

The Pearisburg Town Council met in Regular Session on April 14, 2020 at 6:30 pm via electronic meeting using Zoom technology hosted by Assistant Town Clerk Williams. Present for the meeting was Mayor Dickerson; Vice-Mayor Eaton; Council Members Williams, Harrell, Clark, Ballard and Journell; Town Attorney Hartley; Town Manager Meredith; Town Clerk Harless; Police Chief Martin; Public Works Director Wilson; and Town Treasurer Harrell. Also present was Amelia Whittaker, Virginian Leader.

Ballard made a motion to approve the minutes of the Regular March 10, 2020 and Special March 31, 2020 Council Meetings as written. Clark seconded the motion. Voting yes: Mayor Dickerson; Council Members Williams, Harrell, Clark, Eaton, Ballard and Journell. The motion carried by a vote of 7 to 0.

Journell reported on the Public Safety Committee. The Committee discussed allowing Fire Chief Stevers to take home a vehicle to be used only for Fire Department business. Meredith had informed the Committee that if there were no objections, he would allow Chief Stevers to take the vehicle home for the duration of the COVID-19 pandemic. There were no objections. Mayor Dickerson thanked the Police Chief and officers along with the Fire Department for all their efforts during the recent storm.

Ballard reported on the Property and Recreation Committee. The Committee discussed Troy William's project for storage units on Main Street. Staff will continue with weed notices as usual and notices of violation to residents.

Eaton reported on the Finance Committee. The Committee discussed making a donation to the Giles County Dining and Lodging Gift Card program. Ballard inquired about where the funds could be found in the current budget. Meredith stated he would prepare a budget amendment for Council's approval. Meredith went on to say that he is unable to project what the budget will look like in May or June. Ballard felt this was an excellent program to assist local business. Meredith stated the Town would get a significant portion of the funds back through the meals tax. The Committee also discussed a rental agreement with Josh Hollie with his Barber Shop. Ballard asked as to the reason the Committee was considering assisting businesses with rent. Meredith stated that Hollie was looking for economic assistance to help

his business during the statewide shutdown. Ballard agreed that during this time the Town should assist him in any way possible.

The Committee recommends that the Council waive the rent due by Mr. Josh Hollie to the Town as part of the rent agreement for the property located at 107 North Main Street in the amount of \$250 per month for the months of April 2020 through June 2020. Voting yes: Mayor Dickerson; Council Members Williams, Harrell, Clark, Eaton, Ballard and Journell. The recommendation carried by a vote of 7 to 0.

The Committee recommends that the Council approve a one-time contribution in the amount of \$5,000 to the Giles County "Dining & Lodging Gift Cards" program. Voting yes: Mayor Dickerson; Council Members Williams, Harrell, Clark, Eaton, Ballard and Journell. The recommendation carried by a vote of 7 to 0.

Eaton reported on the Public Works Committee. The Committee discussed a sinkhole that opened as a result of heavy rains on Locust Street. The sinkhole damaged a 12-inch sewer line. Wilson stated repairs should be finished soon.

Meredith reported that the PSA is implementing a Continuance of Governance Ordinance and asked localities to consider doing this as well. He stated that Pearisburg has already adopted this ordinance at their special meeting in March.

Williams made a motion that Council approve and adopt Ordinance 20-02 to Set a New Time for Regular Council Meetings. Ballard seconded the motion. Voting yes: Mayor Dickerson; Council Members Williams, Harrell, Clark, Eaton, Ballard and Journell. The motion carried by a vote of 7 to 0.

ADOPTED: April 14, 2020

ORDINANCE NO: 20-02

AN ORDINANCE TO AMEND AND RE-ENACT SECTION 2-31 OF THE CODE OF THE TOWN OF PEARISBURG TITLED "WHEN REGULAR MEETINGS HELD" OF TOWN COUNCIL

BE IT ORDAINED, by the Town Council of the Town of Pearisburg, Virginia, 7 of the elected members concurring, that:

Section 1. That Section 2-31 of the Code of the Town of Pearisburg titled "When Regular Meetings Held" of Town Council is hereby amended and re-enacted to provide as follows:

The Council shall meet regularly on the second Tuesday night of each month, at 6:30 p.m.

Section 2. This Ordinance shall be effective beginning with the regular meeting of the Town Council on April 14, 2020.

This 14th day of April, 2020.

APPROVED: Robert L. Dickerson
Robert L. Dickerson, Mayor

ATTEST: Regina H. Harless
Regina H. Harless, Clerk

Meredith provide an update to Council regarding the Small Baseball Field Renovation project. He stated that all infield mix has been delivered. Staff will begin work to finish spreading that out as weather permits. There is an estimated \$1,021 left in the project budget. Staff will need to purchase seed and fertilizer for around \$300 to finish up the field. A portion of fencing will need to be replaced as well. He commented that the work completed by the County looks good and the water is draining away from the field. Ballard commented that Wilson and his crew were on top of making renovations to the field and identifying low spots and addressing them with additional topsoil and sewing grass.

Meredith updated Council on status of King Heights reservoir rehabilitation pressure issues. Staff feels the tank can be regulated and controlled by altering the pumping schedule of well #4. Staff is trying to determine best time to bring the tank down for needed maintenance.

Meredith briefed Council on the RD UV/Sewer Project. The Town will need to secure at a 6 -month extension that will move the maturity date from May to November. The goal is to complete the job as soon as possible. He stated that some of the sub-contractors are not traveling at this time because of the pandemic. The Town is currently required to pay approximately \$4,000 per month in interest on the interim financing.

Journell made a motion that Council approve and adopt a Resolution to Modify Bond Anticipation Note for the RD/UV Sewer Project. Clark seconded the motion. Mayor Dickerson called for a Roll Call vote. Voting: Mayor Dickerson, yes; Council Members Williams, yes; Harrell, yes; Clark, yes; Eaton, yes; Ballard, yes; and Journell, yes. The motion carried by a vote of 7 to 0.

RESOLUTION AUTHORIZING MODIFICATIONS TO THE BOND ANTICIPATION NOTE DATED MAY 14, 2019, OF THE TOWN OF PEARISBURG AND CERTAIN RELATED ACTIONS

The Town of Pearisburg (the "Town") has issued its \$1,625,000 Bond Anticipation Note dated May 14, 2019 (the "Note") to National Bank of Blacksburg (the "Bank") in accordance with a Loan Agreement dated as of May 14, 2019, between the Bank and the Town.

The Town and the Bank desire to extend the maturity of the Note, in order to allow for an extended construction period for the project being financed with the loan proceeds under the Note.

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

1. The Council finds and determines that extending the maturity date of the Note from May 14, 2020, to November 16, 2020, is in the best interests of the Town.

2. The Mayor, Vice-Mayor and Town Manager of the Town, any one of whom may act, and the Clerk of the Town are authorized and directed to execute and deliver to the Bank a Modification Agreement with respect to the Note as may be necessary or desirable to effect the extension of the maturity date to November 16, 2020, and any other certifications and instruments that are necessary or appropriate to further the transactions contemplated in this resolution.

3. All actions previously taken by the Town and by the officers of the Town not inconsistent with this Resolution and directed toward the extension of the maturity of the Note are ratified, approved and confirmed.

4. This Resolution shall be in full force and effect on the date of its adoption.

The undersigned Clerk of the Town of Pearisburg, Virginia, certifies that:

(a) the foregoing is a true, complete and correct copy of a resolution adopted by the Council of the Town at a meeting of the Council held on April 14, 2020;

(b) the meeting was a duly called, noticed and held regular meeting;

(c) during the consideration of the foregoing resolution, a quorum was present; and

(d) the name of each member of Council voting on the adoption of the foregoing resolution and his or her vote were recorded at the meeting as follows:

<u>Member</u>	<u>Attendance</u>	<u>Vote</u>
Robert L. Dickerson, Mayor	Present	Yes
Kristi Eaton	Present	Yes
Mary D. Journell	Present	Yes
Jimmie R. Williams	Present	Yes

Cathy Clark	Present	Yes
Judy R. Harrell	Present	Yes
Jason S. Ballard	Present	Yes

Town Clerk, Town of Pearisburg, Virginia

(SEAL)

Meredith updated Council on the Modification Agreement for the RD UV/Sewer Project. Its purpose is to change the maturity date and provide a six-month extension for repayment of the interim financing. Hartley stated this would extend the time before the payment is due. Ballard asked if this was affected the problems, we are having at the sewer plant. Meredith stated the problem at the plant is due to having too many particles that are too large in the flow through the disinfection trough. Meredith stated that project contractors and engineers are exploring the use of a polymer to settle the particles. Ballard stated that if Hartley was good with the modification he was as well. He wanted to make sure we weren't saying from a contractual standpoint that the work is alright. Hartley stated that it only pertains to the finance documents. This doesn't affect acceptance of work or substantial completion. The issue is the change of the design to put the sewer line in off Main Street and Henson Avenue. Staff is also negotiating with a sub-contractor to complete the lining work on the sewer main that crosses Main Street to Henson Avenue. Meredith stated that it may be worthwhile to explore other financing options that will allow the Town to pay off the interim financing now and obtain additional financing to complete the realignment on Main Street. Staff would like to look at working with the county and other financing options to get the Main Street portion completed. Hartley stated that the warranty claim is 12 months after completion. Hartley asked about the warranty claim on UV System. He asked if a polymer system was included in the budget for the project. Meredith stated that the polymer system was not included in the project budget and that the UV contractor is not traveling at this time to troubleshoot the issue.

Hartley stated that the Town needed to verify that the UV system that was ordered is compatible with a concrete system. Ballard stated that, as he understands it, they have not delivered that for which the Town has contracted.

Ballard made a motion that Council approve and authorize the Town Manager to sign the Modification Agreement between the Town of Pearisburg and National Bank of Blacksburg on the RD UV/Sewer Project. Clark seconded the motion. Voting yes: Mayor Dickerson; Council Members Williams, Harrell, Clark, Eaton, Ballard and Journell. The motion carried by a vote of 7 to 0.

MODIFICATION AGREEMENT

This Modification Agreement dated as of April 30, 2020, between the **Town of Pearisburg**, a political subdivision of the Commonwealth of Virginia (the "Town") and **National Bank of Blacksburg** (the "Bank").

Recitals

The Town has issued its \$1,625,000 Bond Anticipation Note, dated May 14, 2019 (the "Note") to the Bank.

The Town and the Bank desire to amend the Note so that the maturity date thereof is extended.

Agreement

In consideration of the promises and the mutual covenants hereinafter contained, the parties covenant and agree as follows:

Section 1. Definitions. Capitalized terms used in this Agreement and not otherwise defined have the meanings given them in the Loan Agreement.

Section 2. Amendment of Note. The second sentence of the second paragraph of the Note is amended to read in its entirety as follows:

If not sooner paid, the principal of and accrued but unpaid interest on this note shall be due and payable on November 16, 2020.

Section 3. Application to Tax Compliance Agreement. The term "Note" as used in the Nonarbitrage and Tax Compliance Agreement dated May 14, 2019 (the "Tax Compliance Agreement"), between the Town and the Bank means and includes the Note as amended by this Agreement.

Section 4. Representations and Covenants. The Town represents and warrants that its representations and agreements contained in the Tax Compliance Agreement, are true and correct. The Town represents and covenants to timely cause to be filed all information reports (Form 8038-G) required under Section 149(e) of the Code with respect to the Note as amended by this Agreement.

Section 5. Miscellaneous. This Agreement amends and supplements the Note and the Tax Compliance Agreement.

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed on their behalf by their duly authorized officers.

Town of Pearisburg

By: _____

Todd Meredith
Town Manager, Town of Pearisburg

By: _____

Regina H. Harless
Clerk, Town of Pearisburg

National Bank of Blacksburg

By: _____

Name: Paul M. Mylum

Title: Senior Vice President

Hartley stated that the Non-Arbitrage Agreement is a requirement of all federal loans. He stated it was similar to a good faith statement that the Town will use the funds only for the RD project.

Journell made a motion that Council approve and authorize the Town Manager to sign the Non-Arbitrage Certificate on the RD UV/Sewer Project. Harrell seconded the motion. Voting yes: Mayor Dickerson; Council Members Williams, Harrell, Clark, Eaton, Ballard and Journell. The motion carried by a vote of 7 to 0.

NON-ARBITRAGE CERTIFICATE

April 30, 2020

The undersigned officer of the Town of Pearisburg, a political subdivision of the Commonwealth of Virginia (the "Town") agrees and certifies as follows:

1. Definitions.

(a) Unless otherwise defined, each capitalized term used in this certificate has the meaning given it in the Resolutions adopted February 13, 2018, and April 9, 2019, regarding the Note as defined below (collectively, the "Resolution") by the Town.

(b) The terms on the attached Schedule of Definitions shall have the meanings stated therein for purposes of this certificate.

2. **Responsible Officers.** The undersigned officer of the Town has been charged by the Resolution of the Town with the responsibility of issuing and modifying the Town's \$1,625,000 Bond Anticipation Note dated May 14, 2019 (the "**Original Note**"), in accordance with a Modification Agreement dated the date of this certificate (the "**Modification Agreement**")

3. **Reasonable Expectations.** This certificate sets forth the Town's reasonable expectations as of this date regarding the amount and use of the Gross Proceeds of the Original Note as modified by the Modification Agreement (the "**Note**") and is made in good faith by the undersigned officers based on the facts and estimates stated in this certificate.

4. **Modification of Original Note; Note Terms.** The Town will on this date modify the Note solely to change the maturity date from May 14, 2020, to November 16, 2020.

5. **Purposes of Issue.** The Town is modifying the Note to finance on a longer interim basis the cost of improvements to the sewer system of the Town (the "**Project**").

6. **Modification.**

(a) The Town and the holder of the Note will enter into a Modification Agreement extending the maturity date of the Note. The principal of the Note outstanding on the date of this certificate is \$1,281,431.25. There are no proceeds to be derived by the Town in connection with the Modification Agreement, other than the remaining, un-advanced principal of the Original Note equal to \$343,568.75.

(b) Today is not earlier than the first day on which interest begins to accrue on the Note for federal income tax purposes.

8. **Proceeds of Note.**

(a) **Note Proceeds.** The Sale Proceeds, being the remaining, un-advanced principal of the Original Note, will be advanced under the Note when and as needed to be applied to the costs of the Project. Such amounts will be expended for such purposes within three years from the date of issuance of the Original Note. It is not expected that Sale Proceeds will be invested.

(d) **No Excess Proceeds.** The Net Sale Proceeds of the Note do not exceed the amount necessary to be borrowed in order to finance the Project. Therefore, there are no excess proceeds of the Note.

(e) **No Other Available Amounts.** Costs of the Project will be paid by the Town only from Sales Proceeds.

(f) **Allocation of Gross Proceeds to Expenditures.** In allocating funds from different sources (e.g. bond proceeds vs. other amounts) to expenditures, the Town will use one of the following accounting methods, consistently applied: a specific tracing method; a Gross Proceeds spent first method; a first-in first-out method; or a ratable allocation method, except as otherwise allowed or required by Treasury Regulations Section 1.148-6(d). An allocation of Gross Proceeds to an expenditure must involve a current outlay of cash for a governmental purpose of the Note. "Current outlay of cash" means an

outlay reasonably expected to occur not later than five banking days after the date as of which the allocation of Gross Proceeds to the expenditure is made.

9. Yield on the Note.

(a) The Yield on the Note is fixed and determinable on this date. The Note constitutes a "fixed yield issue" within the meaning of Treasury Regulations Section 1.148-1.

(b) There have been and will be issued no obligations that would be deemed to be (i) sold within fifteen (15) days before or after today (the "Sale Date") when the Note was sold, (ii) sold pursuant to a common plan of financing with the Note and (iii) paid out of substantially the same source of funds as the Note (or to have substantially the same claim to be paid out of substantially the same source of funds).

(c) The Note is being sold to the purchaser for its own account.

10. No Purpose Investments.

No purpose investment is being acquired by the Town in connection with the Note.

11. The Original Note.

(a) The Original Note was issued to provide funds to pay the costs of improvements to the Town's sewer system and to pay the costs of issuance of the Original Note.

(b) All of the proceeds derived from the sale of the Original Note and the investment earnings thereon, if any, have been expended for the purposes for which the Original Note was issued. Such proceeds constitute the aggregate amount of principal advances made under the Original Note as of today.

(c) There are no funds or accounts of the Town established under the resolution under which the Original Note was issued or otherwise, which on or before the date hereof, are or were reasonably expected to be used to pay debt service on the Original Note or which are or were pledged as collateral for the Original Note and for which there is reasonable assurance that amounts on deposit therein will be available to pay debt service on the Original Note.

(d) The Note constitutes a current refunding of the Original Note.

12. Temporary Period.

The Net Sale Proceeds and any Investment Proceeds of the Note expected to be allocated to expenditures for the Project will qualify for the three-year temporary period if the Town reasonably expects to satisfy certain tests. As indicated below, the Town reasonably expects that the following tests will be satisfied:

(a) Expenditure Test: The Net Sale Proceeds and any Investment Proceeds are expected to be spent by , 2020. Thus, at least eighty-five percent of the Net Sale Proceeds will be allocated to expenditures on the Project within three years from the date the Original Note was issued.

(b) Time Test: The Town has incurred a substantial binding obligation to a third party to expend at least five percent of the Net Sale Proceeds of the Note on the Project. Such obligation is not subject to any contingency within the Town's or a related party's control.

(c) Due Diligence Test: Completion of the Project and the allocation of the Net Sale Proceeds and Investment Proceeds to expenditures will proceed with due diligence.

13. No Over Issuance.

The Sale Proceeds and any Investment Proceeds will not exceed the amount necessary for the governmental purpose or purposes of the Note by more than \$100,000.

The Town has not taken any intentional action to cause the Sale Proceeds and any Investment Proceeds to exceed by any amount the amount necessary for such governmental purpose or purposes.

14. Funds Established.

There are reasonably expected to be no moneys, securities, obligations, annuity contracts, other investment-type property, sinking funds, reserve funds, funds subject to a negative pledge, or other funds that will be accumulated, held and/or pledged as security for the payment of the principal of or interest on the Note or which will be available to pay, directly or indirectly, the Note or for any other purpose with respect to the Note. The Town will not create or establish any sinking fund, reserve or replacement fund or similar fund with respect to the Note, unless the amounts in it are invested at a Yield not in excess of the Note Yield or in Tax-Exempt Notes or Tax-Exempt Mutual Funds.

15. Universal Cap. The "Universal Cap" with respect to the Note is the value of all the outstanding Note. The Town reasonably expects as of this date that the Universal Cap will not reduce the amount of Gross Proceeds allocable to the Note during the term of the Note, since it is expected that the value of the Nonpurpose Investments allocable to the Gross Proceeds of the Note will not exceed the value of the outstanding Note.

16. Arbitrage Restrictions.

(a) In the Tax Compliance Certificate, the Town has agreed not to take any action, approve the making of investments or use the proceeds of the Note in any way that would cause the Note to be, or to become, an "arbitrage Note" within the meaning of Section 148 of the Code. The Town has also agreed to comply with the reporting and rebate requirements of Section 148(f) of the Code to the extent necessary to prevent the Note from becoming an arbitrage bond.

(b) No portion of the Note is being issued solely for the purpose of investing the proceeds thereof at a Yield materially higher than the Yield on the Note.

17. No Replacement Proceeds.

(a) The Town does not have on hand any funds that are restricted, segregated, legally required or otherwise intended to be used, directly or indirectly, for the purposes for which the Town is issuing the Note.

(b) The Town does not, as of this date, reasonably expect that (i) the term of the Note will be longer than is reasonably necessary for the governmental purposes of the Note and (ii) there will be available amounts during the period, if any, the Note is outstanding longer than necessary.

(c) The Note constitutes an issue to be used to finance a capital project and has a weighted average maturity not in excess of 120% of the average reasonably expected economic life of the financed capital project, as set forth in the Tax Compliance Agreement.

18. No Abusive Arbitrage Device. The Town will not employ an “abusive arbitrage device” within the meaning of Treasury Regulations Section 1.148-10 in connection with the Note. Generally, an action is an abusive arbitrage device if the action has the effect of (i) enabling the Town to exploit the difference between tax exempt and taxable interest rates to gain a material financial advantage and (ii) overburdening the market for tax-exempt obligations; provided that in no case is it considered an abusive arbitrage device to take any action specifically authorized by Section 148 of the Code or Treasury Regulations Sections 1.148-1 through 1.148-11.

19. Reasonable Expectations. To the best of our knowledge, information and belief, the above expectations are reasonable and there are no other facts, estimates or circumstances that would materially change the expectations expressed in this Certificate.

Witness the following signature to this Non-Arbitrage Certificate as of the date first shown above.

TOWN OF PEARISBURG

By: _____

Name: Todd Meredith

Title: Town Manager

SCHEDULE OF DEFINITIONS

A. Definitions Relating to Proceeds

“Proceeds” means Sale Proceeds, Investment Proceeds and Transferred Proceeds.

“Sale Proceeds” means any amounts actually or constructively received from the sale of the Note, including amounts used to pay underwriter’s discount or compensation and accrued interest other than pre-issuance accrued interest. In this case, the Sale Proceeds will be disbursed from time to time as advances of Principal under the Note in an aggregate amount not to exceed the face amount of the Note.

“Investment Proceeds” means any amounts actually or constructively received from investing Proceeds of the Note.

“Gross Proceeds” means Proceeds and Replacement Proceeds of the Note.

“Replacement Proceeds” means, in general, amounts that have a sufficiently direct nexus to the Note or to the governmental purpose of the Note to conclude that the amounts would have been used

for that governmental purpose if the Proceeds of the Note were not used or to be used for that governmental purpose. The mere availability or preliminary earmarking of amounts for a governmental purpose, however, does not in itself establish a sufficient nexus to cause those amounts to be replacement proceeds. The term is more particularly defined in Treasury Regulation §1.148-1(c).

“Net Sale Proceeds” means Sale Proceeds less the portion of those Sale Proceeds invested in a reasonably required reserve or replacement fund under Code Section 148(d) and as part of a minor portion under Code Section 148(e).

B. Miscellaneous Definitions

“Note Year” means each one-year period that ends on a day selected by the Town. The first and last Note Years may be short periods. If no day is selected by the Town, the Note Years end on each anniversary of the issue date and on the final maturity date of the Note.

“Nonpurpose Investment” means any security, obligation, annuity, or other investment-type property (excluding Tax-Exempt Notes and Tax-Exempt Mutual Funds) in which proceeds of the Note are invested and that is not acquired to carry out the governmental purpose of the Note (e.g., an investment to be held in the Project Fund until it is liquidated and the proceeds thereof used to pay Project Costs). Cash is not a Non-purpose Investment.

“Yield” means “yield” calculated under Section 148 of the Code, including with respect to Note Treasury Regulations Section 1.148-4 and with respect to Purpose and Nonpurpose Investments Treasury Regulations Section 1.148-5.

“Tax-Exempt Bond” means any bond, note or other obligation the interest on which is excludable from gross income under Section 103 of the Code.

“Code” means the Internal Revenue Code of 1986, as amended.

Meredith updated Council on the Town’s Operations and Response to COVID19. He stated that the Town was operating on Level 5 in Continuity of Operations Plan and that employees are split into teams. The Town will not be picking up monthly white goods to prevent possible spread of the virus. Public works staff will be picking up brush as time permits. Ballard stated that he personally appreciates all the efforts of staff working hard during this unprecedented time.

Williams asked Meredith if Public Works could address a problem with gravel being backed into a yard located at the intersection of Pembroke Street and Wildwood Drive during the recent heavy rain event. Wilson stated that staff should be able to get the matter resolved within a day. Williams praised all the employees and stated he appreciated their hard work. Mayor Dickerson wanted to recognize the Fire Department on how they responded to all the calls for down trees and power lines during the last storm. Meredith stated that the firemen were very professional and highly motivated when he saw them in action.

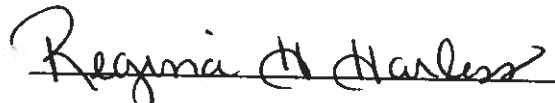
There being no further business the meeting was adjourned.

APPROVED:



Mayor Robert L. Dickerson

ATTEST:



Regina H. Harless, Town Clerk