

**A REGULAR MEETING OF THE TOWN COUNCIL OF THE  
TOWN OF LURAY, PAGE COUNTY, VIRGINIA  
Monday, August 9, 2010**

The Luray Town Council met in regular session on Monday, August 9, 2010 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  
Lonnie Arrington  
Mary Menefee  
Leroy Lancaster  
Jerry Schiro  
Earl Racer

**Also Present:** Rick Black, Town Manager  
Bryan Chrisman, Assistant Town Manager  
Mary Broyles, Clerk-Treasurer  
Danielle Babb, Deputy Clerk-Treasurer  
Ligon Webb, Town Planner  
Jason Spitler, Town Attorney  
Page Campbell, Chief of Police  
Pat O'Brien, Director of Parks and Recreation  
Charlie Hoke, Director of Utilities  
Briana Campbell, Luray Page County Chamber of Commerce  
Vicki Pitts, Luray Tree and Beautification Committee  
Ken Beyer, Luray Hawksbill Greenway Foundation  
Leroy Miller (Special Use Permit)  
Roger Smith (Special Use Permit)  
Durwood Frye – 32 Hilltop Lane, Luray  
Byron/Barbara Baptist- 402 Ninth Avenue, Luray

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 and then recited the United States Pledge of Allegiance.

**CONSENT AGENDA**

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

## ***Consent Agenda***

- A) Minutes of July 12, 2010 Regular Council Meeting.*
- B) Financial Report for the period July 1 –31, 2010.*
- C) Accounts payable checks totaling \$183,561.22.*

## **PUBLIC HEARING**

### **SPECIAL USE PERMIT: Leroy Miller**

Ligon Webb, Town Planner, presented a special use permit request from Leroy Miller. The request is to construct a single family dwelling on a B-1 zoned parcel. The parcel is located on the unimproved “Nunn Lane”, and is identified as Tax Map # 42A 6 (1) 77. Mr. Webb reminded that the lot was platted prior to the time before a subdivision ordinance existed. Mr. Webb stated that the major issue surrounding the request deals with the adequacy of the roadway. Mr. Webb stated that Mr. Miller’s request was unanimously denied by the Planning Commission. Member of the commission held concerns about the definition of the term “lot” and also about the unimproved roadway. Mr. Webb stated that if this special use permit were approved, there should be an understanding between the applicant and the town regarding road maintenance.

Councilwoman Menefee asked how many residences were on the unimproved roadway. Mr. Webb advised that three residences have access to the roadway. Councilman Arrington questioned the concerns of the planning commission. Mr. Arrington stressed that the parcel is far more profitable to the town as an improved building lot. Mr. Arrington reminded that the tax revenues would be greater on an improved lot and that the water and sewer tap fees would also produce revenue. Councilman Schiro questioned the use of the parcel as a business zoned lot. Mr. Webb replied that there would still be issues over the roadway if the lot was used for a business as zoned. Councilman Arrington stated that a precedent was set a long time ago when other homes were constructed on the opposite end of Nunn Lane. Mayor Presgraves and Mr. Black discussed the location of the water and sewer hook-ups for the parcel. Councilman Schiro asked if Mr. Miller had any intentions of using the parcel for business use. Attorney Roger Smith replied for Mr. Miller that he has no intention of business use for the parcel. Mr. Webb reminded that Council could add whatever conditions needed as part of the special use permit.

Mayor Presgraves opened the public hearing for citizen comment.

### **Bill Jennings- 18 Greenfield Road**

Mr. Jennings stated that he had attended the planning commission meeting and has no objection to a residence being constructed on this parcel. Mr. Jennings said that his concern is that the town establish and maintain a 30 foot right-of-way from Canaan to Hillside. Mr. Jennings was also concerned that a portion of this area may have already been vacated. Town Staff and Mayor Presgraves stated that there had been no legal vacation of right of way for the area in question. Councilman Schiro reminded that this would be an unimproved right of way.

**Roger Smith- 129 East Main Street, Attorney for Mr. Leroy Miller**

Mr. Smith stated that he is representing his client Mr. Miller. Mr. Smith said that Mr. Miller is just asking to extend the lane where it is and that Mr. Miller agrees to maintain it. Mr. Smith stated that he is a strong believer in not wasting land; he understands the town's duty to preserve the land but feels the town should make a decision to use the land wisely. Mr. Smith said it would be wasteful to not utilize this property. He said that this location is a primary one for a building lot and that more building lots are needed within the town. Mr. Smith said that it is just common sense to use the parcel for a building lot. He feels it is a "win-win" situation for both parties. He also verified that the right of way would be maintained. Mr. Smith reminded that the town would benefit through the utility income generated from the property.

Mr. Smith said that one of the planning commissioners had concerns regarding business use of the property. Mr. Miller has no intention of using the parcel for any form of business usage. Mr. Smith asked Council to please not use prior precedents as excuses for not allowing the special use permit. He stated that the entire purpose of the permit process is to look at situations on a case by case basis. Mr. Miller stated that he had no additional comments other than those made by his attorney.

**Fran Marsh- 1250 East Main Street**

Ms. Marsh stated that she purchased lots in this area years ago and that all of her lots were zoned business as well. Ms. Marsh said that her lots were rezoned and that she used them to construct her residence. She stated that she already has a busy highway in front of her and that she does not want one behind her. She also expressed that she does not understand why Mr. Miller sold lots that he once owned that would have provided him the road frontage needed on Main Street. Ms. Marsh stated that she rarely uses the roadway behind her and that no one has built a home on Nunn Lane in years.

**Broski Comer- 1234 East Main Street**

Mr. Comer said that he does not believe that Nunn Lane can be made a through street. Mr. Comer believes that due to a garage on the Jackie Good property there may not be enough room for a 30 foot right of way. Mayor Presgraves said that there were no records of an alleyway being dedicated to Mr. Good.

**Mary Ellen Jennings- 1244 East Main Street**

Ms. Jennings presented a letter from Councilman Schiro dating back to 1985 regarding the alleyway. Mr. Schiro read the letter aloud for Council and the public. Ms. Jennings also discussed the maintenance of the alleyway.

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

Mayor Presgraves stated that the town has two options; to allow the property to be developed or to have it become trash land. Mr. Presgraves said that things like this attribute to the need for tax increases. He stated that it would not be a wise utilization of the property to not allow construction on the lot. Mayor Presgraves feels that all town citizens can benefit from the utility and tax revenues that will be generated from developing the lot.

Councilwoman Menefee said that her only issue is with the alleyway (Nunn Lane). However, Ms. Menefee said that she feels Mr. Miller's proffers are adequate. Councilman Lancaster expressed

concerns over the location of the nearest fire hydrant. Councilman Schiro acknowledged that while this is not a perfect situation, this reflects the purpose of the special use permit process. Mr. Schiro said that to deny the landowner use of the property would be unfair; as Mr. Miller has been a faithful taxpayer on the property. Mr. Schiro stated that the use of the parcel as residentially zoned was far more appropriate than its by-right use as a B-1 zoned parcel. Councilman Schiro said that he understands the concerns of the planning commission but it must be made clear that the roadway will not be maintained by the town. Overall, Mr. Schiro feels this is a wise use of the property.

Town Planner, Ligon Webb, gave a quick summary of the conditions of the special use permit and provided copies for everyone involved. Mr. Jennings asked how the 30 foot right-of-way would be retained. Councilman Lancaster asked if that could be added to the motion. Town Attorney, Jason Spitler, verified that this could be added to the motion with specific language.

**Motion:** Councilman Schiro motioned to approve the Special Use Permit for Leroy Miller 42A6(1)77 with the conditions discussed, no future business use of the property, and also no future dedication of the alleyway by the town. Motion seconded by Councilman Arrington with the vote as follows: YEA: Council Members Vickers, Arrington, Menefee, Schiro, Racer. NAY: Lancaster. **Approved 5-1**

### **GENERAL CITIZEN COMMENT**

#### **Byron Baptist/ Barbara Baptist- 402 Ninth Avenue, Luray**

Mr. Baptist stated that he had received notice from the town regarding his pigeons. This was a nuisance notice issued from Code Enforcement Officer Brice. Mr. Baptist said that he is requesting the town change its ordinance for this. Mr. Baptist explained that he raised racing pigeons and that it is necessary to exercise and train them. He further explained that he takes them away from home, then requiring them to fly back to his residence. Mr. Baptist stated that it is not feasible to lock them down into cages.

Mayor Presgraves verified that Mr. Baptist was served with a 30-day written notice to keep his birds confined to his property. Mr. Baptist has been served with a summons to appear in court. This recommendation comes from the town code regarding nuisance birds. Councilman Schiro stated that if this matter is still pending before the court then Council should not interfere. Mr. Schiro stated that the town is the legislative body not the judiciary body and therefore the matter must follow due process through court. Mr. Schiro said that the Town Council should not intercede at this point in the process but may later review the town ordinance. Mayor Presgraves agreed that Mr. Baptist must go through the due process on this matter. Council concurred that Mr. Baptist should go before the judge and plead his case. Town Attorney, Jason Spitler, agreed that Council should not interfere at this stage in the process. Barbara Baptist stated that the birds owned by her and her husband are not nuisance birds. She said that their birds have pedigrees and that they should be considered differently than wild pigeons. Mayor Presgraves reminded that they should convince the judge of this and then return to Council.

#### **Vicki Pitts- Luray Garden Club/**

#### **Ken Beyer- Luray Hawksbill Greenway Foundation**

Ms. Pitts began by stating that she is the civic chair for the Luray Garden Club and the club makes donations of plants, trees, etc. to beautify the town. Ms. Pitts stated that the club would like to donate a Gazebo on Phase I of the Luray Hawksbill Greenway, near the park and ride area. Ms. Pitts explained

that the garden club would be making the donation of the gazebo; it would be pre-built, and it would be movable in case of flooding. Ms. Pitts is only asking for approval of the concept at this time. She stated that the installation would be based on the building inspector's approval. Council and staff discussed the exact location of the proposed gazebo. Director of Parks and Recreation, Pat O'Brien, stated that the only issue may be with the flood zone area, which would only require that the structure be movable. Councilwoman Menefee clarified with Ms. Pitts that the structure would be pre-built and donated by the garden club. **Motion:** Councilman Racer motioned to accept the donation of a gazebo on Phase I of the greenway, motion seconded by Councilman Menefee with the vote as follows: YEA: Council Members Vickers, Arrington, Menefee, Lancaster, Schiro, Racer. **Approved 6-0**

### **Vicki Pitts- 33 Cave Street, Luray**

Ms. Pitts stated that there are some new neighbors on her street who have small children. Ms. Pitts is concerned over the traffic and children using the sidewalks. She requested that the town install "children at play" signs in this area. Mayor Presgraves asked staff to see that this is taken care of.

### **Ken Beyer- Luray Hawksbill Greenway Foundation**

Mr. Beyer stated that he was proud to announce the website for the foundation. Also, Mr. Beyer passed out flyers to Council and Staff and thanked Council for their support.

### **Durwood Frye- 32 Hilltop Lane**

Mr. Frye spoke to Council concerning the habitat house construction near him and the problem it creates when there is rain. Mr. Frye stated that his concern is the amount of water that now runs off of that property. He said that with the excavation going on, the property is now a flood area. Mr. Frye said that he wants this problem straightened out. He said that he has previously spoken with the Mayor and Town Manager about this. Mr. Frye said that he wants this water off of his property!

Town Manager, Rick Black, stated that he has spoken with the building official's office about the ENS plan. Mr. Black said that the construction has created a problem because the property is no longer a vegetative sight and that all of the drainage comes out of the silt fencing. Mr. Black explained that these problems are a direct result of the excavation and that he will speak with the engineers and contractors about this.

Mayor Presgraves asked if there was anything staff could do to alleviate this problem. Mr. Frye discussed a similar issue on another adjacent property. Councilman Lancaster questioned the type of easement in that case. Mr. Frye said that he wants the Town to stop the water! Mayor Presgraves asked if we could please make an effort to fix this problem. Mr. Black stated that staff can go to the building official's office on the issue. Mr. Black also reminded that in order to go on other properties in the area, the town would have to gain everyone's permission. Mr. Frye said that he has also been to the building official, Kenny Fox- Page County Building Official, and has gained no resolve. Town Attorney, Jason Spitler, stated that town staff should consider the language of the easements involved and reminded that you cannot discharge water on others property. Councilman Racer said that he finds it hard to believe that there were no issues prior to construction and that this problem can't be resolved. Mr. Black said that the town cannot install culvert pipe in right-of-way that the town does not own. Councilman Racer suggested acquiring the right-of-way and go from there. Mr. Black said that all right-of-way would have to be donated.

Mayor Presgraves concluded by saying that town staff would need more time to work on the problem. Mr. Frye said that he would help in any way he can.

## **TOWN AFFILIATED BOARDS AND COMMISSIONS**

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

President of the Chamber, Briana Campbell, stated that the local calls were up 45% and that walk-ins were up 23% over last year. Ms. Campbell said that more travelers are using the internet to gain information. Also, she said that the chamber is now at 432 members, and she is proud to report that no one has dropped their membership. Ms. Campbell reminded everyone of the upcoming business after hours to be held at the Looking Glass. Also, there will be a “chamber night” at the Page Valley Fair for members to receive a \$1.00 discount on admission. Lastly, Ms. Campbell discussed a recent article in Southern Living magazine that showcased the Shenandoah National Park. She said that there were several pages on the area and that she wrote a letter of thanks to the editor of the magazine. She emphasized that this is terrific publicity for our area.

Councilwoman Menefee asked about the plans for the 75<sup>th</sup> Anniversary of the Shenandoah National Park. Ms. Campbell said that she is on the committee and that the kickoff event will be held at the chamber banquet at Big Meadows. She said that work is underway for a logo, website, etc. Also, she said that the committee will be orchestrating different events within each county.

## **DEPARTMENTAL REPORTS**

### **POLICE – PUBLIC SAFETY AND EMERGENCY SERVICES**

Chief Page Campbell stated that there were 271 total calls for service for the month of July 2010. Mr. Campbell said that the downtown bike race event went well. He said that a lot was learned from the experience due to the utilization of many downtown streets. He said that there were a lot of businesses and residents affected by this and that some complaints were received from motorist. Mr. Campbell said that overall the best traffic pattern was utilized with the least amount of inconvenience to motorist.

Chief Campbell stated that if the event is held next year, it would still be handled in the same manner. Councilman Schiro asked if the merchants were notified in advance of the event. Chief Campbell said that the event hosts were to be sure that the flyers went out to notify of the road closures. Mr. Campbell said that his department’s role was for traffic control. Mayor Presgraves said that some business owners said they received no notification. Mayor Presgraves said that anytime two parallel streets are closed there are going to be issues. Council and staff discussed other areas affected such as Page Memorial Hospital and Hawksbill Assisted Living. Councilman Lancaster said that he was impressed by the traffic control that he saw and the amount of volunteers assisting. Chief Campbell said that many streets were involved so we may want to look at this for next year; overall it was a good event.

## **PARKS AND RECREATION**

Mr. O'Brien, Director of Parks and Recreation, stated that every event has a post-event briefing. He said that all of the race officials were very professional and the event was well done. Mr. O'Brien said that there were a few issues with notification and logistics which can be expected with any event. Councilman Lancaster stated that the newspaper could have helped to provide notification on this. There were a total of 196 participants for the bike race event.

Mr. O'Brien reminded Council that the Triathlon is coming up this weekend. There will be approximately 600 participants each day of the event.

Mr. O'Brien said that Project Softball is now complete. He participated in the final punch list meeting with Kelley Construction earlier today. He said that the tournament went very well and that many compliments were received on this. Mr. O'Brien is working on hosting another USSA tournament in October. He also said that the Luray Ruritan Club and Luray Moose Lodge have pledged funds for shade trees and landscaping at the park.

Mr. O'Brien also discussed the new Permeable Paver Parking Lot; the pavers are now complete. The next phase of the project is the rain garden, scheduled for this week. Mr. O'Brien reminded that this project is 100% funded by the Department of Forestry stimulus grant. He stated that two reimbursement requests have been submitted with the third to be completed soon.

Regarding murals, Mr. O'Brien said that the mural at Turner's Body Shop has been completed. The next mural will be near the Greenway area depicting Willow Grove Mill. Councilwoman Menefee verified that these are being done by local artist Jennifer Bradt. Mr. O'Brien provided Council with an illustration of the Willow Grove Mill mural.

Mr. O'Brien discussed the Chili Cook Off Event on September 25<sup>th</sup>. Again, this is another first time event which would require a small area of Main Street to be closed. Mr. O'Brien said that this is a joint event between the Town and LDI. Council concurred that there were no problems with closing the roadway; however the downtown merchants must be informed of the event.

Pat O'Brien, Director of Parks and Recreation, stated that the restrooms on the Greenway were complete. Right now the structures are scheduled to be painted; however in order to make them more trail-like Mr. O'Brien suggested using a faux stone exterior. Mr. O'Brien said that DCR may be able to help out with some grant money for the project. Mayor Presgraves stated that he thinks it would look nice. Council and staff discussed some different options for the exterior. Mr. O'Brien is asking for Council's opinion on the idea. Council directed Mr. O'Brien to go ahead with the project according to however the funds flow.

Councilman Lancaster questioned the area of the paver lot next to the bridge. Mr. O'Brien said that this area is not meant to be driven on and that he plans to construct bollards to keep vehicles off that portion. Councilman Vickers raised concerns about the public perception that the parking lot is being town funded. Councilman Schiro suggested that it may be a good idea to have the Page News & Courier do a follow up story upon completion and to have the public know why the grant funds were spent the way they were.

## **PUBLIC WORKS DEPARTMENT**

Town Manager, Rick Black, gave the report for the Public Works Department. The department has repaired two water leaks this month, made two water taps for the month, and has begun replacing a water line today. The department has also responded to three sewer calls this month and has begun some big paving projects which will continue.

## **WTP AND WWTP**

Mr. Hoke advised Council that the major renovations at the wastewater plant are coming to a close. The final completion date is approximately two months away and progress has gone well despite rainfall. Mr. Hoke advised Council that the wastewater treatment plant was compliant for the month.

Charlie Hoke, Director of Utilities, advised Council that the samples for the distribution system have not come back yet, but he is confident that they will be all negative. Mr. Hoke stated that the concrete floors at the water plant are looking much better while there are still some issues with the grass. Mr. Hoke said that the plant looks good and is functioning as designed.

## **PLANNING**

Mr. Webb told the Council that there would be one public hearing at the next commission meeting for a special use permit request from Shenandoah Valley Electric Cooperative. SVEC is requesting a permit to construct a storage building on an M1 zoned lot.

Councilman Lancaster stated that he does not have a commissioner to nominate at this time.

## **NEW BUSINESS**

### **Proposed Trespass Notice**

Town Manager, Rick Black, presented a proposed policy for trespass violations on town property. He said that in the past the rules did not necessarily work for all situations. Mr. Black said that the Police Department and Assistant Town Manager have given input on an interim policy. Councilwoman Menefee said that the policy should apply to all parks; not just the Ralph H. Dean recreation park. She suggested using this in regards to all town owned properties. Town staff also discussed the issue of consumption versus possession of alcohol on town property. Town Council's consensus was to go ahead with the policy.

### **Proposed Drought Policy**

Assistant Town Manager, Bryan Chrisman, presented Council with a portion of the regional plan that the town is a part of. This is a part of the low water response plan and would be in effect when there is a low water emergency. Council would be capable of enacting any of these stages in the event of a

drought, etc. Mr. Chrisman would like for Council to review this and contact him with questions. Mr. Chrisman hopes to meet with the Town Attorney and have a draft ordinance at the Council work session. At some point Council will need to take action on this as all localities are required to have one.

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

Jason Spitler, Town Attorney, stated that there are several ordinances in Council's packet regarding code enforcement. Code Enforcement Officer Brice has made suggestions regarding his findings on 911 addressing within the town. He stated that the only revisions will require that the addressing be permanently visible from the street and that the owner assume responsibility, not the occupant.

Mr. Spitler also discussed the proposed amendment to the town's sewer code. Mr. Spitler feels that he and Mr. Chrisman have struggled to address the concerns of Council on the location of the town's sewer lines. Mr. Spitler stated that there are infinite possibilities for the situations that may arise. The current code ordinance was provided for Council. Mr. Spitler stated he could continue his review and try to have something back for the work session. Councilman Schiro asked if this was something that could be addressed through definitions; such as defining a private line versus a public line. Councilman Schiro asked how other localities are handling this. Mr. Chrisman stated his finding based on information from Front Royal. Councilwoman Menefee stated that other localities must have this same issue. Town Attorney, Jason Spitler, stated that no others have tried to reduce this issue to writing. Mayor Presgraves asked that more information be provided at the work session.

### **EXECUTIVE SESSION**

**Legal Matters, Section 2.2-3711.A.7 (*Actual or Probable Litigation*)**

**Real Property, Section 2.2-3711.A.3 (*Acquisition or Disposition of Real Property*)**

Mayor Presgraves requested a motion to adjourn into Executive Session for the purpose of discussing Sections 2.2-3711.A.7 and 2.2-3711.A.3. **Motion:** Councilman Racer motioned to recess the regular session and to convene in executive session; Councilman Schiro seconded the motion with the following members voting YEA: Council Members Vickers, Arrington, Menefee, Lancaster, Schiro, and Racer. **Approved 6-0**

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

Mayor Presgraves asked members of Council to certify that to the best of their knowledge the only matter covered under Section 2.2-3711.A.3 and 2.2-3711.A.7 were heard, discussed, or considered during the closed session. **The roll was called with all members certifying "Yes".**

**ANNOUNCEMENTS/ ADJOURN**

Mayor Presgraves asked Council if they would like to change the date for the work session due to fair week or keep the meeting as scheduled. Council consensus was to keep the meeting as scheduled at 5:30 on August 24<sup>th</sup>.

There being no further business, Mayor Presgraves adjourned the regular session of the Town Council at approximately 9:56 P.M.

---

Barry Presgraves  
Mayor

---

Danielle P. Babb  
Deputy Clerk-Treasurer