

MINUTES OF A TOWN COUNCIL WORK SESSION
TOWN OF LURAY, VIRGINIA
Tuesday, August 23, 2011

The Luray Town Council met in a work session on Tuesday, August 23, 2011 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
Mary Menefee
Leroy Lancaster
Jerry Schiro
Earl Racer

Council Absent: Lonnie Arrington

Also Present: Rick Black, Town Manager
Ligon Webb, Town Planner
Mary Broyles, Treasurer
Danielle Babb, Deputy Clerk Treasurer
Jason Spitler, Town Attorney

The meeting was called to order by Mayor Barry Presgraves and everyone recited the Pledge of Allegiance to the flag.

Mayor Presgraves remembered Mr. Joseph Ramey who passed away recently. Mr. Ramey frequently attended Town Council meetings and Mayor Presgraves expressed that his passing would be a big loss to the community.

Changes or Additions to the Agenda

The roll was called and Town Manager, Rick Black, requested that Council add discussion regarding Comcast to the agenda.

Sandwich Board Signs

Mr. Jim Mayes spoke before Council regarding sandwich board signs. Mr. Mayes began by thanking Council for having him at the meeting and stated that his home address is 1725 Stroll Farm Road in Shenandoah; while his business is located at 15 Campbell Street in Luray. Mr. Mayes said that the purpose of his request is to obtain a change to his sandwich board permit for his sign located near the Artisans Grill. While the sign is permitted, Mr. Mayes said that he has been asked to take the sign in each night.

Mr. Mayes provided some background information on his business, The Warehouse Art Gallery. Mr. Mayes explained that with this type of business it takes about 50 walk-ins to eventuate a sale. He added that art galleries are one of the first businesses to be affected in times of a recession, since the sale of art comes from discretionary spending by the consumer. He recognized that most of his market comes from out of town versus local customers. Mr. Mayes said that he had originally hoped to reach break-even point at approximately five years into his business; however he is in his ninth year of business and only now beginning to see some profits. Mr. Mayes said that the income for the gallery does represent tax revenue for the town.

Mr. Mayes then discussed the concept of historic downtowns and what attracts travelers to the downtown shops. He stated that the vitality of these shops will keep visitors returning to the downtown area. He noted that while signage must be attractive and hold a cohesive theme; most importantly it must be functional. Mr. Mayes said that the warehouse sign is needed because the business is open seven days per week and is less visible since its location is not on Main Street. He explained that his business is often open until 10:00pm and opens early in the morning; with most staffing done by volunteers. These volunteers are primarily made up of senior citizens and persons with a handicap. These factors make it not feasible for them to take the sign in daily. Mr. Mayes then concluded that if the sign is not a safety hazard and is not un-attractive then he would like to be able to leave out the sandwich board sign as a convenience to himself. Mr. Mayes also stressed that the sign would be taken in during hours when the public would not notice its removal, serving little point.

Mayor Presgraves said that it is his understanding that Mr. Mayes would like to leave his sign out through the end of tourist season in October. Mr. Mayes replied that he would like to leave the sign out through December, as his business is open seven days a week through the month of December. Council discussed both of the sign locations, noting that one sign is on Broad Street and the other is on Main Street. Mr. Mayes said that the sign on Main Street is allowed to be out full time. Councilman Lancaster asked why this sign is allowed to be out full time. Mr. Mayes replied that this is allowed by his sign permit that was approved several years ago. Mr. Lancaster asked Mr. Black "where this came from" and if Mr. Black ever found where this was approved in the minutes. Councilman Racer stated that he remembered this discussion and this sign specifically. Mayor Presgraves stated that this was approved at the January 10, 2007 Council Meeting. Mr. Black said that the ordinance allows the sign to be displayed 24-hours per day. Mr. Mayes said that he questions what the objection is to having the sign there. Councilman Schiro stated that he understands that the signs as they exist comply with code. The code says that the sign must be taken in if the Zoning Administrator requests that the owner do so. Mr. Webb said that this was discussed years ago when reviewing the code on sandwich board signs. At that time another business owner had off premises signs and on adjacent property, therefore the sandwich board ordinance came about. Mr. Webb said that part of the ordinance is that it is at the discretion of the Town Zoning Administrator whether the sign must be taken in and out on a daily basis. Councilman Schiro asked if the Zoning Administrator (Mr. Black) has requested that this be done. Mr. Webb said that he did not address this issue with Mr. Mayes until after the last work session when Council members suggested that he do so. Councilman Schiro verified that until this time Mr. Mayes had been in compliance with the ordinance. Mr. Black said that up until this time, no complaints had been received. Councilman Lancaster stated that the non compliant sign was instructed to be removed, yet there is still one on Main Street. Town Manager, Rick Black, recalled that Council directed that the Main Street sign could remain but that the sign located near Broad Street be removed.

Mr. Mayes emphasized that businesses already located on Main Street do not need these signs nearly as much as he does. Councilman Racer said that Mr. Mayes makes a very good argument; because his business is not on Main Street he does rely on Main Street traffic to keep his business alive. Mr. Racer said that he does not see an objection to this and asked if Council has received a complaint. Mr. Racer added that if a complaint was the reason this issue came about he would inquire who complained. Town Manager, Rick Black, said that the only complaint he had received was from Councilman Lancaster and that he was unsure if someone had made a complaint to him. Councilman Racer said that Mr. Mayes seems to have been in compliance most of the time and he pointed out that the business is open all hours, seven days a week; therefore he has no objection to this personally.

Councilman Schiro stated that he would be hesitant to change the ordinance to grant permanent permission to leave the sign up. He would like to leave the ordinance as it stands and allow the Zoning Administrator the authority to request that the sign be taken in daily if the need arises. Councilman Lancaster verified that the permits are annual. Mr. Black stressed that they are reviewed annually but a new application is not required. Mr. Black said that the terms of the permit can be changed at any time, but explained that a compliance review is done on an annual basis. Councilman Schiro verified that if a problem arises the Zoning Administrator can request that the sign be removed. Mayor Presgraves stated that if the sign becomes a safety problem or impedes traffic then some alternatives can be made. Councilman Schiro also said that if the popularity of these signs would become overwhelming then this issue would need to be addressed. Councilman Racer reminded that at the last meeting Council discussed the town having a reputation for being non-business friendly. He said that this is a perfect example of how we could accommodate a business. Councilman Schiro recognized that as long as this does not become an issue or it does not become a safety hazard, then it should not be a problem.

Mr. Mayes told members that he does a fair amount of travel and has seen what many other towns are doing. He cited that those businesses which are vital are the ones where the towns are working to get people into the specific businesses. He said that an alternative to what he is doing is to have directional signs produced by the towns with a uniform look, thus avoiding a lot of signs being placed all over town. Mr. Mayes said that since nothing of this nature is in place, then it is up to each business to do what is needed to stay alive. Councilman Lancaster replied that you will not find a town around that has spent more money than this one has to try to keep people like Mr. Mayes in business. Mr. Mayes asked how money has been spent to get people into his business. Councilman Lancaster said that the town is bringing in tourists, perhaps not into Mr. Mayes door directly, but into the town. Mr. Mayes rebuked that still he is not being allowed to do anything to bring people into business. Councilman Lancaster suggested advertising his business hours. Mr. Mayes argued that he cannot advertise to his market affordably. Mayor Presgraves recognized that the nature of this business is different than that of an eatery or business that consists of mostly local customers.

Councilwoman Menefee said that Mr. Mayes has made a compelling argument to be able to keep his sandwich board sign in place, unless there becomes an abundance of people wanting to display sandwich boards. Councilman Vickers expressed concern that many businesses may want to display signs and he wants to reserve the right to allow the Zoning Administrator to take action if needed. Mr. Vickers said he has no issue with the current sign, but does not want to see additional signs in this location. Mayor Presgraves made the suggestion to keep these signs off the sidewalks as much as possible in order to accommodate those using a wheelchair or motorized scooter, and also to be very considerate of the amount of space left for foot traffic.

Mr. Mayes said that he really appreciates Council's consideration and that he would like to be allowed to keep this sign up until there is a problem. He also recommended that the town be proactive in trying to avoid this problem in the future by utilizing directional signage. Mr. Mayes said that a great deal of money has been spent on the wayfinding signage years ago, and while it looks nice it must also be functional. Councilman Vickers recognized that directional signs are important. Councilman Schiro reminded that the town has to be careful in how it spends taxpayer's money. He added that the town can provide directional signage for public facilities; but to provide signage for individual businesses is something that crosses the line in terms of how taxpayer money is spent. Mr. Schiro then noted that other localities have many secondary street businesses whose merchants have cooperated together to purchase informational kiosks at key local intersections. Mr. Schiro suggested that Mr. Mayes explore this option with other local business owners. Lastly, Councilman Schiro said that he does not have a problem with the current sign staying out but that Council must preserve its options. Mayor Presgraves confirmed that this was the consensus of everyone and thanked Mr. Mayes for coming.

Town Planner's Report

United Propane Gas

Town Planner, Ligon Webb, advised Council that the Luray Planning Commission has approved the special use permit for United Propane Gas by a 5-0 vote at the August 17th meeting. Mr. Webb said that he has sent out letters with no comments received from the public. He told Council that the commission has worked through several issues and that a representative from United Gas had attended the meeting. Mr. Webb said that the company is based out of Kentucky and is a family owned propane business. He said that the company wants to locate beside Holtzman's tanks on Stoney Brook Lane. Mr. Webb said he has been working with Attorney Robert Janney, who represents the company locally. Mr. Janney will be submitting a proffer statement on behalf of United Propane which will limit the business to no more than two tanks and other specifications for the site. The company plans to locate on a three acre plot within the County's larger 29 acre parcel which would have to be divided. Mr. Webb said that the EDA is working to dedicate their portion of Stoney Brook Lane to the Town. He said that overall the planning commission felt this was a good location for the business. Councilman Lancaster inquired how many additional tanks can be installed by Holtzman Company. Mr. Webb stated that this special use permit was approved back in 1999 for one 30,000 gallon tank; therefore any additional changes would have to come before Council in order to amend the original special use permit. Councilwoman Menefee asked if this was a new business. Mr. Webb said that the business is new and that they would have a few employees locally and several drivers. The concept is the same as what Holtzman is currently providing at the site.

Mayor Presgraves reminded Council that the Town does not own the right of way to the Water Treatment Plant. Town Attorney, Jason Spitler, said that a representative from the Page County EDA was present at the Planning Commission Meeting and he indicated that this topic would be discussed at their next meeting. The representative anticipated that the EDA would be moving forward with all of the necessary steps to dedicate this right of way to the Town. Town Manger, Rick Black, said that a special meeting may be called to move forward with this matter.

Councilman Lancaster asked if town staff had checked with DEQ to discuss how large these facilities can become before they are detrimental to the nearby subdivisions. Mr. Webb said that the power

point presentation by United Propane detailed the safety record of the company. Councilman Lancaster also questioned the shut-off location and its proximity to the site in the event of a leak. Mr. Webb advised that he was uncertain of this but was under the impression that any leak would be a vapor released into the air. Councilman Lancaster disagreed saying that any leaks would run along the ground. Mr. Webb said that he would clear up this issue with the applicant. Mayor Presgraves directed Mr. Webb to clear up this matter before the public hearing. Mayor Presgraves also suggested contacting the appropriate regulatory agencies. Mr. Webb said that he has done some online research as well on the dangers of such facilities. Councilman Lancaster said there are many regulations on these types of facilities and they vary according to state. Mr. Webb said that the industry overall seems to be very safe and well regulated with appropriate safety practices in place. Mr. Webb said that this particular use is something that most every zoning ordinance provides for. Mayor Presgraves stated that the biggest concern is the close proximity of the location to the town's Water Treatment Facility. Councilman Lancaster said that even worse danger could be posed to the subdivision nearby. Mayor Presgraves said that Town Council and staff must show due diligence in checking all aspects. Councilman Racer said that this is somewhat of a moot point because the Holtzman facility already exists in this area. Councilman Lancaster expressed concern over how much the town should allow this use to grow. Councilman Vickers asked if there is a need for this type of business. Mr. Webb said that poultry farmers have apparently indicated an interest in competitive pricing due to the amount of fuel they purchase in bulk. Mayor Presgraves suggested checking with the county building inspector also on local regulations.

Councilman Schiro inquired about sewer issues at the proposed location. Mr. Black replied that there are no sewer utilities at the site. Mr. Webb said that the applicant is aware that they would need to connect to sewer utilities in order to have an office at this location at their own expense. Council and staff then discussed the specifics of the sewer infrastructure in this location. Mr. Webb said that this concern can be spelled out in the special use permit and state that the connection to the sewer utilities would be at their expense. Mr. Black and Mr. Schiro agreed that they do not want to see a private septic system in this area. Councilman Schiro and Town Attorney, Jason Spitler, agreed that they do not want to see the town become responsible for providing this infrastructure. Councilman Vickers stated that he does not have a problem with this overall, so long as the facility is safe and that the town does not have to be responsible for providing the sewer utilities.

Mayor Presgraves directed Mr. Webb to gather any information possible regarding the safety of the facility to have available for the public hearing. Councilwoman Menefee asked if this had been approved by the Planning Commission. Mr. Webb stated that the commission approved the special use permit at the August 17th meeting.

Electronic Offices, Home Occupations, and Professional Offices

Town Planner, Ligon Webb, discussed the advertisement for a Public Hearing regarding amendments to the Town's Zoning Ordinance regarding electronic offices, home occupations, and professional offices. Mr. Webb provided an overview report that showed the changes that have been made to the draft ordinance. Mr. Webb said that these changes are not reflected in the advertisement. Mr. Webb said that Council had agreed to eliminate home occupations as a special use permit in the R2 zoning district. Councilman Racer confirmed that a definition has been added for telecommuting. Mr. Webb confirmed that the public hearing for these ordinance amendments will be at next month's Council meeting.

Councilman Lancaster asked to revisit the proposed definition for home occupation. Mr. Lancaster asked how this definition would prevent someone from letting another individual run a business out of one's home. Mr. Webb explained that the changes proposed by Council would eliminate this by requiring that business be carried on by "*a member, or members, of the family residing on the premises*" and by removing the language that would permit one outside employee. Councilman Lancaster also questioned the use by special use permit in an R2 zoning district. Mr. Webb reminded that Council had suggested that they would remove this during the public hearing on these changes. Mr. Webb said that the ordinance was advertised according to how the Planning Commission approved the amendments; however Council members have indicated the changes that they plan to make during the public hearing.

Boundary Line Adjustment

Town Planner, Ligon Webb, discussed the request from Mr. Chris Ramsey for a boundary line adjustment for two parcels off of Atkins Drive. This request would bring these two parcels into the town. Mr. Webb said that the agreement is fairly easy to understand and noted that the most important thing is that the town and county are both satisfied with the agreement. Mr. Webb said that the draft agreement has been forwarded to Mr. Ramsey and that a survey and a meets/bounds description will still be required from him. Mr. Webb stated that Mr. Ramsey is having these documents prepared. Mr. Webb also discussed the developer's agreement and that Mr. Spitler feels that this document will still be applicable to these two parcels as well. Mr. Webb stated that overall the developer's intentions are very clear and that he is willing to make the necessary upgrades to do so. He feels that this is a very desirable way to have a potential development move forward.

Councilman Lancaster inquired about the developer's agreement and if any feedback had been received on this. Mr. Webb said that no work has begun from the original rezoning that took place in 2006, but that Mr. Ramsey is willing to place the additional 6 acres under the same agreement. Councilman Schiro asked if the property were to be sold, would the developer's agreement convey with the property. Mr. Spitler said that the agreement would absolutely stay accordingly with the property. Mr. Spitler also said that some issues expressed by Council are best suited for the subdivision phase of the development. Mr. Spitler said that those issues are not appropriate at this phase of the process. Mr. Webb said that all draft documents will be forwarded to the Page County Board of Supervisors and then separate public hearings will be advertised. Mayor Presgraves asked if someone will be representing the town on this for the Board of Supervisors. Mr. Webb said that he and Mr. Ramsey will both be available for questions.

Luray Confederate Heroes Monument

Mr. Webb advised Council members that bids had been received for the proposed monument repairs. Mr. Webb provided the three bid amounts received and noted that Standard Restoration Inc. has a second lower bid amount that provides for repairs that would not include removing the original foundation. Mr. Webb expressed some uncertainty for not replacing the foundation. Councilwoman Menefee inquired why the highest bidder is nearly \$80,000 more than the other bids. Mr. Webb said that all bidders have nice portfolios and are very capable of the work.

Mayor Presgraves asked how long the bids would be valid. Mr. Webb said that the proposal suggested work would begin in September, so at least until that time. Councilman Racer asked how much of these

proposed costs had been budgeted for. Town Manager, Rick Black, said that approximately \$32,000 has been budgeted for and that any remainder would have to come from a special appropriation. Mayor Presgraves stated that this is a lot of money to spend on an un-appropriated project and asked if Council would consider waiting until later in the budget year. Mr. Black said that regardless, a special appropriation would still be required and could potentially be spread over two fiscal years. Councilman Schiro suggested evaluating the town's budget later in the year and then deciding to initiate the work and spread the cost over two years. Councilman Vickers inquired about the special appropriation process and if the funds exist to do so. Mayor Presgraves asked how long the project is anticipated to take. Mr. Webb said that he would suppose about a four to five month time frame. He added that the statue will be taken down and be repaired indoors and then re-assembled on site. Council members expressed concern over starting the project in September with cold weather on the way. Council suggested a spring start time for the project may be more appropriate in terms of weather related factors and budget requirements. Councilwoman Menefee expressed concern over the fact that bids have already been received for the project. Mr. Webb said that the contractors are aware that the project would require special appropriations in order to provide funding and noted that the bids are over the original cost projections.

VDOT Meeting on 6 Year Improvement Plan

Town Planner, Ligon Webb, said that the projected date for the meeting is on October 4th. Councilwoman Menefee noted conflict with the date and said that members will be attending the VML Conference. Mr. Webb said that the scope meeting will be on September 29th and that representatives will then come back for a public meeting. Mr. Webb said that the date could be changed and that he will suggest moving the meeting to October 11th. He added that this will be a public meeting where all parties of interest will be invited; such as Luray Caverns, Page County Public Schools, residents, etc. Mr. Webb said that Council and staff are encouraged to attend on September 29th.

Comcast

Town Manager, Rick Black, advised that Comcast has requested a non-exclusive franchise agreement that has been previously reviewed by Council. Mr. Black said that the only question from Council at that time was pertaining to the 15-year term. Council's consensus at that time was to shorten this agreement to a 5-year term. Mr. Black said that the advertisement has been published for a 15-year term; but that Council may approve the 5-year term. Town Attorney, Jason Spitler, said that Council may approve any term less than the advertised amount, so long as they do not approve a term greater than what was advertised. Mr. Black confirmed that this public hearing will be on September 12, 2011.

VDOT Revenue Sharing

Mr. Black said that he had received notification from VDOT that they will be accepting applications for the Revenue Sharing Program through November 1, 2011. The town will be working with Valley Engineering, who represents Valley Health/Page Memorial Hospital, to put together an application for FY 2013. Mr. Black said that at the September 27th work session, a representative from Schwartz and Associates will be coming to discuss the Main Street Bridge.

Additions to the Agenda

Town Manager, Rick Black, briefed Council on some information regarding the “tannery property”, which is owned by Mr. Mehta. Recent correspondence from Mr. Mehta has discussed the loss of about 3 million gallons per year in water. The property is now metered and can measure how much water is actually being lost. Currently, about 1500 gallons per day are being lost which is not acceptable. Mr. Black said that three accounts go through this property and will require new lines if the current line is abandoned. Mr. Black said that the lines can be re-routed to accommodate these other users. He advised that if the tannery property would ever require water, then lines can be ran across the street and avoid any lines that may run under the railroad tracks. Councilman Lancaster asked if any accounts would be affected at the end of Deford Avenue and the alleyway running toward the tannery property. Mr. Black explained that there is a shut off valve located on the line near the railroad tracks and confirmed that no one on Deford Avenue would be affected. Councilman Lancaster agreed that it is a shame to waste all of this water especially since the town has gone to the expense of treating the water.

Mr. Black added that during the boundary line adjustment with Page County on the Ramsey property, he also plans to go forward with the adjustment for the Ralph H. Dean Recreation Park. He said that these boundary line adjustments will all be done at the same time.

Town Attorney

Town Attorney, Jason Spitler, said that the only items of business he had for the evening would need to be discussed in Executive Session.

EXECUTIVE SESSION

Investment of Public Funds, Section 2.2-3711.A.6 – *Ralph H. Dean Recreation Park* Legal Consultation, Section 2.2-3711.A.7 – *Wastewater Treatment Plant*

Town Attorney, Jason Spitler, requested a motion to adjourn into Executive Session for the purpose of discussing Section 2.2-3711.A.6 and 2.2-3711.A.7.

Motion: Councilman Racer 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, Menefee, Lancaster, Schiro, Racer. **Approved 5-0**

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

Mayor Presgraves asked members of Council to certify that to the best of their knowledge only matters covered under Sections 2.2-3711.A.6 and 2.2-3711.A.7 were heard, discussed, or considered during the closed session. **The roll was called with all members certifying “Yes”.**

Adjourn

There being no further business, Mayor Presgraves adjourned the work session of the Town Council at approximately 7:21 pm.

Barry Presgraves
Mayor

Danielle P. Babb
Deputy Clerk-Treasurer