

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

The Luray Town Council met in regular session on Monday, March 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 (Via Phone)
Lonnie Arrington
William Menefee
Leroy Lancaster
Jerry Schiro
Earl "Rock" Racer

Also Present: Rick Black, Town Manager
Bryan Chrisman, Assistant Town Manager
Jason Spidler, 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
Roy Miller, 8 Randolph Road, Luray
Pamela Flasch, 19 Amiss Avenue, Luray
Luther Johnson, Page News and Courier
Member of the Luray Planning Commission
Jim McNeely, 440 Ruffner House Lane, Luray
Steven Jessee Jr., 172 Lanark Rd, Rileyville
Steven Jessee Sr., 172 Lanark Rd, Rileyville
TJ Jewell, 124 Granite Drive, Stanley

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 Menefee motioned to approve the Consent Agenda, motion seconded by Councilman Racer with the vote as follows: YEA: Council Members Shifflett, Arrington, Menefee Lancaster, Schiro, Racer. **Approved 6-0**

Consent Agenda

- A) *Minutes of February 9, 2009 Regular Council Meeting*
- B) *Minutes of February 24, 2009 Work Session*
- C) *Financial Report for the period February 1-28, 2009*
- D) *Accounts payable checks totaling \$ 302,331.34*
- E) *The Ordinance and Resolution, prepared by Carolyn Perry, Bond Council for the Town of Luray, to accept a Loan from the Virginia Resources Authority in the amount of \$ 2,200,000.00 to finance the Luray Wastewater Treatment Plant Upgrade.*
- F) *The contract from Reid Engineering to provide a Resident Project Representative for the Construction of the Luray Wastewater Treatment Plant Upgrade.*

CHANGES OR ADDITIONS TO THE AGENDA

Mayor Presgraves recognized Commissioner Mary Menefee for completing citizen planning training. Mayor Presgraves noted that Commissioner John Meaney also completed the training but was not present at the evenings meeting. Mr. Meaney will be recognized at a later date.

PUBLIC HEARING

Special Use Permit- Steven Jessee Tax Map 42A11-A-19A; 21 North Broad Street

Town Planner, Ligon Webb, stated that Mr. Steven Jessee has applied for a special use permit to operate a tattoo parlor in the B-1 zoning district. The application states that the business is to be located within the Custom Chopper Shop located at 21 North Broad Street. The applicant has submitted a list of proffers including only customers over the age of 18, and to limit the size of the sign for his business. Mr. Webb provided an example of the City of Virginia Beach Ordinance that governs such proposals. Overall, Mr. Webb feels that Council should consider any negative effects that the business would have on the community. Mr. Webb stated that the Planning Commission did not see any such negative impacts and unanimously approved the request.

Councilman Racer questioned the size and design of the intended sign for the business. Councilman Schiro requested that the Council hear comments from the public and then raise any questions or concerns.

Mr. Steven Jessee, applicant, spoke before Council to explain his request. He also provided Council with his state licensure to provide this service. He explained that he completed schooling in New York and is currently shadowing a professional tattoo artist in the Front Royal area.

Mayor Presgraves opened the Public Hearing for citizen comment.

Pamela Flasch- 19 Amiss Avenue, Luray

Ms. Flasch began by stating that none of her comments were personal but may sound harsh. She emphasized concern for the shop being located at the corridor of the community entrance. Overall, Ms. Flasch stated that she does not feel the tattoo parlor is a good fit for the special use permit.

Jim McNeely- 440 Ruffner House Lane, Luray

Mr. McNeely stated that he believes anyone should be able to open a business as long as it is permissible with the Town Council. He expressed that he is not opposed to a tattoo parlor but feels that the location is just not appropriate.

Steven Jessee, Sr. - 172 Lanark Road, Rileyville

Mr. Jessee stated that he is supporting his son and does not foresee him posting a sign that is offensive or flashy. Mr. Jessee feels that all citizens should have the opportunity to operate a business in town, should they choose to do so.

TJ Jewell, 124 Granite Drive, Stanley

Mr. Jewell stated that he has not visited the tattoo parlor located in Stanley. However, he feels that a parlor in Luray would benefit those who otherwise would travel to Harrisonburg or Front Royal for this service.

Mr. Steven Jessee, applicant, stated that most tourists are coming in to Town from larger cities where these shops are more common. He expressed that he does not want to have any negative impact on the community.

With no further comments from the public, Mayor Presgraves closed the public hearing. Mayor Presgraves asked Council to express their opinions or questions. Councilman Menefee stated that he recognizes the parlor as a legitimate business endeavor. However, Mr. Menefee feels that the Town of Luray only has one opportunity to make a first impression on visitors. He reminded fellow Council members and citizens of the countless dollars spent on the creation of a nice corridor to the downtown area. Mr. Menefee stated that he does not want to see a business placed in the wrong area and feels the proposed location is not the right one. Councilman Schiro commended Mr. Jessee's presentation and stated that he welcomes new businesses to the downtown. Mr. Schiro questioned the process under which the special use permit request is coming before Council. Mr. Schiro would prefer to see the request withdrawn and presented to Council at a later time, after an ordinance amendment has been made to include regulations for such businesses. Councilman Arrington reminded that this is not the first time a tattoo parlor has been located in the Town of Luray. He stated that in his opinion, placing this business within another shop is the best location. Councilman Lancaster restated that the tattoo parlor would be within the existing Custom Chopper shop. Mr. Jessee replied that the parlor itself would not be visible to the outside and would have no offensive postings on the walls. Councilman Schiro asked Mr. Jessee of the regulations mandated by the health department on this type of business. Councilwoman Shifflett (present via phone) stated that she has had many concerned citizens comment on the location of the proposed business, not necessarily the nature of the business.

Councilman Lancaster asked Town Planner, Ligon Webb, how long it would take to follow Councilman Schiro's suggestion of an ordinance amendment. Mr. Webb stated that the process could be expedited but would likely have little effect on the applicants' request. Town Attorney, Jason Spitler, stated that the ordinance would allow for the regulation of such businesses but would not prohibit them. Mr. Jessee, applicant, told Council members that he would like to get his business up and running as soon as possible. Mr. Jessee reminded Council that the shop only has one window and that all tattoo work would be done in private, not visible from this window.

After discussion from Council and the applicant, Mayor Presgraves requested direction from Council.

Motion: Councilman Menefee motioned to deny the special use permit request, motion seconded by Councilman Schiro with the vote as follows: YEA: Council Members Shifflett, Menefee, Schiro NAY: Arrington, Lancaster, Racer. **Tied 3-3. With a tied vote, Mayor Presgraves voted against the denial of**

the special use permit, thus approving the request with the proffered conditions. Council directed staff to continue looking into the possibility of an ordinance amendment.

Councilwoman Shifflett requested to be excused from the meeting. Mayor Presgraves excused Ms. Shifflett from the remainder of the meeting, as she is at home recovering from surgery.

TOWN AFFILIATED BOARDS AND COMMISSIONS

Luray Downtown Initiative

Catherine Stewart presented Council with the brochure displaying the town activities for the coming year. Also, Ms. Stewart announced to Council that LDI will be receiving two awards from Virginia Main Street at the upcoming reception in Richmond. She invited Council members to attend if they so choose. Also, Ms. Stewart presented a “business recruitment package” that she is preparing to help with the high number of vacant businesses in the downtown area. Also, there was a handout that displayed a new banner designed by Graphic Services that would replace the summer banners. Ms. Stewart presented a design for a new marquee sign to replace the one that was previously located on Broad Street. The previous sign was removed due to poor aesthetics. This rendering was also designed by Graphic Services. Lastly, Ms. Stewart stated that LDI would like to partner with the Town for the grand opening of the Luray Passenger Depot.

Motion: Councilman Schiro motioned to approve a contribution toward the purchase of new banners, motion seconded by Councilman Arrington with the vote as follows: YEA: Council Members Arrington, Menefee Lancaster, Schiro, Racer. **Approved 5-0**

Airport Commission

Mr. Powell Markowitz stated that the T-Hangar Project is near completion. A final layer of asphalt is scheduled for installation in the next couple of weeks. He notified Council members that 21 spaces have been leased with 17 currently occupied. The commission is still negotiating with a mechanic to lease hangar space.

Mr. Markowitz stated that the AWOS project is getting underway as a pre-construction meeting has already been held. The completion date for the project is estimated for August 2009.

Mr. Markowitz told Council that currently the income from the T-Hangar leases are being handled by the Treasurer for Page County, C.R. Suddith.

GENERAL CITIZEN COMMENTS

Roy Miller, 8 Randolph Road, Luray

Mr. Miller expressed his concerns before Council and fellow citizens regarding water and sewer rates. Mr. Miller told Council that they should be mindful of raising rates since many citizens are losing their jobs while others are on fixed incomes. Mr. Miller stated that the economy is putting a strain on many people’s finances.

DEPARTMENTAL REPORTS

POLICE- PUBLIC SAFETY AND EMERGENCY SERVICES COORDINATOR'S REPORT

Chief Campbell provided his monthly report for Council and informed of 52 arrests and 223 total calls for service for the month of February.

Councilman Menefee questioned the status of skateboarding offenses. Chief Campbell replied that some skateboarding is still occurring in prohibited locations but overall there has been an improvement with the addition of the skate park.

Chief Campbell stated that there had been graffiti found on and along the Greenway.

Chief Campbell told Council of the recent Hazard Mitigation Meeting he had attended. Lastly, Mr. Campbell notified Council that he has been accepted into the FBI Academy and will be attending a 10 week session beginning in July.

Councilman Racer reminded fellow Council members and staff of the Crime Solvers meeting to be held later this week.

Town Attorney, Jason Spitler, stated that the ordinances passed previously by the Town Council captured several recent court cases for the Town.

PARKS AND RECREATION

Pat O'Brien, Director of Parks and Recreation, discussed the plans for the trailside restrooms. He stated that the proposed location of one of the facilities has been moved with approval from DCR.

Mr. O'Brien presented Council with a design for landscaping at the Luray Depot. Mr. O'Brien has contacted Fort Valley Nursery for their assistance in this design. Some of the cost associated with the landscaping may be eligible for grant funding.

PUBLIC WORKS DEPARTMENT

Lynn Mathews, Superintendent of Public Works, reported that the public works department repaired five water leaks for the month. Also, the department installed one new service tap at Pinehurst Court. The department has also installed a new service to provide drinking water on Phase IV of the Greenway. The department will be working on replacing a water line on Lillard Drive as well as other upcoming projects.

WASTEWATER TREATMENT DEPARTMENT

Mr. Hoke stated all distribution samples came back negative. Regarding the Water Treatment Plant, Mr. Hoke stated that the 2 million gallon tank is near completion and has met approval by both an independent inspector and the Page County Building Officials. The tank is scheduled for painting in the late Spring. Mr. Hoke hopes the tank will go on line by the middle of May.

Charlie Hoke, Director of Utilities, noted that the financing for the Waste Water Treatment Plant had been questionable due to state budget cut-backs. However, the obligation for financing has been reassured with

state funds remaining in the water improvement quality fund rather than being transferred to the general fund. Mr. Hoke is assured that the Town of Luray will receive funding along with 41 other projects across the state.

Lastly, Mr. Hoke told Council that the wastewater treatment plant was compliant with all regulations for the month.

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 from the Airport Commission to utilize the "Bennett House" as a professional office to support the activities of the airport.

Mr. Webb is working on a review of the sign ordinance as well as the proposed ordinance for accessory dwelling units. Mr. Webb stated that at the February meeting the Planning Commission approved the proposed ordinance. Mr. Webb requested that Council review the ordinance before he advertised for a public hearing. Councilman Lancaster stated that he objects to the ordinance and does not like the provision against the ordinance applying to new construction. Mayor Presgraves suggested that Council members contact Mr. Webb with concerns before the public hearing is advertised.

Lastly, Mr. Webb stated that a master schedule for recycling has been provided to the public. Also, Mr. Webb announced that Tractor Supply Company has plans to occupy the vacant property adjacent to the Schewels site.

OLD BUSINESS

Delta Engineering

Town Manager, Rick Black, stated that an amendment to the contract with Delta Engineering would be needed to close out the construction of the T-Hangar project. The Town's portion would be in the amount of \$7,030.50 with DOAV picking up the remaining \$6,634.00. Mr. Markowitz reminded Council that these amounts did not include any prior engineering services. These services would be incurred in the closing out of the project thus forward. Mr. Markowitz stated that the previously budgeted funds had been exhausted. Town Attorney, Jason Spitler, questioned Delta Engineering's obligation to complete the project without a budget revision. Mr. Markowitz stated that the original contract was an estimate and is uncertain of the obligation to complete the project without further compensation. Mr. Markowitz expressed his certainty that Mr. McKeehan would complete the project regardless of the amendment to the contract. Mr. Spitler clarified with Mr. Markowitz that the amendment amount represented fees after the notification of the budget overage. Councilman Schiro stated that this amendment is indeed what Council requested; an amount for the remainder of work to be done. Mayor Presgraves stated that it would be necessary for all parties to agree on the contract amendment (the Town, Page County, and Delta).

Motion: Councilman Menefee motioned to approve the amendment to the Delta contract as presented, motion seconded by Councilman Arrington with the vote as follows: YEA: Council Members Arrington, Menefee Lancaster, Schiro NAY: Racer. **Approved 4-1**

NEW BUSINESS

LHS 2009 After Prom Celebration

Town Manager, Rick Black, presented a request for a donation to the After Prom Celebration.

Motion: Councilman Menefee motioned to approve a contribution to the LHS 2009 After Prom Celebration in the amount of \$1,000, motion seconded by Councilman Racer with the vote as follows: YEA: Council Members Arrington, Menefee Lancaster, Schiro, Racer. **Approved 5-0**

Local Government Challenge Grant

Town Manager, Rick Black, stated that the Town has participated in the Local Government Challenge Grant for many years now. Last year the grant amount was split between Performing Arts Luray and the Bluemont Concert Series. Councilman Lancaster suggested terminating the portion given to the Bluemont Concert Series. Councilman Racer suggested splitting the funds with LDI.

Motion: Councilman Lancaster motioned to participate in the Challenge Grant with all funds being provided to Performing Arts Luray, motion seconded by Councilman Menefee with the vote as follows: YEA: Council Members Arrington, Menefee Lancaster, Schiro NAY: Racer. **Approved 4-1**

VDOT

Town Manager, Rick Black, reminded Council of the plans to close the Administrative office of Luray VDOT. The closure is anticipated for June 2009. Mr. Black would like to see Council adopt a resolution in support of keeping the office open to send to state legislators. Council's consensus was to prepare a resolution in support of the Luray office.

Reid Engineering

Town Manager, Rick Black, stated that Reid Engineering did not select the low bidder for the special testing portion of the Water Treatment Plant Project. Mr. Black told Council that he plans to request more answers on their selection.

TOWN ATTORNEY'S REPORT

EXECUTIVE SESSION

Consideration of the investment of public funds where bargaining is involved, Section 2.2-3711.A.6

Town Attorney, Jason Spitler, stated that the only business he had for the evening would require an executive session. Mayor Presgraves requested a motion to adjourn into Executive Session for the purpose of discussing Section 2.2-3711.A.6. **Motion:** Councilman Lancaster motioned to recess the regular session and to convene in executive session; Councilman Schiro seconded the motion with the following members voting YEA: Council Members Arrington, Menefee, Lancaster, Presgraves, and Racer.

Approved 5-0

Motion: Councilman Lancaster motioned to adjourn the closed session and to reconvene in open session; Councilman Menefee seconded the motion with the following members voting YEA: Council Members Arrington, Menefee, Lancaster, Presgraves, and Racer. **Approved 5-0**

After reopening the meeting, Council agreed that the only item discussed was the Investment of Public Funds during the Executive Session.

MAYOR'S ANNOUNCEMENTS

Mayor Presgraves reminded Council of the VDOT meeting in Verona on Thursday, March 12th at 6:00pm for those who would like to attend.

ADJOURN

There being no further business, Mayor Presgraves adjourned the regular session of the Town Council at approximately 9:45 pm.

Barry Presgraves
Mayor

Danielle P. Babb
Deputy Clerk-Treasurer