

082006228

SENATE BILL NO. 215

Offered January 9, 2008

Prefiled January 7, 2008

A BILL to amend and reenact §§ 1.2, 2.2, 7.2, 7.3, 7.4, 7.6 and 7.7 of Chapter 472 of the Acts of Assembly of 1970, which provided a charter for the Town of Narrows in the County of Giles, relating to general powers of town.

Patrons—Edwards; Delegate: Crockett-Stark

Referred to Committee on Local Government

Be it enacted by the General Assembly of Virginia:

1. That §§ 1.2, 2.2, 7.2, 7.3, 7.4, 7.6 and 7.7 of Chapter 472 of the Acts of Assembly of 1970 are amended and reenacted as follows:

§ 1.2. Boundaries.

The territory embraced within the Town of Narrows is that territory in the County of Giles, Virginia, described as follows, to wit: *in a recordation in the Clerk's Office of the court where deeds are filed.*

"Beginning at a U. S. Coast and Geodetic Station, a brass pin imbedded in concrete on top of a small cliff, said point located in the East corporate limit line 2040' S 4° 20' W from the South bank of New River, thence from said beginning S 53° 46' W 1463' to a stake at the southeast corner of the Reservoir lot, thence S 75° 46' W 1178.3' to a stake near a Maple tree, thence N 61° 12' W 1916.6' to a stake in the original corporate line; thence with the same, S 86° 08' W 805' to a point on the bluff on the south side of Wolf Creek, thence N 42° 07' W 473.2' crossing Monroe Street (old Rt. 61) and Wolf Creek to a point in the north bank of creek at the Narrows Park, thence with the north bank of said Wolf Creek, S 15° 36' W 68.4', thence S 21° 47' W 93.4', thence S 32° 33' W 303.3'; thence S 45° 29' W 431.7', thence S 58° 20' W 324.1', thence N 78° 47' W 429.8' to an iron pin at a twin Elm, the west end of the park, thence leaving the said creek N 5° 18' W 108.4' to an iron pipe corner in the south line of "Orchard Hills" subdivision and in the north line of the Wolf Creek road, thence with the said subdivision and the north line of the secondary road as follows, N 88° 08' W 194.8', thence N 66° 46' W 160.7'; thence N 65° 49' W 78.68'; thence N 70° 36' W 211.5', thence S 62° 39' W 121.4', thence S 83° 51' W 98.5', thence N 89° 47' W 135.21', thence N 87° 33' W 95.58', thence S 84° 30' W 242.4', thence N 85° 51' W 86.0', thence leaving the State secondary road and with the west line of said subdivision N 41° 14' E 2355.4', (passing the N. West corner of "Orchard Hills" Subdivision at 1989.6') to the original southwest corporate corner, thence with the original line, N 46° 49' E 2103.7' to a concrete marker on top of the hill, thence N 89° 04' E 1482' to a cross chiseled in the east edge of the southeast abutment of the bridge across Wolf Creek, (Road No. 649), thence N 28 ° 17' E 340' to a point 8' east of the southeast abutment of the N. and W. Main line bridge over Wolf Creek, thence N 19° 44' E 4065' down and across New River to the old Virginian Railway Catenary pole No. W 21 N, thence S 86° 40' E 1585.9' a point in the back line of "Highland Park" Subdivision, thence S 87° 56' E 209' to a point, thence continuing with the back lot lines of said subdivision S 30° 47' E 562.5' to a concrete monument thence S 2° 12' W 35', thence leaving the said subdivision S 73° 30' E 125.3' to a concrete monument then down the hollow S 12° 36' W 124.3' to a concrete monument, thence S 3° 59' W 90.4' to a concrete monument, thence S 1° 41' E 340.5' to a concrete monument, thence S 43° 46' E 193.2' to a concrete monument, thence S 17° 12' E 358.9' to a concrete monument, thence S 42° 25' E 378.1' to a concrete monument, thence S 55° 20' E 188.9' to a concrete monument thence S 39° 21' E 825.23' (crossing highway No. 460 at 384') to a stake at the water edge of New River, (North Side) thence down stream along the water edge S 49° 45' W 1681.0' to a stake, thence S 59° 59' W 718.4' to a stake, thence S 26° 05' W 606' crossing the New River to a point at the discharge end of a small drain, thence S 4° 20' W 2040' to the beginning containing 750.97 acres."

§ 2.2. Adoption of Certain Sections of Code of Virginia.

The powers set forth in §§ 15.1-837 through 15.1-907, both inclusive, of Chapter 18 of Title 15.1-15.2-1100 *et seq.* of the Code of Virginia, as in force on January 1, 1968 *the date of enactment of this charter*, are hereby conferred on and vested in the Town of Narrows.

§ 7.2. Actions against Town for Damages, Etc.

(a) No action shall be maintained against the town for damages for any injury to any person or property alleged to have been sustained by reason of the negligence of the town, or by any officer, agent or employee thereof, unless a written statement verified by oath of the claimant, his agent or attorney, or the personal representative of any decedent whose death is a result of the alleged negligence of the town, its officers, agents, or employees, of the nature of the claim and the time and place at

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59 which the injury is alleged to have occurred, or to have been received, shall have been filed with the
 60 mayor or an attorney appointed by the town council for this purpose, and the town is hereby authorized
 61 to appoint such an attorney, within ~~sixty days~~ *six months* after such cause of action shall have accrued.
 62 ~~Where the claimant is an infant or non compos mentis, or the injured party dies within such sixty days,~~
 63 ~~such statement may be filed within one hundred twenty days.~~ *However, if the claimant was under a*
 64 *disability at the time the cause of action accrued, the tolling provisions of § 8.01-229 of the Code of*
 65 *Virginia apply.* No officers, agents or employees of the town shall have authority to waive such
 66 conditions precedent or any of them.

67 (b) In any action against the town to recover damages against it for any negligence in the
 68 construction or maintenance of its streets, alleys, lanes, parks, public places, sewers, reservoirs or water
 69 mains, where any person or corporation is liable with the town for such negligence, every such person
 70 or corporation shall be joined as defendant with the town in such action brought to recover damages for
 71 such negligence, and where there is a judgment or verdict against the town, as well as the other
 72 defendant, it shall be ascertained by the court or jury which of the defendants is primarily liable for the
 73 damages assessed.

74 (c) If it is ascertained by the judgment of the court that some person or corporation other than the
 75 town is primarily liable, there shall be a stay of execution against the town until execution against such
 76 person or persons or corporation or corporations shall have been returned without realizing the full
 77 amount of such judgment.

78 (d) If the town, when not primarily liable, shall pay such judgment in whole or in part, the plaintiff
 79 shall, to the extent that such judgment is paid by the town, assign the judgment to the town, without
 80 recourse on the plaintiff, and the town shall be entitled to have execution issued for its benefit against
 81 the other defendant or defendants who have been ascertained to be primarily liable, or may institute any
 82 suit to enforce the said judgment, or any action at law, or scire facias to revive such judgment.

83 (e) No order shall be entered or made, and no injunction shall be awarded by any court or judge, to
 84 stay proceedings of the town in the prosecution of their works, unless it be manifest that they, their
 85 officers, agents, or servants are transcending the authority given them in this charter, and that the
 86 interposition of the court is necessary to prevent injury that cannot be adequately compensated in
 87 damages.

88 (f) The town council is authorized and empowered to compromise any claim for damages or any suit
 89 or action brought against the town.

90 § 7.3. United States Government Employees.

91 No person, otherwise eligible *under the laws of the United States and the Commonwealth of Virginia*,
 92 shall be disqualified, by reason of his accepting or holding an office, post, trust or emolument under the
 93 United States government, from serving as an officer or employee of the town, or as a member, officer,
 94 or employee of any board or commission.

95 § 7.4. Board of Zoning Appeals.

96 The ~~council~~ *Circuit Court for Giles County* shall appoint a Board of Zoning Appeals, consisting of
 97 five members, none of whom shall hold any other positions with the town, *except that one may be a*
 98 *member of the local planning commission*, and each of whom shall be a qualified voter of said town.
 99 Their term of office shall be for five years each, except that original appointments shall be made for
 100 such terms that the term of one member shall expire each year.

101 § 7.6. Eminent Domain.

102 The powers of eminent domain set forth in Title ~~45-115.2~~; Title ~~2525.1~~; ~~Chapter 4-1~~; and Title
 103 ~~3333.1~~, Chapter 1, *Article 7* of the Code of Virginia, as amended, and all acts amendatory thereof and
 104 supplemental thereto, necessary changes having been made, are hereby conferred upon the Town of
 105 Narrows, provided, however, that the provisions of § ~~25-23325.1-102~~ or any other applicable section of
 106 the Code of 1950, as amended, shall apply as to any property owned by a corporation possessing the
 107 power of eminent domain that may be sought to be taken by condemnation under the provisions of this
 108 act.

109 (a) In any case in which a petition for condemnation is filed by or on behalf of the town, a true
 110 copy of a resolution or ordinance duly adopted by the town council declaring the necessity for any
 111 taking or damaging of any property, within or without the town, for the public purposes of the town,
 112 shall be filed with the petition and shall constitute sufficient evidence of the necessity of the exercise of
 113 the powers of eminent domain by the town. The town may employ the procedures conferred by the
 114 foregoing laws, mutatis mutandis, and may, in addition thereto, proceed as hereinafter provided.

115 (b) Certificates issued pursuant to §§ ~~33-70.3 to 33-70.11~~ *33.1-121 to 33.1-129*, inclusive, Code of
 116 Virginia, as amended, and acts amendatory thereof and supplemental thereto, may be issued by the town
 117 council signed by the mayor and countersigned by the town clerk. Such certificate shall have the same
 118 effect as certificates issued by the State Highway Commissioner under the aforesaid laws and may be
 119 issued in any case in which the town proposes to acquire property of any kind by the exercise of its
 120 powers of eminent domain for acquisition of lands, easements or related interests in property necessary

121 for streets, water, sewer or utility pipes or lines and/or conduits, or related facilities, whether within or
122 without the town.

123 (c) In addition to the powers conferred by the aforesaid laws, such certificates may be amended or
124 cancelled by the court having jurisdiction of the proceedings, upon petition of the town, at any time
125 after the filing thereof; provided, that the court shall have jurisdiction to make such order for the
126 payment of costs and damages, if any, or the refund of any excessive funds theretofore paid pursuant to
127 such certificate as shall, upon due notice and hearing, appear just. The court shall have jurisdiction to
128 require refunding bonds for good cause shown by the town or any other person or party in interest prior
129 to authorizing any distribution of funds pursuant to any certificate issued or deposit made by the town.

130 § 7.7. Disclosure of Interest.

131 The town council is hereby empowered to enact a conflict of interest and disclosure ordinance, *in*
132 *conformity with §§ 2.2-3100 et seq., 15.2-852, 15.2-2287, and 15.2-2289 of the Code of Virginia* to
133 govern elected and/or appointed town officials not inconsistent with the general law.

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