

**MINUTES OF A TOWN COUNCIL WORK SESSION
TOWN OF LURAY, VIRGINIA
Tuesday, July 24, 2012**

The Luray Town Council met in a work session on Tuesday, July 24, 2012 at 5:30 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
Lonnie Arrington
Mary Menefee
Leroy Lancaster
Joey Sours
John Meaney

Also Present: Rick Black, 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
Jerry Schiro, Luray Planning Commission
Floyd and Jeanie Maxey, Special Use Permit Request

The meeting was called to order by Mayor Barry Presgraves and everyone recited the Pledge of Allegiance to the flag. The roll was called with all members present.

Changes or Additions to the Agenda

Mayor Presgraves asked members if there were any changes or additions to the agenda. Mr. Black stated that Mayor Presgraves had asked to discuss the rate schedule and Councilman Lancaster would like to discuss water rights.

Public Hearing: A) Transfer of Real Property (Portions of TM# 54-A-35)

Town Manager, Rick Black, stated that a public hearing is scheduled for August 13th regarding the transfer of real property as discussed at the July 9th meeting. Mr. Black explained that deeds including survey plats have been prepared so that the Town could record a portion of the boundary survey for Lake Arrowhead. To staff's knowledge a complete boundary survey of the Lake Arrowhead property has never been recorded.

Councilman Lancaster questioned why the town is giving away property. Mr. Black said that when reviewing the boundary survey, none of the property lines meet up. He stated that in order to have a

straight line around our property, this makes the most sense. Mr. Black said that the adjacent landowner could also maintain that this is their property. Councilman Vickers asked how much property we are looking at. Mr. Black stated that the total acreage for both parcels is about 2.5 acres. Mr. Black explained that the items currently on record do not clearly state that these areas belong to the town. Town Attorney, Jason Spitler, said that these are being addressed as quitclaim deeds; because the Town is not warranting that it owns the property or has the right to convey title. Mr. Spitler said that the town is basically saying any interest we may have is being conveyed to the adjacent owner. Mr. Black said that this issue began with the nearby Hulver property. Mr. Lancaster said that it seems every time the town wants to do something with one of its properties, we find that the property has been surveyed many times and yet no one knows where the boundary lines are. He said that once this process is final, all boundary lines at the Lake should be permanently marked. Mr. Black said that this is also a problem on the other side of the lake next to the Seal property. Mr. Spitler said that the Seal property will be the third and final phase of the lake survey. He said that once the last phase is finished, there will be one final plat for the entire Lake Arrowhead Property and all the boundaries will be marked.

Public Hearing: B) Rezoning of Parcel TM#42A11-A-23 from M-1 to B-1

Town Manager, Rick Black, said that the parcel being discussed is located where the town plans to construct a storage facility. The Price House is currently located on the property and is currently zoned M-1, while adjacent properties are zoned B-1. The Luray Planning Commission unanimously approved the rezoning request at the July 11th meeting.

Rate/Fee Schedule- Special Use Permits

Mayor Presgraves said that he recognizes that the Council has approved the Budget for FY 2012-2013. However, he has received an email from Citizen Jeanie Maxey regarding her application for a special use permit in an R-2 zoning district. The request is not permitted by right and would require a special use permit. Ms. Maxey has been informed by Town Planner Ligon Webb that she would be responsible for the \$400 permit fee and also \$510 for the associated advertising costs. The total fee for this process would accumulate to over \$900. Mayor Presgraves said that this was the first applicant to be charged this amount. Mr. Black corrected by stating that Page Memorial Hospital and Luray Caverns were also both charged according to these rates. Mayor Presgraves stated that he thinks this is too much money to charge and has checked with other localities. He said that with the hard times we are currently living in, the rate we are charging for a special use permit is unbelievably high. Mayor Presgraves believes these charges stifle economic development and really discourage people from even applying for a permit. He said that he has no problem with the town covering their cost of advertising. Town Manager, Rick Black, said that the cost of the advertisement is \$127.50 for the minimum size ad which qualifies according to the state code. Councilman Arrington said that he believes staff does a great job, yet he has also heard comments on this. Mr. Arrington said he believes this cost is ridiculous. He said that the applicant is most likely doing this as a hobby. He also said that the town must cover its cost, but feels this is too much money for a special use permit. Mayor Presgraves said this is a discouragement for someone who is trying to make money and there is no guarantee of the permit's approval.

Councilman Arrington recalled that many years ago that he was accustomed to using one advertisement for both the Town Council and Planning Commission public hearings. Town Attorney, Jason Spitler, said that the state code has since changed concerning the governing of public hearings. The new regulations will not meet the criteria for the town's meeting schedule. He advised that the only way around the issue is to hold a joint public hearing between the two bodies; however, that may cause further administrative costs. Mr. Spitler said that the only leeway he sees is the town's charge of \$400. Mr.

Spitler said that a joint public hearing nearly defeats the purpose of the Planning Commission's recommendation to the Council.

Councilman Meaney said that he feels the important question is whether or not the town is encouraging potential business to occur in the town. Councilwoman Menefee inquired about the town's \$400 fee and what is covered under this charge. Mr. Black stated that this is to cover the town's staff's time for the entire application process. Councilman Lancaster said that while other members want to lower the cost of the application fee, he does not feel it is up to the taxpayers to pay for one citizen's request. Mayor Presgraves maintained that he feels this is going to discourage economic development rather than encourage it. Councilman Vickers inquired about the number of special use permit applications received each year. Town Planner, Ligon Webb, said that it can be as many as ten per year or as few as three. Councilwoman Menefee asked how long the fee has been in effect. Mr. Black stated that it has been in effect since 2007.

Councilwoman Menefee said that it seems unfair to charge the same amount to individuals trying to start up a business as would be charged to a large corporation. Mayor Presgraves said the type of business the applicant is requesting is for an in home occupation.

Councilwoman Menefee and Councilman Arrington both suggested asking the Planning Commission to look at the issue. Mayor Presgraves stated that the Planning Commission does not set the rates; rates are set by this council. Town Manager, Rick Black, said that this rate can be changed by the Council at any time since this is only an administrative cost. Councilman Lancaster said that these costs could be avoided by entering into a business district. He said that the reason these costs are there is because the applicant is requesting to place a business in a non-business zoned district. Councilman Lancaster suggested coming downtown to rent a location for the business.

Floyd Maxey- 15 Moyer Avenue

Mr. Maxey said that when discussing the fees associated with the permit, he asked that members keep in mind that he and his wife have been taxpaying citizens of Luray for the last eight years. Mr. Maxey said that they were under the impression that the entire fee was going to be \$400. After the payment of the \$400, they were informed that there would be an additional cost of \$510 for the associated advertising. Mr. Maxey said that he and his wife were not exactly "blind-sided" by these costs, but thought the entire cost would be the \$400 fee and an additional \$40 for a town business license. He said that if they had been aware of the entire cost, they would certainly have rethought this issue. Mr. Maxey maintained that this is basically a hobby, and many people are running businesses out of their home without the proper permits. Yet, he and his wife are trying to go through the proper procedures. He stated that this is prohibitively expensive for the expected revenue from this business.

Councilman Arrington asked former council member Jerry Schiro to speak on this issue. Mr. Schiro said that the rate was set back in 2007 when many of these requests were coming in. He stated that during this time a lot of money was being spent on advertising; therefore the decision was made to start charging for the advertising cost. Mr. Schiro said that there are several options for fee amounts that can be considered such as staff time, square footage, or type of use. He said that the advertising fees are going to be pretty much the same regardless of the request. Mr. Schiro added that the current economic conditions may warrant reconsideration by council. Mr. Schiro said that in 2005-2006 a lot of requests were for some big projects and the town was losing money back then.

Councilwoman Menefee discussed the options before Council, one of which is to lower the fee amount. Councilman Vickers said that he wants the town to be “pro-business” and is mainly concerned with covering the cost of the advertising. Councilman Arrington suggested tabling the issue for one month for further review. Councilman Vickers said that he did not feel that a month would make any difference in Council’s decision. Mr. Black recalled that prior to requiring special use permits for home businesses; the town charged a flat fee of \$50. He suggested charging the \$50 fee plus the actual cost of advertising.

Motion: Councilwoman Menefee motioned to revise the Rate Schedule for Special Use Permits for Home Occupations to \$50 plus the actual cost of advertising; Councilman Arrington seconded the motion with the following members voting YEA: Council Members Vickers, Arrington, Menefee, Lancaster, Sours, Meaney. **Approved 6-0**

Water Rights

Councilman Lancaster said that there are a lot of water sources that the town does not have deeds for. Councilman Lancaster suggested that we find out where these are, what exactly the town owns, and any associated right-of-ways. Mr. Lancaster suggested that staff do some further research for any needs that the town may have in the future. Assistant Town Manager, Bryan Chrisman, agreed that by compiling this information and having Council pass a resolution would be beneficial for many generations to come.

Tobacco Use Policy at R.H. Dean Recreation Park

Mr. Black stated that the Parks and Recreation staff has requested guidance on the lack of a written policy regarding tobacco use at the recreation park. Mr. Black said that in the past, ideas on the subject have ranged from “no use” to “no regulation”. Currently, the only signage in place prohibits smoking in the stands. Mr. Black said he feels it would be best to advise where tobacco products can be used rather than where they cannot be used. Mr. Black’s recommendation is to allow tobacco products to be used in the paved parking lot areas of the park which may eliminate any confusion. Mr. Black asked Council members if this was something they would support.

Councilman Arrington said that he is speaking as the only “smoker” in the group and that he has never had a problem with going to the parking lot area to smoke. He felt that the paved parking area was a good idea. Councilman Vickers inquired about the little league regulations on tobacco and advised that the most simplistic regulation is best. Councilman Sours asked how this message would be conveyed to visitors. Mr. Black advised that this would be incorporated into the rules of the park.

Motion: Councilman Arrington motioned to authorize the use of tobacco at the R.H. Dean Recreation Park in only the paved parking lot areas of the park; Councilman Vickers seconded the motion with the following members voting YEA: Council Members Vickers, Arrington, Menefee, Lancaster, Sours, Meaney. **Approved 6-0**

Luray Caverns Civil War Reenactment Event for 2013

Town Manager, Rick Black, discussed information from Luray Caverns regarding the “Civil War 150 History Mobile” that will visit the caverns in 2013. The exhibit will be located at the Luray/Page Museum from September 13th-15th 2013. Mr. Black explained that if the exhibit is not located in a state or federal park then the locality must approve the visit. Mr. Black says he has no objections and feels it would be nice for the caverns to have this opportunity.

Motion: Councilman Lancaster motioned to authorize the “Civil War 150 History Mobile” visit for Luray Caverns; Councilman Vickers seconded the motion with the following members voting YEA: Council Members Vickers, Arrington, Menefee, Lancaster, Sours, Meaney. **Approved 6-0**

Town Planner’s Report

Town Planner, Ligon Webb, stated that it has been five years since the comprehensive plan update; therefore the commission has been working on this year’s revision. Mr. Webb said that none of these plans are binding but he has some conceptual maps to illustrate plans that may happen. He also referenced private development, the VDOT six year plan, and other relevant information. Mr. Webb said that when the last update was completed a public session was held at the fire hall. He hopes to have a smaller scale session to allow for citizen feedback in the next month or so. Mr. Webb then provided a power point presentation with highlights from the plan updates.

Council and Staff then briefly discussed the monument progress and any possibilities for dressing up the area once the renovation is complete. Mr. Webb said that project is still scheduled to be completed in August.

Town Attorney’s Report

Town Attorney, Jason Spitler, said that he would ask council to consider adopting the ordinance he has drafted regarding the use of the town seal. Mr. Spitler referenced the key phrase from the ordinance which states “... *in any manner reasonably calculated to convey, a false impression of sponsorship or approval by the Town, or by any government department, agency or other instrument thereof...*”.

Motion: Councilwoman Menefee motioned to approve the Town Seal Ordinance as presented; Councilman Vickers seconded the motion with the following members voting YEA: Council Members Vickers, Arrington, Menefee, Lancaster, Sours, Meaney. **Approved 6-0**

Town Attorney, Jason Spitler, said that the only other matters for the evening concerned a request for Executive Session.

EXECUTIVE SESSION

Actual or Probable Litigation, Section 2.-3711.A.7

Mayor Presgraves requested a motion to adjourn into Executive Session for the purpose of discussing Section 2.2-3711.A.7.

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

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

Mayor Presgraves asked members of Council to certify that to the best of their knowledge only matters covered under Section 2.2-3711.A.7 were heard, discussed, or considered during the closed session. **The**

roll was called with all members certifying “Yes”. (*Councilman Arrington was absent upon reconvening.*)

Announcements

Mayor Presgraves stated that Cave Law is holding an open house on August 10th and he would like a response from members who plan to attend.

Mayor Presgraves offered his condolences to Councilman Sours at the loss of his grandmother. He told members that the service would be held tomorrow morning.

Councilman Lancaster stated that he is concerned about holding these work sessions. He is concerned that the public may not be hearing about items covered in the meeting. Mr. Lancaster felt that most of the items on the agenda could have been covered during the regular council meeting. For example, he would like for the public to have heard Mr. Webb’s presentation this evening. Mr. Lancaster said that he is not speaking on behalf of Councilman Arrington, but knows he feels the same way. Mayor Presgraves said that a work session will not be held unless it is warranted. Mayor Presgraves stated that there will not be a work session in September as members will be away at the VML Conference. Councilwoman Menefee reminded that these sessions are open to the public. Councilman Lancaster said that votes are not supposed to take place during the work session. Town Attorney, Jason Spitler, said that according to the Virginia Code, the work session constitutes the same public meeting as a regular council meeting. Mayor Presgraves said members will review the issue.

Adjourn

There being no further business, Mayor Presgraves adjourned the work session of the Town Council at approximately 7:40 pm.

Barry Presgraves
Mayor

Danielle P. Babb
Deputy Clerk-Treasurer