

**MINUTES OF A SPECIAL MEETING OF THE TOWN COUNCIL OF THE
TOWN OF LURAY, PAGE COUNTY, VIRGINIA
September 26, 2005**

The Luray Town Council met in special session on Monday, September 26, 2005 at 6:00 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 Gerald Snyder
Leroy Lancaster Earl "Rock" Racer William Menefee

Staff Present: Jerry Schiro, Town Manager
Rick Black, Asst. Town Manager
Jason Spitler, Town Attorney
Shelley Owens, Deputy Clerk / Treasurer

Others Present: Page News & Courier

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.

Town Manager Jerry Schiro stated the purpose of this meeting is to allow further discussion concerning the proposed property maintenance code and determine what enforcement alternatives the town may have.

Town Attorney Jason Spitler stated the town has two options; follow the complicated B.O.C.A. code procedures of enforcement or allow an outside third party such as the county to handle building code enforcement. Mr. Spitler added, in reference to the adoption of individual ordinances to enforce building maintenance, town ordinances can only be enacted if the ordinance does not attempt to undermine the federal procedures and inspection requirements mandated under B.O.C.A. (Building Officials and Code Administrators International, Inc.) The town currently has ordinances in effect which require certain stipulations concerning the maintenance of properties such as tree trimming, sidewalks, grass-cutting, etcetera, and the council can adopt additional ordinances to cover anything outside the scope of structural / building maintenance. In response to questions from the Mayor and Councilman Menefee, Mr. Spitler stated the town does have the authority to adopt ordinances requiring the clean-up of debris and disposal of refuse away from public view. Council must comply with B.O.C.A. only as it pertains to the structure itself; for instance, the town can not force someone to replace pieces of missing siding on their home because this is considered structural maintenance. Jerry Schiro stated council has the authority to adopt ordinances concerning visible storage of inoperable vehicles, un-kept lawns, and other similar property maintenance issues provided we do not involve the structure itself. Mr. Spitler added, the council can adopt any property maintenance issue they choose but in the event the enforcement of compliance goes to court, and the ordinance involves conflicting issues mandated under B.O.C.A., the town would without question, lose the case. Research of case law involving property maintenance code outside the scope of B.O.C.A. indicates this precedence in trial courts, the Court of Appeals, and State Supreme Courts.

Mr. Spitler stated he would like to meet with the Town Manager and Chief of Police to review all property maintenance related ordinances currently in force. Review of these ordinances will allow staff to recommend additional ordinances needed, enact more stringent penalties for violations, and to re-evaluate those ordinances which may be conflicting with B.O.C.A.

Mayor Dean requested legal clarification of the town's authority in respect to old or inoperable vehicles. Mr. Spitler stated B.O.C.A. defines the term "screening from public view" as enclosing the vehicle within a building or structure or shielding the vehicle from public view by using a tarp as a shield. Mayor Dean stated that if the tires are still visible beneath a tarp, the vehicle is not completely screened or shielded from view. In reference to parking vehicles on lawns, Mr. Spitler indicated the council could adopt an ordinance requiring all vehicles be maintained on gravel or paved surfaces to eliminate this issue however, we then become bound by enforcement issues even if the lawn parking is temporary due to the need for additional parking during an event held on a person's property. Mr. Spitler added, B.O.C.A. defines an inoperable vehicle as any vehicle which has been rendered inoperable due to the removal of a part which would prevent the vehicle from passing a state inspection.

Following further discussion, it was the consensus of the council to begin more consistent and strict enforcement procedures of current ordinances.

There being no further business to transact, Mayor Dean adjourned the special session of the Town Council at approximately 6:40 p.m.

Mayor Ralph H. Dean

Attest:

Michelle Owens
Deputy Clerk / Treasurer