

Minutes of a regular meeting of the Town Council of the Town of Marion, Virginia held in the Council Chambers of the Municipal Building on March 15, 2010 at 7:00 p.m.

PRESENT: Mayor David P. Helms; Dr. James Gates, Jane Hale, Mel Leaman, Buford Cregger, Suzanne Jennings, Eugene Hendrick and Bill Weaver, Council Members; Town Manager John E. B. Clark, Jr.; Town Engineer/Assistant Town Manager Cecil Hicks; Police Chief Michael Roberts, Police Lieutenant Rex Anders; Town Attorney Mark Fenyk; Community & Economic Development Director Ken Heath; Town Clerk/Director of Finance Susan Clark.

INVOCATION/PLEDGE TO THE FLAG: Mr. Ken Heath rendered the invocation. Mayor Helms led the Pledge to the Flag.

VISITORS: Jeff Spickard, Cici Vesce, Shirley Blackwell, Suzy Suple, Vincent Suple, Anne Hull, Ned Johnson, Dave Fields, Ira Lowe, Ira Lowe, Jr., Ryan Rosenbaum, Jiles Collins, John Glenn

MINUTES: Upon motion of Mr. Weaver, seconded by Mrs. Jennings and vote of 7 AYES and 0 NOES, the minutes of the meeting held March 1, 2010 were approved as written. Messrs Weaver, Hendrick, Cregger, Leaman, Mrs. Hale, Mrs. Jennings and Dr. Gates voted affirmatively.

FARMER'S MARKET GRANT APPLICATION: Mr. Heath explained that the Farmer's Market Enhancement Project would benefit farmers, crafters, artisans and the community. It will provide a shelter between the two existing pavilions, allowing for extension of the market area and will provide the addition of public restrooms, that will also be available for general public use. This project would allow the Town to continue to expand the market and further utilize the downtown area. Cost estimate for this project is approximately \$150,000. The available USDA funds are in an amount up to \$95,000. Upon motion of Dr. Gates, seconded by Mrs. Jennings and a vote of 7 AYES and 0 NOES, Council gave Mr. Heath permission to submit the grant application.

VFW MEMORIAL DAY CELEBRATION: Mayor Helms stated that the plans for the Memorial Day Celebration are well under way and the VFW would appreciate a Town donation to help incur the cost of the event. Mayor Helms added that the funds are appropriated in the budget.

OLD SCHOOLHOUSE PROJECT: Mr. Heath stated that a letter was sent to Denise Ambrose, Associate Director, DHCD and pursuant to conversations with DHCD staff, he stated his concerns with the difficulties in proceeding on the façade portion of the CDBG-R Blight Abatement Project. Four of the five owners of the targeted properties will not participate if DHCD requires a Deed of Trust. These owners feel that these façade improvements are not worth signing a Deed of Trust that might tie up the properties. The request to DHCD is for a waiver that would allow the Town and the affected property owners to have an agreement that would include all the provisions of the proposed Deed of Trust, but without the instrument being an officially recorded document as security against the property. Upon motion of Dr. Gates, seconded by Mr. Weaver and vote of 7 AYES and 0 NOES, Council feels comfortable not asking for a Deed of Trust from the targeted properties owners, but a signed and notarized agreement should be filed in the Town of Marion Clerks Office.

RIVERVIEW PUMP STATION PROJECT UPDATE: Mr. Clark stated that we are in the final stages of the review on the Riverview Pump Station Project and it should be going out for bid soon. The Town had to incur the cost, \$2,800, to the landowner for an approximate twenty (20) foot strip of land that will be formally owned by the Town and will contain the existing water line and the new pump station. The pump station provides approximately 30,000 gallons of water to the Riverview Residence. \$50,000 has been allocated in this grant for engineering and construction costs, but the \$2,800 is not reimbursable.

RECREATION COMMITTEE APPOINTMENTS: Upon motion of Mr. Hendrick, seconded by Mrs. Jennings and vote of 6 AYES, 0 NOES and 1 ABSTENTION (Leaman), Steven Dimit, Buck Sawyer and Phil Gaver were appointed to a two (2) year term, expiring March 1, 2012.

ACCOUNTS: Upon motion of Mr. Weaver, seconded by Mrs. Jennings and vote of 7 AYES and 0 NOES, the accounts were approved for payment in the amount of \$802,601.94.

INVESTMENTS: Upon motion of Mrs. Jennings, seconded by Mr. Hendrick and vote of 7 AYES and 0 NOES, the investment report was approved as written and distributed.

RESOLUTION-FUNDING FROM THE VIRGINIA DEPARTMENT OF HEALTH-DIVISION OF DRINKING WATER FOR HIGH LEVEL TANK REPAIRS PROJECT: Upon motion of Mrs. Jennings, seconded by Mrs. Hale and vote of 7 AYES and 0 NOES, the following Resolution was adopted:

RESOLUTION OF THE TOWN OF MARION FOR FUNDING FROM THE VIRGINIA
DEPARTMENT OF HEALTH-DIVISION OF DRINKING WATER FOR HIGH LEVEL TANK REPAIRS
PROJECT

WHEREAS, the Town of Marion has applied for funding for various water projects in the Town from the Virginia Department of Health over the years; and

WHEREAS, the Virginia Department of Health-Division of Drinking Water has funded several water projects; and

THEREFORE, BE IT RESOLVED, the Town of Marion Town Council hereby vote to seek funding from the Division for the following project:

High Level Tank Repairs - \$49,900.

THEREFORE, BE IT RESOLVED, that the Town Manager immediately begin to process funding applications for the project and be authorized to sign any and all documents to accept such funding contingent upon review and concurrence by the Town Attorney; and

ADOPTED, this 15th day of March, 2010

SIGNED:

John E. B. Clark, Jr., Town Manager

Susan H. Clark, Town Clerk

SEWER TREATMENT PLANT-SUBMISSION OF DEPARTMENT OF ENVIRONMENTAL QUALITY GRANT: Mr. Clark explained that the grant application has been submitted to the Department of Environmental Quality to repair the piping to heat the Sewer Treatment Plant digester and to provide conservation of electricity in a green reserve project. The approximate cost is \$530,000 and the most that the Town could receive is 50%. The Town would have to incur the difference in the cost.

STREET LIGHT REQUEST-650 & 652 HAMLET STREET: Upon motion of Mr. Weaver, seconded by Mrs. Jennings and vote of 7 AYES and 0 NOES, this item was referred to the Street Light Committee.

TOWING SERVICES-BUSINESS LICENSE: Mr. Ira Lowe, Lowe' Garage, Chilhowie, Virginia, spoke in opposition to Towing Services having to pay a Business License in the Town of Marion. Mr. Fenyk added that the Code of Virginia authorizes the Town to impose a Business License for those doing business within the Town of Marion. Upon motion of Mrs. Jennings, seconded by Mr. Leaman and vote of 7 AYES and 0 NOES, this item was referred to the Ordinance Committee for study.

FIRE & ORDINANCE COMMITTEES-RESTITUTION AND CHARGING FOR CALLS: Dr. Gates stated that the Fire Department may be allowed to apply for funds from insurance companies to reimburse the costs associated with fire calls. The Fire Department Chief will gather more information and report back to the committees. This item was continued.

DOWNTOWN UPLIFT COMMITTEE-FARMERS MARKET: Mr. Heath explained the projected revenues and expenses associated with the Farmers Market and suggested rotating the Town personnel at the Market, thus having one staff member present at the Market, instead of three (3). This should cause the Market to operate within budget.

APPALACHIAN SPIRIT GALLERY-144 W. MAIN STREET-BUILDING & GROUNDS AND REAL ESTATE COMMITTEES: Mr. Clark stated that a new agreement between Appalachian Spirit Gallery and the Town of Marion has been written. Upon motion of Dr. Gates, seconded by Mrs. Jennings and vote of 7 AYES

and 0 NOES, Council approved the following agreement between the Town of Marion and Appalachian Spirit Gallery contingent to the liaisons for the Town and Gallery establishing a fair cost for the gas and electric bills:

This agreement between the Town of Marion and Appalachian Spirit Gallery, effective January 1, 2010 through December 31, 2012, for the use of 144 W. Main Street, is governed and contingent on the following conditions and generalities:

The building is made available to the Appalachian Spirit Gallery on an “as is basis” although the Town has performed major capital outlays on the building in recent years, including roof replacement, step replacement, electrical upgrades and siding replacement. Minor repairs on the building costing less than \$50 shall be the responsibility of the Gallery. Repairs costing more than this shall be considered by the Town, but the Town shall not be required to do any repairs.

The Gallery submits that it has attained 501-C3 Status of the IRS code. A copy of this certification will be given to the Town.

One person representing the Gallery shall act as liaison for the Gallery in its dealings with the Town. This person shall be Ms. Anne Hull, Treasurer of the Gallery. In the event Ms. Hull cannot act in this capacity, another individual will be appointed by the Gallery. The person representing the Town in its dealings with the Gallery shall be the Town Manager.

The Gallery may remove the carpet and finish the floors when applicable. The Gallery may paint the walls with a color approved by the Town.

The Town has inspected the front porch and the supports underneath the porch. The Town feels that the porch is in as good a condition as it has been in the past. However, the Gallery will restrict any large gatherings on the porch in the interest of safety.

The average bill for the natural gas for the facility for a four (4) month period from November, 2009 to February, 2010 was \$129.40. The Gallery agrees to pay any amount over that four (4) month average.

The average electric bill for six (6) month period from July to December, 2009 was \$33.49. The Gallery agrees to pay any amount over that six (6) month average.

The Gallery will make a yearly report, either orally or in person, concerning the progress and activities of the Gallery at a regular meeting of the Town Council. The Gallery will contact the Town Manager to be placed on the agenda.

The Gallery will limit the number of persons having keys to a bare minimum for the building. The Town will not be responsible for any theft of art on the property, of Gallery members, or for any injuries.

The Town reserves the right to terminate this lease following revocation by the Town Council, and a 60 day written notice. The Town will only terminate this lease and take possession of 144 W. Main Street because of some unforeseen and catastrophic event that would necessitate the need for 144 W. Main Street by the Town in order to prevent the stoppage or hindrance of normal governmental service to the public. This unforeseen and catastrophic event would include, but would not be limited to fire, flood, explosion, collapse, etc.

The Gallery agrees to hold the Town harmless in case of injury at the building.

Agreed to:

_____	_____
Town of Marion-John E.B. Clark, Jr., Town Manager	Date
_____	_____
Appalachian Spirit Gallery-Anne H. Hull	Date
_____	_____

Witness

Date

WATER ACCOUNTABILITY: Mrs. Jennings questioned the total gallons of water lost, 1,579,205 in the month of February, 2010. Mr. Hicks explained that there were several large leaks in February that are now repaired and that Smyth County repaired the leak at the Courthouse also.

SPECIAL TAX SERVICE DISTRICT-KEN HEATH: Mr. Heath stated that Marion Downtown is proposing to expand the Special Tax Service District. Upon motion of Mrs. Jennings, seconded by Mr. Weaver and vote of 7 AYES and 0 NOES, this item was referred to the Town Uplift and Ordinance Committees.

PAVING: Mr. Hicks stated that he will meet with the Street Committee to discuss spring paving.

Upon motion, duly seconded and vote of 7 AYES and 0 NOES, the meeting was adjourned.

Mayor

Clerk