

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 September 7, 2010 at 7:00 p.m.

PRESENT: Mayor David P. Helms; Jane Hale, Jim Owens, Dr. James Gates, Suzanne Jennings, Bill Weaver, and Jim Barker, Council Members; Town Attorney Mark Fenyk; Town Engineer/Assistant Town Manager Cecil Hicks; Police Chief Michael Roberts; Police Lieutenant Rex Anders; Community & Economic Development Director Ken Heath; Town Clerk/Director of Finance Susan Clark.

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

VISITORS: Donnie Coley, Fallon Hale, Joe Ellis, Brittany Hughes, Dr. Kris Gandhi

MINUTES: Upon motion of Mrs. Jennings, seconded by Mrs. Hale and vote of 6 AYES, 0 NOES, the minutes of the meeting held August 16, 2010 were approved as written. Messrs Weaver, Owens, Barker, Dr. Gates, Mrs. Hale and Mrs. Jennings voted affirmatively.

CLOSURE OF OLD PRATER LANE FOR IMPROVEMENTS INCLUDING A CUL-DE-SAC: Mr. Hicks stated that at the railroad crossing, the road will be permanently closed to through traffic.

Mayor Helms closed the Public Hearing.

Upon motion of Dr. Gates, seconded by Mrs. Jennings and vote of 6 AYES and 0 NOES, Council approved closing Old Prater Road to through traffic at the railroad crossing with road closing improvements that include a cul-de-sac.

CONSIDERATION OF SPECIAL USE PERMIT AT 540 S MAIN STREET-KRIS GANDHI PROPERTY FOR BUSINESS AND RESIDENTIAL USE: Mr. Hicks explained that Planning Commission met and recommended that Council grant a Special Use Permit instead of rezoning the property because of the proposed mixed uses for the property. Mr. Hicks added that Council has the authority to proffer conditions to the proposed uses. Mr. Hicks stated that possible proffers should include 1) If the business or special use ceases to operate, the special use is null and void and the applicant will have to re-apply for another Special Use. 2) Property should be fenced as a buffer from any residential adjacent properties. 3) Should dilapidated building at the rear of property be removed? 4) Property outside area should be cleared. 5) Council may also set a completion date for the upgrades to the property. 6) Dr. Gandhi must abide by all State and Federal Laws.

Dr. Gandhi added that he would like to build offices for rent in the front of the building on the first floor and use the back of the building for rental apartments. He stated that his main intention is to improve the building and let it be a revenue producer. He also added that one building in the rear of the property has been removed and the other has been improved.

Mrs. Jennings asked that the lawn and grounds be kept in accordance with the aesthetics of the property and the appropriate landscaping placed on the property due to the location.

Mayor Helms closed the Public Hearing.

Mrs. Hale moved to issue the Special Use Permit, Mrs. Jennings seconded the motion.

Discussion ensued.

Mrs. Hale and Mrs. Jennings rescinded their motions.

Due to the additions of proffers and conditions, Mayor Helms appointed a Special Committee consisting of Mr. Barker and Mrs. Jennings, to meet and report back to Council. Upon motion of Dr. Gates, seconded by Mr. Weaver and vote of 6 AYES and 0 NOES, this request was referred to the Special Committee.

MARION PLANNING COMMISSION APPOINTMENT: Upon motion of Mrs. Jennings, seconded by Mr. Weaver and vote of 6 AYES and 0 NOES, this item was continued.

PROPOSED LETTER TO UTILITIES REGARDING STUB POLE REMOVAL: Upon motion of Dr. Gates, seconded by Mrs. Jennings and vote of 6 AYES and 0 NOES, this item was continued.

APPROVAL OF THOMPSON & LITTON CONTRACT ON DIGESTER BIO GAS PROJECT: Mr. Fenyk stated that he had read the contract and his opinion is that it is ready for approval. Upon motion of Mr. Weaver, seconded by Mrs. Jennings and vote of 6 AYES and 0 NOES, Council approved the contract with Thompson & Litton.

RESOLUTION TO RURAL DEVELOPMENT FOR FARMER'S MARKET: Mr. Heath stated that the resolution must be approved in order to obtain financial assistance from Rural Development for improvements to the Farmer's Market.

RESOLUTION OF GOVERNING BODY OF THE

TOWN OF MARION, VIRGINIA

The governing body of the Town of Marion, in a duly called meeting held on the 7th day of September, 2010, at which a quorum was present, resolved as follows:

BE IT HEREBY RESOLVED that, in order to facilitate obtaining financial assistance through a Rural Business Enterprise Grant from the USDA, Rural Development in order to improve the Farmer's Market, the governing body does hereby adopt and abide by the covenants contained in the following agreements:

1. "Letter of Conditions", Dated June 18, 2010
2. Scope of Work
3. Form RD 1942-46, "Letter of Intent to Meet Conditions"
4. Form RD 1940-1, "Request for Obligation of Funds"

5. Form RD 400-1, "Equal Opportunity Agreement"
6. Form RD 400-4, "Assurance Agreement"
7. Form AD 1047, "Certification Regarding Debarment, Suspension, and other Responsibility Matters-Primary Covered Transactions"
8. Form AD-1049, "Certification Regarding Drug-Free Workplace Requirements (Grants)"
9. RD Instruction 1940-Q, Exhibit A-1, "Certification for Contracts, Grants and Loans Regarding Lobbying"
10. SF-LLL, "Disclosure Form to Report Lobbying"

BE IT FURTHER RESOLVED, that the Town Manager of the Town of Marion be authorized to execute, on behalf of the governing board, the above agreements and to execute such other documents including, but not limited to, debt or grant instruments and security instruments as may be required in obtaining the said financial assistance.

This Resolution, along with a copy of the above named documents, is hereby entered in to the permanent minutes of the meeting of this committee.

Town of Marion

Attest:

By: _____

CERTIFICATION

I hereby certify that the above resolution was duly adopted by the Town of Marion in a duly assembled meeting on the 7th day of September, 2010

Town Clerk

Upon motion of Mrs. Jennings, seconded by Dr. Gates and vote of 6 AYES and 0 NOES, the Resolution was adopted.

SUBMITTAL OF PROPOSAL ON OLD 1908 SCHOOLHOUSE: Mr. Heath explained that one proposal had been received from Joe Ellis. Upon motion of Mr. Weaver, seconded by Mrs. Jennings and vote of 6 AYES and 0 NOES, Council accepted the proposal submitted by Joe Ellis for the Appalachian School of Music, pending payment of \$100, completion of construction on the current CDBG project, and all parties agreeing to legal documents related to the transfer, including the deed which will include provisions for requirements for keeping the building adequately insured and reversion provisions for failure to meet the specific goals, objectives, and timelines as presented. Council will offer Ellis's 501 (c)3 non-profit organization an option for 6 months in exchange for \$100, so that his team may begin soliciting grants. The legal work was referred to Mr. Fenyk.

PATRIOTS DAY PROGRAM: Mr. Heath stated that the Patriots Day Program will be at the Farmer's Market on Saturday, September 11, 2010 beginning at 11:00 am and that the Patriots Day Resolution would need to be approved by Council. Upon motion of Mrs. Jennings, seconded by Mr. Owens and a vote of 6 AYES and 0 NOES, the Resolution was approved.

GARBAGE PICKUP OUTSIDE OF CORPORATION LIMITS: A request was made by residence of Anderson Avenue asking for garbage pickup to be extended to outside the corporation limits. Upon motion of Mrs. Jennings, seconded by Mr. Owens and vote of 6 AYES and 0 NOES, this item was referred to the sanitation committee.

NOTICE OF VIOLATION AT SEWER TREATMENT PLANT: Mr. Hicks stated that he had received a letter from the Department of Environmental Quality warning of violation at the Sewer Treatment Plant that include repair/replacement of the malfunctioned raw sewage pump number 2, making the Bio-Towers pumps number 1 and 2 operational, upgrading of both UV disinfection units and making extensive repairs to the infrastructure on the Bio Tower Unit Number 2. The Town has responded by letters from the Chief Operator and Town Manager. The items still remain outstanding but the Town is working to remedy the problems and realizes that the equipment needs upgrading.

REQUEST TO ADVERTISE FOR CONSULTING FIRM ON PHASE I IMPROVEMENTS AT THE SEWER TREATMENT PLANT: Upon motion of Mrs. Jennings, seconded by Mr. Weaver and vote of 6 AYES and 0 NOES, Council approved advertising for soliciting proposals from qualified engineering firms on the design services for the upgrade the Sewer Treatment Plant.

BIDS ON REPLACEMENT OF RAW SEWER INFLUENT PUMPS-SEWER TREATMENT PLANT: Mr. Hicks explained that the low bid is \$52,600 from Teater's Trucking. This amount was approximately \$30,000 more than expected. Because of the additional cost, this item was referred to the Finance and Sanitation Committees for review and recommendation. Mrs. Jennings made the motion, seconded by Mr. Weaver. Motion carried by vote of 6 AYES and 0 NOES.

REVIEW OF TRAFFIC IMPACT STUDY FOR THE NEW SMYTH COUNTY HOSPITAL: Mr. Hicks reported that he had reviewed the Traffic Impact Study prepared by the Hospital and has the following items that he recommends based on the report and his own observations:

- 1) Provide a 100-foot east bound left turn lane on North Main Street for traffic entering the proposed hospital access.
- 2) Provide a 100-foot west bound right turn lane (deceleration lane) on North Main Street for traffic entering the proposed hospital access.
- 3) Provide for separate left turn and right turn lanes from the hospital access for traffic flow efficiency. Also providing an acceleration lane on to North Main Street from the site west bound to merge traffic into North Main Street.
- 4) Signalize the proposed hospital site access with North Main Street.
- 5) The intersection of Lee Highway at Rifton Drive (Exit 47) should be signalized.

- 6) Monitor the Lee Highway and I-81 south bound ramp intersection for signalization.
- 7) Minimize signing and vegetation at the proposed hospital site access as not to restrict sight-distances for traffic egressing the development to North Main Street.
- 8) The design of the traffic signalized intersection at the proposed hospital access and North Main Street should consider for future development to the site across the North Main Street to the south for future development. This site could be Medical Offices, or even Commercial in nature due to the hospital's location. Every effort should be made to design poles for additional mast arms without changing the foundation of the mast arm pole combination if possible.
- 9) The proposed entrance from Water Mill Road to the hospital site access should be for emergency use only and the road shall be upgraded from the existing asphalt pavement on Althea Street to the entrance to the proposed hospital site access by widening and paving.
- 10) The "Welcome to Marion" sign that is to be demolished shall be replaced in its entirety at the location decided by the Marion Town Council.

Dr. Gates suggested the addition of recommendation #11- surface treat entrance to the property at Water Mill Road

REQUEST FROM CUSTOM SOLUTIONS ON PROPERTY OFF OF MARKET STREET ON ROUTE 16 SOUTH: Mr. Hicks explained that this request includes re-routing the main sewer line. Upon motion of Mrs. Jennings, seconded by Mr. Weaver and vote of 6 AYES and 0 NOES, this item was referred to the Sanitation Committee.

IMPACT INTERNATIONAL: Ms. Fallon Hale, representing Impact International explained that they would like to hold a Youth Rally/Free Concert at the Riverbend Park on Saturday October 2, 2010 from 11:30 am to 5:30 pm. The church members would volunteer to help with parking. Upon motion of Mrs. Jennings, seconded by Mr. Weaver and vote of 5 AYES, 0 NOES and 1 ABSTENTION (Hale), Council approved the event and the Town Attorney was instructed to write a Hold Harmless Agreement for the Town.

SIGNALIZATION PROJECT AND ORDER OF PRIORITIES: Mr. Weaver stated that the Street Committee had met and presented a list with order of priority for the Signalization Project to Council. The Committee recommends that three (3) signals receive a complete replacement and nine (9) signals receive upgrades. The estimated cost is \$944,831 and each signal will take no more than forty-five (45) days to complete. Mr. Weaver added that the project should begin as soon as possible since the funds are available. Upon motion of Dr. Gates, seconded by Mr. Weaver and vote of 6 AYES and 0 NOES, Council approved beginning the signalization project according to the priority list, but beginning with priority 2 instead of 1.

ANTHEM ADVANTAGE 65 INSURANCE REQUEST: Upon motion of Mrs. Jennings, seconded by Mr. Weaver and vote of 6 AYES and 0 NOES, and upon recommendation of the insurance committee, the request was denied.

REQUEST FOR STREET LIGHT AT THE CORNER OF GRAYBEAL AND CATRON STREETS: Upon motion of Mrs. Jennings, seconded by Mr. Weaver and vote of 6 AYES and 0 NOES, this item was continued.

THE LINCOLN THEATRE: Mr. Heath stated that in the current budget the Town contributes \$58,000 to the Lincoln Theatre, which is approximately 7 times the Gold Level Sponsorship. There is no mention of the Town in the program, no ad, no listing as a programming sponsor, no mention in press releases and no link on the website. Mr. Heath proposes that the Lincoln Theatre consider the \$58,000 donation as sponsorship and that the Town should receive, at a minimum: 1) One full page ad in each program, 2) 28 tickets (4x7) to every show, 3) Prominent logo inclusion in press releases, posters, etc. and tagline in all radio spots, and 4) Website link on the webpage.

MT ZION CHURCH REQUEST TO CLOSE IRON STREET: Chief Roberts stated that he had received a request from Mt. Zion Church asking to close Iron Street on Sunday, September 12, 2010 from 10:30 am to 4:30 pm. Upon motion of Mrs. Jennings, seconded by Dr. Gates and vote of 6 AYES and 0 NOES, the request was approved.

CLOSED SESSION: Pursuant to Code of Virginia 1950, as amended, Section 2.2-3711(a.1) and upon motion of Mrs. Jennings, seconded by Mr. Weaver and vote of 6 AYES and 0 NOES, Council entered into Closed Session to discuss personnel matters pertaining to a situation with an employee relating to Virginia Retirement System. Mrs. Jennings moved that Town Council return to Open Session and that it be known that only those matters legally exempted from Open Session and identified in the motion were discussed during the Closed Session. Mr. Weaver seconded the motion. Council approved the motion by a vote of 6 AYES and 0 NOES, Mrs. Jennings, Mrs. Hale, Messrs Weaver, Barker, Owens and Dr. Gates voted affirmatively.

Upon motion, duly seconded and vote of 6 AYES and 0 NOES, the meeting was adjourned.

Mayor

Clerk