board at its initial meeting: one member shall be appointed for a term of one year; one member shall be appointed for a term of two years; one member shall be appointed for a term of three years; and one member shall be appointed for a term of four years. The jointly appointed member shall be appointed for an initial term of four years. Upon the expiration of the original term of office of a member of the Board, that member may continue to exercise all powers as a member of the Board until that person's successor is duly appointed and qualified.

Any vacancy in the membership of the Board other than by expiration of term shall be filled by the governing body that appointed the member or, in the case of the jointly appointed member, by approval of the governing bodies. The person appointed to fill such vacancy shall serve for the unexpired term only. Each participating political subdivision shall have the absolute right to remove its appointee to the Board, with or without cause, at any time. The participating political subdivisions shall have the absolute right to remove their joint appointee to the Board, with or without cause, at any time by resolution adopted by a majority of the governing bodies of the participating political subdivisions. Except as may be prohibited by the Constitution of Virginia, members of the Board may include elected or appointed officials, employees, managers, administrators, or officers of any participating political subdivision.

Each member of the Board may be reimbursed by the Authority for the amount of actual expenses incurred by him in the performance of his duties in addition to such other salary or benefit, or both, to be determined by the Authority.

§ 7 Organization.

A majority of the members of the Board shall constitute a quorum, and the vote of a majority of members of the Board shall be necessary for any action taken by the Board. Each member of the Board shall be entitled to one vote except as otherwise set forth herein. No vacancy in the membership of the Board shall impair the right of a quorum to exercise all the rights and perform all the duties of the Authority. The Board shall elect from its membership a chairman, vice-chairman, and secretary-

treasurer of the Board, such officers to serve in these capacities for terms of two years, except that an initial member of the Board whose term on the Board is for one year may be elected to serve in such capacity for a term of one year and if reappointed to the Board may thereupon be reelected to the Board to serve in such capacity.

The Authority shall hold regular meetings at such times and places as may be established by its bylaws.

The Board may make and from time to time amend and repeal bylaws, not inconsistent with this Act, governing the manner in which the Authority's business may be transacted and in which the power granted to it may be enjoyed. The Board may appoint such committees as it may deem advisable and fix the duties and responsibilities of such committees.

§ 8. Powers.

The Authority is hereby granted all powers necessary or appropriate to carry out the purposes of this Act, including the powers to:

1. Adopt bylaws for the regulation of its affairs and the conduct of its business;
2. Sue and be sued in its own name;
3. Have perpetual succession;
4. Adopt a corporate seal and alter the same;
5. Maintain offices at such places as it may designate;
6. Acquire, establish, construct, enlarge, improve, maintain, equip, operate, and regulate any structures, facilities, and other property incidental thereto;
7. Construct, renovate, install, maintain, and operate facilities for the location of dispatching services, necessary equipment, and administration space;
8. Apply for and accept gifts, grants of money, grants or loans of other property, or other financial assistance from, or borrow money from or issue bonds to, the United States of America and agencies and instrumentalities thereof; the Commonwealth and political subdivisions, agencies, and instrumentalities thereof; or any other person or entity, whether public or private, for or in aid of the construction, acquisition, ownership, operation, maintenance, or repair of the Authority's facilities (whether or not such facilities are then in existence) or for the payment of the principal of any indebtedness of the Authority, interest thereon, or other costs incident thereto and to borrow money on such terms as the Authority deems advisable. To this end the Authority shall have the power to render such services, comply with such conditions, and execute such agreements and legal instruments as may be necessary, convenient, or desirable or imposed as a condition to such financial aid, loans, grants, or other assistance;
9. Appoint, employ, or engage such officers, employees, architects, engineers, attorneys, accountants, financial advisors, investment bankers, and other advisors, consultants, and agents as may be necessary or appropriate and fix their duties and compensation;
10. Establish personnel rules;
11. Own; purchase; lease; obtain options upon; acquire by gift, grant, or bequest; or otherwise acquire any property, real, personal or intangible, or any interest therein, and in connection therewith to create, assume, or take subject to any indebtedness secured by such property;
12. Sell, lease, grant options upon, exchange, transfer, assign, or otherwise dispose of any property, real or personal, or any interest therein;
13. Make, assume, and enter into all contracts, leases, and arrangements necessary or incidental to the exercise of its powers, including contracts for the management or operation of all or any part of its facilities;
14. Adopt, amend, and repeal rules and regulations for the use, maintenance, and operation of its facilities and governing the conduct of persons and organizations using its facilities and to enforce such rules and regulations and all other rules, regulations, ordinances, and statutes relating to its facilities;
15. Purchase and maintain insurance and provide indemnification on behalf of any person who is or was a director, officer, employee, or agent of the Authority against any liability asserted against or incurred by him in any such capacity or arising out of his status as such;
16. Place a lien upon any or all of its property or otherwise secure its debts; and
17. Do all things necessary or convenient to the purposes of this Act.

§ 9. Rules, regulations, and minimum standards.

The Authority shall have the power to adopt, amend, and repeal rules, regulations, and minimum standards for the use, maintenance, and operation of its facilities and governing the conduct of persons and organizations using its facilities.

The Authority's rules and regulations shall be available for public inspection in the Authority's principal office.

The Authority's rules and regulations shall have the force of law, as shall any other rule or regulation of the Authority that shall contain a determination by the Authority that it is necessary to accord the same force and effect of law in the interest of the public safety.

§ 10. Reports.

The Authority shall keep minutes of its proceedings, which shall be open to public inspection during normal business hours. It shall keep suitable records of all its financial transactions and shall arrange to have the same audited annually by an independent certified public accountant. Copies of each such audit shall be furnished to each participating political subdivision and shall be open to public inspection. The Authority shall be deemed a local governmental agency subject to the requirements of the State and Local Government Conflict of Interests Act (§ 2.2-3100 et seq.) of the Code of Virginia.

§ 11. Procurement.

All contracts that the Authority may let for professional services, nonprofessional services, or materials shall be subject to the Virginia Public Procurement Act (§ 2.2-4300 et seq.) of the Code of Virginia.

§ 12 Deposit and investment of funds.

Except as provided by contract with a participating political subdivision, all moneys received pursuant to the authority of this Act, whether as proceeds from the sale of bonds or as revenues or otherwise, shall be deemed to be trust funds to be held and applied solely as provided in this Act. All moneys of the Authority shall be deposited in a qualified public depository and secured in accordance with the Virginia Security for Public Deposits Act (§ 2.2-4400 et seq.) of the Code of Virginia.

Funds of the Authority not needed for immediate use or disbursement may, subject to the provisions of any contract between the Authority and the holders of its bonds, be invested in securities that are considered lawful investments for public sinking funds or other public funds as set forth in the Investment of Public Funds Act (§ 2.2-4500 et seq.) of the Code of Virginia.

§ 13 Authority to issue bonds.

The Authority shall have the power to issue bonds in its discretion, for any of its purposes, including the payment of all or any part of the cost of Authority facilities and including the payment or retirement of bonds previously issued by it. The Authority may issue such types of bonds as it may determine, including (without limiting the generality of the foregoing) bonds payable, both as to principal and interest (i) from its revenues and receipts generally and (ii) exclusively from the revenues and receipts of certain designated facilities or loans, whether or not they are financed in whole or in part from the proceeds of such bonds. Any such bonds may be additionally secured by a pledge of any grant or contribution from a participating political subdivision, the Commonwealth, or any political subdivision, agency, or instrumentality thereof; any federal agency; or any unit, private corporation, copartnership, association, or individual as such participating political subdivision or other entities may be authorized to make under general law or by pledge of any income or revenues of the Authority or by mortgage or encumbrance of any property or facilities of the Authority. Unless otherwise provided in the proceeding authorizing the issuance of the bonds or in the trust indenture or agreement securing the same, all bonds shall be payable solely and exclusively from the revenues and receipts of a particular facility or loan. Bonds may be executed and delivered by the Authority at any time and from time to time, may be in such form and denominations and of such terms and maturities, may be in registered or bearer form either as to principal or interest or both, may be payable in such installments and at such time or times not exceeding 40 years from the date thereof, may be payable at such place or places whether within or without the Commonwealth, may bear interest at such rate or rates, may be payable at such time or times and at such places, may be evidenced in such manner, and may contain such provisions not inconsistent herewith, all as shall be provided and specified by the Authority in authorizing each particular bond issue.

If deemed advisable by the Authority, there may be retained in the proceedings under which any bonds of the Authority are authorized to be issued an option to redeem all or any part thereof as may be specified in such proceedings, at such price or prices and after such notice or notices and on such terms and conditions as may be set forth in such proceedings and as may be briefly recited on the face of the bonds, but nothing herein contained shall be construed to confer on the Authority any right or option to redeem any bonds except as may be provided in the proceedings under which they shall be issued. Any bonds of the Authority may be sold at public or private sale in such manner and from time to time as may be determined by the Authority to be most advantageous and the Authority may pay all costs, premiums, and commissions that it may deem necessary or advantageous in connection with the issuance thereof. Issuance by the Authority of one or more series of bonds for one or more purposes shall not preclude it from issuing other bonds in connection with the same facility or any other facility, but the proceedings whereunder any subsequent bonds may be issued shall recognize and protect any prior pledge or mortgage made for any prior issue of bonds. Any bonds of the Authority at any time outstanding may from time to time be refunded by the Authority by the issuance of its refunding bonds in such amount as the Authority may deem necessary, but not exceeding an amount sufficient to refund the principal of the bonds so to be refunded, together with any unpaid interest thereon and any costs, premiums, or commissions necessary to be paid in connection therewith. Any such refunding may be

effected whether the bonds to be refunded shall have then matured or shall thereafter mature, either by sale of the refunding bonds and the application of the proceeds thereof to the payment of the bonds to be refunded thereby, or by the exchange of the refunding bonds for the bonds to be refunded thereby, with the consent of the holders of the bonds so to be refunded, and regardless of whether or not the bonds to be refunded were issued in connection with the same facilities or separate facilities, and regardless of whether or not the bonds proposed to be refunded shall be payable on the same date or on different dates or shall be due serially or otherwise.

All bonds shall be signed by the chairman or vice-chairman of the Authority or shall bear his facsimile signature, and the corporate seal of the Authority or a facsimile thereof shall be impressed or imprinted thereon and attested by the signature of the secretary (or the secretary-treasurer) or the assistant secretary (or assistant secretary-treasurer) of the Authority or shall bear his facsimile signature, and any coupons attached thereto shall bear the facsimile signature of said chairman. In case any officer whose signature or a facsimile of whose signature shall appear on any bonds or coupons shall cease to be an officer before delivery of such bonds, such signature, or such facsimile, shall nevertheless be valid and sufficient for all purposes the same as if he had remained in office until such delivery. When the signatures of both the chairman or the vice-chairman and the secretary (or secretary-treasurer) or the assistant secretary (or the assistant secretary-treasurer) are facsimiles, the bonds must be authenticated by a corporate trustee or other authenticating agent approved by the Authority.

If the proceeds derived from a particular bond issue, due to error of estimates or otherwise, shall be less than the cost of the Authority facilities for which such bonds were issued, additional bonds may in like manner be issued to provide the amount of such deficit, and unless otherwise provided in the proceedings authorizing the issuance of the bonds of such issue or in the trust indenture securing the same, shall be deemed to be of the same issue and shall be entitled to payment from the same fund without preference or priority of the bonds of the first issue. If the proceeds of the bonds of any issue shall except such cost, the surplus may be deposited to the credit of the sinking fund for such bonds or may be applied to the payment of the cost of any additions, improvements, or enlargements of the Authority facilities for which such bonds shall have been issued.

Prior to the preparation of definitive bonds, the Authority may, under like restrictions, issue interim receipts or temporary bonds with or without coupons, exchangeable for definitive bonds when such bonds shall have been executed and are available for delivery. The Authority may also provide for the replacement of any bonds that shall become mutilated or shall be destroyed or lost. Bonds may be issued under the provisions of this Act without obtaining the consent of any department, division, commission, board, bureau, or agency of the Commonwealth, and without any other proceedings or the happening of any other conditions or things other than those proceedings, conditions, or things that are specifically required by this Act; provided that nothing contained in this Act shall be construed as affecting the powers and duties now conferred by law upon the State Corporation Commission.

All bonds issued under the provisions of this Act shall have and are hereby declared to have all the qualities and incidents of and shall be and are hereby made negotiable instruments under the Uniform Commercial Code (§ 8.1A-101 et seq.) of the Code of Virginia, subject only to provisions respecting registration of the bonds.

In addition to all other powers granted to the Authority by this Act, the Authority is authorized to provide for the issuance from time to time of notes or other obligations of the Authority for any of its authorized purposes. All of the provisions of this Act that relate to bonds shall apply to such notes or other obligations insofar as such provisions may be appropriate.

§ 14 Credit of Commonwealth and political subdivisions not pledged.

Bonds issued pursuant to the provisions of this Act shall not be deemed to constitute a debt of the Commonwealth or any political subdivision thereof other than the Authority, but such bonds shall be payable solely from the funds provided therefore as herein authorized. All such bonds shall contain on the face thereof a statement to the effect that neither the Commonwealth, nor any political subdivision thereof, nor the Authority, except as may be otherwise stated, shall be obligated to pay the same or the interest thereon or other costs incident thereto except from the revenues and money pledged therefore and that neither the faith and credit nor the taxing power of the Commonwealth, nor any political subdivision thereof, is pledged to the payment of the principal of such bonds or the interest thereon or other costs incident thereto.

Bonds issued pursuant to the provisions of this Act shall not constitute indebtedness within the meaning of any debt limitation or restriction.

§ 15 Members of the Board and persons executing bonds not liable thereon.

Neither the members of the Board nor any person executing the bonds shall be liable personally on the Authority's bonds by reasons of the issuance thereof.

§ 16 Security for payment of bonds; default.

The principal of and interest on any bonds issued by the Authority may be secured by a pledge of the revenues and receipts out of which the same shall be made payable, and may be secured by a trust indenture or agreement covering all or any part of the Authority facilities from which revenues or receipts so pledged may be derived, including any enlargements or any additions to any such projects thereafter made. The resolution under which the bonds are authorized to be issued and any such trust indenture or agreement may contain any agreements and provisions respecting the maintenance of the projects covered thereby, the fixing and collection of rents for any portions thereof leased by the Authority to others, the creation and maintenance of special funds from such revenues, and the rights and remedies available in the event of default, all as the Authority shall deem advisable not in conflict with the provisions hereof. Each pledge, agreement, and trust indenture made for the benefit or security of any of the bonds of the Authority shall continue to be effective until the principal of and interest on the bonds for the benefit of which the same were made shall have been fully paid. In the event of default in such payment or in any agreements of the Authority made as a part of the contract under which the bonds were issued, whether contained in the proceeding authorizing the bonds or in any trust indenture or agreement executed as security therefor, may be enforced by mandamus, suit, action, or proceeding at law or in equity to compel the Authority and the members, officers, agents, or employees thereof to perform each and every term, provision, and covenant contained in any trust indenture or agreement of the Authority, the appointment of a receiver in equity, or by foreclosure of any such trust indenture, or any one or more of said remedies.

§ 17 Taxation.

The exercise of the powers granted by this Act shall in all respects be presumed to be for the benefit of the inhabitants of the Commonwealth, for the increase of their commerce, and for the promotion of their health, safety, welfare, convenience, and prosperity, and as the operation and maintenance of any project that the Authority is authorized to undertake will constitute the performance of an essential governmental function, the Authority shall not be required to pay any taxes or assessments upon any facilities acquired and constructed by it under the provisions of this Act and the bonds issued under the provisions of this Act, their transfer and the income therefrom, including any profit made on the same thereof, shall at all times be free and exempt from taxation by the Commonwealth and by any political subdivision thereof.

§ 18 Bonds as legal investments.

Bonds issued by the Authority under the provisions of this Act are hereby made securities in which all public officers and public bodies of the Commonwealth and its political subdivisions, all insurance companies, trust companies, banking associations, investment companies, executors, administrators, trustees, and other fiduciaries may properly and legally invest funds, including capital in their control or belonging to them. Such bonds are hereby made securities that may properly and legally be deposited with and received by any state or municipal officer or any agency or political subdivision of the Commonwealth for any purpose for which the deposit of bonds or obligations is now or may hereafter be authorized by law.

§ 19 Appropriation by political subdivision.

Any participating political subdivision or other political subdivision of the Commonwealth is authorized to provide services, to donate real or personal property, and to make appropriations to the Authority for the acquisition, construction, maintenance, and operation of the Authority's facilities. Any such political subdivision is hereby authorized to issue its bonds, including, but not limited to, general obligation bonds, in the manner provided in the Public Finance Act (§ 15.2-2600 et seq.) of the Code of Virginia or in any applicable municipal charter for the purpose of providing funds to be appropriated to the Authority, and such political subdivisions may enter into contracts obligating such bond proceeds to the Authority.

The Authority may agree to assume or reimburse a participating political subdivision for any indebtedness incurred by such participating political subdivision with respect to facilities conveyed by it to the Authority.

§ 20 Annual ~~deficit~~Budget.

The Board shall have full authority to adopt its operating and capital budgets on an annual fiscal year (July 1 through June 30) basis (the "Annual Budget"), and to amend the same from time to time. The Board shall also have full authority to develop and adopt a formula for allocating the responsibility to pay for the Annual Budget among the participating political subdivisions (the "Allocation Formula"), which Allocation Formula must be presented to the participating political subdivisions on or before 1, 2018. The participating political subdivisions shall consider the Allocation Formula on or before 1, 2018, and if each of them approve it, each shall pay its share of the Annual Budget as allocated under the Allocation Formula. In the event all participating political subdivisions do not approve the Allocation Formula on or before 1, 2018, each participating political subdivision will contribute one-quarter of the Authority's Annual Budget for fiscal year 2019 and for all following fiscal years unless and until an

Allocation Formula is approved by all of the participating political subdivisions. As used herein, "Annual Contribution" means either (a) each participating political subdivision's share of the Annual Budget allocated under the Allocation Formula or (b) the one-quarter share of the Annual Budget that each of the participating political subdivisions will pay if not all of the participating political subdivisions have on or before 1, 2018 (or 1 in any year in which the Allocation Formula is presented for approval by the participating political subdivisions). Once approved by all of the participating political subdivisions, the Board may use the Allocation Formula each year to allocate responsibility for payment of the Annual Budget among the participating political subdivisions. The Board shall also have full authority to amend and revise the Allocation Formula, but any amendment or revision must be submitted to and approved by each of the participating political subdivisions on the same dates prior to the fiscal year in which the Allocation Formula is scheduled to be amended or revised. Each participating political subdivision shall contribute its ~~respective one-quarter share of the annual deficit~~Annual Contribution each year and otherwise as required; however, such obligation shall be subject to and dependent upon annual appropriations being made from time to time by the governing body of each such respective participating political subdivision, and as to the university by normal approval of appropriations, and shall not be deemed to constitute a debt of such participating political subdivisions within the meaning of Article VII, Section 10 of the Constitution of Virginia, and as to the university, within the meaning of Article X, Section 9 of the Constitution of Virginia, or any applicable statutory debt limitation. Should any participating political subdivision fail to contribute in full its ~~proportionate share of the annual deficit~~Annual Contribution, it shall remain a member of the Authority, but its representative on the Board shall not be entitled to cast a vote on any Authority matter until that participating political subdivision's ~~share of the annual deficit~~Annual Contribution has been paid in full. Further, should any participating political subdivision fail to contribute in full its ~~proportionate share of the annual deficit~~Annual Contribution, the Authority shall have a lien on any share of the Authority's profit or surplus revenues otherwise entitled to be distributed to the participating political subdivision. A participating political subdivision may contribute a portion or all of its ~~share of the annual deficit~~Annual Contribution through "in-kind" contributions, subject to the approval of such contribution and valuation by the Authority.

§ 21 Contracts with political subdivisions.

The Authority is authorized to enter into contracts with any one or more political subdivisions.

§ 22 Authority as political subdivision.

The Authority is a political subdivision whose actions are exempt from the Commonwealth's rules and regulations on its agencies and commissions as to demolition, alteration, capital outlay requirements, temporary building use requirements, and like regulations and requirements. The Authority is subject to local building code requirements.

§ 23 Fees for Service.

The Authority is authorized to charge a fee for service to individuals who are not members of the participating political subdivisions and is, likewise, authorized to determine a fee schedule.

§ 24 Liberal construction.

Neither this Act nor anything herein contained is or shall be construed as a restriction or limitation upon any powers that the Authority might otherwise have under any laws of the Commonwealth, and this Act is cumulative to any such powers; however, the borrowing of money or issuance of bonds under the provisions of this Act need not comply with the requirements of any other law applicable to the issuance of bonds, notes, or other obligations. This Act does and shall be construed to provide a complete, additional, and alternative method for the doing of the things authorized hereby and shall be regarded as supplemental and additional to powers conferred by other laws. The provisions of this Act are severable, and if any of its provisions shall be held unconstitutional by any court of competent jurisdiction, the decision of such court shall not affect or impair any of the other provisions of this Act.

§ 25 Application of local ordinances, service charges, and taxes upon leaseholds.

Nothing herein contained shall be construed to exempt the Authority's property from any applicable zoning, subdivision, erosion and sediment control, and fire prevention codes or from building regulations of a political subdivision in which such property is located. Nor shall anything herein contained exempt the property of the Authority from any service charge authorized by the General Assembly pursuant to Article X, Section 6 (g) of the Constitution of Virginia.

§ 26 Existing contracts. Leases, franchises, etc., not impaired.

No provisions of this Act shall relieve, impair, or affect any right, duty, liability, or obligation arising out of any contract, concession, lease, or franchise now in existence except to the extent that such contract, concession, lease, or franchise may permit. Notwithstanding the foregoing provision of this section, the Authority may renegotiate, renew, extend the term of, or otherwise modify at any time any contract, concession lease, or franchise now in existence in such manner and on such terms and conditions as it may

deem appropriate, provided that the operator of or under said contract, concession, lease, or franchise consents to said renegotiation, renewal, extension, or modification.

§ 27 Employees of the Authority.

A. Employees of the Authority shall be employed on such terms and conditions as are established by the Authority. The Board of the Authority shall develop and adopt personnel rules, policies, and procedures to give its employees grievance rights, ensure that the employment decisions shall be based upon the merit and fitness of applicants, and prohibit discrimination because of race, religion, color, sex, or national origin.

B. In cooperation with the Board, each participating political subdivision shall determine which of its current positions will remain under their individual employ and which will be recreated as part of the Authority. Any employee of Virginia Tech who (i) is not offered a position with the Authority for which the employee is qualified or is offered a position that requires relocation or a reduction in salary or (ii) is not offered the opportunity to remain employed with Virginia Tech shall be eligible for the severance benefits conferred by the provisions of the Workforce Transition Act (§ 2.2-3200 et seq.) of the Code of Virginia. Any employee of Virginia Tech who accepts employment with the Authority shall not be considered to be involuntarily separated from state employment and shall not be eligible for the severance benefits conferred by the Workforce Transition Act.

C. Notwithstanding any other provision of law to the contrary, any person whose employment is recreated in the Authority as a result of this Act and who is a member of any plan for providing health insurance coverage pursuant to Chapter 28 (§ 2.2-2818 et seq.) of Title 2.2 of the Code of Virginia shall be eligible to continue to be a member of such health insurance plan. Notwithstanding subsection A of § 2.2-2818 of the Code of Virginia, the Authority shall pay the employer contribution, the amount of which is determined by negotiated agreement with the provider, of the costs of providing health insurance coverage to its employees who elect to continue to be members of the state employees' insurance plan. Alternatively, an employee may elect to become a member of any health insurance plan established by the Authority. The Authority is authorized to (i) establish a health insurance plan for the benefit of its employees and (ii) enter into agreements with the Department of Human Resources Management providing for the coverage of its employees under the state employees' health insurance plan, provided that such agreement shall require the Authority to pay the costs described above of providing health insurance coverage under such a plan.

D. Notwithstanding any other provision of law to the contrary, any person whose employment is transferred to the Authority as a result of this Act and who is a member of the Virginia Retirement System, or other retirement plan as authorized by Article 4 (§ 51.1-125 et seq.) of Chapter 1 of Title 51.1 of the Code of Virginia, shall continue to be a member of the Virginia Retirement System or other such authorized retirement plan under the same terms and conditions as if no transfer had occurred. Alternatively, such employee may elect, during an open enrollment period, to become a member of the retirement program established by the Authority for the benefit of its employees by transferring assets equal to the value to the actuarially determined present value of the accrued basic benefit as of the transfer date. The Authority shall reimburse the Virginia Retirement System for the actual cost of actuarial services necessary to determine the present value of the accrued basic benefit of employees who elect to transfer to the Authority's retirement plan. The following rules shall apply:

1. With respect to any transferred employee who elects to remain a member of the Virginia Retirement System or other such authorized retirement plan, the Authority shall collect and remit any employer and employee contributions to the Virginia Retirement System or other such authorized retirement plan for retirement for such transferred employees.

2. Transferred employees who elect to become members of the retirement program established by the Authority for the benefits of its employees shall be given full credit for their creditable service as defined in § 51.1-124.3 of the Code of Virginia, vesting and benefit accrual under the retirement program established by the Authority. For any such employee, employment with the Authority shall be treated as employment with any nonparticipating employer for purposes of the Virginia Retirement System or other retirement plan as authorized by Article 4 of Chapter 1 of Title 51.1 of the Code of Virginia.

3. For transferred employees who elect to become members of the retirement program established by the Authority, the Virginia Retirement System or other such authorized plan shall transfer to the retirement plan established by the Authority assets equal to the actuarially determined present value of the accrued basic benefits as of the transfer date. For purposes hereof, the basic benefits shall be the benefit accrued under the Virginia Retirement System or other such authorized retirement plan, based on creditable service and average final compensation as defined in § 51.1-124.3 of the Code of Virginia and determined as of the transfer date. The actuarial present value shall be determined on the same basis, using the same actuarial factors and assumptions used in determining the funding needs of the Virginia Retirement System or other such authorized retirement plan, so that the transfer

of assets to the retirement plan established by the Authority will have no effect on the funded status and financial stability of the Virginia Retirement System or other such authorized retirement plan.

§ 28 Withdrawal of membership.

A participating political subdivision may withdraw its membership in the Authority at the end of any fiscal year if the withdrawing participating political subdivision has given notice to the Authority and all other participating political subdivisions of its intention to withdraw at least one year before the end of such fiscal year and the withdrawing participating political subdivision has paid in full its ~~share of the annual deficit~~Annual Contribution, if any, provided that no participating political subdivision may withdraw its membership in the Authority if the Authority has any outstanding debt without written approval of each participating political subdivision. As used in this section, the term "debt" shall mean a monetary obligation, whether general or limited in any way, to repay a loan or bond, or any long-term obligation, whether absolute or contingent in any way, to refund or reimburse any agency or entity for grant funds received by the Authority.

§ 29 Dissolution of Authority.

Whenever it shall appear to the Board or to all participating political subdivisions that the need for the Authority no longer exists, all participating political subdivisions may petition the Circuit Court of Montgomery County, Virginia, for the dissolution of the Authority. If the court determines that the need for the Authority as set forth in this Act no longer exists and that all debts and other obligations of any kind have been fully paid or provided for:

- 1. The Court shall enter an order dissolving the Authority; and*
- 2. The remaining assets of the Authority shall be distributed to the participating political subdivisions in proportion to their respective ~~shares of the annual deficit~~Annual Contribution less any amounts owed to the Authority by such participating political subdivision.*

Each participating political subdivision and all holders of the Authority's bonds shall be made parties to any such proceeding and shall be given notice as provided by law. Any party defendant may reply to such petition at any time within six months after the filing of the petition. An appeal from the final judgment of the court shall lie to the Supreme Court of Virginia.