

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

**MONDAY, MARCH 11, 2013**

The Luray Town Council met in regular session on Monday, March 11, 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  
Mary Menefee  
Leroy Lancaster  
Joey Sours  
John Meaney

**Also Present:**

Jerry Schiro, Interim Town Manager  
Bryan Chrisman, Assistant Town Manager  
Mary Broyles, Town Clerk/Treasurer  
Danielle Babb, Deputy Clerk/Treasurer  
Jason Spitler, Town Attorney  
Ligon Webb, Town Planner  
Lynn Mathews, Superintendent of Public Works  
Junior Roy, Luray Police Department  
Pat O'Brien, Director of Parks and Recreation  
Charlie Hoke, Director of Utilities  
Liz Lewis, Luray Downtown Initiative  
John Robbins, Luray Page County Chamber of Commerce  
Powell Markowitz, Luray Page County Airport  
Danny Chu, Rezoning Request  
James G. Dovel, Special Use Permit Request  
Shirley Britt, 123 Mechanic Street

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. Councilwoman Menefee led everyone in reciting the United States Pledge of Allegiance.

**CONSENT AGENDA**

**Motion:** Councilman Vickers motioned to approve the Consent Agenda, motion seconded by Councilwoman Menefee with the vote as follows: YEA: Council Members Vickers, Menefee, Lancaster, Sours, Meaney. **Approved 5-0**

## *Consent Agenda*

- A) Minutes of the February 11, 2013 Regular Council Meeting.*
- B) Minutes of the February 21, 2013 Special Council Meeting.*
- C) Minutes of the February 26, 2013 Council Work Session.*
- D) Minutes of the March 2, 2013 Special Council Meeting.*
- E) Financial Reports for the period ending February 1-28, 2013.*
- F) Accounts payable checks totaling \$114,449.01.*

## **PUBLIC HEARINGS**

### **Danny Chu - Rezoning Request**

Town Planner, Ligon Webb, notified Council members of two public hearings for tonight's meeting. The first is a rezoning request from Mr. Danny Chu to rezone approximately ½ acre parcel from an R3 to a B1 zoning district. Mr. Chu would like to convert the existing car wash into mini-storage units. In the B1 zoning districts, mini-storage units are allowed only by special use permit. Therefore, if rezoned to B1 the applicant will apply for a special use permit, which will require an additional public hearing. Mr. Webb stated that one of Mr. Chu's neighbors has expressed an issue with the request only because of possible fencing that would restrict access to her property. Mr. Webb said that Mr. Chu has agreed to be a good neighbor and continue to allow her access to her property as in the past. Mr. Webb said that he feels this is an appropriate rezoning. Mayor Presgraves opened the public hearing for citizen comment.

### **Ms. Shirley Britt, 123 Mechanic Street-**

Ms. Shirley Britt said that she would like to thank Mr. Chu for his consideration of her request. She said that she has been accessing her property through Mr. Chu's property for many years and is appreciative of his consideration.

With no further comments, Mayor Presgraves then closed the public hearing. **Motion:** Councilman Lancaster motioned to approve the rezoning request for Mr. Chu, motion seconded by Councilwoman Menefee with the vote as follows: YEA: Council Members Vickers, Menefee, Lancaster, Sours, Meaney. **Approved 5-0**

### **James G. Dovel – Special Use Permit**

Mr. Webb presented the public hearing for Mr. James G. Dovel for a special use permit request to operate a storage warehouse on roughly 1 ½ acres zoned M1. Mr. Dovel currently owns the building on this parcel and wants to construct an addition to the existing structure of approximately 100 feet by 40 feet in size. Mr. Webb said that Mr. Dovel has provided a letter of conditions for the property which would convey with the parcel if it were sold. The addition to the property would require an approved town site plan and building permit. The addition would provide for mini-storage units that would accommodate between 40 to 100 individual units. Mr. Webb stated that he has not received any calls from neighboring parcel owners regarding the special use request. Mr. James Dovel explained that there is currently a structure on the property; he is only requesting to add on to the existing structure. He said

that he currently has two tenants in the existing building and hopes to keep these spaces filled. Mr. Dovel added that if he cannot keep the current space occupied, he may not build the additional structure. Regardless, Mr. Dovel said that he would like to move forward with the necessary procedures for the addition. Mayor Presgraves then opened the public hearing for citizen comments. With no one present to speak on the issue, the public hearing was then closed. **Motion:** Councilman Lancaster motioned to approve the special use permit request as presented, motion seconded by Councilman Meaney with the vote as follows: YEA: Council Members Vickers, Menefee, Lancaster, Sours, Meaney. **Approved 5-0**

## **TOWN AFFILIATED BOARDS AND COMMISSIONS**

### **Luray Downtown Initiative**

Ms. Lewis stated that she is currently working on preparations for the Festival of Spring. She noted that about sixty applications have been received to date and hopes to have over 100 vendors total. Ms. Lewis provided a sample Festival of Spring poster and said that distribution will begin this week and web advertising has taken place already. Other forms of advertising will include the water bill insert and the Page News and Courier. Ms. Lewis said that the 2013 Event rack cards have been printed and are ready for distribution. Regarding the North Broad Street Improvement Project, Ms. Lewis said that she and Mr. Webb will be meeting with Turner Concrete tomorrow and Racey Engineering has been paid the second installment on their design work. LDI will be speaking at the Tree and Beautification Committee meeting and will ask the committee to provide tree recommendations for the project. Ms. Lewis said that she has been given notification of possible donations for plantings also.

Regarding grant projects, Ms. Lewis has been working on the Buy Local Grant and has expended some of these funds. LDI has also submitted a Building Entrepreneur Economies grant application. The goal of this grant is to create sustainable businesses on Luray's Main Street. Ms. Lewis noted four revolving loan applications have been distributed, with one application returned and approved by LDI's Loan Review Committee. Ms. Lewis also discussed the town's Appalachian Trail Designation and presented the associated logo design.

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

Mr. John Robbins stated that a community ceremony is planned for the Appalachian Trail designation. He said that the chamber is working with the required guidelines and typically a proclamation is provided. He noted that a formal invitation will go out to all officials and that guest speakers are planned for the event. The ceremony is scheduled to be held at Ruffner Plaza on May 11<sup>th</sup> with more details to come. Mr. Robbins thanked the town for the maintenance to the chamber parking lot and for the speedy snow removal. The chamber received 609 tourist walk-ins and 308 tourist calls for the month of February. Mr. Robbins advised that the chamber board of directors has voted to award two scholarships in the amount of \$500 each; one for a Luray High School student and one to a Page County High School student.

Upcoming events include the ribbon cutting ceremony at the Trackside Theater for the unveiling of the new mural. The annual tourism kick-off will take place at the RSVP Banquet Facility on Thursday April 4<sup>th</sup> and the Community Yard Sale/ Business Expo outdoor event will take place at Bulldog Field in April.

Mr. Robbins advised that the chamber is becoming more involved in Page County cycling events and has sent out a press release to several outdoor themed websites. Councilman Meaney asked if the chamber has a tracking system for its incoming calls to determine the results of information given to tourists. Mr. Robbins discussed that essentially this type of system does not exist but he will look into this and get back to Council.

### **Luray Page County Airport Commission**

Mr. Powell Markowitz updated Council members on the runway overlay project. Mr. Markowitz said that the design work is complete and has been submitted to the FAA and DOAV for approval. He hopes to advertise the project for bids by the end of March 2013. The total cost of the runway overlay project is estimated at \$2.2 million dollars. The project has been included in the airport capital improvement plan and will be funded by approximately \$1.9 million from the FAA, \$176,000 from DOA, and \$22,000 each from the town and county. However, Mr. Markowitz stated that the town and county portions have been reserved and no funds will be needed from the town or county. Mr. Markowitz stated that he will ask for Council's authorization of the grant at the May meeting, with hopes to award the contract in June. This should allow the project to be fully complete by late August. The scope of the project includes resurfacing the runway, a new lighting system, and a new approach lighting system.

Councilwoman Menefee asked about the volume of landings and take-offs at the airport annually. Mr. Markowitz responded that this is estimated about 7,000 operations each year. Councilman Vickers inquired about the economic impact or revenue generation provided by the airport. Mr. Markowitz stated that he has an economic impact study from the Department of Aviation that he would be glad to share with members. Mr. Markowitz and Council discussed the economic and community benefits of the airport and the future of this asset.

### **STAFF REPORTS**

#### **PARKS AND RECREATION**

Director of Parks and Recreation, Pat O'Brien provided his written report for Council. Mr. O'Brien displayed an article about the Luray Hawksbill Greenway and emphasized the amount of recognition that the trail receives. Mr. O'Brien displayed a photo of the completed Bicentennial Planter and expressed concerns about the possibility of damages. He is recommending the use of bollards to protect the area from the adjacent parking. Bollards range in style and price, and would be implemented at the direction of Council. Mr. O'Brien said that the goal is to protect the planter from any potential damage. Mayor Presgraves agreed that the area is exposed to potential damages. Councilman Lancaster disagreed and feels that any damages would be at the cost of the insured motorist. Council and staff agreed to table this discussion and obtain more definite costs. Mr. O'Brien presented the plaque received by the town for the Arbor Day Growth Award. He explained that the plaque is awarded when a locality receives the Tree City USA Growth Award for 10 years. Mr. O'Brien presented the Mayor with this special recognition.

#### **PUBLIC WORKS DEPARTMENT**

Lynn Mathews, Superintendent of Public Works, informed Council that the public works department repaired two water leaks and responded to eight sewer calls. He advised that projects going on this month include storm drainage work, cleaning sidewalks and streets, cleaning roadsides, and displaying the spring banners. Lastly, Mr. Mathews thanked all departments for their assistance during the recent snow storm and the clean-up afterward.

## **WTP AND WWTP**

Charlie Hoke, Director of Utilities, reported that the Wastewater Treatment Plant is compliance with the Chesapeake Bay Nutrient Reduction Program. He advised that the plant is operating as designed and meeting all state and federal regulations.

Mr. Hoke said that the Water Treatment Plant is running very well and all distribution samples came back negative. Mr. Hoke said that there was only one issue during the recent snow storm and this was due to a communication line that was down. He advised that it took a bit of time to determine the problem; but once detected, the problem was quickly corrected.

## **PLANNING AND ZONING**

Town Planner, Ligon Webb, reported that the Planning Commission will actually hold a work session this month, instead of its usual monthly meeting. Mr. Webb plans to hold a work session to review the comprehensive plan and is currently working with a graphics consultant on the final aspects of the report.

Mr. Webb stated that he will be meeting with Turner Concrete tomorrow on the North Broad Street improvement project. Mr. Webb said they will be discussion possible traffic control issues also. Mr. Webb and the Town Attorney, Jason Spitler, discussed the Bob Harrison easement involved with this project. Mr. Spitler stated that Council may be able to approve the easement documents at the March work session.

Mr. Webb advised that Racey Engineering has completed the Request To Administer application and this have been submitted to VDOT for review. Mr. Webb discussed the 20% match provision for the bridge grant and said that he plans to research this requirement further. If this is the case, he recognized that this will be a financial planning issue and that actual construction will not likely begin until 2015.

Lastly, Mr. Webb advised of four zoning permits for February 2013 with a total value of \$251,100.

## **UPDATES**

### **Channel 15**

Mr. Schiro advised members that Channel 15 has been the town's public education channel since the franchise was operated by Adelphia some years ago. These channels are provided by the company to serve as an opportunity for local governments to announce events, meeting schedules, etc. Over the years the town has posted public events on this channel and allowed non-profit organizations to publish events as well. Under the original franchise agreement Adelphia provided the hardware and software

for the system. When the franchise agreement was renegotiated with Comcast this provision of the agreement was eliminated. While Comcast still provides the channel availability, the hardware and software are the town's responsibility. The issue is that the software utilized by the town is no longer operational. Both the town's IT support and Comcast technicians have looked at the system and are both recommending that the town upgrade the software and hardware. Overall, many upgrades have been made to the network and town staff believes that likely the system is too antiquated to continue proper functions. Mr. Schiro advised that with newer technology and the use of the town's website and Facebook, the channel may be obsolete. Mr. Schiro said that basically this is a financial issue and that the funds needed to purchase new hardware and software could likely be better spent. Mr. Schiro is recommending that the town discontinue the use of the program and devote resources to the town's website. Councilman Vickers suggested taking the system down as soon as possible to avoid posting stale information. Council members agreed that they would like to reserve the option to use the channel at a later time, perhaps to televise council meetings or to post the town's web address.

### **ITEMS FOR COUNCIL ACTION**

#### **Act on Governmental Certificate Authorizing Loan Renegotiation**

Interim Town Manager, Jerry Schiro, stated that he had been reporting about restructuring the town's loan for the prior construction of the Little League Stadium at Ralph Dean Park. Mr. Schiro said that originally the restructuring of the loan seemed to be a simple issue. However, the original loan from 2010 was actually a tax exempt bond issuance. Therefore, any restructuring will require the town's utilization of bond counsel and will require certain documents associated with public debt. Mr. Schiro has contacted the town's bond counsel, Ms. Carolyn Perry, and was given a minimum cost of \$5,500. Mr. Schiro said that he has since spoken with Blue Ridge Bank and discussed restructuring the loan as a regular commercial loan, rather than a tax exempt municipal note. The commercial loan rate would be 3.5% rather than the tax exempt rate of 2.5%, but would eliminate the cost associated with the town's bond counsel. If restructured, the town would pay \$25,000 in principal next fiscal year plus interest payments. Mr. Schiro is recommending the restructuring of the loan in order to improve the town's overall cash flow by reducing the principal payment from \$100,000 to \$25,000 annually.

**Motion:** Councilman Vickers motioned to approve the governmental certificate authorizing the Town Manager and Town Clerk to enter into agreement with Blue Ridge Bank to finance the remaining principal owed on the Luray Little League Stadium construction project as presented, motion seconded by Councilman Meaney with the vote as follows: YEA: Council Members Vickers, Menefee, Sours, Meaney. NAY: Lancaster. **Approved 4-1**

#### **Act on LDI Loan Application (Appalachian Outdoor Adventures)**

Interim Town Manager, Jerry Schiro, presented the application from LDI for the revolving loan program. Mr. Schiro explained that this is part of the Phase II Microenterprise Loan Program. Council has approved this phase of the funding program and there is approximately \$40,000 available for loan. LDI has received an application from Appalachian Outdoor Adventures who is relocating their business. The loan is for a five year term with zero percent interest and the town has chosen to defer payment until July 1<sup>st</sup> in accordance with the town's fiscal year. Mr. Schiro stated that the town attorney will need to review the loan document; however, LDI's loan advisory board is recommending the application to

town council for approval. Councilman Lancaster said that he has no issues with the application, but wants to ensure that the applicant provides a certificate of insurance regarding the collateral for the loan. **Motion:** Councilwoman Menefee motioned to approve the loan application contingent upon review by the town attorney, motion seconded by Councilman Vickers with the vote as follows: YEA: Council Members Vickers, Menefee, Lancaster, Sours, Meaney. **Approved 5-0**

### **TOWN ATTORNEY'S REPORT**

Town Attorney, Jason Spitler, stated that he does not have a written report this month but does have a few brief updates for Council members. Mr. Spitler updated Council on the litigation currently in circuit court and the town's answers are due in court by March 21<sup>st</sup>. Regarding the workers compensation claim, the town has been served with discovery request and he is currently working with town staff and the town's insurance carrier in order to respond by the deadline of March 28<sup>th</sup>. Lastly, Mr. Spitler stated that the town has filed a petition with the circuit court to ask for approval to issue a license to Mr. Emory King for a pawn broker's license. Mr. Spitler stated that according to town and state code the circuit courts approval is required. Mr. Spitler said that all requirements are in order from the applicant and town staff is in support of the applicant's request.

Mayor Presgraves inquired about any action taken regarding the water meter issue for Uncle Buck's Restaurant. Mr. Spitler said that some correspondence has taken place but the town code allows for further action to resolve this matter. Council and staff discussed the matter and what steps should be taken next. Mr. Spitler suggested giving the customer a firm deadline to resolve the matter and Mayor Presgraves agreed. Council members suggested a two week time frame to resolve the issue.

Mayor Presgraves asked for any further matters from the Town Attorney. Mr. Spitler said that he could speak on this issue in open session if that is the Council's preference but the matter is equally appropriate for executive session. Council agreed to proceed with the discussion in open session. Mr. Spitler said that he has received some indication that the circuit court may be inclined to enter an order requiring a special election be held to fill the vacant council position. Mr. Spitler said that he interprets the state code to not require an election to fill the council vacancy until May 2014. Town Attorney, Jason Spitler, discussed his interpretation of the state code and its application to the town's situation. He noted concerns that the circuit court may be prepared to rule that a special election be required in November 2013. Mr. Spitler has spoken with Mr. Mark Flynn, VML Legal Counsel, on the issue as well. Mr. Spitler would like to clarify the town's position on the matter and stated that it seems to be a waste of time and funds to hold an election under the current circumstances. He noted that there is a possibility of as many as four people occupying this council seat in as little as sixteen months. Mr. Spitler said that he cannot imagine that this was the intent of the legislation and has therefore drafted a letter to the circuit court. He is suggesting that the town attempt to clarify its position with the circuit court by submitting this letter. Mr. Spitler provided the draft letter to Council for their review. Council authorized the town attorney to submit the letter to circuit court tomorrow morning.

### **TOWN COUNCIL APPOINTMENT**

Mayor Presgraves asked for Council's action on an appointment to fill the town council seat vacancy. Councilman Vickers stated that he would like to nominate Ms. Pam Flasch to fill the seat formerly held by Councilman Arrington.

**Motion:** Councilman Vickers motioned to appoint Ms. Pam Flasch to the Luray Town Council, motion seconded by Councilman Sours with the vote as follows: YEA: Council Members Vickers, Menefee, Lancaster, Sours, Meaney. **Approved 5-0**

## **EXECUTIVE SESSION**

### **Personnel, Section 2.2-3711.A.1 – Town Manager**

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

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

**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.1 were heard, discussed, or considered during the closed session. **The roll was called with all members certifying “Yes”.**

## **ADJOURN**

With no further business, Mayor Presgraves adjourned the regular session of the Luray Town Council at approximately 9:46pm.

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Barry Presgraves  
Mayor

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Danielle Babb  
Deputy Clerk-Treasurer