



# **CITY OF EMPORIA**

---

**AGENDA**  
**EMPORIA CITY COUNCIL**  
*Regular Meeting*  
**TUESDAY, May 1, 2012 - 7:30 P.M.**

---

**OPENING PRAYER**

**ROLL CALL**

**APPROVAL OF MINUTES**

April 17, 2012 ~ Regular Meeting

**APPROVAL OF AGENDA**

**UNFINISHED BUSINESS**

12-27. Cigarette Tax Ordinance – Request to Adopt

**NEW BUSINESS**

12-33. FY12-13 School Administration Budget

**PUBLIC COMMENT**

**CLOSED SESSION**

Closed Meeting pursuant to Virginia Code § 2.2 3711 (A) (3) Disposition of publicly held real property pertaining to the former Emporia Elementary School.

## PUBLIC HEARINGS

---

### **1. Cigarette Tax Ordinance – Request to Adopt**

---

Emporia's City Council held a Public Hearing on Tuesday, April 17, 2012, at 7:30 p.m. in the Council Chambers of the Municipal Building, located at 201 South Main Street, Emporia, Virginia. Jim Saunders, President of Council presided over the session.

The following City Council members were present:

Councilman F. Woodrow Harris  
Councilman James C. Saunders  
Councilwoman Doris T. White  
Councilwoman Deborah D. Dixon  
Councilwoman L. Dale Temple  
Councilwoman Beverly White  
Councilwoman Carolyn S. Carey

Others present:

C. Butler Barrett, City Attorney  
Brian S. Thrower, City Manager  
Steven B. Hall, Assistant City Manager  
Tessie S. Wilkins, City Clerk  
W. S. Harris, Jr., Treasurer  
Joyce E. Prince, Commissioner of the Revenue

Absent: Samuel W. Adams, III, Mayor

### **1. Cigarette Tax Ordinance – Request to Adopt**

Mr. Thrower reported that over the last year and at the Council Retreat held in February, that the City will face tremendous budget challenges going in FY13 and beyond, particularly as it relates to school, jail, retirement, personnel, and other project costs. He also reported that those funding issues have been further compounded by the continued state budget cuts over the last several years and the most recently decision by the Commonwealth of Virginia to take a significant portion of local traffic fine revenue from localities such as Emporia. He further reported that the estimated additional costs to Emporia in FY13 will be an increase funding for increased Southside Regional Jail (\$300,000) and a loss of local traffic fine revenue (\$200,000) totaling \$328,000.

Mr. Thrower stated several options for addressing the budget situation which include raising the real property tax rate, levying a cigarette tax, cutting/eliminating funding to civic organizations, and/or cutting/reducing City services. He also stated that in light of the situation at hand, he has attempted to reach consensus on broad parameters for addressing the budget situation in FY13 and beyond. He further stated that in discussing these funding issues with Council individually and in a group setting, the overwhelming majority of Council is in favor of levying a cigarette tax to soften the impact to the FY13 budget. He advised that at Council

March 20, 2012 meeting Council directed him to advertise for a public hearing to be held at tonight's meeting to consider levying a cigarette tax. He also advised that if Council elects to approve this proposal, he anticipate the City raising at least \$250,000 per year in new revenue from the cigarette tax levy.

He recommended that Council adopt the ordinance to levy a \$0.50 per pack cigarette tax to become effective July 1, 2012.

**Hermie Sadler, 1501 Wiggins Road**, addressed Council with concerns in regard to the proposed cigarette tax for numerous reasons from his experience in his Franklin store once the cigarette tax was imposed. He stated that immediately when the cigarette tax went into effect the first day of sale decreased thirty percent. He also stated that after six to eight months the end results was a decrease in the total revenue sale for fuel and grocery by over fifty percent. He further stated that the store went from selling \$1100.00 a day in that location to \$220.00 a day worth of cigarette. He stated that the end result for the Franklin store including closing the deli and loss of jobs.

He advised Council that the City was going to lose sale on fuel, and grocery, across the board. He stated that citizens are not going to pay an additional .50 cent for a pack of cigarette when they can go ½ mile out of the City limits to spend their money. He also stated that records show that the average person that come in to buy a package of cigarette, also buy average of 14 gallons of gas, three grocery items, and one deli item which they will lose out on. He further stated that there will be a double impact at the truck stop because customers usually buy 2 cartoons of cigarette, 200 gallons of fuel, and three meals in the City of Emporia. He stated that the City will lose all of these revenues.

**James Browning, 1143 North Main Street**, addressed Council on behalf of Emporia Grocery with concerns about the cigarette tax. He stated that imposing the cigarette tax will cause more problems than it would solve. He also stated that Emporia Grocery's had collected 200 signatures on a petition not to impose the cigarette tax. He further stated that Emporia Grocery sales at least 50 cartoons of cigarette a day and they will be affected if the cigarette tax is imposed.

**Herman Sadler, 5159 Drybread Road**, addressed Council with concerns in regard to the proposed cigarette tax. He stated that the cigarette tax is not the right way to go. He also stated that the City of Emporia will have a loss of sales in food, and fuel if the cigarette tax is imposed. He also stated that peoples will drive across the country to pay .50 cent less for a pack of cigarette. He further stated that businesses in the City of Emporia will not be able to just absorb this loss of sales across the board and stay in business paying the taxes they currently pay. He stated that it won't work and will cost jobs.

Elliott Sadler, 517 North Main Street, addressed Council with concerns in regard to the proposed cigarette tax. He stated that imposing this cigarette tax is going to affect the local community more than anything and may contribute to a higher crime rate

James Saunders, President of Council, asked if anyone wished to speak concerning the matter.

With no further matters to be presented before City Council members, President Saunders declared the public hearing closed.

---

James C. Saunders, President of Council

---

Tessie S. Wilkins, City Clerk

**MINUTES**  
**EMPORIA CITY COUNCIL**  
**CITY OF EMPORIA MUNICIPAL BUILDING**  
**April 17, 2012**

*Note to Reader: Although the printed agenda document for this City Council meeting is not part of these minutes, the agenda document provides background information on the items discussed by City Council during the meeting. A copy of the agenda document for this meeting may be obtained by contacting the Office of the City Clerk.*

Emporia City Council held a regular meeting on Tuesday, April 17, 2012 at 7:30 p.m. in the Council Chambers of the Municipal Building, located at 201 South Main Street, Emporia, Virginia. Jim Saunders, President of Council presided over the meeting with Bishop Vincent Lowery offering the invocation.

**ROLL CALL**

The following City Council members were present:

Councilman F. Woodrow Harris  
Councilman James C. Saunders  
Councilwoman Doris T. White  
Councilwoman Deborah D. Dixon  
Councilwoman Beverly White  
Councilwoman L. Dale Temple  
Councilwoman Carolyn S. Carey

Others present:

C. Butler Barrett, City Attorney  
Brian S. Thrower, City Manager  
Steve B. Hall, Assistant City Manager  
Tessie S. Wilkins, City Clerk  
Joyce E. Prince, Commissioner of the Revenue  
W. S. Harris, Treasurer

Absent:

Samuel W. Adams, III, Mayor

**MINUTES APPROVAL**

Councilwoman Temple moved to approve the minutes from the April 3, 2012 Regular Meeting, as presented, seconded by Councilwoman D. White which passed as follows:

Councilman F. Woodrow Harris	aye
Councilman James C. Saunders	aye

Councilwoman Doris T. White	aye
Councilwoman Deborah D. Dixon	aye
Councilwoman Beverly White	aye
Councilwoman Dale Temple	aye
Councilwoman Carolyn S. Carey	aye

**APPROVAL OF BILLS**

A listing of the April 17, 2012 bills was presented to City Council members.

General Fund	\$	1,195,715.25
Utility Fund	\$	201,617.35

Councilwoman Temple moved to approve the April 17, 2012 bills as presented, seconded by Councilwoman Dixon, which passed as follows:

Councilman F. Woodrow Harris	aye
Councilman James C. Saunders	aye
Councilwoman Doris T. White	aye
Councilwoman Deborah D. Dixon	aye
Councilwoman Beverly White	aye
Councilwoman Dale Temple	aye
Councilwoman Carolyn S. Carey	aye

**FINANCIAL AND TAX REPORTS**

Honorable W. S. Harris, Jr., City Treasurer provided City Council members with highlights of the City’s financial position. There were no questions concerning his reports.

**COMMISSIONER OF THE REVENUE REPORT**

Honorable Joyce E. Prince, Commissioner of the Revenue provided her report to City Council members. There were no questions regarding her report.

**PERMIT AND INSPECTION REPORT**

Randy C. Pearce, Building/Fire Official provided his report to City Council members. There were no questions concerning his report.

**POLICE REPORT**

Don Wyatt, Chief of Police provided his report to City Council members. There were no questions concerning his report.

**CITY SHERIFF REPORT**

Sam C. Brown, Sheriff provided his report to City Council members. There were no questions concerning his report.

**CITY ATTORNEY REPORT**

C. Butler Barrett, City Attorney had no matters to report to City Council members.

## **AGENDA APPROVAL**

Councilman Saunders moved to approve the agenda as presented, seconded by Councilwoman D. White, which passed as follows:

Councilman F. Woodrow Harris	aye
Councilman James C. Saunders	aye
Councilwoman Doris T. White	aye
Councilwoman Deborah D. Dixon	aye
Councilwoman Beverly White	aye
Councilwoman Dale Temple	aye
Councilwoman Carolyn S. Carey	aye

## **NEW BUSINESS**

### ***12-27. Cigarette Tax Ordinance – Request to Adopt***

Mr. Thrower reported that over the last year and at the Council Retreat held in February, that the City will face tremendous budget challenges going in FY13 and beyond, particularly as it relates to school, jail, retirement, personnel, and other project costs. He also reported that those funding issues have been further compounded by the continued state budget cuts over the last several years and the most recently decision by the Commonwealth of Virginia to take a significant portion of local traffic fine revenue from localities such as Emporia. He further reported that the estimated additional costs to Emporia in FY13 will be an increase funding for increased Southside Regional Jail (\$300,000) and a loss of local traffic fine revenue (\$200,000) totaling \$328,000.

Mr. Thrower stated several options for addressing the budget situation which include raising the real property tax rate, levying a cigarette tax, cutting/eliminating funding to civic organizations, and/or cutting/reducing City services. He also stated that in light of the situation at hand, he has attempted to reach consensus on broad parameters for addressing the budget situation in FY13 and beyond. He further stated that in discussing these funding issues with Council individually and in a group setting, the overwhelming majority of Council is in favor of levying a cigarette tax to soften the impact to the FY13 budget. He advised that at Council March 20, 2012 meeting Council directed him to advertise for a public hearing to be held at tonight's meeting to consider levying a cigarette tax. He also advised that if Council elects to approve this proposal, he anticipate the City raising at least \$250,000 per year in new revenue from the cigarette tax levy.

He recommended that Council adopt the ordinance to levy a \$0.50 per pack cigarette tax to become effective July 1, 2012.

Councilwoman Carey stated that some serious issues has been bought to her mind that she had not thought about. She stated that it might be growing on one hand but short coming the City on the other.

Councilman Harris stated that he prefer to vote the matter down tonight instead of deferring the matter. He also stated that other budget items such as Retail Recruitment Study and ED Workplan could be eliminated.

Councilwoman Temple made a motion to defer this matter until the City received the budget from the state, seconded by Councilwoman Doris White, which passed as follows:

Councilman F. Woodrow Harris	nay
Councilman James C. Saunders	aye
Councilwoman Doris T. White	nay
Councilwoman Deborah D. Dixon	aye
Councilwoman Beverly White	aye
Councilwoman Dale Temple	aye
Councilwoman Carolyn S. Carey	aye

***12-28. Chowan River Basin Flood Taskforce – Request to Approve***

Mr. Thrower reported that the City of Emporia have been participating on the Chowan River Basin Flood Taskforce over the last several years. He also reported that one of the initiatives of the taskforce has been to address flood forecasting in Chowan River Basin localities in order to better prepare for flooding and mitigate damage.

Mr. Thrower stated that two of the principal means used to better predict and forecast likely flooding events are through the installation of stream and rain gauges. He also stated that Jim Council, Mayor of Franklin and Chair of the Chowan River Basin Flood Taskforce, has been successful in obtaining a total of \$160,000 in federal and state funding for installation of the stream gauges.

Mr. Thrower stated that there is a cost sharing requirement for the continued operations and maintenance (O&M) of these stream gauges. He also stated that per the terms of the proposal, each of the seven participating localities would contribute \$6,915 per year towards O&M of the gauges for a combined effort of \$48,400 (50% of costs) annually. He further stated that the United States Geological Service (USGS) will contribute the other 50% of annual O&M costs. He stated that the Congressman Forbes will be assisting the Taskforce in securing the USGS funding for this project.

He recommended that Council authorize the City Manager and/or Mayor to sign a cost sharing agreement with the USGS for operations and maintenance of the aforementioned stream gauges at a cost of \$6,915 per year, pending the commitment of funding from the USGS and other participating localities.

Councilman Harris made a motion to authorize the City Manager and /or Mayor to sign a cost sharing agreement with the USGS for operations and maintenance of the aforementioned stream gauges at a cost of \$6, 915 per year, pending the commitment of funding from the USGS and other participating localities, seconded by Councilwoman Temple, which passed as follows:

Councilman F. Woodrow Harris	aye
Councilman James C. Saunders	aye
Councilwoman Doris T. White	aye

Councilwoman Deborah D. Dixon	aye
Councilwoman Beverly White	aye
Councilwoman Dale Temple	aye
Councilwoman Carolyn S. Carey	aye

**12-29. Sanitation Trucks – Request to Adopt Resolution Approving Financing Terms**

Mr. Thrower reported that Council approved the purchase of one new residential sanitation truck and one new commercial sanitation truck in the FY12 budget. He also reported that the financing bids were received from several lending institutions. He further reported that the low bidder was Branch Banking and Trust Company (BB&T) with an annual interest rate of 1.69%.

Mr. Thrower stated per Bat’s lending requirements Council will need to approve the resolution approving the financing terms of the truck purchases. He also stated that the proposed amount to be financed is \$462,820 over a seven year term at an annual interest rate of 1.69%.

Councilwoman Temple made a motion to adopt **Resolution No. 12-04** approving Financing Terms for Sanitation trucks seconded by Councilman Saunders, which passed as follows:

Councilman F. Woodrow Harris	nay
Councilman James C. Saunders	aye
Councilwoman Deborah D. Dixon	abstained
Councilwoman L. Dale Temple	aye
Councilwoman Doris T. White	aye
Councilwoman Beverly White	aye
Councilwoman Carolyn S. Carey	aye

**12-30. Fire Program Funds – Appropriation Ordinance**

Mr. Thrower reported that the City annually receives grant funds from the Virginia Department of Fire Programs through Greensville County for the Emporia Volunteer Fire Department. He also reported that the City did not include this grant in the City current operating budget; due to the fact that the City was unsure of the amount we would receive. He further reported that the City had received \$13,319.50 from Greensville County for this grant. He stated that the City also received \$1,834.50 from Greensville County on August 18, 2011 for the prior fiscal year and a payment from the Virginia Department of Fire Programs on July 1, 2011 for \$357.00 into the FY12 operating budget so that the Emporia Volunteer Fire Department can utilize these grant funds.

Councilman Saunders made a motion to adopt **Ordinance No. 12-04** to appropriate the sum of \$15,511.00 in grant funds from the Virginia Department of Fire Programs of which \$15,154.00 was received from the County of Greensville for Fire Programs, seconded by Councilwoman Temple, which passed as follows:

Councilman F. Woodrow Harris	aye
Councilman James C. Saunders	aye
Councilwoman Deborah D. Dixon	aye

Councilwoman Beverly White	aye
Councilwoman Carolyn S. Carey	aye
Councilwoman Dale Temple	aye
Councilwoman Doris White	aye

***12-31. FY13 Budget Work Sessions – Request to Approve Dates***

Mr. Thrower requested that City Council members approve the scheduling of the budget work sessions on the following dates at 6:00 p.m. in the Council Chambers of the Municipal Building:

Tuesday, May 1, 2012  
Tuesday, May 8, 2012  
Tuesday, May 15, 2012

Councilwoman Dixon moved to approve the proposed budget work session dates as followings at 6:00 p.m. in the Council Chambers of the Municipal Building:

Tuesday, May 1, 2012  
Tuesday, May 8, 2012  
Tuesday, May 15, 2012

Councilwoman Beverly White seconded the motion, which passed as follows:

Councilman F. Woodrow Harris	aye
Councilman James C. Saunders	aye
Councilwoman Doris T. White	aye
Councilwoman Deborah D. Dixon	aye
Councilwoman L. Dale Temple	aye
Councilwoman Carolyn S. Carey	aye
Councilwoman Beverly White	aye

Councilman Saunders stated that budget work sessions are open for the public to attend.

***12-32. Request by Habitat for Humanity – Sign Permit Fee Waiver***

Mr. Thrower stated that Rev. G.W. Pugh has requested that Council waive zoning and building permit fees associated with the installation of identification sign Habitat for Humanity that will be erecting in the near future.

Mr. Thrower stated that in the past, City Council has typically approved zoning and building permit fee waiver requests by non-profit organizations.

Councilwoman Beverly White moved to approve the request to waive the zoning and building permit fees associated with the installation of the identification sign for Habitat for Humanity, seconded by Councilwoman Carey, which passed as follows:

Councilman F. Woodrow Harris	aye
Councilman James C. Saunders	aye

Councilwoman Deborah D. Dixon	aye
Councilwoman L. Dale Temple	aye
Councilwoman Doris T. White	aye
Councilwoman Beverly White	aye
Councilwoman Carolyn S. Carey	aye

**PUBLIC COMMENT**

Councilman Saunders asked if anyone wished to bring a matter before City Council members adhering to the three minute time limitation.

*Clint Slate, 103 Beech Tree Lane*, addressed Council with concerns in regards to the proposed cigarette tax. He stated that deferring the cigarette tax tonight was a great idea but he does not agree with doing away with it.

With there being no further comments to come before City Council, Councilman Saunders closed the public comment portion of the meeting.

**\*\*\*Closed Session\*\*\***

Councilwoman Temple moved that Closed Session be entered for the purpose of discussing Virginia Code § 2.2 3711 (A) (3) **Disposition of publicly held real property pertaining to the former Emporia Elementary School**, (A) (5) **Discussion concerning a prospective business where no previous announcement has been made**, and (A) (7) **Legal matter pertaining to the Mega Site development**. Councilwoman Carey seconded the motion, which passed as follows:

Councilman F. Woodrow Harris	aye
Councilman James C. Saunders	aye
Councilwoman Carolyn S. Carey	aye
Councilwoman Deborah D. Dixon	aye
Councilwoman L. Dale Temple	aye
Councilwoman Beverly White	aye
Councilwoman Doris T. White	aye

**\*\*\*Regular Session\*\*\***

Councilwoman Dixon moved that the meeting be returned to Regular Session. Councilwoman Temple seconded the motion, which passed as follows:

Councilman F. Woodrow Harris	aye
Councilman James C. Saunders	aye
Councilwoman Carolyn S. Carey	aye
Councilwoman Deborah D. Dixon	aye
Councilwoman L. Dale Temple	aye
Councilwoman Beverly White	aye
Councilwoman Doris T. White	aye

---

**CERTIFICATION**

Councilwoman Dixon moved to certify the following:

1. Only public business matters lawfully exempted from open meeting requirements under the Virginia Freedom of Information Act were discussed in the Closed Session to which this certification applies, and
2. Only such public business matter as were identified in the motion by which the Closed Session was convened were heard, discussed, or considered by City Council.

Councilwoman Temple seconded the motion, which passed as follows:

Councilman F. Woodrow Harris	aye
Councilman James C. Saunders	aye
Councilwoman Carolyn S. Carey	aye
Councilwoman Deborah D. Dixon	aye
Councilwoman L. Dale Temple	aye
Councilwoman Beverly White	aye
Councilwoman Doris T. White	aye

Councilman Harris made the motion to authorize the Mayor and/or City Manager to execute the Mid-Atlantic Advanced Manufacturing Center Regional Industrial Facility Authority Member Locality Participation Agreement.

Councilwoman Dixon seconded the motion, which passed as follows:

Councilman F. Woodrow Harris	aye
Councilman James C. Saunders	aye
Councilwoman Carolyn S. Carey	aye
Councilwoman Deborah D. Dixon	aye
Councilwoman L. Dale Temple	aye
Councilwoman Beverly White	aye
Councilwoman Doris T. White	aye

**ADJOURNMENT**

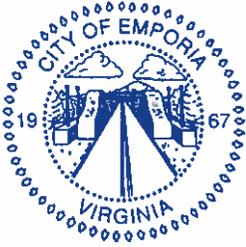
With no further business to come before City Council, Mayor Adams adjourned the meeting.

---

James C. Saunders, President of  
Council

---

Tessie S. Wilkins, City Clerk



# CITY OF EMPORIA

---

## Memorandum

April 13, 2012

**TO:** The Honorable Mayor and City Council  
**FROM:** Brian S. Thrower, City Manager *BST*  
**SUBJECT:** Cigarette Tax Ordinance – Request to Adopt  
**ITEM #:** 12-27

As discussed over the last year and at your Council Retreat held in February, the City faces tremendous budget challenges going into FY13 and beyond, particularly as it relates to school, jail, retirement, personnel, and other project costs. These funding issues have been further compounded by continued state budget cuts over the last several years and the most recent likely decision by the Commonwealth of Virginia to take a significant portion of local traffic fine revenue from localities such as Emporia. The estimated additional costs to Emporia in FY13 for increased Southside Regional Jail funding (\$300,000) and loss of local traffic fine revenue (\$200,000) is \$500,000. This is equivalent to an increase of approximately 14 cents in the real property tax rate.

Options for addressing the budget situation include raising the real property tax rate, levying a cigarette tax, cutting/eliminating funding to civic organizations, and/or cutting/reducing City services. In light of the situation at hand, I have attempted to reach consensus on broad parameters for addressing the budget situation in FY13 and beyond. In discussing these funding issues with you individually and in a group setting, the overwhelming majority of you are in favor of levying a cigarette tax to soften the impact to the FY13 budget. At your March 20, 2012 meeting you directed me to advertise for a public hearing to be held at tonight's meeting to consider levying a cigarette tax. Should you elect to approve this proposal, I anticipate the City raising at least \$250,000 per year in new revenue from the cigarette tax levy.

### Recommendation

I recommend you adopt the attached ordinance to levy a \$0.50 per pack cigarette tax to become effective July 1, 2012.

### Attachment

Ordinance for adoption  
State code reference

**Ordinance**

An Ordinance To Levy A \$0.50 Per Pack Cigarette  
Tax Effective July 1, 2012

**BE IT ORDAINED** by the Council of the City of Emporia, Virginia as follows:

1. That Chapter 70, Article IX, Sections 70-309, 70-310, and 70-311, 70-312, 70-313, 70-314, 70-315, 70-316, 70-317, 70-318, 70-319, 70-320, 70-321, and 70-322 of the Code of Ordinances, City of Emporia, Virginia, are hereby enacted to read as follows:

**ARTICLE IX. CIGARETTE TAX**

**Sec. 70-309. - Definitions.**

For the purposes of this article the following words and phrases shall have the meaning ascribed to them by this section:

*Dealer* means every manufacturer, jobber, wholesale dealer or other person who supplies a seller with cigarettes.

*Package* means every package, box, can or other container of any cigarettes, irrespective of the material from which such container is made, to which the Internal Revenue stamp of the United States government is required to be affixed by and under federal statutes and regulations and in which retail sales of cigarettes are normally made or intended to be made.

*Purchaser* means every person to whom title to any cigarette is transferred by a seller for any valuable consideration within the city.

*Sale* means every act or transaction, irrespective of the means employed, including the use of vending machines and other mechanical devices, whereby title to any cigarettes shall be transferred from the seller to any other person within the city for any valuable consideration.

*Seller* means any person who transfer title to any cigarettes, or in whose place of business title to any cigarettes is transferred, or who engages in a sale as defined herein for valuable consideration within the city for any purpose other than resale.

*Stamp* means a small gummed piece of paper or decal to be sold by the treasurer and to be affixed to every package of cigarettes sold at retail in the city and also any insignia or symbol printed by a meter machine upon any such package under the authorization of the commissioner of revenue.

**Sec. 70-310. - Tax levied.**

There is hereby levied and imposed by the city upon each and every sale of cigarettes a tax equivalent to \$0.50 for each pack of cigarettes sold within the city. The amount of such tax shall be paid by the seller, if not previously paid, in the manner and at the time provided for in this article.

**Sec. 70-311. - Method of payment.**

- (a) The tax imposed by this article shall be paid by affixing or causing to be affixed a stamp or stamps, of the proper denominational or face value, to each package of cigarettes sold within the city in the manner and at the time provided for in this article. Every dealer and every seller in the city shall have the right to buy such stamps from the treasurer and to affix them to packages of cigarettes as provided for in this article.
- (b) The commissioner of revenue may permit the payment in advance of the tax levied and imposed by this article by the method of placing imprints of the stamps upon original packages by the use of meter machines in lieu of the method of paying such tax by the purchase and affixing of gum stamps, and may prescribe and enforce the necessary regulations setting forth the method to be employed and the conditions to be observed in the use of such meter machines.

**Sec. 70-312. - Preparation and sale of stamps.**

For the purpose of making stamps available for use the commissioner of revenue shall prescribe, prepare and furnish to the treasurer, and the treasurer shall sell, stamps of such denominations and in such quantities as may be necessary for the payment of taxes imposed by this article. In the sale of such stamps the treasurer shall allow a discount of eight percent of the denominational or face value thereof to cover the costs which will be incurred in affixing the stamps to the packages of cigarette. In the event the printing by an authorized meter machine is used in lieu of gummed stamps, there shall also be allowed a discount of eight percent of the denominational or face value of the imprints of

such stamps so printed by such meter machine to cover the costs incurred in printing such imprints.

**Sec. 70-313. - Duties of dealers and sellers with respect to stamps.**

- (a) Every local dealer in cigarettes is hereby required and it shall be his duty to purchase such stamps, at the office of the treasurer, as shall be necessary to pay the tax levied and imposed by this article and to affix or cause to be affixed a stamp or stamps of the monetary value prescribed by this article to each package of cigarettes prior to delivery or furnishing of such cigarettes to any seller. Nothing herein contained shall preclude any dealer from using a stamp meter machine in lieu of gummed stamps to effectuate the provisions of this article.
- (b) Every seller shall examine each package of cigarettes prior to exposing the same for sale for the purpose of ascertaining whether such package has the proper stamps affixed thereto or imprinted thereon as required by this article. If upon examination unstamped or improperly stamped packages of cigarettes are discovered, the seller, where such cigarettes were obtained from a local dealer, shall immediately notify such dealer, and upon such notification, such dealer shall forthwith either affix to or imprint upon such unstamped or improperly stamped packages the proper amount of stamps or shall replace such packages with other to which stamps have been properly affixed or imprinted thereon.
- (c) Should a seller obtain or acquire possession of, from any person other than a local dealer, any unstamped or improperly stamped cigarettes, such seller shall forthwith, before selling or offering or exposing such cigarettes for sale in the city, purchase and affix or cause to be affixed to such packages of cigarettes the proper stamps or the markings of a meter machine covering the tax imposed by this article.
- (d) In the event any seller elects to purchase and affix stamps or imprints of a meter machine before offering cigarettes for sale, any local dealer delivering cigarettes to such seller shall not be required to purchase and affix such stamps or imprints to such cigarettes so delivered; provided that any local dealer shall, on the day following the day of such delivery, file with the commissioner of revenue a copy of the delivery memorandum showing the name and address of the seller and the quantity and type of cigarettes so delivered.

**Sec. 70-314. - Visibility of stamps or meter markings.**

Stamps or the printed markings of a meter machine shall be placed upon each package of cigarettes in such a manner as to be readily visible to a purchaser.

**Sec. 70-315. - New design of stamps.**

The commissioner of revenue may, from time to time, and as often as he or she may deem advisable, provide for the issuance and exclusive use of stamps of a new design and forbid the use of stamps of any other design.

**Sec. 70-316. - Refund for unused stamps or meter imprints.**

- (a) Should any person, after acquiring from the treasurer any stamps provided for in this article, cease to be engaged in a business necessitating the use thereof, or should any stamps become mutilated or unfit for use, other than by cancellation as provided in this article, such person shall be entitled to a refund of the denominational or face amount of any stamps so acquired and not used by him less eight percent of the denominational or face amount thereof, upon presenting such stamps to the commissioner of revenue and furnishing the commissioner of revenue with an affidavit showing, to his or her satisfaction, that such stamps were acquired by such person and have not in any manner been used and the reason for requesting such refund. In the case of any authorized meter machine, should any imprints of such machine theretofore paid for not be used, such person shall, upon furnishing the commissioner of revenue with a similar affidavit, be entitled to a refund of the denominational or face amount thereof, less eight percent of such imprints of such machine not so used.
- (b) All refunds for unused and mutilated stamps and for nonuse of imprints of stamps by meter machines provided for under this section are hereby authorized to be made on vouchers approved by the commissioner of revenue and, when made, the same shall be charged against the sums collected for the sale of such stamps and the use of such imprints.

**Sec. 70-317. - Seizure and sale of unstamped cigarettes.**

Whenever the commissioner of revenue or treasurer shall discover any cigarettes which are subject to the tax imposed by this article and upon which the tax has not been paid or upon which stamps have not been affixed or evidence of such tax shown thereon by the printed markings of an authorized meter machine, as in this article required, the said city officials, their employees or agents, are hereby authorized and empowered to forthwith seize and take possession of such cigarettes, which shall thereupon be deemed to be forfeited to the city, and said city officials may, within a reasonable time thereafter, after written notice posted at the front door of the municipal building of the city, at least five days before the date of sale, sell such forfeited cigarettes at the time and place designated in such notice and, from the proceeds of such sale, shall collect the tax due thereon, together with a penalty of 50 percent thereof and the costs incurred in such sale and pay the balance, if any, of such proceeds to the person in whose possession such

forfeited cigarettes were found. Such seizure and sale shall not be deemed to relieve any person from any penalty provided for the violation of the provisions of this article. All monies collected under the provisions of this section shall be paid to the treasurer and treated as other taxes collected under this article.

**Sec. 70-318. - Dealers' and sellers' records.**

It shall be the duty of every local dealer and seller to maintain and keep, for a period of two years, such records of cigarettes sold and delivered by them as may be required by the commissioner of revenue and to make all such records available for examination by such commissioner of revenue or treasurer upon demand at any and all reasonable times.

**Sec. 70-319. - Rules and regulations for enforcement and administration of article; examination of records.**

- (a) The commissioner of revenue is hereby authorized and empowered to prescribe, adopt, promulgate and enforce rules and regulations relating to all matters pertaining to the administration and enforcement of the provisions of this article.
- (b) The commissioner of revenue, the treasurer, their employees or agents, may examine books, records, invoices and any and all cigarettes in and upon any premises where the same are placed, stored, sold, offered for sale or displayed for sale by a seller in the city.

**Sec. 70-320. - Prohibited acts enumerated.**

It shall be unlawful and a violation of this article for any person:

- (1) To perform any act or fail to perform any act for the purpose of evading the payment of any tax imposed by this article or of any part thereof or for any dealer or seller to fail or refuse to perform any of the duties imposed upon him under the provisions of this article or for any dealer or seller to fail or refuse to obey any lawful order which the commissioner of revenue may issue pursuant to this article.
- (2) To falsely or fraudulently make, forge, alter or counterfeit any stamp or the printed markings of any meter machine or to procure or cause to be made, forged, altered or counterfeited any such stamp or printed markings of a meter machine or to knowingly and willfully alter, publish, pass or tender as true any false, altered, forged or counterfeited stamp or stamps or printed markings of a meter machine.

- (3) To sell any cigarettes upon which the tax imposed by this article has not been paid and upon which evidence of payment thereof is not shown on each package of cigarettes.
- (4) To reuse or refill with cigarettes any package from which cigarettes, for which the tax imposed has been theretofore paid, have been removed.
- (5) To remove from any package any stamp or the printed markings of a meter machine with intent to use or cause the same to be used after the same have already been used or to buy, sell or offer for sale or give away any used, removed, altered or restored stamps or printed markings of a meter machine to any person or to reuse any stamp or printed markings of a meter machine which had heretofore been used for evidence of the payment of any tax prescribed by this article or, except as to the treasurer, to sell or offer to sell any stamps or printed markings of a meter machine provided for in this article.

**Sec. 70-321. - Presumption of violation by seller.**

In the event any package of cigarettes is found in the possession of a seller without the proper stamps having been affixed thereto without the authorized printing markings of a meter machine thereon, and the seller shall be unable to submit evidence establishing that he received such package within the immediately preceding 48 hours and that he has not offered the same for sale, there shall be a presumption that such package is being kept by such seller in violation of the provisions of this article.

**Sec. 70-322. - Violations of article.**

- (a) Any person violating any of the provisions of this article shall be guilty of a class 3 misdemeanor. Conviction and punishment for such violation shall not relieve any person from the payment of any tax imposed by this article.
- (b) Each violation of or noncompliance with any of the provisions of this article shall constitute a separate offense and shall subject the person convicted thereof to the penalties prescribed in this section.

**State law reference** – Certain excise taxes permitted. Code of Virginia, § 58.1-3840.

**Secs. 70-323—70-340. Reserved.**

2. This ordinance shall become effective July 1, 2012.

Adopted: May 1, 2012

City of Emporia, Virginia

By \_\_\_\_\_  
Samuel W. Adams, III  
Mayor

Attest:

Form Approved:

\_\_\_\_\_  
City Clerk

\_\_\_\_\_  
City Attorney

[prev](#) | [next](#)

§ 58.1-3840. Certain excise taxes permitted.

A. The provisions of Chapter 6 (§ [58.1-600](#) et seq.) of this title to the contrary notwithstanding, any city or town having general taxing powers established by charter pursuant to or consistent with the provisions of § [15.2-1104](#) may impose excise taxes on cigarettes, admissions, transient room rentals, meals, and travel campgrounds. No such taxes on meals may be imposed on (i) that portion of the amount paid by the purchaser as a discretionary gratuity in addition to the sales price of the meal; (ii) that portion of the amount paid by the purchaser as a mandatory gratuity or service charge added by the restaurant in addition to the sales price of the meal, but only to the extent that such mandatory gratuity or service charge does not exceed 20% of the sales price; or (iii) food and beverages sold through vending machines or on any tangible personal property purchased with food coupons issued by the United States Department of Agriculture under the Food Stamp Program or drafts issued through the Virginia Special Supplemental Food Program for Women, Infants, and Children. No such taxes on meals may be imposed when sold or provided by: (a) restaurants, as such term is defined in subdivision 9 a of § [35.1-1](#), to their employees as part of their compensation when no charge is made to the employee; (b) volunteer fire departments and rescue squads; nonprofit churches or other religious bodies; educational, charitable, fraternal, or benevolent organizations, on an occasional basis, not exceeding three times per calendar year as a fundraising activity, the gross proceeds of which are to be used by such church, religious body or organization exclusively for nonprofit educational, charitable, benevolent, or religious purposes; (c) churches that serve meals for their members as a regular part of their religious observances; (d) public or private elementary or secondary schools, or public or private colleges and universities, to their students or employees; (e) hospitals, medical clinics, convalescent homes, nursing homes, or other extended care facilities to patients or residents thereof; (f) day care centers; (g) homes for the aged, infirm, handicapped, battered women, narcotic addicts, or alcoholics; or (h) age-restricted apartment complexes or residences with restaurants, not open to the public, where meals are served and fees are charged for such food and beverages and are included in rental fees.

Also, the tax shall not be levied on meals: (a) when used or consumed and paid for by the Commonwealth, any political subdivision of the Commonwealth, or the United States; or (b) provided by a public or private nonprofit charitable organization or establishment to elderly, infirm, blind, handicapped, or needy persons in their homes, or at central locations; or (c) provided by private establishments that contract with the appropriate agency of the Commonwealth to offer food, food products, or beverages for immediate consumption at concession prices to elderly, infirm, blind, handicapped, or needy persons in their homes or at central locations.

In addition, as set forth in § [51.5-98](#), no blind person operating a vending stand or other business enterprise under the jurisdiction of the Department for the Blind and Vision Impaired and located on property acquired and used by the United States for any military or naval purpose shall be required to collect and remit meals taxes.

B. Notwithstanding any other provision of this section, no city or town shall levy any tax under this section upon alcoholic beverages sold in factory sealed containers and purchased for off-premises consumption or food purchased for human consumption as "food" is defined in the Food Stamp Act of 1977, 7 U.S.C. § 2012, as amended, and federal regulations adopted pursuant to that act, except for the following items: sandwiches, salad bar items sold from a salad bar, prepackaged single-serving salads consisting primarily of an assortment of vegetables, and nonfactory sealed beverages.

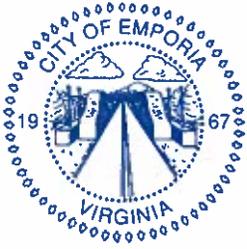
C. Any city or town that is authorized to levy a tax on admissions may levy the tax on admissions paid for any event held at facilities that are not owned by the city or town at a lower rate than the rate levied on admissions paid for any event held at its city- or town-owned civic centers, stadiums and amphitheatres.

D. [Expired.]

(1984, c. 675; 1986, cc. 545, 605; 1989, cc. 314, 391; 1999, c. [366](#); 2000, c. [626](#); 2003, c. [12](#); 2005, c. [106](#); 2006, cc. [568](#), [602](#); 2009, c. [415](#).)

---

[prev](#) | [next](#) | [new search](#) | [table of contents](#) | [home](#)



# **CITY OF EMPORIA**

---

## **Memorandum**

April 27, 2012

**TO:** The Honorable Mayor and City Council  
**FROM:** Brian S. Thrower, City Manager  
**SUBJECT:** FY 12-13 School Administration Budget  
**ITEM #** 12-33

The proposed FY 12-13 Operating Budget for the Greensville County Public School System is \$29,015,548 or a 3.271% increase over FY 12.

In regards to the proposed budget, \$7,327,663 is attributed to the local share; \$1,815,070 is attributed to debt service; the remainder of \$5,512,593 to operations. If the City were to fully fund the School Administration's request, the City would appropriate \$3,474,152 or a 7.00% increase over FY 12. The City is proposing to budget \$3,182,215 (\$3,529,691 - County's share), which is an increase of 2.29% regarding the total local funding of the budget. The ADM numbers regarding the student population have been confirmed by the School Administration, which are 1049.11 - Emporia, 1328.79 - Greensville for a total of 2,377.90. The ADM numbers for the County decreased by 14.51 and the City's ADM numbers decreased by 5.32.

### **Recommendation**

This information is provided to you for consideration.

### **Attachment**

Resolution

**Resolution**

A Resolution To Set The Dollar Amount For The  
Greensville County School Budget For Fiscal Year  
2012-2013

**WHEREAS**, the Greensville County School Board has, on February 13, 2012, adopted a budget for the 2012-2013 fiscal year; and

**WHEREAS**, the Code of Virginia, 1950, section 22.1-93, states that the governing body of a municipality shall approve an annual budget for educational purposes by May first or within thirty days of the receipt by the City of the estimates of state funds, whichever shall occur later;

**NOW, THEREFORE, BE IT RESOLVED** that the Emporia City Council approves a budget consisting of \$6,711,906.00 in local funds of which \$3,182,215.00 is projected to be the City of Emporia's share.

Adopted: May 1, 2012

City of Emporia, Virginia

By \_\_\_\_\_  
Samuel W. Adams, III  
Mayor

Attest:

Form Approved:

\_\_\_\_\_  
City Clerk

\_\_\_\_\_  
City Attorney