

**A REGULAR MEETING OF  
THE TOWN COUNCIL  
OF THE TOWN OF LURAY, PAGE COUNTY, VIRGINIA**

**MONDAY, JULY 8, 2013**

The Luray Town Council met in regular session on Monday, July 8, 2013 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:** Ronald Vickers  
Pam Flasch  
Mary Menefee  
Leroy Lancaster  
Joey Sours  
John Meaney

**Also Present:**  
Charlie Hoke, Temporary Town Manager  
Bryan Chrisman, Assistant Town Manager  
Mary Broyles, Town Clerk/Treasurer  
Danielle Babb, Deputy Clerk/Treasurer  
Ligon Webb, Town Planner  
Jason Spitler, Town Attorney  
G.R. Anderson, Luray Police Department  
Liz Lewis, Luray Downtown Initiative  
John Robbins, Luray Page County Chamber of Commerce  
Floyd Maxey, 15 Moyer Avenue  
Powell Markowitz, Luray Page County Airport  
Erik Fox, Vacation of Right-of-Way Request

A quorum being present, Mayor Barry Presgraves declared the Council to be in session for the transaction of business. All present stood for a moment of silence. Councilman Vickers led everyone in reciting the United States Pledge of Allegiance. The roll was called with all members present.

**CONSENT AGENDA**

**Motion:** Councilman Lancaster motioned to approve the Consent Agenda, motion seconded by Councilman Sours with the vote as follows: YEA: Council Members Vickers, Flasch, Menefee, Lancaster, Sours, Meaney.  
**Approved 6-0**

***Consent Agenda***

- A) Minutes of the June 10, 2013 Regular Council Meeting
- B) Minutes of the June 12, 2013 Joint Meeting of Board of Supervisors & Town Council
- C) Minutes of the June 25, 2013 Council Work Session
- D) Financial Report for the period June 1-June 30,2013
- E) Accounts payable checks totaling \$171,505.59

## **GENERAL CITIZEN COMMENTS**

### **Floyd Maxey -15 Moyer Avenue**

Mr. Maxey provided a handout to Council members and said that he has been reviewing the town's proposed policy on the Freedom of Information Act. Mr. Maxey feels that the major emphasis behind the act is missing from the town's policy. He said that there are two major provisions of the law and he has outlined these in the handout provided. Mr. Maxey discussed public access to information and the request for public records. Mr. Maxey discussed several areas of the law in detail and expressed his opinion on these. Mr. Maxey spoke about his previous FOIA requests to the town and responses received from town staff. He also opposed the proposed costs for printing and labor that are included in the town's policy. Mr. Maxey also opposed the portion of the proposed policy that suggests "view only pdf files". He discussed other areas of the draft policy and concluded the discussion by thanking Council members for their time.

## **PUBLIC HEARINGS**

### **Request for Portion of an Alley**

Town Planner, Ligon Webb, said that the purpose of the hearing is to receive public comments and to consider the vacation of a public right-of-way as requested by Mr. Erik Fox. Mr. Webb said that the area is roughly 25'x 20' feet of the town owned alleyway behind the parcel owned by Mr. Fox which is located on Second Street. Mr. Fox owns the adjacent lot, the rear of which lot has already had the alleyway vacated by the town. The town will maintain its utility and drainage easements across this property. Mr. Fox's goal is merely to straighten the property lines. Mr. Webb said that the required notices have been sent to adjacent property owners with no responses received. Mr. Webb also advised that the property owner to the rear of the lot is not interested in any portion of the alleyway.

Mayor Presgraves opened the public hearing for citizen comment. With no remarks from attendees, the public hearing was then closed.

**Motion:** Councilman Lancaster motioned to approve the vacation of public right-of-way request from Mr. Erik Fox as presented, motion seconded by Councilman Sours with the vote as follows: YEA: Council Members Vickers, Flasch, Menefee, Lancaster, Sours, Meaney. **Approved 6-0**

### **FAA Grant – Luray Page County Airport**

Mr. Powell Markowitz explained that the grants being considered this evening are for the upcoming airport projects to be completed this summer. The total cost of the project is \$2.4 million with grants from the DOAV and FAA anticipated to cover nearly all costs. The grant projects will include an asphalt overlay of the runway and upgrade the lighting system at the airport. Mr. Markowitz explained that the local share for the grant will be \$48,554 which would be split evenly between the town and county. Mr. Markowitz said that the funds are available for the local shares and he would not be requesting funding from the town or county.

Mayor Presgraves opened the public hearing for citizen comment.

### **Floyd Maxey -15 Moyer Avenue**

Mr. Maxey spoke before Council to express his opinion on the airport's lack of revenue generation. He reminded that every time the town and county approve a grant, the term of obligation is extended for an additional 20 years. Mr. Maxey expressed that he doesn't feel the airport is a wise investment.

With no further comments, Mayor Presgraves closed the public hearing.

**Motion:** Councilman Lancaster motioned to approve the FAA Grant Funding as discussed, motion seconded by Councilman Sours with the vote as follows: YEA: Council Members Vickers, Menefee, Lancaster, Sours, Meaney. ABSTAIN: Flasch. **Approved 5-0**

Councilwoman Menefee said that she appreciated Mr. Maxey's comments and that her expectation of the airport is not to make money but rather to generate economic development for the town. She added that the airport also improves public safety through the added benefits that it provides. Councilman Sours agreed that the airport is a very valuable asset and has been a very cheap one to maintain for the town as its local cost share is only two percent for the town and county. Councilman Meaney stated that without the airport the potential for benefits would not exist. Councilman Lancaster stressed the advantages for emergency helicopters through the benefits of the AWOS grant project.

Mr. Markowitz reminded of the upcoming appointments that will need to be made to the airport authority. Mr. Spitler and staff discussed the advertising for such members and its publishing in the local newspaper.

## **DEPARTMENTAL REPORTS**

### **PLANNING AND ZONING**

Town Planner, Ligon Webb, advised Council members that the Planning Commission will not meet for its regular July meeting. However, the commission is scheduled to hold a work session on August 7<sup>th</sup>, 2013. Mr. Webb said the commission will be discussing the sign ordinance and will be prepared to make a recommendation to Council at the August 12<sup>th</sup> meeting. Councilman Lancaster requested to review Mr. Webb's recommendations before passing on to commission members. Mr. Webb reported a total of 3 zoning permits for the month of June 2013 for a total value of \$44,000.

## **TOWN AFFILIATED BOARDS AND COMMISSIONS**

### **Luray Downtown Initiative**

Ms. Liz Lewis said that LDI has received a \$2500 grant for the North Broad/Main Street planting beds. She said this is a small improvement project but will bring consistency to the recently completed gateway corridor. The project will consist of low maintenance materials and a sculpture. Councilman Lancaster expressed concerns for conducting a grant project on private property and addressed maintenance issues. Ms. Lewis said that the property owner will be required to maintain the area and that the fund is "non-matching", so no additional cost will be incurred. Ms. Lewis said that LDI has also been working with the Buy Local/Farmer's Market Grant and has run its first advertising piece in the newspaper. Ms. Lewis plans to meet with the Farmer's Market board and to work on marketing such as a rack card and a proposed "pop-up" retail space. She explained that she is looking for a space for October through December to give the market a space during the holidays as the regular season ends in October. The eventual goal would be for a permanent indoor-outdoor farmer's market location in Luray. Ms. Lewis said that the Art-Filled Summer Day Camp is filling a very real need in the community for summer activities and is serving as LDI's summer fundraiser. Ms. Lewis said that the July 4<sup>th</sup> festivities were a big success and included the children's parade, fireworks, music, etc. Ms. Lewis noted that the events were good for downtown business owners as well. Upcoming events include continued Concerts on Main and Triathlon preparations.

## **Luray-Page County Chamber of Commerce**

Mr. John Robbins, Chamber Director, said that a great job was done on the July 4<sup>th</sup> festivities. Mr. Robbins announced that State Attorney General Ken Cuccinelli will be in Luray on August 28<sup>th</sup> for a luncheon for chamber members and citizens. Mr. Robbins said that normally the chamber strays away from any political endorsements; however, they see no reason not to help facilitate a connection between the Attorney General and the public. He added that a place and time will be announced later. Mr. Robbins said that the chamber is in the design phase of the 2013-2014 Visitors Guide with 200,000 copies scheduled to be printed in September. Mr. Robbins also stated that the chamber is working on a publication for new members to our community. The information would be in the form of a rack card and would detail the local contacts for setting up utilities, television, phone service, etc. The publication will also include information for new businesses locating in Luray. Mr. Robbins also said that the chamber is working with Page Memorial Hospital for promoting an information campaign that would help explain how Healthcare Reform will affect county citizens. Mr. Robbins said that he and Liz Lewis have been working on the shopper survey which they had hoped to present this evening; however, they are a bit short on their goal of responses and would like to further edit before a presentation is made. Mr. Robbins provided the chamber office statistics for June with 1,839 walk in visits and 775 tourist phone calls.

Lastly, Mr. Robbins mentioned that there have been some discussions with Page County on tourism funding. He said that more funding would assist with their ability to conduct paid advertising.

## **UPDATES**

### **Maintenance Agreement Form**

Temporary Town Manager, Charlie Hoke, presented the revised draft maintenance agreement form. Mr. Hoke said this was brought before Council at the last meeting and some changes have been made. Councilman Vickers said that he still opposed the document title and does not like the “contract” look of the document. Mr. Hoke said that this is a working document to assist departments in considering items from the public that may be donated to the town. The document provides staff the opportunity to determine how much it will cost to maintain the item, who will provide the maintenance, and any further specifications or departmental comments. The form would be brought back to Council with these comments before the town accepts any donations. Mr. Hoke said that if Councilman Vickers would still like the title changed he can change the wording. Mr. Vickers stated that he is glad the donor is no longer obligated to sign the document and is still not in favor of the title. Mr. Hoke said that he feels the document is necessary to allow better tracking of the town’s donations and the associated costs for each department. Councilman Meaney feels this is a good tool for future planning. Councilman Meaney inquired about how the topic came about. Mr. Hoke said that one department consistently is over budget and part of the reason is that the department is given many additional duties that are not considered in the budget process. In order to compensate for this, this agreement would substantiate the additional cost and additional funds could be allocated during budget planning. Councilwoman Flasch assumed that any prior donations are “grandfathered” into this and are already part of the annual budget planning. Council and staff discussed previous donations and they likely did not come before Council, but were merely accepted. Mr. Hoke advised that this item is for information only and does not require a formal adoption.

## **TOWN ATTORNEY'S REPORT**

### **Town FOIA Policy**

Town Attorney, Jason Spitler, discussed the updated version of the Town's Proposed FOIA Policy that he and Assistant Town Manager, Bryan Chrisman, have provided. Mr. Spitler explained that this document is essentially a restatement of the existing state law as it relates to the town's obligations to respond to all requests for public records under the Freedom of Information Act. Mr. Spitler explained that the document is intended to be a guide for town staff to navigate the state code as it exists so that the town can ensure its compliance and consistency in responses.

Councilman Vickers inquired about the cost of 50¢/page and asked how this number was arrived at. Mr. Spitler said that the cost is standard among most all local government agencies, for example the local court system. The act requires that the town charge its actual cost but Mr. Spitler said that there must be some level of subjectivity, as we are not able to determine an exact cost per document. Mr. Spitler said that this may be a minor issue when considering the overall policy; but certainly is something that can be revisited. Councilman Sours also noted that he felt this was a bit costly and would rather see the charge at maybe 10¢/page. Council continued to discuss the charge per copy and the associated proposed labor charge.

Councilman Meaney acknowledged that this is a critical matter but asked why we are considering this. Mr. Spitler said that one of the motivating factors was the recent increase in requests due to pending litigation. Nonetheless, Mr. Spitler said that there have been some questions and/or suggestions from those providing the FOIA requests and the intent is to create a manual for consistent responses.

Mayor Presgraves stated that he would like to see the town take the approach of being user friendly. He reminded that lengthy requests for information can become very costly and require a great deal of staff time. However, he would like to see us look at the situation differently for items that are readily accessible. Mr. Spitler said that perhaps some standards could be assigned. Mr. Hoke added that this policy was never intended for readily accessible documents/copies. Mr. Hoke said that the intent was to standardize the FOIA process for large documents and time intensive research. He also reminded that many documents are readily accessible on the town's website and that more and more items are being digitized. Mayor Presgraves said the more user friendly we are by utilizing the town's website, the less requests the town should receive. Mr. Spitler reviewed the four specific responses that the town must provide to these requests. He said that some requests may be readily available and others may take several days to research. Mr. Spitler also discussed the element of "reasonableness" and the town's efforts to comply with requests.

Council members discussed electronic copies and in what format they should be given. Mr. Spitler and staff discussed the intent to keep documents from being altered by providing them in a pdf format. Mayor Presgraves reminded that the town is not obligated to create a document but only to provide documents that currently exist.

Council members revisited the cost per page portion of the proposed policy. Mr. Spitler said that he has no opinion either way but that the words "copy fees of 50 cents per page" can be excluded from the policy if Council so chooses. He said that the cost issue can be handled several different ways and even minimum thresholds can be used. Mr. Spitler said that perhaps these items should be considered and proposed changes be presented at the work session.

## Updates

Mr. Spitler updated Council members on several other items of business this evening. Mr. Spitler informed that the ongoing case involving the former Town Manager was argued in Circuit Court last Tuesday. The hearing involved the validity of the contract for the former Town Manager and the judge has not yet made a ruling. Mr. Spitler advised that the worker's compensation claim hearing is still set for August and discussed the town's potential liability in this case. Mr. Spitler said that Mr. Markowitz discussed the Airport Authority Appointments earlier in the evening and said that these decisions will need to be made. One joint member will need to be appointed, with two independent members appointed by both the town and county. Mr. Spitler said that once the authority is formed, the town will then be looking ahead to visit the fixed based operator agreement. Other agreements will also need to be considered for funding and accounting for the airport. Also, a consolidation deed will need to be executed to convey the airport property from the town and county to the authority.

Mayor Presgraves asked Mr. Spitler for an update on the Nawrocki issue. Mr. Spitler said that the issue initially came from Quicken Loans who was serving as a prospective lender on a refinance for a primary deed of trust on the subject property. As a part of this process, staff discovered that the town does not have the necessary documentation on file concerning the requirement to rent the property to low-to-moderate income tenants. Low-to-moderate income tenants are defined by the federal government as tenants whose monthly rent does not exceed 35% of their total monthly household income. Essentially, records have to be filed that inform the town as to the amount of rent and verify the amount of monthly income of the tenant. This documentation would allow the town to communicate to the Virginia Department of Housing and Community Development to show that these obligations are met as a part of the former grant process. In summary, this lack of documentation was discovered as a part of the refinance issue. Mr. Spitler said that the town is not willing to subordinate its deed of trust to their future or pending deed of trust, neither is the town pleased that the records have not been filed with the town. Mr. Spitler stated that Ms. Babb, Deputy Clerk Treasurer, has put together a letter earlier this week requesting the necessary documentation be filed with the town within thirty (30) days, including forms required by the Virginia DHCD regarding the tenant lease agreements. Mr. Spitler stated that once a response is received from the Nawrocki's, we will have a better perspective of how much work is needed to comply with the records that need to be filed. Mr. Spitler maintained that despite the numerous calls received from Quicken Loans regarding this issue, the town will not subordinate its position until all records are filed with the town.

## ANNOUNCEMENTS

Mayor Presgraves thanked everyone for their hard work on the Employee Picnic.

## EXECUTIVE SESSION

**Personnel, Section 2.2-3711.A.1**

**Legal Matters, Section 2.2-3711.A.7.1**

Mayor Presgraves requested a motion to adjourn into Executive Session for the purpose of discussing and Section 2.2-3711.A.1 and Section 2.2-3711.A.7.1.

**Motion:** Councilman Lancaster motioned to recess the regular session and to convene in executive session; Councilman Meaney seconded the motion with the following members voting YEA: Council Members Vickers, Flasch, Menefee, Lancaster, Sours, Meaney. **Approved 6-0**

**Motion:** Councilman Vickers motioned to adjourn the closed session and to reconvene in open session; Councilman Meaney seconded the motion with the following members voting YEA: Council Members Vickers, Flasch, Menefee, Lancaster, Sours, Meaney. **Approved 6-0**

Mayor Presgraves asked members of Council to certify that to the best of their knowledge only matters covered under Section 2.2-3711.A.1 were heard, discussed, or considered during the closed session. **The roll was called with all members certifying “Yes”.**

## **ADJOURN**

Before adjourning the meeting, Mayor Presgraves stated that Danielle Babb, Deputy Clerk Treasurer, would be distributing the comprehensive Budget Workbook for FY 2013-2014 at the close of tonight’s meeting. He said that this has taken nearly a year to complete in house at a significant savings to the town and Mayor Presgraves expressed his appreciation for the work that has gone into this book.

With no further business, Mayor Presgraves adjourned the regular session of the Luray Town Council at approximately 9:14 pm.

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Barry Presgraves  
Mayor

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Danielle Babb  
Deputy Clerk-Treasurer