13101672D

SENATE BILL NO. 788

Offered January 9, 2013

Prefiled December 19, 2012

A BILL to amend and reenact § 2, § 3, as amended, and §§ 4 and 8 of Chapter 16 of the Acts of Assembly of 1946, which provided a charter for the Town of Clintwood in Dickenson County, relating to boundaries, town officers, meetings, and powers.

Patron—Puckett

Referred to Committee on Local Government

Be it enacted by the General Assembly of Virginia:

1. That § 2, § 3, as amended, and §§ 4 and 8 of Chapter 16 of the Acts of Assembly of 1946 are amended and reenacted as follows:

§ 2. Limits of the town.

The boundaries of said town shall be embraced within the limits of one-half mile each way from the center of the courthouse in the said town, extending east, west, north and south, making an area of one square mile *or as may hereafter be altered and established by law through boundary adjustments, annexations, or other method*.

§ 3. Town officials.

(1) The officers of the town shall be a mayor and five councilmen elected as hereinafter provided, clerk, ~~treasurer,~~ ~~sergeant,~~ ~~assessor~~ *chief of police*, and such other officers as the council may deem necessary and prefer. The terms of office of mayor and councilmen shall be four years. Three councilmen shall be elected by the residents of the town qualified to vote at an election to be held on the first Tuesday in May, 1980, and every four years thereafter. The mayor and two councilmen shall be elected, by the residents of the town qualified to vote at an election to be held on the first Tuesday in May, 1982, and every four years thereafter. The terms of office for those elected shall commence on the first day of July next following their election and shall serve until their successors are elected and qualified.

Each officer of said town shall take the oath prescribed by State law, and execute the required bond, prior to entry upon his duties. The council shall be a continuing body, and no measure pending before such body shall abate or be discontinued by reason of expiration of term of office or removal of any of the members. Vacancies in the council shall be filled for the unexpired term by a majority vote of the remaining members. The present mayor, and council shall continue in office until the expiration of the terms for which they were respectively elected.

(2) The council shall appoint a clerk~~,~~ ~~a treasurer~~ and such other officers as the council may deem necessary or proper, all of whom shall hold office at and during the pleasure of the council, and shall qualify for their respective offices as required by law, and shall furnish such bonds as may be required by the council. The same person may hold two or more of these offices, in the discretion of the council. The officers as appointed by the council shall perform such services, and receive such compensation, as the council may provide.

(3) The council shall appoint a ~~town sergeant~~ *chief of police* who shall qualify and give bond in such amount as the council may require. The ~~sergeant~~ *chief of police* shall be vested with the powers of a conservator of the peace, and shall have the same powers and perform the same duties within the corporate limits of the town, and to a distance of one mile beyond, as was formerly had and performed by constables. He shall perform such other duties, and receive such compensation as the council may provide. The council may appoint such other persons as policemen and assistants of the ~~sergeant~~ *chief of police*, and pay them such compensation, as the council may think necessary and proper.

(4) The mayor shall preside at all meetings of the council and perform such other duties as may be prescribed by this charter, and by the general laws, and such as may be imposed by the council consistent with his office. He shall be entitled to vote upon measures pending before the council only in event the other members voting are equally divided for and against such measure. He shall be ex officio a conservator of the peace within the town, and within one mile of the corporate limits thereof. ~~He shall issue all warrants charging violation of any ordinances of the said town, and shall try and dispose of said warrants. He shall see that peace and order are preserved, and that persons and property within the town are protected.~~ He shall perform such other services and functions as may be necessary or proper, and shall receive such compensation as may be provided by the council. In event of the mayor's absence, or disability to act, his duties shall be performed by the ~~president of the town council~~ *vice-mayor*, who shall be selected by the council for that purpose.

INTRODUCED

SB788

9/28/22 8:55

(5) The administration and government of the town of Clintwood shall be vested in the ~~Town Council~~ *town council*, with the mayor as the executive and tie-breaker as herein provided, all of whom shall be residents and qualified voters of the town. The council shall have full power and authority, except as herein otherwise stated, to exercise all the powers conferred upon the town, and to pass all legal laws and ordinances relating to its municipal affairs. Each member of the council may receive a salary~~, or per diem allowance,~~ for his services as such member, the amount thereof to be ~~fixed by the council, but such salary or allowance shall not exceed one hundred dollars ($100.00) per year for each such member~~ *$0.00 per month and subject to increase as provided in the Code of Virginia; however, such salary shall not exceed $100.00 per month for each such member*. The council may create, appoint, or elect such boards, bodies, departments, or officers as may be permitted or required by this charter or the general laws of the State of Virginia, and fix their compensation and define their duties.

(6) The council shall have one regular *monthly* meeting ~~each month, the time for such meetings being fixed by ordinance~~ *to be held on the second Tuesday of each month, unless changed by ordinance of the council*. Special meetings shall be called by the clerk of the council upon the request of the mayor or any three councilmen. Reasonable notice of such special meetings shall be given to each member of the council and the mayor. No business shall be transacted at a special meeting expect that for which the special meeting is called, unless the council be unanimous. A majority of said councilmen shall constitute a quorum for the legal transaction of its business.

§ 4. Powers of the town council.

In addition to the powers enumerated elsewhere in this charter, and the powers conferred by general law and the Constitution, the town council of the Town of Clintwood shall have the following powers:

(1) To acquire by purchase, gift, devise, condemnation, or otherwise property, real or personal, or any estate therein within or without the town for any of the legal purposes of the town; and to hold, improve, lease, sell or dispose of the same or any part thereof, including any property now owned by the town.

(2) To own, operate and maintain water works, and to acquire in any lawful manner, in any county of the State, such water, lands, property rights, and riparian rights as the council of said town may deem necessary for the purpose of providing an adequate water supply for the said town, and of piping and conducting the same; to lay, erect and maintain all necessary mains and service lines, either within or without the corporate limits of said town, for the distribution of water to its customers and consumers, both within and without the corporate limits of said town, and to charge and collect water rents thereon; to erect and maintain all necessary dams, pumping stations and other works in connection therewith; to make reasonable rules and regulations for promoting the purity of its water supply and for protecting the same from pollution; and for this purpose to exercise full police powers and sanitary control over all land comprised within the limits of the water shed tributary to any such water supply wherever such land may be located in this state; to impose and enforce adequate penalties for the violation of any such rules and regulations; and to prevent by injunction any pollution, or threatened pollution, of such water supply, and any and all acts liable to impair the purity thereof; and to carry out the powers herein granted, the said town may exercise within the State all powers of eminent domain provided by the laws of this State.

(3) To collect and dispose of sewage, offal, ashes, garbage, carcasses of dead animals and other refuse, and to make reasonable charges therefor; to acquire and operate reduction or any other plants for the utilization or destruction of such materials, or any of them; to contract or regulate the collection and disposal thereof and to require and regulate the collecting and disposal thereof.

(4) To inspect, test, measure and weigh any commodities or articles of consumption or use within the town; to establish, regulate, license and inspect weights, meters, measures and scales.

(5) To license and regulate the holding and location of shows, circuses, public exhibitions, carnivals, or other similar shows or fairs, or prohibit the holding of same, or any of them within the town, or within one mile thereof.

(6) To construct, maintain, regulate and operate public improvements of all kinds, including municipal and other buildings, armories, sewage disposal plants, jails, comfort stations, markets and all buildings and structures necessary or appropriate for the use of proper operation of the various departments of the town; and to acquire by condemnation or otherwise all lands, riparian and other rights and easements necessary for such improvements, or any of them; and, either within or without the town, to construct, maintain, or aid therein, roads and bridges to any property owned by the said town, and situated beyond the corporate limits thereof, and to acquire land necessary for the aforesaid uses by condemnation or otherwise.

(7) To establish, impose and enforce the collection of water and sewage rates, and rates and charges for public utilities or other service, products or conveniences operated, rented or furnished by the town; and to assess or cause to be assessed, after reasonable notice to the owner or owners, water and sewage rates and charges directly against the owner or owners of the buildings, or against the tenant or tenants, and in event such rates and charges shall be assessed against a tenant, then the council may require of

such tenant a deposit of such reasonable amount as it may prescribe before furnishing such service to such tenant.

(8) To establish, construct and maintain satisfactory sewers, necessary lines and systems, and to require the abutting property owners to connect therewith, and to establish, construct, maintain and operate sewage disposal plants and to acquire by condemnation, or otherwise, within or without the town, all lands, rights-of-way, riparian or other rights and easements necessary for the purposes aforesaid, and to charge, assess and collect reasonable fees, rentals, easements, or costs of service for connection with and using the same.

(9) To grant franchise for public utilities in accordance with the provisions of the Constitution and general laws; provided, however the town shall at any time have the power to construct, own, operate, manage, sell, encumber, or otherwise dispose of, whether within or without the town, any and all public utilities for the town, and to sell the services thereof any existing franchises to the contrary notwithstanding.

(10) To compel the abatement and removal of nuisances within the town, or upon property owned by the town beyond its limits, at the expense of the person or persons causing the same, or of the owner or occupant of the grounds or premises whereon the same may be, and to collect said expenses by suit or motion, or by distress and sale; to require all lands, lots and other premises within the town to be kept clean and sanitary and free from stagnant water, weeds, filth and unsightly deposits, or to make them so at the expense of the owners and occupants thereof, and to collect said expenses by suit or motion, or by distress and sale; to regulate or prevent slaughter houses, or other noisome or offensive businesses within the said town, the keeping of hogs, or other animals, poultry or fowl therein, or the exercise of any dangerous or unwholesome business, trade or employment therein; to regulate the transportation of all articles through the streets of the town; to compel the abatement of smoke and dust and prevent unnecessary noise; to regulate the location of stables and the manner in which they shall be constructed and kept; to regulate the location, construction, operation and maintenance of billboards, signs, advertising and generally to define, prohibit, abate, suppress and prevent all things detrimental to the health, morals, aesthetic sensibilities, safety, convenience and welfare of the inhabitants of the town; and to require all owners or occupants of property having sidewalks in front thereof to keep the same clean and sanitary and free from all weeds, fifth, unsightly deposits, ice and snow, and any obstruction.

(11) To direct the location of all buildings for storing explosives or combustible substances; to regulate the sale and use of gunpowder, nitroglycerine, fireworks, kerosene oil or other like material; and to regulate the exhibition of fireworks, the discharge of firearms and the making of bonfires within the said town.

(12) To provide for the preservation of the general health of the inhabitants of said town~~,~~ *and* make regulations to secure same~~,~~ ~~inspect all foodstuffs offered for sale and to prevent the introduction and sale in said town of any articles or things intended for human consumption which is adulterated, impure or otherwise dangerous to health, and to condemn, seize and destroy, or otherwise dispose of such article or thing without liability to the owner thereof, and to require said owner to destroy such article or thing, or to cause it to be destroyed, at the expense of the owner or possessor; to prevent the intoduction or spread of contagious or infectious diseases, and to prevent and suppress disease generally; to enforce the removal of persons afflicted with contagious and infectious diseases to hospitals for treatment; to provide for the organization of a department or board of health with the authority necessary for the prompt and efficient performance of its duties, with the power to invest any or all the officials or employees of such department of health with such powers as the police officers of the town have; to establish quarantine grounds within or without the town and establish such quarantine regulations against infectious and contagious diseases as are appropriate under the laws of the state or nation~~.~~

(13) To prevent fowls and animals being kept, or running at large, in the town, or any thickly populated portion thereof.

(14) ~~To prevent the flying of kites, throwing of stones or engaging in any sort of employment or amusement in the public streets which is dangerous or annoying to passerbys, and to prohibit and punish the abuse of animals.~~

~~(15)~~ To acquire by condemnation, purchase or otherwise, provide for, maintain, operate and protect aircraft landing fields either within or without the corporate limits of the town.

~~(16)~~ *(15)* To restrain and punish drunkards, vagrants and street beggars; to prevent drunken and reckless driving within said town limits, and within one mile outside the town limits; to prevent and quell riots, disturbances and disorderly assemblages; to suppress houses of ill-fame and gambling houses; to prevent and punish lewd, indecent and disorderly exhibitions in said town~~;~~ ~~and to expel therefrom persons guilty of such misconduct who have not resided therein as much as one year~~.

~~(17)~~ *(16)* To make and enforce ordinances, insofar as not prohibited by the general laws of this State, to regulate, control, license and/or tax the manufacture, bottling, sale, distribution, transportation, handling, advertising, possessing, dispensing, drinking and use of alcohol, brandy, rum, whiskey, gin,

wine, beer, lager beer, ale, porter, stout and all liquids and beverages and articles containing alcohol by distillation, fermentation or otherwise.

~~(18)~~ *(17)* To prohibit and punish for mischievous, wanton or malicious damage to school and public property, as well as private property.

~~(19) To offer and pay rewards for the apprehension and conviction of criminals.~~

~~(20)~~ *(18)* To put into force and effect by ordinances any and all the foregoing powers, and any other powers and authority of the said council given by this charter, or any State law, or any amendments thereto; and to prescribe punishment for the violation of any town ordinance, rule or regulation, or of any provision of this chapter, said penalty not to exceed ~~five hundred dollars ($500.00) fine~~ *$2,500* or twelve months imprisonment in jail, or both.

~~(21)~~ *(19)* To own, operate and maintain electric light and gas works, either within or without the corporate limits of the town, and to supply electricity and gas, whether the same be generated or purchased by said town, to its customers and consumers both within and without the corporate limits of said town, at such price and upon such terms as it may prescribe, and to that end it may contract and purchase electricity and gas from the owners thereof upon such terms as it may deem expedient.

~~(22)~~ *(20)* To construct in any parks, playgrounds or public grounds that it may maintain, or upon any town property, stadium, swimming pools, gymnasia, and recreation or amusement buildings, structures or enclosures of every character, refreshment stands, restaurants, et cetera; to charge admission for use of same and to rent out or lease the privilege of construction or use of such stadiums, swimming pools, recreation or amusement buildings, structures, or inclosures of every character, refreshment stand or restaurants, et cetera.

~~(23)~~ *(21)* To enjoin and restrain the violation of any town ordinance or ordinances, although a penalty is provided upon conviction of such violation.

~~(24)~~ *(22)* To exercise the power of eminent domain within this State with respect to lands and improvements thereon, machinery and equipment for any lawful purpose of the said town.

~~(25) To prohibit minors from frequenting, playing in, and loitering in any public pool room, billiard parlor or bowling alley, and to punish such minor for so doing and any proprietor or agent thereof for permitting the same.~~

~~(26)~~ *(23)* To extinguish and prevent fires and to establish, operate, regulate and control a fire department or division.

§ 8. *Additional provisions.*

(1) In addition to the aforementioned powers, the Town of Clintwood shall have all powers conferred upon towns under the Constitution of Virginia and all other laws of the Commonwealth of Virginia.

(2) If any clause, sentence, paragraph or part of this act shall for any reason be adjudged by any court of competent jurisdiction to be invalid, said judgment shall not affect, impair or invalidate the remainder of said act, but shall be confined in its operation to the part of the act directly involved in the controversy in which such judgment shall have been rendered.