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HOUSE BILL NO. 1763

Offered January 12, 2011

Prefiled January 11, 2011

A BILL to amend and reenact § 1, §§ 2 and 3, as amended, and §§ 6, 7, 9, 14, 19, and 22 of Chapter 57 of the Acts of Assembly of 1947, Extra Session, which provided a charter for the Town of Rich Creek, and to repeal § 20 of Chapter 57 of the Acts of Assembly of 1947, Extra Session, relating to boundaries, salaries, elections, town sergeant, council appointments, and town manager.

Patron—Crockett-Stark

Referred to Committee on Counties, Cities and Towns

Be it enacted by the General Assembly of Virginia:

1. That § 1, §§ 2 and 3, as amended, and §§ 6, 7, 9, 14, 19, and 22 of Chapter 57 of the Acts of Assembly of 1947, Extra Session, are amended and reenacted as follows:

§ 1. The inhabitants of the territory embraced within the present limits of the town of Rich Creek, as hereinafter defined, or as the same may be hereafter altered or established by law, shall constitute and continue a body politic and corporate, to be known and designated as the town of Rich Creek, and as such shall have and may exercise all powers which are now, or may hereafter be, conferred upon or delegated to towns under the Constitution and laws of the Commonwealth of Virginia as fully and completely as though all such powers were specifically enumerated herein. —The territory embraced within the present limits of the town of Rich Creek is described by metes and bounds as follows:

Beginning at an iron pin on the bank of New River and running north eighty degrees and thirty-five minutes east four hundred and thirty-eight and four-tenths feet to an iron pin on the right of way of the Virginian Railway Company, at or near Mile Post three hundred and twenty; thence north sixty-three degrees and seventeen minutes east two hundred and eighty-three and two-tenths feet to a stake; thence north ninety degrees east two hundred and twelve and eight-tenths feet to a stake; thence north sixty-three degrees and twenty-five minutes east two hundred and thirty-eight feet and two-tenths feet to a stake; thence north seventy-four degrees and twenty-five minutes east one hundred and ninety-two feet to an iron pin, set in the Cold Spring Branch; thence north seven degrees and thirty-five minutes east one hundred and thirty-two and nine-tenths feet to an iron pin; thence with the line of Kirby Brothers north twenty-two degrees and forty-five minutes east six hundred feet to an iron pin on the lands of Lula Gwinn; thence through the lands of Lula Gwinn, Obed Pennington and Lula Gwinn, north twenty-eight degrees and twenty-five minutes east two thousand, one hundred, twenty-three and four-tenths feet to an iron pin; thence north sixteen degrees and forty-five minutes west eighty-six and four-tenths feet to a stake; thence north two degrees and no minutes east ninety-eight feet to a stake; thence north fifteen degrees and fifty minutes east four hundred feet to a stake on the lands of Ella Shumate; thence north twenty-seven degrees and fifty minutes east one hundred and thirty feet to a stake on the lands of Ella Shumate; thence north thirty-eight degrees and thirty-five minutes east four hundred and twenty feet to a stake on the lands of Ella Shumate; thence north forty-eight degrees and fifty-five minutes east one hundred and fifty feet to a stake; thence north twenty-three degrees and twenty-five minutes east four hundred and thirty-five feet to a stake in the lands of Mary Adair; thence north four degrees and twenty-five minutes east one hundred and sixty-five feet to a stake in said lands; thence north twenty-eight degrees and forty minutes east three hundred feet to a stake in said lands; thence north thirty-seven degrees and fifty minutes east three hundred feet to a stake in said lands; thence north two degrees and twenty-five minutes east two hundred feet to a stake in said lands; thence north six degrees and fifteen minutes west one hundred and thirty-seven feet to a stake in said lands; thence north thirty-nine degrees and fifty-five minutes west two hundred feet to a stake in said lands; thence north forty-six degrees and thirty-five minutes west two hundred and ninety-three feet to a stake in said lands; thence north fifty-one degrees and fifty minutes west two hundred and ninety feet to a stake set on the right of way of U. S. Highway two hundred and nineteen; thence along the Chesapeake and Potomac Telephone Company main line south fifty-one degrees and thirty-eight minutes west one thousand, two hundred, sixty-eight and three-tenths feet to an iron pin set in the lands of A. A. and H. H. Adair; thence through the lands of J. C. Davis, W. R. Wilson, M. A. Ferguson, W. J. Gwynn, Margaret Morrison, W. L. Carr, and Mattox and Craig, crossing Rich Creek north forty-five degrees and thirty-five minutes west three thousand, seven hundred and fifty-five feet to an iron pin; thence south sixty-five degrees and six minutes west two thousand, nine hundred, twenty-one and four-tenths feet through the lands of C. E. Duncan, Myrtle White, L. J. Wilkerson and C. N. Williams to an iron pin; thence south four degrees and five minutes east four hundred and fifty-two feet to an iron pin on bank

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59 of New River near an electric light pole of the Virginian Railway Company at or near the bank of New
60 River, thence running along the bank of New River with the lands of E. P. Lane, Ella Shumate, Lula
61 Gwinn, Mary Adair and G. W. Shumate to the point of beginning, containing five hundred and
62 twenty-one acres, more or less. *The present boundaries of the town are as recorded in the Clerk's office
63 of the Circuit Court of Giles County, Virginia, in the Common Law Order Book 7, at Pages 151
64 through 153, or as the same may be hereafter altered as provided by law.*

65 § 2. The administration and government of the town shall be vested in a council which shall consist
66 of six members, five of whom shall be denominated the councilmen and one to be denominated the
67 mayor, all of whom shall be residents and qualified voters of the town. *Each councilman may receive a
68 salary for his services as such, the amount thereof to be fixed by the council, but in no event to be in
69 excess of one thousand dollars per year each for the councilmen and mayor. The council may determine
70 the annual salary of its members by ordinance or resolution in accordance with the Code of Virginia.
71 Council members shall receive their actual and necessary expenses incurred in the performance of their
72 duties of office.*

73 § 3. *The councilmen and the mayor shall be elected by the qualified voters of the town on the first
74 Tuesday in May 1990. The mayor and the two councilmen receiving the greater number of votes shall
75 serve four-year terms; the remaining three councilmen shall serve two-year terms. Thereafter, the terms
76 of the mayor and councilmen shall be for a four-year term. Elections shall be held in May of every
77 even-numbered year. The persons elected shall serve until their successors have been elected, qualify
78 and assume office. Pursuant to § 24.2-222.1 of the Code of Virginia and notwithstanding the provisions
79 of § 24.2-222 of the Code of Virginia, the election of town council and the mayor elected in May shall
80 be held on the general election date in November of odd-numbered years, beginning in November 2013,
81 and biennially thereafter, in accordance with the following cycles: (i) the election for the town council
82 seats filled by the council election of May 2008 shall be held on the November 2011 general election
83 date and every four years thereafter; and (ii) the election for the town council seats and the office of
84 mayor filled by the council election of May 2010 shall be held on the November 2013 general election
85 date and every four years thereafter.*

86 *In accordance with the provisions of subsection D of § 24.2-222.1 of the Code of Virginia, members
87 of town council elected at the May general elections in 2008 and 2010 shall have their terms of office
88 shortened by six months but shall continue in office until their successors have been elected at the
89 November general election and have qualified to serve.*

90 § 6. The council shall appoint a sergeant who shall qualify as provided by law, and give bond in
91 such amount as the council requires. The sergeant shall be a conservator of the peace, and shall have the
92 same powers and perform the same duties within the corporate limits of the town and to a distance of
93 one mile beyond the same, as were formerly had and performed by constables. He shall perform such
94 other duties and receive such compensation as the council prescribes, and shall hold office during the
95 pleasure of the council. *There shall not be a town sergeant in the town.*

96 § 7. The mayor shall be a conservator of the peace, and shall, unless and until a police justice is
97 appointed as hereinafter provided, have power to issue warrants and summon witnesses, and exclusive
98 original jurisdiction to try cases involving violations of town ordinances, or the collection of town taxes
99 or assessments, or any other form of debts owing to the town, and shall have like powers in the matter
100 of collecting fines and costs imposed by him, as are vested by law in trial justices. The fees and costs in
101 connection with such cases shall be the same as are authorized by law to be charged, taxed and
102 collected by trial justices for similar services, and such fees, and all fines collected by the mayor shall
103 be promptly paid by him into the town treasury, unless the council by ordinance directs some other
104 disposition thereof; provided that the council may, at any time it deems the same expedient, appoint a
105 police justice for the town, who shall be a resident and qualified voter of the town, shall give such bond
106 as the council requires, shall serve during the pleasure of the council, and shall receive such
107 compensation as the council prescribes.

108 *In the event of the appointment of such police justice, he shall have, during such time as he serves,
109 and to the exclusion of the mayor, the same powers and jurisdiction as are hereinabove conferred upon
110 and vested in the mayor, and shall exercise the same in like manner as they are above authorized and
111 directed to be exercised by the mayor. Except as otherwise authorized by law, a member of council or
112 the mayor elected or appointed after May 1, 2011, shall not be eligible during his or her tenure of
113 office as such member, or for one year thereafter, to any compensated town employment. If appointed by
114 the council to a board or commission, he or she may be compensated as a member.*

115 § 9. The town is empowered to acquire, establish, enlarge, maintain and operate such water works
116 and systems as the council deems necessary for the purpose of providing an adequate supply of water to
117 consumers within the corporate limits of the town and within such adjacent territory as the council
118 deems it expedient or proper to serve, at such rates as the Council prescribes, provided that the rates
119 charged consumers without the corporate limits shall not be less than, nor more than double, the rates
120 charged consumers within the town for similar services, any or all of which rates the council may alter

at any time without notice *except for the notice required by the Code of Virginia.*

The council may discontinue serving water to any consumer who defaults in payment for such service within the time prescribed by the council for the payment thereof, for so long as such default continues.

§ 14. The town is empowered (a) to provide a building code for the town; to provide for the orderly and safe construction of houses and other buildings; to prescribe setback lines on designated streets; to designate standards to be observed in the construction of dwellings and business houses on designated streets and in designated sections; and (b) to adopt a comprehensive plan concerning the subdivision of lands within the corporate limits of the town ~~or within two miles thereof; and~~ to require that plats of all such subdivisions shall, after having been approved by the council as hereinafter provided, be recorded in the clerk's office of Giles County; ~~and the term "subdivision," when and as used in this charter, means the division of a tract of land into two or more lots, with appropriate streets and alleys, and with the intention on the part of the owner of the land, of developing the same, or making it available for development by others, for residential and business purposes.~~

§ 19. Town manager.—(a) The council may appoint a town manager who shall be the chief administrative officer of the town and shall be chosen solely on the basis of his executive and administrative qualifications, and shall have some knowledge of civil, mechanical and electrical engineering. ~~He need not, when appointed, be a resident of the town, or of the State of Virginia, but shall during his term of office, reside within the corporate limits of the town, and shall be appointed for such term as he and the council agree upon, not to exceed two years, but in any event, to end with the term of the council making the appointment. The town manager may be suspended or removed by the council for any cause it deems sufficient, provided that no order of suspension or removal shall be made until after he shall have been given at least five days' notice in writing, stating the cause for such suspension or removal and fixing a day when he may be heard thereon.— The action of the council, suspending or removing the town manager, shall be final. The council may place the control and supervision of the police force of the town under either the mayor or the town manager. The town manager shall serve without definite term.~~

(b) Except as otherwise provided in this charter, the town manager may, with the consent of the council, appoint or employ, and remove or discharge, such officers, employees and assistants as he deems necessary to carry on the work of such departments of the town as are committed to him by the council, in all their respective details, in an economical and satisfactory manner. The salary or compensation, and the terms of office or employment of such officers, employees and assistants shall be fixed by the town manager, subject to approval by the council; and his actions in all respects shall be subject to review by the council, and he shall be accountable to the council only.

§ 22. The charter herein is in lieu of and a complete substitute for the charter of the town of Rich Creek granted by the circuit court of the county of Giles on April 17, 1946, *and as enacted and amended by the General Assembly in 1947, Ex. Session, c. 57; in 1970, c. 210 (§§ 2, 3); in 1973, c. 81 (§§ 2, 3); and in 1990, c. 37 (§ 3).*

2. That § 20 of Chapter 57 of the Acts of Assembly of 1947, Extra Session, is repealed.