

***MINUTES OF A REGULAR MEETING OF THE TOWN COUNCIL OF THE  
TOWN OF LURAY, PAGE COUNTY, VIRGINIA  
Monday, February 9, 2009***

The Luray Town Council met in regular session on Monday, February 9, 2009 at 7:00 p.m. in the Luray Town Council Chambers located at 45 East Main Street, Luray, Virginia at which time there were present the following:

**Presiding:** Mayor Barry Presgraves

**Council Present:** Nancy Shifflett  
Lonnie Arrington  
Leroy Lancaster  
Jerry Schiro

**Council Absent:** William Menefee  
Earl "Rock" Racer

**Also Present:** Rick Black, Town Manager  
Bryan Chrisman, Assistant Town Manager  
Jason Spitler, Town Attorney  
Mary Broyles, Clerk-Treasurer  
Danielle Babb, Deputy Clerk-Treasurer  
Ligon Webb, Town Planner  
Page Campbell, Chief of Police  
Lynn Mathews, Superintendent of Public Works  
Pat O'Brien, Director of Parks and Recreation  
Charlie Hoke, Director of Utilities  
Catherine Stewart, Luray Downtown Initiative  
Powell Markowitz, Luray-Page County Airport Commission  
Kenneth Painter, Luray-Page County Airport  
Bryan McKeehan, Delta Engineering Consultants  
Jennifer Orenic, Sustainable Shenandoah  
Luther Johnson, Page News and Courier

A quorum being present, Mayor Barry Presgraves declared the Council to be in session for the transaction of business. All present stood to recite the United States Pledge of Allegiance.

**CONSENT AGENDA**

**Motion:** Councilman Schiro motioned to approve the Consent Agenda, motion seconded by Councilman Lancaster with the vote as follows: YEA: Council Members Shifflett, Arrington, Lancaster, Schiro.

**Approved 4-0**

***Consent Agenda***

- A) *Minutes of January 12, 2009 Regular Council Meeting*
- B) *Minutes of January 20, 2009 Work Session*

- C) *Minutes of February 3, 2009 Work Session*
- D) *Financial Report for the period January 1-31, 2009*
- E) *Accounts payable checks totaling \$ 321,052.57.*

## **PUBLIC HEARING**

### **Construction of Trailside Public Restrooms**

Town Manager, Rick Black, stated that the purpose of this public hearing is to receive public comments and to consider the special use permit request presented by the Town of Luray. The applicant is requesting a special use permit to allow the construction of two trailside public restrooms to be located in an identified floodway district. Mayor Presgraves opened the public hearing with no comments from citizens. Mayor Presgraves stated that the town did receive a grant in the amount of \$66,500 for the construction of trailside restrooms.

**Motion:** Councilman Lancaster motioned to approve the special use permit request for the construction of two trailside public restrooms to be located in an identified floodway district, motion seconded by Councilwoman Shifflett with the vote as follows: YEA: Council Members Shifflett, Arrington, Lancaster, Schiro. **Approved 4-0**

## **GENERAL CITIZEN COMMENTS**

### **Jennifer Orenic- Earth Day**

Ms. Jennifer Orenic spoke on behalf of the newly formed group “Sustainable Shenandoah” in regards to plans for an Earth Day event to be held on April 25<sup>th</sup>. Ms. Orenic is proposing use of the Greenway for this event. She noted that various musicians will be donating their talent for the day along with guest speakers and activities planned for the event. Ms. Orenic stated that the group has a zero budget and is asking the town for logistical support, funds for advertising, and a general endorsement of the event. Also, Ms. Orenic requested that the Town post the event on its website and place a flyer in the water bills.

Councilwoman Shifflett asked for Director of Parks and Recreation, Pat O’Brien, to comment on the event. Mr. O’Brien stated that his department could certainly provide the use of portable toilets, post flyers, post the event on Channel 15, and lastly post on the Town’s website. Councilman Lancaster stated that he would like to see the Town assist with the cost of advertising.

**Motion:** Councilman Lancaster motioned to provide a \$500 donation for Earth Day, motion seconded by Councilman Arrington with the vote as follows: YEA: Council Members Shifflett, Arrington, Lancaster, Schiro. **Approved 4-0**

**Motion:** Councilman Arrington motioned to approve the Earth Day Resolution, motion seconded by Councilwoman Shifflett with the vote as follows: YEA: Council Members Shifflett, Arrington, Lancaster, Schiro. **Approved 4-0**

## **TOWN AFFILIATED BOARDS AND COMMISSIONS**

### **Luray Downtown Initiative**

Catherine Stewart reviewed the recent Virginia Main Street Manager's Retreat that was held at the Mimslyn Inn. Ms. Stewart also presented Council with a sample rack card that promotes all 2009 Activities and Events for the Town.

Councilman Lancaster noted that Council needs to review spending on the Bluemont Concert Series during budget preparations, as it would not be cost effective to have concerts with coinciding dates.

### **Airport Commission**

Mr. Powell Markowitz spoke before Council regarding the T-Hangar Project. He met with the EDA and spoke with Dr. Tom Cardman and financing is proceeding with hopes to close the loan within 60 days. Mr. Markowitz has sent Rick Black the latest pay request from J. Sanders (request #9). Mr. Markowitz noted that included in this request will be change order #2. Mr. Markowitz stated that the bids are in for the AWOS project and DOAV should award the bid to Austin Electric as the low bidder. Mr. Markowitz stated that he would have all contracts for signature when ready.

## **DEPARTMENTAL REPORTS**

### **POLICE- PUBLIC SAFETY AND EMERGENCY SERVICES COORDINATOR'S REPORT**

Chief Campbell provided his monthly report for Council and informed of 36 arrests for the month of January.

### **PARKS AND RECREATION**

Pat O'Brien, Director of Parks and Recreation, announced the plans for Arbor Day on Saturday, April 18<sup>th</sup> at 1:00pm. This will be a combined event with the Greenway Phase IV ribbon cutting ceremony. Mr. O'Brien provided Council with a handout of the donations for the Greenway Project over the last several years. Mr. O'Brien noted that the Tree and Beautification Committee has volunteered to provide refreshments for the Arbor Day/Greenway event. The event is being held the same day as the Little League Opening Ceremonies, but should provide no conflict since the recreation events will begin in the afternoon. Also, Mr. O'Brien reminded that there will need to be a dedication scheduled for the Ralph H. Dean Recreation Park sign.

### **PUBLIC WORKS DEPARTMENT**

Lynn Mathews, Superintendent of Public Works, reported that the public works department repaired three water leaks for the month. Also, the department responded to five sewer calls. Mr. Mathews stated that some projects for water and sewer have been delayed due to cold weather. Upcoming projects for the Public Works Department will include storm drainage repairs, tree trimming, roadside shoulder repairs, and working on the signage program.

## **WASTEWATER TREATMENT DEPARTMENT**

Charlie Hoke, Director of Utilities, noted that Reid Engineering has certified Faulconer Construction as the low bidder for the Waste Water Treatment Plant upgrades. The wastewater treatment plant was compliant with all regulations for the month.

Regarding the Water Treatment Plant, Mr. Hoke stated that the construction is moving along well. The framing work continues on the building and the 2 million gallon water tank will be painted sometime in the Spring. Mr. Hoke stated all distribution samples came back negative.

## **TOWN PLANNER'S REPORT**

Town Planner, Ligon Webb, stated that the Planning Commission has one public hearing scheduled for its regular meeting on Wednesday. The public hearing is to consider the special use permit application of Mr. Steven Jessee to operate a tattoo parlor out of an existing business located at 21 North Broad Street. Mr. Webb advised that the applicant has a state licensure and that the health department would be responsible for regulating the facility.

Mr. Webb informed Council that the Planning Commission tabled the Accessory Dwelling Ordinance for further study. The Commission would like to add additional regulations. Mr. Webb will also begin a sign ordinance review. He hopes to make the ordinance more easily understood and to make the regulations for signs more aesthetically pleasing.

Regarding the recycling program, Mr. Webb announced that approximately 700 households are now participating in the program. Mr. Webb intends to provide a report analyzing all costs for the program later this Spring.

Councilman Schiro referred to the Accessory Dwelling Ordinance and reminded that the ordinance must adhere to federal fair housing standards.

## **OLD BUSINESS**

### **USDA-Rural Development Resolution (Airport)**

Town Manager, Rick Black, stated that Council will need to address the resolution and agreement documents in order for the EDA to close on the loan for the Airport Hangar Project. Town Attorney, Jason Spitler, has reviewed the documents and has no objections.

**Motion:** Councilman Lancaster motioned to approve the Resolution and Agreement with the EDA to issue a maximum of \$836,300 to obtain permanent financing to obtain funds for the Town's portion of the Hangar Project, motion seconded by Councilman Arrington with the vote as follows: YEA: Council Members Shifflett, Arrington, Lancaster, Schiro. **Approved 4-0**

## **NEW BUSINESS**

### **Personnel Policy Amendment (Irregular Shifts)**

Town Manager, Rick Black, reminded Council of the amendment that was discussed at the Work Session of February 3<sup>rd</sup>. The Personnel Policy Amendment states that "*Employees who work irregular shifts and*

*whose schedule requires them to be off on a holiday will receive eight hours of compensatory leave. Employees who work irregular shifts and whose schedule requires them work a full shift on a holiday shall receive their regular pay plus have the option of receiving eight hours of compensatory leave or (8) hours of overtime pay. All compensatory leave earned must be taken within twelve months of the earned date.”*

**Motion:** Councilman Schiro motioned to amend the Personnel Policy as presented, motion seconded by Councilman Arrington with the vote as follows: YEA: Council Members Shifflett, Arrington, Lancaster, Schiro. **Approved 4-0**

### **VRA Loan**

Town Manager, Rick Black, explained that VRA has offered a loan in the amount of 2.2 million dollars for twenty years with 0% interest. He reminded Council that the Town must close on this loan on or before April 30, 2009. Town Attorney, Jason Spitler, has reviewed the terms of the loan.

**Motion:** Councilman Schiro motioned to accept the VRA loan in an amount up to \$5,914,000, motion seconded by Councilman Lancaster with the vote as follows: YEA: Council Members Shifflett, Arrington, Lancaster, Schiro. **Approved 4-0**

**Motion:** Councilman Schiro motioned to identify Faulconer Construction as the low bidder for the Wastewater Treatment Upgrade Project, motion seconded by Councilwoman Shifflett with the vote as follows: YEA: Council Members Shifflett, Arrington, Lancaster, Schiro. **Approved 4-0**

**Motion:** Councilman Schiro motioned to amend his previous motion for the VRA loan in the amount of \$5,914,000 to \$2,200,000 as originally presented, motion seconded by Councilwoman Shifflett with the vote as follows: YEA: Council Members Shifflett, Arrington, Lancaster, Schiro. **Approved 4-0**

### **Airport Special Appropriation**

Town Manager, Rick Black, stated that Council will need to approve the special appropriation for J. Sander's Co. pay request #8. As well, Mr. Black has just received pay request #9, both of these requests can be approved together. Mr. Markowitz stated that he will not send the check until request number #9 has been approved by Jim Allen of Rural Development.

**Motion:** Councilman Lancaster motioned to approve pay requests #8 and #9 for J. Sander's Co., upon the approval of request #9, motion seconded by Councilman Arrington with the vote as follows: YEA: Council Members Shifflett, Arrington, Lancaster, Schiro. **Approved 4-0**

## **TOWN ATTORNEY'S REPORT**

### **Parking Lot Easement (Brown's Restaurant)**

Town Attorney, Jason Spitler, stated that he would like to include several other matters for Council's approval. Mr. Spitler has provided the revised deed of easement for the parking lot area in existence behind Brown's restaurant. As well, Mr. Spitler has several other deeds of easement for downtown parking areas currently in existence. The easements have expired and are merely being revised to continue to be a part of the Town's downtown parking system. The Town is confirming a donative amount for the conveyance of easement. Mr. Spitler is requesting a motion to accept the deeds of gift and

donative amounts for each of the following owners; Brown's Chinese American Restaurant, Jack Alexander White, Rannoch Wood LLC, Warren and Elaine McConnell, and Warren and Elaine McConnell with Richard Worden.

**Motion:** Councilwoman Shifflett motioned to approve the deeds of gift as presented by the Town Attorney, motion seconded by Councilman Lancaster with the vote as follows: YEA: Council Members Shifflett, Arrington, Lancaster, Schiro. **Approved 4-0**

Councilman Lancaster asked Mr. Spitler if any records had been found for the Williams Property deed of gift. Mr. Spitler stated that there were no records on file with Page County Circuit Court. Councilman Lancaster will contact the owners while Mr. Spitler prepares the deed of gift in anticipation that the owners will agree.

### **CHANGES OR ADDITIONS TO THE AGENDA**

Town Manager, Rick Black, referred back to the Airport Special Appropriation portion of the meeting. Mr. Black stated that Delta Engineering has a request for an amendment for additional services to their original contract. The spreadsheets included in Council's packet indicate a total amendment of \$44,903. The letter is included for Council's review as Amendment #14, which sites seven reasons for compensation. Mr. Black reviewed the amendment for Council in detail. Mr. Black suggested that Mr. McKeehan is present at the evenings meeting if Council has additional questions.

Mayor Presgraves requested for Mr. McKeehan to come before Council to explain the amendment. Mr. McKeehan stated that \$11,639 of the amount is attributable to site work. The remaining \$33,264 is the estimated local share which is non-DOAV eligible. Included in this amount is Mr. McKeehan's work with getting the County tax rate lowered, numerous meetings, financing issues, site visits, and working with contractor change orders. Mr. McKeehan continued his explanation of these additional costs in further detail for Council. Mr. McKeehan feels that he has worked very hard to keep the contractor within budget and to work with all parties involved.

Mr. Black stated that the Town's portion of the amendment would be \$19,134.50. This amount would have to be incorporated into the Town's portion of the note.

Councilman Schiro questioned why Mr. McKeehan had not submitted amendments to the contract before the additional work was done. Mr. McKeehan stated that a lot of time has been spent on correspondence. He also was not aware of the additional time that would be spent at the date of the original contract back in 2007. Mr. McKeehan stated that he had informed Mr. Markowitz that he was very close on his budget some time ago.

Councilman Schiro conveyed his appreciation for all of the hard work that has been spent on the project; however he expressed that it is the Council's fiduciary responsibility to the taxpayers to look closely at this amendment to the contract price. Councilman Arrington would like to see the issue tabled until all Council members are present to discuss the issue. Councilwoman Shifflett concurred that Mr. McKeehan should have come to Council earlier on this issue. Mr. McKeehan suggested a joint meeting with the Town and County to discuss the amendment. Mayor Presgraves concluded the discussion by suggesting that the Council will continue reviewing this amendment and contact Mr. McKeehan with further questions.

## **MAYOR'S ANNOUNCEMENTS**

Mayor Presgraves stated that Council will need to approve the 2009 Arbor Day Proclamation.

**Motion:** Councilwoman Shifflett motioned to accept the 2009 Arbor Day Proclamation, motion seconded by Councilman Lancaster with the vote as follows: YEA: Council Members Shifflett, Arrington, Lancaster, Schiro. **Approved 4-0**

Mayor Presgraves asked Council if they were pleased with the new format of the Town Manager's Report. Council concurred that the report was very thorough.

Councilman Lancaster stated that Rick Black has discussed the trailside restrooms with Mr. Baughan. Mr. Black stated that Council will need to specify the exterior details of the structure in order to begin design work. Councilman Lancaster suggested several items that he feels should be specific to the project. Council also discussed several alternate locations for the restrooms; Mr. Black reminded that if the restrooms are located near the park and ride facility they will not meet the grant requirements.

## **ADJOURN**

There being no further business, Mayor Presgraves adjourned the regular session of the Town Council at approximately 8:53 pm.

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Barry Presgraves  
Mayor

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Danielle P. Babb  
Deputy Clerk-Treasurer