

**MINUTES OF A TOWN COUNCIL WORK SESSION
TOWN OF LURAY, VIRGINIA
Tuesday, March 27, 2012**

The Luray Town Council met in a work session on Tuesday, March 27, 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
Jerry Schiro
Earl Racer

Also Present: Rick Black, Town Manager
Bryan Chrisman, Assistant Town Manager
Mary Broyles, Treasurer
Danielle Babb, Deputy Clerk Treasurer
Ligon Webb, Town Planner
Jason Spitler, Town Attorney
John Meaney, Luray Planning Commission
Joe Farruggia, Page News and Courier

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

Town Manager, Rick Black, requested to add discussion regarding trash and the county landfill. Councilman Racer requested a moment of time at the end of tonight's meeting.

Earth Day

Mayor Presgraves stated that at the March 12th Regular Council Meeting, members heard a request from Jennifer Orenic regarding Earth Day. Mayor Presgraves said that the request was for \$500 in funds, which he misunderstood to be a budgeted contribution. However, since it is not an individual line item it will require Council's action. Mayor Presgraves apologized for this error and asked that Council consider this annual request at tonight's meeting.

Motion: Councilwoman Menefee motioned to approve a contribution of \$500 toward the Earth Day events, motion seconded by Councilman Arrington with the vote as follows: YEA: Council Members Vickers, Arrington, Menefee, Lancaster, Schiro, Racer. **Approved 6-0**

Town Planner's Report

Town Planner, Ligon Webb discussed the special use permit request from Mr. Joseph Vile to operate a commercial recreation facility in a B1 Zoning District. Mr. Webb stated that Mr. Vile hopes to open the facility by summer. He added that the only issue raised by the Planning Commission was related to lighting. Mr. Webb said that lighting would be utilized when needed to accommodate participants who were finishing the course. Town Manager, Rick Black, asked if the hours of operation had been determined. Mr. Webb responded that he is under the assumption that the facility would be open no later than 10:00pm, but can obtain a definite schedule of operations if needed. Councilwoman Menefee asked if additional parking would be needed. Mr. Webb reminded of the additional parking that is already planned for the area near the Caverns Museum on Cave Hill Road. He continued with discussion regarding staffing, design, and overall appearance of the course. Mr. Webb said that he has tried to explain the intended "use" as best possible for the operation.

VRS Update

Town Manager, Rick Black, said that included in Council's packet is correspondence regarding the VRS update. Mr. Black said that a decision from the General Assembly will not be made until April 18th at the earliest, but must be made no later than June 30th. Mr. Black said that the town's budget is balanced based on a worst case scenario for the VRS increase.

Public Hearing Advertisement: FY 2012-2013

Mr. Black stated that regardless of the action by the General Assembly, the town's budget must still be adopted by June 30th, 2012. Mr. Black provided Council with the advertisement for the public hearing on the budget. He said that the advertisement must be submitted to the Page News & Courier by April 20th.

Mayor Presgraves asked if a publication would be sent out to utility customers regarding the increase in water rates. Mr. Black responded that the rates will be published as part of the newspaper budget advertisement and will also go out to the customers in their bill. Councilman Vickers inquired about the customer charges for refuse. Mr. Black explained that the customer is billed per rollout, with no bearing on the size of the container. He added that each year the rollouts are counted and compared to the totals from Waste Management to tally the total users for the town.

Town Attorney

Trash Collection Ordinance

Town Attorney, Jason Spitler, discussed some issues discovered with the town's trash ordinance. Mr. Spitler cited the last phrase of Town Code Section 70-2: *Each person, business, organization or association of the town is provided this service and shall be liable for the cost thereof, without exception, whether used or not, and it shall be unlawful to not comply with the provisions of this chapter.* Mr. Spitler said that the town is certainly well within its authority given by the state code to require that everyone be treated as a user of the trash collection system, regardless of actual usage. Mr. Spitler stated that the issue becomes what recourse the town has if payment is not made. Mr. Black provided Council members with

an excerpt from a recent Daily News Record article. The article concerns a case from the Town of Timberville regarding a customer who refused to pay for garbage collection. Mr. Spitler said that essentially the court found Timberville's Ordinance to be ambiguous. He said that localities have the authority to take reasonable steps to ensure payments but the state code does not address the number one mechanism used; which is to terminate water service when a customer refuses to pay for trash service. Mr. Spitler said that the state code does give the specific authority to add the unpaid amounts to real estate tax bills for localities. Mr. Spitler summarized by saying that he is comfortable with the town's current code providing that water and sewer are terminated. However, it would be best to ensure that this does not become an issue. Mr. Spitler and Mr. Black agree that the solution is to simply provide an order of priority when payments are posted. The payment process would first apply to trash, secondly to sewer, and lastly to water. Thus, any unpaid balance remains for water service, which provides the town the authority to terminate service for the non-payment of water utilities. Mr. Spitler said this is the plan that he and Mr. Black are recommending for amendment to the town code. Mr. Spitler asked for Council's feedback on this recommendation.

Councilman Schiro stated that he feels this is a good plan and other localities may likely not prevail in court. Councilwoman Menefee asked why counsel prefers this method rather than applying the unpaid balance to the real estate bill. Mr. Spitler said that this course of action provides a more immediate method of collection. Also, he reminded that in many cases the utility customer may not be the owner of the property. Mayor Presgraves stated that the council's consensus was for town staff and the town attorney to proceed with modifying the trash ordinance.

Taxi Cab Ordinance

Town Attorney, Jason Spitler, reviewed the proposed amendments to the Taxicab Ordinance. He said that Chief Campbell recently brought it to his attention that there are several issues with the town's code in relation to taxicab driver permits. Mr. Spitler stated that he has reviewed Chapter 94 of the Town Code which was actually written in 1965 and no longer is in conformity with the subsequent revisions to State Code. He stated that the code in many cases does not conform with itself, for example the code refers to different points of issuance such as the chief of police and/or mayor. Mr. Spitler also said that there are many other issues with the code, including the fee amount. Mr. Spitler said that the cost of the permit is currently stated at \$2.00, while there are no other town administrative fees that are less than \$20.00.

Mr. Spitler said that this evening he is requesting two items; 1- to revise the existing code as it currently exists in Chapter 94 of the Town Code, 2- making two amendments: to extend the deadline to April 30th and to provide the police chief with the discretion to revoke driver permits. Mayor Presgraves suggested changing the review process to one year from the date of issuance of the permit, rather than all permits expiring on the same date. Councilman Vickers asked if there is currently a taxicab commission. Mr. Spitler said that there is currently a commission per the code which would include the Mayor, Town Manager, and Police Chief. Mayor Presgraves suggested that Council members consider taking action on the two proposed amendments. Mr. Spitler said that he will have a draft ordinance ready for the April 9th Council meeting and asked for a motion adopting Section 94-110 and Section 94-111.

Motion: Councilwoman Menefee motioned to approve the ordinance amendments to Section 94-110 and Section 94-111 regarding Taxicab Driver Permits as discussed, motion seconded by Councilman Arrington with the vote as follows: YEA: Council Members Vickers, Arrington, Menefee, Lancaster, Schiro, Racer. **Approved 6-0**

Councilman Racer stated that while he did vote for the ordinance amendments, he is not completely in agreement with Section 94-111, 1) b. - *the chief of police, in his sole discretion, may revoke the permit and require the holder to forthwith surrender it.* Mr. Spitler argued that in subsection c. - *If the chief of police revokes the permit, the holder may appeal such revocation to the taxicab commission.* Mr. Racer continued that the chief of police is a one-third member of the taxicab commission. Mr. Spitler said that under the circumstances the format was followed as closely as possible to the existing town code language. Councilman Schiro and Mayor Presgraves agreed that Councilman Racer has made a valid point on the issue.

Changes or Additions to the Agenda

Councilman Vickers asked if work continues on the livestock ordinance amendments. Town Planner, Ligon Webb, said that he was unclear if Council was motivated to make changes to the ordinance at this time. Councilman Arrington and Councilman Vickers said they were satisfied with the ordinance as it is currently written. Town Attorney, Jason Spitler, said there had been no clear consensus if members would like to make changes.

Town Manager, Rick Black, advised Council members that recently he had been invited to attend the Page County Board of Supervisors work session on April 3rd to discuss refuse collection. Mr. Black said that the board feels that in-town businesses have an unfair advantage over county businesses due to Waste Management collecting in-town refuse. The board maintains that county businesses do not have this availability. Mr. Black said that there is currently no agreement in place between the town and county regarding trash. Page County residents do have free waste disposal available to them at the landfill and compactor sites. Mr. Black maintained that he does not feel that businesses within the town have anything other than residential quality trash being placed in rollouts. The town has over 400 licensed businesses and distinguishing between residential and business refuse is not feasible. Councilman Schiro asked what the county's intentions are. Mr. Black stated that he was told the meeting is intended to open discussion on the issue of refuse. Mr. Black said that he will be attending this meeting and will express staff and council's position. Councilman Schiro said that he believes the town must be proactive with its businesses and notify them if changes are anticipated from the county. Councilman Schiro also mentioned that any businesses within the town that do generate a large amount of commercial refuse are utilizing a dumpster, thus paying for the cost associated with the service. Mr. Black reminded that the town's recycling efforts are saving a tremendous amount of volume from being disposed of in the landfill.

Councilman Racer stated that Vicki Pitts was in attendance at the last Council meeting with a request on behalf of the Tree and Beautification Committee. Her request was to install receptacles for fishing waste along the Hawksbill Creek. Mr. Racer said that Ms. Pitts was uncertain if Council's approval for the project was given since no formal action was taken. Councilman Racer recalled all members being in agreement with the proposal. Council members agreed that their consensus from the regular meeting was for the committee to proceed with the project.

Town Attorney, Jason Spitler, mentioned that the advertisement for the boundary line adjustment at the R.H. Dean Recreation Park will appear in tomorrow's newspaper. Mr. Spitler said that public hearing is advertised for the town's April 9th meeting and likely the county will act on this at their meeting on April 17th. Mr. Spitler said that he does not anticipate any issues on this and action from the supervisors should be only a formality.

EXECUTIVE SESSION

Acquisition of Real Property, Section 2.-3711.A.3 Investment of Public Funds, Section 2.2-3711.A.6

Mayor Presgraves requested a motion to adjourn into Executive Session for the purpose of discussing Sections 2.2-3711.A.3 and 2.2-3711.A.6.

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

Motion: Councilwoman Menefee motioned to adjourn the closed session and to reconvene in open session; Councilman Vickers seconded the motion with the following members voting YEA: Council Members Vickers, Arrington, Menefee, Lancaster, Schiro, Racer. **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.3 and Section 2.2-3711.A.6 were heard, discussed, or considered during the closed session. **The roll was called with all members certifying “Yes”.**

Mayor Presgraves asked Council members if they would like to take action on the items discussed during closed session.

Motion: Councilman Racer motioned to approve the purchase of real property located between Luray Middle School and Hawksbill Heights drive (currently owned by Holsinger family) for the purchase price of \$1,000; Councilwoman Menefee seconded the motion with the following members voting YEA: Council Members Vickers, Arrington, Menefee, Lancaster, Schiro, Racer. **Approved 6-0**

Motion: Councilwoman Menefee motioned to authorize the investment of public funds for the East End Monument repairs; Councilman Lancaster seconded the motion with the following members voting YEA: Council Members Vickers, Arrington, Menefee, Lancaster, Schiro, Racer. **Approved 6-0**

Adjourn

There being no further business, Mayor Presgraves adjourned the work session of the Town Council at approximately 6:47 pm.

Barry Presgraves
Mayor

Danielle P. Babb
Deputy Clerk-Treasurer