

VIRGINIA ACTS OF ASSEMBLY -- 2003 SESSION

CHAPTER 867

An Act to provide a new charter for the Town of La Crosse in Mecklenburg County and to repeal Chapter 189, as amended, of the Acts of Assembly of 1901, which provided a charter for the Town of La Crosse.

[S 762]

Approved March 22, 2003

Be it enacted by the General Assembly of Virginia:

1.

CHARTER FOR THE TOWN OF LA CROSSE

§ 1. Incorporation and corporate entity.

The boundary line between La Crosse and the County is hereby changed and relocated so as to incorporate within the Town of La Crosse's corporate limits certain territory containing a total of 475.64 acres in two parcels. Parcel 1, lying contiguous to the existing eastern town boundary, contains 65.91 acres; Parcel 2, lying contiguous to the existing northern and western town boundaries, contains 409.73 acres. The metes and bounds of such parcels are being incorporated and shown on a survey dated June 15, 1999, revised December 21, 1999, prepared and certified by Marvin L. Crutchfield, C.L.S., and of record in the Clerk's Office of the Circuit Court of Mecklenburg County, Virginia, in Plat Book 11, pages 140 through 142. The original boundaries of the corporate limits of La Crosse are shown and described in the incorporation and charter of 1901.

§ 2. Election, etc. of mayor, council members, clerk-treasurer, recorder, town manager and chief of police.

The municipal officers of the town shall consist of a mayor, six council members, clerk-treasurer, recorder and a chief of police. The mayor and members of council shall be elected by the qualified voters of the town, and all persons qualified to vote in said election shall be eligible for any of said offices. The council shall be elected in the manner provided by Virginia election laws. Three council members shall be elected on the first Tuesday in May 2002, and every four years thereafter. The mayor and three other council members shall be elected on the first Tuesday in May 2004 and every four years thereafter. The office of clerk and treasurer may be held by the same person. Unless otherwise provided by the council, the town clerk shall be the recorder. The town manager shall be appointed by a majority vote of council. The chief of police, who does not necessarily have to be a qualified voter of the town, shall be appointed by the town manager, subject to confirmation by town council.

§ 3. Mayor and President of Council.

The mayor shall be the chief executive officer of the town. He shall have and exercise all power and authority conferred by general law not inconsistent with this charter. He shall preside over the meeting of the town council and shall have the same right to speak therein as a member of the council, but shall not vote except in the case of a tie vote. He shall have the power of veto over the ordinances and resolutions of the council, but such ordinances and resolutions may be passed over such veto by a two-thirds vote of the members of the town council present and voting. He shall be recognized as the head of the town government for all ceremonial purposes. He shall perform such other duties consistent with his office as may be imposed by the town council. He shall see that the duties of the various town officers are faithfully performed. The police force of the town shall be under the control of the mayor for the purpose of enforcing peace and good order and executing the laws of the Commonwealth and the ordinances of the town. He, or the person acting as mayor, may deputize such assistant policemen as may be necessary, and shall authenticate by his signature such documents or instruments as the council, this charter, or the law of the Commonwealth shall require.

At the first meeting of the council in July of each even-numbered year, the council shall elect from its members a president of council, who shall serve for a term of two years. The president of council shall act as mayor during the absence or disability of the mayor, and, if a vacancy occurs, shall become mayor until the next regular council election. At that election a mayor shall be elected to fill the unexpired term.

§ 4. Absence or disability of mayor and president of council.

If both the mayor and president of council are absent or unable to act, the council shall, by a majority vote of the members present, elect from its members a person to serve as acting mayor until either the mayor or president of council is present and able to act. The person so elected shall possess the powers and discharge the duties of the mayor during such period of time. Whenever it is necessary to elect an acting mayor, pursuant to this section, in the absence of both the mayor and president of council, the town clerk or acting town clerk shall call the meeting of the council to order and shall preside until an acting mayor is elected. This shall not be construed to vest in the clerk any of the

powers and duties of the mayor, except as expressly stated in this section.

§ 5. Salaries of mayor, clerk-treasurer, town manager, chief of police, etc.

The council shall fix the salaries, which shall not be diminished during their terms of office, of the mayor, clerk-treasurer, town manager, chief of police and such other officers appointed or elected under this charter.

§ 6. General powers and duties of the council.

The government of the Town of La Crosse shall be vested in the council, which shall have the power to enact and enforce ordinances to carry into effect all powers granted by this charter and by law. The council shall be responsible for the determination of all matters of policy for the Town of La Crosse and for ensuring the implementation thereof by the town administration.

§ 7. Compensation; expenses.

The council may determine the annual salary of its members by ordinance or resolution, but no ordinance or resolution increasing such salary shall become effective until the date of commencement of the terms of council members elected at the next regular election. Council members shall receive their actual and necessary expenses incurred in the performance of their duties of office.

§ 8. Prohibitions.

(a) Holding other office. Except as otherwise authorized by law, a member of council shall not be eligible during his or her tenure of office as such member, or for one year thereafter, to any compensated town employment. If appointed by the council to a board or commission, he may be compensated as a member.

(b) Appointments and removals. The council shall not decide the appointment or removal of any administrative officials or employees whom the manager or his subordinates are empowered to appoint. The council may express its view and fully and freely discuss with the manager anything pertaining to the appointment and removal of such officials and employees. The following exceptions apply to this subsection:

1. The manager and the council's personnel committee shall constitute the hiring committee for any administrative officials or employees covered above who will have supervisory powers over other staff or will have access to town funds in cash or credit;

2. The manager shall submit to council for approval at a regular council meeting a job description, hiring timetable and draft public advertisement for any administrative official or employee covered above prior to advertising for such position;

3. Any member of council may submit a written request to remove any administrative official or employee covered above during the probationary period described in the town personnel manual. Such request must be delivered to the manager no later than one week prior to a regular council meeting. The subject administrative official or employee will have the right to speak publicly to council on such request at the next regular council meeting. Upon a majority vote of council the administrative official or employee covered above shall be removed.

(c) Interference with administration. Neither the council nor its members shall give public or private orders or directions to any administrative official or employee, except through the town manager. The following exceptions apply to this subsection:

1. Administrative officials and employees shall speak directly with council or any of its members for the purpose of discussion, informal reviews, inquiries or official investigations;

2. During the temporary absence of the manager, administrative officials and employees shall speak directly with council or any member thereof, in the event of a major housekeeping or maintenance situation.

§ 9. Vacancies, forfeiture of office; suspension and removal; filling of vacancies.

The office of a council member shall become vacant upon his death, resignation, removal from office in any manner authorized by law or this charter, or forfeiture of his office.

A council member shall forfeit his office if he:

1. Violates any express prohibition of this charter; or

2. Fails to attend three consecutive regular scheduled meetings of the council without being excused by council.

The council members shall suspend or remove elected town officers for misconduct in office or neglect of duty, to be specified in the order of suspension or removal; but no removal shall be made without reasonable notice to the officer in question and an opportunity afforded him to be heard in his defense. Removal shall require an unanimous vote of the remaining members of the council.

A vacancy on the council shall be filled within 60 days, for the unexpired term, by a majority vote of the remaining members of council, if the vacancy occurs two years or less before the date of expiration of such term. If the vacancy occurs more than two years before the expiration of the term, the vacancy shall be filled by a majority vote of the remaining members of council only until the next election of council, at which election the voters of the town shall elect a person to serve as council member for the remaining two years of the term.

Notwithstanding the requirements in § 11 hereof that a quorum of the council consists of four members, if at any time the membership of the council is reduced to less than four, the remaining

members shall call for a special election to fill the vacancies for the unexpired term.

§ 10. Procedures in case of forfeiture.

A council member charged with conduct constituting grounds for forfeiture of his office, as described in § 9 above, shall be entitled to a public hearing on demand, and notice of such hearing shall be published in one or more newspapers having general circulation in the town, at least two weeks in advance of the hearing. After such hearing, council, by a unanimous vote of the other members of council, shall declare the office of that council member forfeited and vacant.

§ 11. Meeting procedures and rules.

The council shall meet regularly, at least once in every month, at such times and places as the council may prescribe by ordinance. Special meetings may be held on the call of the mayor or of any two members of council after not less than 24 hours notice to each member, except in case of extreme emergency when the time may be waived. No business, except as stated in the notice, shall be transacted by the council in such special meeting, unless all members of the council are present and give their unanimous consent to the consideration of such business, and such business is an emergency or of an unusual nature.

No vote shall be reconsidered or rescinded at any special meeting unless at such special meeting there are present as large a number of members as were present when such vote was taken.

The council shall determine its own rules and order of business and shall provide for keeping a journal of its proceedings. This journal shall be public record.

Voting, except on procedural motions, shall be by roll call and the ayes and nays shall be recorded in the journal. Four members of the council shall constitute a quorum, but a smaller number may adjourn from time to time. No action of the council, except as otherwise provided in the preceding sentence, shall be valid or binding unless adopted by the affirmative vote of four or more members of the council.

To adopt an ordinance or resolution having for its object the levying of taxes or contracting a debt, an affirmative recorded vote of five members of council is required.

§ 12. Adoption of ordinances.

(a) In addition to other acts required by law or by specific provision of this charter to be enacted by ordinance, the following acts of the town council shall be by ordinances unless otherwise provided in this charter.

1. To adopt or amend an administrative code or establish, alter or abolish any town department, office or agency.

2. To provide for a fine or other penalty or establish a rule or regulation for violation of which a fine or other penalty is imposed.

3. To levy taxes, except as otherwise provided in § 25 with respect to the property tax levied by adoption of the budget.

4. To regulate the rate charged for its services by the town; however, the council may, by resolution, authorize the rates or fees charged by the department of parks and recreation for use of its facilities and authorize the rates and fees charged by other departments of the town for services pertaining to cutting grass on private properties, or making copies of printed or recorded matter.

5. To authorize the borrowing of money.

6. To convey or lease or authorize the conveyance or lease of any property owned by the town.

Acts other than those referred to in provision (a) 6 of this section, may be done either by ordinance or by resolution, if not in conflict with the law.

(b) Each proposed ordinance shall be introduced in writing and in the form required for adoption. No ordinance shall contain more than one subject, which shall be clearly expressed in its title. The enacting clause shall be "Be it ordained by the Council of the Town of La Crosse....."

(c) An ordinance may be introduced by any member at any regular or special meeting of the council. Upon introduction of any ordinance, the town clerk shall distribute a copy to each council member and to the manager. The town clerk shall also file a reasonable number of copies in the office of the town and shall publish the ordinance, together with a notice setting out the time and place for a public hearing thereon. The public hearing shall follow the publication by at least 12 days, may be held separately or in connection with a regular or special council meeting, and may be adjourned from time to time. All persons interested shall have an opportunity to be heard. After the hearing the council may adopt the ordinance with or without amendment or reject it but, if it is amended so as to materially change the purpose and character of the proposed ordinance, the council may not adopt it until the ordinance or its amended sections have been subjected to all the procedures hereinbefore required for a newly introduced ordinance.

In order to pass an ordinance, the council shall vote on the proposed ordinance two times: on first and second reading. If at any stage in this procedure the proposed ordinance fails to receive the affirmative vote of a majority of the members of the council, the ordinance shall be declared defeated and removed from the calendar of ordinances. Any ordinance that is not passed at the same meeting at which the public hearing is held may not be passed at a subsequent meeting, unless the agenda for the meeting indicates that the ordinance will be removed from the calendar of ordinances for consideration

at that meeting.

(d) Except as otherwise provided in this charter, each adopted ordinance shall become effective on the date of its passage, or at such later date as it may specify.

(e) The ordinance or a brief summary thereof, together with the place where copies have been filed and when they are available for public inspection, shall be published in one or more newspapers having general circulation in the town.

§ 13. Emergency ordinances.

In order to meet a public emergency affecting life, health, property or the public peace, the council may adopt one or more emergency ordinances, but such ordinances may not levy taxes or authorize the borrowing of money except as provided in § 12. An emergency ordinance shall be introduced in the form and manner prescribed for ordinances generally, except that it shall be plainly designated as an emergency ordinance and shall contain, after the enacting clause, a declaration stating that an emergency exists and describing it in clear and specific terms. An emergency ordinance may be adopted with or without amendment, or rejected at the meeting at which it is introduced. After its adoption, the ordinance shall be published and printed as prescribed for other adopted ordinances. It shall become effective upon adoption or at such later date as it may specify. Each emergency ordinance, except one made pursuant to § 12, shall automatically stand repealed as of the ninety-first day following the date on which it was adopted, but this shall not prevent reenactment of the ordinance in the manner specified in this section if the emergency still exists. An emergency ordinance may also be repealed by adoption of a repealing ordinance in the same manner specified in this section for adoption of emergency ordinances.

§ 14. Codes of technical regulations.

The council may adopt any standard code of technical regulations, such as building, electrical and sanitary codes, by reference thereto in an adopting ordinance, if such codes are not in conflict with state law. The procedure and requirements governing adopting such an ordinance shall be prescribed for ordinances generally.

§ 15. Authentication and recording, codification and printing ordinances.

Upon its final passage, each ordinance or resolution shall be recorded by the town clerk in a properly indexed book designated for this purpose and shall be authenticated by the signature of the presiding officer and the town clerk.

Within three years after adoption of these charter changes and at least every 10 years thereafter, the council shall provide for the preparation of a general codification of all town ordinances and resolutions having the force and effect of law. The general codification shall be adopted by the council by ordinance and shall be published promptly in loose-leaf form, together with this charter and any amendments thereto, pertinent provisions of the Constitution of Virginia and other laws of the Commonwealth, and such codes of technical regulations and other rules and regulations as the council may specify. The compilation shall be noted and cited officially as the La Crosse Town Code. Copies of the code shall be furnished to town officials, placed in the town office for free public reference, and made available for purchase by the public at a reasonable price fixed by the council.

The council shall cause each ordinance and resolution having the force and effect of the law and each amendment to this charter to be printed or otherwise reproduced promptly following its adoption, and the printed ordinances, resolutions and charter amendments shall be distributed or sold to the public at a reasonable price to be fixed by the council. Following publication of the first La Crosse Town Code and at all times thereafter, the ordinances, resolutions and charter amendments shall be printed in substantially the same style as the code currently in effect and shall be in suitable form for integration therein. The council shall make such further arrangements as it deems desirable to the provisions of the Constitution and other laws of the Commonwealth of Virginia, or the codes of technical regulations and other rules and regulations included in the town code.

§ 16. Town attorney.

An attorney shall be appointed by and serve at the pleasure of the council. He shall be qualified to practice law in the Commonwealth of Virginia. He shall serve as chief legal advisor to the council and may also serve as legal advisor to the town administration.

§ 17. Committees, boards and commissions.

The council may create committees, boards, and commissions to be composed of such number of citizens as the council may deem expedient as authorized by law. The council shall appoint the members, prescribe the compensation, if any, and the powers and duties of such committees, boards and commissions consistent with general law.

All members of committees, boards, and commissions appointed by the town council may be removed by the council unless otherwise provided by general law.

§ 18. Town manager.

The town manager shall be appointed and serve at the pleasure of the council, which shall fix his compensation. The manager shall be appointed on the basis of his executive and administrative qualifications. He need not be a resident of the town or the Commonwealth at the time of his appointment, but may reside outside the town while in office only with the approval of the council.

Within 90 days of beginning his term, the manager will join either the International City/County Management Association or the Virginia Local Government Managers Association, and shall ascribe to the respective organization's code of ethics.

§ 19. Powers and duties of the town manager.

The town manager shall be the chief administrative officer of the town. He shall be responsible to the council for the administration of all town affairs placed in his charge by or under this charter. He shall act as an administrative representative of the town to area, state, and regional organizations and events.

§ 20. Acting town manager.

The mayor of the town shall exercise the powers and perform the duties of manager during his absence, disability or suspension. During such absence, disability or suspension, the council may appoint another official of the town to serve until the manager shall resume his duties. In the event of the absence of the mayor, the council may appoint another officer of the town to assume the manager's duties. The acting town manager shall not receive the manager's compensation during such absence, disability or suspension.

§ 21. Removal.

The council may remove the manager from office in accordance with the following procedures:

1. The council shall adopt by affirmative vote of a majority of all its members a preliminary resolution, which must state the reasons for removal and may suspend the manager from duty for a period not to exceed 45 days. A copy of the resolution shall be delivered promptly to the manager.

2. Within five days after a copy of the resolution is delivered to the manager, he may file with the council a written request for a public hearing. This hearing shall be held at a council meeting not earlier than 15 days nor later than 30 days after the request is filed. The manager may file with the council a written reply not later than five days before the hearing.

3. The council may adopt a final resolution of removal, which may be made effective immediately, by affirmative vote of a majority of all its members at any time after five days from the date when a copy of the preliminary resolution was delivered to the manager, if he has not requested a public hearing, or at any time after the public hearing if he has requested one.

The manager shall continue to receive his salary until the effective date of a final resolution of removal.

§ 22. Creation of administrative department.

The council may establish all departments, offices and agencies it determines are necessary for the proper administration of the town with such powers and duties and subject to those regulations it deems proper, consistent with the provisions of this charter and the Constitution and general laws of the Commonwealth.

Administrative departments shall include but shall not be limited to departments concerned with public safety, finance, public works, planning, and parks and recreation.

§ 23. Fiscal year.

The fiscal year of the town shall begin on the first day of July and end on the last day of June, unless changed by state statute.

§ 24. Budget.

No later than 90 days prior to the beginning of the next fiscal year, the manager shall submit to the council a budget for the ensuing fiscal year and an accompanying message.

The budget shall provide a complete financial plan of all town funds and activities for the ensuing fiscal year and, except as required by law or this charter, shall be in such form as the manager deems desirable or the council may require. It shall indicate in separate sections:

1. Proposed expenditures for current operations during the ensuing fiscal year, detailed by offices, departments and agencies in terms of their respective work programs, and the method of financing such expenditures;

2. Proposed capital expenditures during the ensuing fiscal year, detailed by offices, departments and agencies when practicable, and the proposed method of financing each such capital expenditure; and

3. Anticipated net income or net loss for the ensuing fiscal year of each utility owned or operated by the town and the proposed method of its disposition; subsidiary budgets for each such utility giving detailed income and expenditure information shall be attached as appendices to the budget. The total of proposed expenditures shall not exceed the total of estimated available funds.

§ 25. Budget message.

The message shall explain the budget both in fiscal terms and in terms of the work programs. It shall outline the proposed financial policies of the town for the ensuing fiscal year, outline the important features of the budget, indicate any major changes from the current year in financial policies, expenditures, and revenues together with the reasons for such changes, summarize the town's position and include such other material as the manager deems desirable.

§ 26. Capital program.

At least three months prior to the final date for submission of the budget, the town manager shall prepare and submit to the council a five-year capital program, which shall include the following:

1. A clear summary of its contents;
2. A list of all capital improvements that are proposed to be undertaken during the five fiscal years next ensuing, with appropriate supporting information as to the necessity for such improvements;
3. Cost estimates, method of financing and recommended time schedules for each such improvement; and
4. The estimated annual cost of operating and maintaining the facilities to be constructed or acquired.

The above information may be revised and extended each year with regard to capital improvements still pending or in process of construction and acquisition.

§ 27. Action of council on budget.

The council shall publish in one or more local newspapers the general summary of the budget in a notice that states:

1. The times and places where copies of the message and budget are available for inspection by the public;
2. The time and place, not less than two weeks after such publication, for a public hearing on the budget.

After the public hearing, the council may adopt the budget with or without amendment. In amending the budget, it may add or increase programs or amounts and may delete or decrease any programs or amounts, except expenditures required by law or for debt service or for estimated cash deficit, provided that no amendment to the budget shall increase the authorized expenditures to an amount greater than the total of estimated available funds.

The council shall adopt the budget before the first day of the fiscal year for which adopted. Adoption of the budget shall constitute appropriations of the amounts specified therein as expenditures from the funds indicated and shall constitute a levy of the property tax and other taxes therein proposed.

§ 28. Action of council on capital program.

The council shall publish in one or more local newspapers the general summary of the capital program in a notice that states:

1. The times and places where copies of the capital program are available for inspection by the public, and
2. The time and place, not less than two weeks after such publication, for a public hearing on the capital program.

After the public hearing, which shall be held on or before the fifteenth day of April of the current fiscal year, the council shall, by resolution, adopt the capital program with or without amendment.

§ 29. Public records.

Copies of the budget and the capital program as adopted shall be public records and shall be made available to the public in the town office.

§ 30. Amendments after adoption of the budget.

If, during the fiscal year, the manager certifies that there are available for appropriation funds in excess of those estimated in the budget, the council by ordinance may make supplemental appropriations for the year up to the amount of the excess.

In the event of a public emergency affecting life, health, property or the public peace, the council may make emergency appropriations. Such appropriations may be made by emergency ordinance in accordance with the provisions of § 14 of this charter. To the extent that there are no available appropriated funds to meet such emergencies, the council may by such emergency ordinance authorize the issuance of emergency notes, which may be renewed from time to time, all as may be authorized by the Constitution and general law.

If at any time during the fiscal year it appears probable to the manager that the funds available will be insufficient to meet the amount appropriated, the town manager shall report to the council without delay, indicating the estimated amount of the deficit, any remedial action taken by him and recommendations as to any other steps to be taken by him and recommendations as to any other steps to be taken. The council shall then take such further action as it deems necessary to prevent or minimize any deficit and for that purpose it may by ordinance reduce one or more appropriations.

At any time during the fiscal year the manager may transfer part or all of any unencumbered appropriation balance among programs within a department, office or agency and, upon written request by the manager, the council may, by ordinance or resolution, transfer part or all of any unencumbered appropriation balance from one department, office or agency to another.

§ 31. Valuation of property for taxation; rate of taxation.

The assessed valuation of property, both real and personal, being and lying in the corporate limits of said town, and subject to taxation, shall be valued at an amount not exceeding the valuation placed upon it by the county tax assessors for the purpose of taxation.

§ 32. Independent audit.

The council shall provide for an independent annual audit of all town accounts and may provide for more frequent audits as it deems necessary. Such audits shall be made by a certified public accountant or firm of such accountants who have no personal interest, direct or indirect, in the fiscal affairs of the

town government. The council may, without requiring competitive bids, designate such accountant or firm annually. If the Commonwealth makes such an audit, the council may accept it as satisfying the requirements of this section.

§ 33. Charter amendments.

Amendments to this charter may be made only in accordance with the procedure specified in the general laws of the Commonwealth.

§ 34. Severability.

If any provision of this charter is held invalid by a court of competent jurisdiction, the other provisions of the charter shall not be affected thereby. If the application of the charter or any of its provisions to any person or circumstance is held invalid, the application of the charter and its provisions to other persons shall not be affected thereby.

§ 35. Oaths of office and official bonds.

All elected or appointed officers and officials of the town shall take the oath of office and execute such bonds as may be required by general law, by this charter, or by ordinance or resolution of the town council and file duplicate certificates with the town clerk and the clerk of the circuit court of Mecklenburg County before entering upon the discharge of their duties. If the requirements of this section have not been complied with by any officer or official within 30 days after the term of office shall have begun or after his appointment to fill a vacancy, then such office shall be considered vacant, unless general law otherwise provides, in which event general law shall prevail.

§ 36. Books, records, electronic data, etc.

All books, records, electronic data and documents used by any elected or appointed town officer, official or employee in his office or pertaining to his duties, shall be deemed to be the property of the town. Any person designated by this charter, the general laws of the Commonwealth or the La Crosse Town Code as responsible for the keeping of such books, records, electronic data and documents shall, within 10 days after the end of his term of office, or within 10 days after the date of his resignation or removal from office, deliver to the town clerk all such books, records, electronic data, and documents and town property. Any person failing to deliver such books, records, electronic data, documents and property shall be deemed guilty of a Class 3 misdemeanor, and upon conviction thereof, shall, according to state statute, be fined not more than \$500, at the direction of the court or jury before whom the case is tried.

2. That Chapter 189, as amended, of the Acts of Assembly of 1901 is repealed.