

**MINUTES OF A REGULAR MEETING OF THE TOWN COUNCIL OF THE
TOWN OF LURAY, PAGE COUNTY, VIRGINIA
November 14, 2005**

The Luray Town Council met in regular session on Monday, November 14, 2005 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 Ralph Dean

Council Present: Nancy Shifflett Barry Presgraves Leroy Lancaster
Earl "Rock" Racer William Menefee

Council Absent: Gerald Snyder

Also Present: Jerry Schiro, Town Manager
Rick Black, Assistant Town Manager
Mary Broyles, Clerk-Treasurer
Shelley Owens, Deputy Clerk-Treasurer
Wayne Petefish, Asst. Chief of Police
Lynn Mathews, Superintendent of Public Works
Pat O'Brien, Director of Parks & Recreation
Jason Spitler, Town Attorney
Media: 1 (Page News & Courier)
Other Interested Parties Present: 25 (Approximately)

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

CONSIDERATION OF MINUTES

Minutes of the October 11, 2005 Regular Meeting of the Luray Town Council were submitted for review.

Motion: Councilwoman Shifflett motioned to approve the minutes as presented; motion seconded by Councilman Racer with the following YEA: Council Members Shifflett, Menefee, Lancaster, Presgraves, and Racer. Approved 5-0.

Minutes of the November 7, 2005 Council Work Session were presented for review. **Motion:** Councilman Menefee motioned to approve the minutes as presented; seconded by Councilman Racer with the following YEA: Council Members Shifflett, Menefee, Lancaster, Presgraves, and Racer. Approved 5-0.

PUBLIC HEARINGS

Personal Property Tax Relief Ordinance Changes

Town Manager, Jerry Schiro opened a public hearing to address public view concerning the proposed ordinance changes pertaining to the Personal Property Tax Relief Act of 1998 (PPTRA). Proposed changes are mandated through legislative enactments which provide for the computation and allocation of tax relief to owners of qualifying personal property tax on vehicles. This change would amend Chapter 78 of the Luray Town Code by incorporating the addition of Section 78-7.1 as presented. The adoption of Council Resolution 2005-11-02 will comply with all legislative requirements for the 2006 tax year. No public concerns or questions were presented.

**Vacation of Public Right-of-Way: Thomas Wiatrowski
Page County Tax Map #42A12-3-44**

Assistant Town Manager, Rick Black opened a public hearing to address public comment pertaining to a request to vacate an alleyway which provides a twenty-foot (20') right-of-way and separates lots 6 and 7 from lots 10 and 11 located in the vicinity of 213 Fifth Street in Luray, Virginia. An adjacent portion of the right-of-way was previously dedicated to a church which created a dead-end alley. Councilman Lancaster stated Council precedence has been to dedicate an entire alleyway if any portion of it is vacated. Councilman Presgraves confirmed that if the entire alley is vacated, each property owner would receive half of the alleyway adjoining their property. No public opposition to the requested dedication was presented.

GENERAL CITIZEN COMMENTS

Luray-Page County Airport – Mr. Powell Markowitz

Mr. Powell Markowitz, Secretary/Treasurer of the Luray-Page County Airport Commission addressed Council concerning the proposed rezoning of the property located adjacent to the airport. Mr. Markowitz stated the airport was recently approved for grant funding in the amount of \$160,000 to be utilized for expansion of the airport. Compliance regulations of this grant restrict residential development within a defined proximity to the airport. Mr. Markowitz added, the Page County Board of Supervisors will meet and vote on a proposed rezoning of the land within this proximity tomorrow evening, November 15, 2005. This rezoning if permitted, would void the airport's eligibility to receive the grant funds. Mr. Markowitz requested Council attend the Page County Board of Supervisors meeting, submit a resolution defining the Council's opposition to the rezoning request, and initiate a Town / County Planning and Zoning Airport Land Use Compatibility Plan. In reference to the residential development in progress behind Wal-Mart, Mr. Markowitz suggested Council require the developer to have prospective property owners sign a statement indicating awareness they are purchasing property within a transition area which could be affected by air traffic noise. Following further discussion, Councilman Menefee motioned to formally request the Page County Board of Supervisors table any decision on rezoning the property located in the airport vicinity until such time as the County Planning Commission is allowed to further review the implications of the proposed rezoning. Councilman Lancaster seconded the motion with the following council members voting YEA: Council Members Shifflett, Menefee, Lancaster, Presgraves, and Racer. Approved 5-0.

Rod Graves – Luray Caverns Corporation

Mr. Rod Graves of the Luray Caverns Corporation addressed Council to voice the support of Luray Caverns in reference to Powell Markowitz's efforts to deter residential rezoning of property located in the Luray-Page County Airport vicinity. Mr. Graves stated he met with the officials of the residential development behind Wal-Mart last week in order to discuss several concerns including the availability of water and sewer service for the development which will house between 1,200 and 1,400 residents. Mr. Graves also expressed concern regarding future traffic congestion in the Luray Caverns area and possible wastewater infiltration into the caves if the sewer distribution system is altered.

TREASURER'S REPORT

Treasurer's Report of Cash on Hand as of November 14, 2005:

SunTrust Bank:	
General Fund Account.....	\$ 2,658,565.83
Pioneer Bank:	
General Fund Account.....	\$ 0.00
Cash on Hand:	\$ <u>20,810.75</u>
	TOTAL: \$ 2,679,376.58
Savings Accounts:	
PVB-FmHA Sewer Plant Sinking Fund.....	\$ 28,788.00

Mary Broyles, Town Clerk / Treasurer submitted to Council for approval, Accounts Payable invoices in the total amount of \$ 219,467.52. **Motion:** Councilman Menefee motioned to approve payment of the list of invoices presented, seconded by Councilwoman Shifflett with the following council members voting YEA: Shifflett, Menefee, Lancaster, Presgraves, and Racer. Approved: 5-0.

TOWN MANAGER'S REPORT

Town Manager, Jerry Schiro stated the Luray Planning Commission has agreed to move their regular monthly meetings to the first Wednesday following the regular Town Council meetings. This change is necessary to allow staff ample time to provide Town Council with current information recommended by the commission.

Mr. Schiro indicated the Page County Board of Supervisors intends to eliminate vehicle decals in 2006 although the decal fee will be added to personal property tax bills. During a Board work session on personal property tax relief, Mr. Schiro conveyed concerns primarily in reference to the inability to enforce payment of personal property taxes if the decals are eliminated. The County along with the Sheriff's Department and municipal police agencies will meet to discuss this matter in more detail.

The booster pumps are now online at the west end water booster pump station and are functioning properly.

A second shipment of windows for the Train Depot has been received; installation will be done in-house. The remaining windows should be shipped sometime this month.

Mr. Schiro stated VF Jeans will be laying off an additional 167 employees in January 2006. Approximately 200 employees consisting of management and shipping personnel will remain employed at the plant.

TOWN ATTORNEY'S REPORT

Town Attorney Jason Spitler stated Council has been presented with an ordinance to vacate the public right-of-way located in the block between Third and Fourth Streets, and Luray and Fourth Avenues, (Page County Tax Map Number 42A11-18-87-12), and convey this property to John B. Owen and Diane Owen. **Motion:** Councilman Menefee motioned to adopt the ordinance as presented; to be entered into record as Council Resolution 2005-11-12. Motion seconded by Councilwoman Shifflett with the following council members voting YEA: Shifflett, Menefee, Lancaster, Presgraves, and Racer. Approved: 5-0.

Mr. Spitler stated a total of nine other ordinances have been presented for council approval, all of which relate to proposed code amendments. Adoption of these ordinances will need to be deferred until New Business is discussed and Council Resolution 2005-11-01 is approved for the adoption of the recodified Town Code. In reference to the ordinance amending Section 82-140 of the code and dealing with the concealment of inoperable vehicles, Councilwoman Shifflett asked if a covered vehicle in place before adoption of the ordinance would be grandfathered in. Mr. Spitler stated the ordinance will not allow for grandfathering and all residents will be bound by the verbiage of the newly adopted ordinance. The ordinance provides the town with authority to adopt state code which would allow us to remove vehicles in violation, following reasonable notice, at the expense of the owner. In reference to the ordinance defining snow and ice removal requirements, Mr. Spitler clarified that the occupant of the residence will be responsible for compliance.

DEPARTMENTAL REPORTS

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

Chief of Police, Page Campbell presented written reports of police department activities and statistics for the month of October 2005. Assistant Chief of Police, Wayne Petefish stated he has no additional comments to add unless Council has any questions.

- **PARKS & RECREATION DEPARTMENT**

Parks Director, Pat O'Brien presented council with verbal updates of his department's activities during the month of October 2005.

- Trees donated by the Page County Tree Board were planted along Phase III of the Greenway.
- The Plaza brickwork project is approximately 90% complete; lighting and electrical outlets were added.
- A Christmas tree decorating contest, sponsored by the Luray Tree Committee will be held at the Mimslyn Inn this holiday season.
- As part of the Adopt a Stream Program, the fourth annual Hawksbill Creek cleanup was conducted.
- A pedestrian crosswalk was installed along Mechanic Street to facilitate crossings to the Greenway.
- Ken Beyer and Pat O'Brien recently made presentations to a Congressional Appropriations Committee on Capitol Hill to assist in lobbying for continued funding from forestry agencies.
- Pat O'Brien has developed a landscaping plan for the Highway 340 entryway to beautify this area.

- **PUBLIC WORKS DEPARTMENT**

Public Works Director, Lynn Mathews stated all water tests were in compliance during the month of October. The department will be collecting bagged leaves this month, begin Christmas decorating, and continue working on the storm drainage program.

- **WASTEWATER TREATMENT DEPARTMENT**

On behalf of Wastewater Superintendent, Charlie Hoke, Jerry Schiro stated the wastewater plant is in compliance with all state and federal regulations.

OLD BUSINESS

Assistant Town Manager Rick Black stated the four agenda items under old business were discussed in public hearings held during the October 11, 2005 regular Council meeting.

Rezoning: R2 to R3 – Page County Tax Map Number 42A16-3-(1-13) and 29A

Applicant – Chris Ramsey and Art Ellis, Jr.

Mr. Black stated the applicants are seeking rezoning of property located on Fairview Road from Luray Residential R-2 to R-3 in order to allow construction of duplexes. Councilman Presgraves questioned if the town has received design drawings for this project. Mr. Chris Ramsey stated the lots are already platted and plat maps have been submitted although project design plans have not yet been developed. **Motion:** Councilman Menefee motioned to deny the rezoning request presented by applicants Chris Ramsey and Art Ellis, Jr. Councilman Lancaster seconded the motion with the following votes recorded. To deny the rezoning request; YEA: Council members Menefee, Lancaster, and Racer. NAY: Council members Shifflett and Presgraves. Request Denied: 3-2.

Rezoning: M1 to R5 – Page County Tax Map Number 42A5-A-88

Applicant – Charles A. Judd

Rick Black stated the applicant is seeking rezoning of this parcel located at the intersection of Collins Avenue and Fairlane Road in order to construct a single family residential dwelling. Councilman Racer requested verbal confirmation from Mr. Judd that he understands construction of a residential dwelling in this area which is adjacent to the fair grounds, and located in a high traffic area, is not a quiet residential

environment and despite these facts, he still wishes to rezone this land to construct a home. Mr. Judd confirmed he is aware of the surrounding environment as indicated. **Motion:** Councilman Menefee motioned to approve rezoning of the parcel identified as tax map number 42A5-A-88 to Luray Residential R-5. Motion seconded by Councilman Presgraves with the following council members voting YEA: Shifflett, Menefee, Presgraves, and Racer. NAY: Council member Lancaster. Approved: 4-1.

Special Use Permit, Page County Tax Map Number 42A12-A-110

Applicant – Barry W. Nichols

Assistant Town Manager Rick Black stated the applicant is requesting rezoning of his property located on the west side of Painter Street between East Main Street and Constitution Avenue to permit construction of a single family dwelling in a B-1 district. **Motion:** Councilman Menefee motioned to approve the special use permit for construction of a single family dwelling on the parcel identified as tax map number 42A12-A-110 located in a B-1 district. Motion seconded by Councilman Lancaster. Barry Presgraves stated he would like to discuss this request further and indicated the special use permit application does not provide what residential zoning the property would be in. Following discussion, the property identified will be classified as R-2 following approval of the special use permit. The following council members voted YEA to approve the special use permit as indicated: Council members Shifflett, Menefee, Lancaster, Presgraves, and Racer. Approved: 5-0.

Zoning Ordinance Amendment: Planned Neighborhood Development District

Rick Black stated an amendment to Appendix A of the Planned Neighborhood Development (PND) has been submitted for Council consideration. The proposed amendment identifies the PND as an overlay zoning district to allow planned neighborhood development on large tracts of land characterized by uniform site design for a variety of housing types and densities, clustering of buildings, common open space, and a mix of building types and land uses in which project planning and density calculations are performed for the entire development rather than on an individual basis. Jerry Schiro stated this proposal was the subject of a Council Work Session at which time it was the consensus of the Council that this amendment be remanded to the Planning Commission for further study based upon questions presented by Mark Reed as the Representative for Baker Development. **Motion:** Councilman Racer motioned to remand the proposed PND zoning ordinance amendment pursuant to Section 15.2-2204 of the Code of Virginia, as amended, to the Luray Planning Commission for further evaluation and recommendation. Motion seconded by Councilman Presgraves with the following council members voting YEA: Shifflett, Menefee, Lancaster, Presgraves, and Racer. Approved: 5-0.

NEW BUSINESS

Water Treatment Plant

Professional Services Contract

Jerry Schiro stated a contract has been submitted from Patton, Harris, Rust, and Associates for design of the water filtration plant. This contract was discussed at the last Council Work Session and a breakdown of the engineering costs are provided in the Council packets. Construction management is not included in the proposal; an independent organization will be used to supervise construction of the plant. The total fixed design cost proposed is \$280,000.00 with an anticipated budget for construction and post-construction at an additional \$100,000.00. The \$100,000.00 is not part of the design engineering contract. **Motion:** Councilman Menefee motioned to authorize the Town Manager to execute the water filtration plant design contract with Patton, Harris, Rust, and Associates in the amount of \$280,000.00. Motion seconded by Councilman Racer with the following council members voting YEA: Shifflett, Menefee, Lancaster, Presgraves, and Racer. Approved: 5-0.

Council Resolution 2005-11-01: Recodified Town Code Adoption

Jerry Schiro stated the Town Code has been completely recodified and reorganized and must now be adopted by Council. **Motion:** Following discussion, Councilman Rock Racer motioned to adopt the Council Resolution 2005-11-01 for Recodification of the Town Code as presented. Motion seconded by Councilwoman Shifflett with the following council members voting YEA: Shifflett, Menefee, Lancaster, Presgraves, and Racer. Approved: 5-0. Mr. Schiro stated the Town Code will soon be available in electronic format on the town website.

Council Resolution 2005-11-02: Code Amendment – Personal Property Tax Relief

Jerry Schiro stated the proposed Council Resolution 2005-11-02 should be adopted in order to comply with state mandated changes to the Personal Property Tax Relief Act of 1998; Va. Code 58.1-3523.

Motion: Following discussion, Councilman Menefee motioned to adopt Council Resolution 2005-11-02 for amendment of the Code of the Town of Luray, Chapter 78, to include Section 78-7.1 describing the purpose, definitions, and relation to other ordinances. Motion seconded by Councilman Racer with the following council members voting YEA: Shifflett, Menefee, Lancaster, Presgraves, and Racer. Approved: 5-0.

Council Resolutions 2005-11-03 through 2005-11-11: Modified Ordinances

Jerry Schiro thanked Town Attorney Jason Spitler for his review of the existing town ordinances. Once the proposed Property Maintenance Code was rejected, Mr. Spitler researched ordinances and modified them accordingly to provide more enforceable verbiage. Nine ordinances were presented for consideration. Councilman Menefee requested a change to the proposed amendment of Town Code Section 74-9: Change the height in paragraph 1. (a) and paragraph 1. (b) to nine (9) feet above the sidewalk clearance where the wording refers to the distance any sign, awning, tree, shrub, or other thing may hang over a sidewalk. **Motion:** Following further discussion and clarification of enforceable terminology, Councilwoman Shifflett motioned to adopt the following ordinances as presented with the exception of Section 74-9 which shall be amended as requested by Councilman Menefee. The nine ordinances shall be entered into permanent record by Council Resolution Number as follows:

- Council Resolution 2005-11-03: Barking Dogs - An ordinance amending Section 18-36 of the Code of the Town of Luray, Virginia.
- Council Resolution 2005-11-04: Unnecessary Noise – An ordinance amending Section 58-5 of the Code of the Town of Luray, Virginia.
- Council Resolution 2005-11-05: Accumulation of Garbage – An ordinance amending Section 42-1 of the Code of the Town of Luray, Virginia.
- Council Resolution 2005-11-06: Weed Control – An ordinance amending Section 90-1 of the Code of the Town of Luray, Virginia.
- Council Resolution 2005-11-07: Inoperable Vehicle Storage - An ordinance amending Section 82-140 of the Code of the Town of Luray, Virginia.
- Council Resolution 2005-11-08: Objects over Sidewalks - An ordinance amending Section 74-9 of the Code of the Town of Luray, Virginia.
- Council Resolution 2005-11-09: Street and Sidewalk Debris - An ordinance amending Section 74-17 of the Code of the Town of Luray, Virginia.
- Council Resolution 2005-11-10: Snow and Ice Removal - An ordinance amending Section 74-19 of the Code of the Town of Luray, Virginia.
- Council Resolution 2005-11-11: Vision Impedement of Streets - An ordinance amending Section 74-19 of the Code of the Town of Luray, Virginia.

Councilman Racer seconded the motion with the following council members voting YEA: Shifflett, Menefee, Lancaster, Presgraves, and Racer. Approved: 5-0.

MAYOR'S ANNOUNCEMENTS

Jerry Schiro presented two proposals for the employee Christmas Party Meal. Following discussion, it was the consensus of Council to hold the 2005 Employee Christmas Party at the Luray Fire Station on December 14, 2005.

RECONVENE & ADJOURN

There being no further business to transact, Mayor Dean adjourned the regular session of the Town Council at approximately 8:25 p.m.

Mayor Ralph H. Dean

Attest:

Michelle Owens, Deputy Clerk / Treasurer