

**REGULAR MEETING OF THE
LURAY PLANNING COMMISSION
APRIL 13, 2011**

The Luray Planning Commission met on Wednesday, April 13, 2011 at 7:00 p.m. in regular session. The meeting was held in the Luray Town Council Chambers at 45 East Main Street, Luray, Virginia at which time there were present the following:

Commissioners Present:

Tom Potts
Clifton Campbell
Larry Hakel
Pam Flasch
John Meaney
Ronald Good
Joey Sours

Others Present:

Richard Black, Town Manager
Bryan Chrisman, Assistant Town Manager
Ligon Webb, Town Planner
Jason Spitler, Town Attorney
Joe Farruggia, Page News & Courier
Travis Clark, President – PMH/Valley Health
Seth Roderick, P.E. - Valley Engineering
Dick Masincup

Chairman Tom Potts called the meeting to order and everyone joined in the Pledge of Allegiance to the flag.

APPROVAL OF MINUTES:

Commissioner Good stated on page 10, the name of the person who spoke was Mr. Reiss, not Rice. A motion was made by Commissioner Campbell that the minutes of March 16, 2011 be approved with the correction as presented and seconded by Commissioner Flasch. The vote was as follows: YEA: Commissioners Hakel, Sours, Campbell, Potts, Flasch, Meaney and Good. **APPROVED: 7-0**

Minutes of the Work Session on April 5, 2011 – A motion was made by Commissioner Hakel that these minutes be approved as presented and motion was seconded by Commissioner Campbell. The vote was as follows: YEA: Commissioners Hakel, Sours, Campbell, Potts, Flasch, Meaney and Good. **APPROVED: 7-0**

Commissioner Potts asked if the attorney was here. Mr. Webb replied that he was supposed to be. Commissioner Potts stated you need to have him here before the end of the meeting.

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Mr. Webb asked if you mind if we go ahead and start with Old Business now. Commissioner Potts stated as long as the attorney is here before the end of it. Mr. Webb replied that he should be.

OLD BUSINESS:

Rezoning Request: RZ11-1 Page Memorial Hospital

Mr. Webb stated that Page Memorial Hospital is requesting to rezone an approximately 13.4 acre parcel from R3 (High-Density Residential) to B1-C (General Business with Conditions). I have talked to a couple of you the last few days. We are basically looking at the revised proffer and that's what we discussed last week. The only difference I see in what we have here, and I said it in the Work session, was the design work on Memorial Drive. I know I spoke with a couple of you and told you that basically what's been substituted for the design work for items 4 and 5 – they are going to assist us in doing the warrant analysis which will be part of the revenue sharing program that VDOT has. That's why there is a change in that. In the warrant analysis it's not a small matter; you have to put down tubes and do traffic counts and it's a considerable undertaking just for the design work for that corridor. Once again this is B1-C with conditions, so its limited to hospital or hospital uses. That stays the same. Of course, No. 2 on the revised conditions is the fence which they provided a sketch. You are looking at about 800 feet of fence and Mr. Roderick told me that's somewhere around \$20,000 in expense for that privacy fence.

The only other issue for staff is that the only thing we have asked is they have estimated the light to be \$165,000. These guys put up lights all the time and they know what the cost is, but I just think for our due diligence I asked that he get an estimate also to us from the contractor so we can see that's their estimate. We would suspect that if they are going to start in a year, that a year from now we are going to be working with them probably late next winter to apply for the revenue sharing funds and I think the application is due at the end of April. Somewhere after the revenue sharing funds and they begin construction, we will request the money from them to put up the light. So maybe next summer or fall during construction, as deemed an appropriate time, we will request the funds from the hospital to start the construction of the light. Then hopefully, as we said, and it's not guaranteed, but Mr. Lineberry feels it's a good possibility that this project would be able to use that \$165,000 match for revenue sharing funds, the State program. As he told you, the projects that are getting funded are kind of smaller projects. It looks to him that they are trying to entice people to put up some money of their own and we will help you follow through with some additional funds. In this case, it's a 100% match. So with that extra money, if we get that \$165,000 which they have offered, then we are going to take

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the additional \$165,000 and we could use that for curb, gutter and sidewalks to the campus, sooner rather than later. So if we get the money a year from now for the light, and maybe a year after that we could look at additional money coming in that we could design and put in a sidewalk and curb, maybe even a crosswalk across Main Street. So that's maybe what that money could be used for. We have done some rough estimates of the cost and I think the \$165,000 would more than cover the cost of a sidewalk, curb and gutter from Main Street to the hospital.

Commissioner Hakel asked Ligon if he could clarify paragraph 6 that says "shall furnish either" the \$165,000 or the next paragraph says "not to exceed \$10,000", so could you clarify that.

Mr. Webb stated my reading of that is when it comes to the acquisition of the right-of-way, they are going to allow the \$10,000 for half of the cost. Either/or situation or the design. Mr. Webb asked Mr. Seth Roderick to explain that one. Mr. Roderick stated the either/or scenario is really at the discretion of the Town but it is our understanding that that discretion will be based upon whether or not the application for revenue sharing is approved or denied. So in the instance that the application for revenue sharing is approved, the Town would rather have just a check for the \$165,000 so they can double those funds and have VDOT administer not only the signal, but additional improvements as well. Should the application be denied, then scenario b. would kick in which is if that application is denied, the hospital puts in the signal. That \$10,000 is only associated with any cost for placement of the signal that the Town would have to administer. Everything else is the actual construction, the design of the signal itself; that's all administered and paid for by the hospital. That number is not included because that number could fluctuate with time. But the obligation there is for the installation.

Commissioner Hakel asked if a. and b. are rather equal in value. Mr. Roderick replied they are. That's how a. was configured. It was based upon the estimates.

Commissioner Sours stated so a. does actually include acquisition of a right-of-way. Mr. Roderick stated the way the numbers break down on our estimate came from the actual construction of the signal, connection for the power supply, the signal mast on, and the signal heads. Everything associated with burial construction and underground construction for the signal was about \$125,000. Design and surveying for any platting and design of the signal was about \$30,000, so it brings us to \$155,000, \$10,000 additional for impact of acquisition.

Mr. Webb stated those are the numbers that we are going to play today and before it goes to council we just want to have a look at and get confirmation.

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Commissioner Campbell stated up to \$165,000, but not to exceed. Mr. Roderick stated that the actual construction number, to be honest, should be nowhere near that amount.

Commissioner Campbell asked do you see any problem with right-of-ways. Mr. Webb stated there are several different possibilities for placement so I don't really see where it will be an issue. Mr. Roderick stated that the easiest scenario would be to have it on the car wash corner because of the fact that there is not a utility pole on that side. Nothing has to be relocated. It's a very small portion of land and the corner is not used, so it should be easy to acquire.

Mr. Webb stated we have not done the design work, so we'll see, but I think, in talking with the VDOT guys, they are saying that's probably the best location but it could work in other places. Mr. Roderick stated he spoke with VDOT down in Staunton – their signal people who specialize in it, and ran the scenario by them with the likelihood the idea of running with just one single mast arm on it diagonally. Mr. Webb stated we feel good about the revenue sharing but regardless, the light will still go in if it doesn't come through.

Commissioner Sours stated we are certain within the revenue sharing, on page 5 that it can be used for other aspects of the projects – are we certain that that would extend as far as sidewalks or what have you. Mr. Webb stated he has a specific answer that sidewalks are allowable but they made it pretty clear that other improvements to the corridor could be made. VDOT is very big on sidewalks now days and promoting sidewalks and I don't see why that would not be acceptable.

Commissioner Hakel stated he assumes also if we put a diagonal light across there, and you increase it to three lanes, that would adequately handle it. Mr. Webb stated it could be designed in a fashion that if a turn lane was put in, that could be accommodated. Mr. Roderick stated that's exactly the way it would be placed with the assumption that one would happen; whether it's a single lane or whether you have a turn lane, you still have to have two signal heads so we would replace those signal heads.

Mr. Webb stated I don't think we are going to see Jason tonight. I have talked to him about this for what it is worth and he didn't have any issues with the language or anything.

Commissioner Potts stated we need him here to speak for himself and go on record as saying "I'm prepared to recommend this to the Town Council". We can continue this into

next month. Mr. Webb stated he didn't think that a continuance is necessary, but that's just my opinion.

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Commissioner Potts stated paragraph 6 is equivocal; is not clear. The time to have addressed it was before the meeting, and we haven't. Mr. Webb stated the Town Council also heard this. There are a few issues here with the language that we would like to have Jason give a definitive answer and I think that can be done between now and the next 30 days.

Commissioner Good stated the last sentence in paragraph b. – Is there something that needs to be done with the language there. “The Developer/Owner shall contribute reimburse the Town of Luray for 50% of any incurred costs.” Commissioner Potts stated we can't change that. Mr. Clark stated he was willing to amend the proffer to strike the word “contribute” so that it reads “shall reimburse the Town of Luray”. Commissioner Sours stated this does indicate that it's an evenly shared cost with the Town taking the greater portion after the first \$20,000 expense on the property. It wouldn't be that the hospital is taking the first \$10,000 and then the Town would compensate anything above. Mr. Webb stated for the record that Mr. Clark indicated that he would strike the word “contribute” and what we will do is if this is passed along with the recommendation, we will just get another statement to reflect that change in the language.

Commissioner Potts stated it would be less equivocal if it said “shall also”. Mr. Webb stated “shall also reimburse the Town”. Commissioner Sours stated one other thing - you were talking about a one year scenario of when the funds would come in or the development of option b. is chosen. It says within a five year period. I think you briefly addressed that in our last meeting, but what's the rationale for a five year period.

Mr. Webb stated we know that within five years, at some point in that five year window, we are going to apply for the revenue sharing funds, so what they are saying, I believe, is any time within the date of this letter within five years we can request the hospital to perform the functions they are saying would be here. Mr. Roderick stated the purpose is a greater window so that budgeting will allow for this improvement so that is not an infinite time period and that window was chosen to begin when they actually make the permit for construction because obviously the proffer will be tied to any type of development so any new construction, that window would start. We just selected a five year period to give the Town plenty of time to defer it for a couple of years. More than likely, I would expect that the Town would want that to coincide with the construction, but just to allow some flexibility on the part of the Town to defer it for a couple of years if they wanted to gather up more momentum if they felt that the time for the application was not quite right, etc. just to allow the Town a little extra flexibility.

Commissioner Campbell stated that's the important thing; the application may not be accepted the first time around so it gives you leeway. Mr. Roderick stated if the

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economic time period does not look good after hearing the recommendations, then you shouldn't apply for it this year, wait until next year. That possibility is in there, and again these are all under the discretion of the Town, so the purpose is to give the Town flexibility.

Commissioner Potts asked what is the definition of "engineered estimate". Mr. Roderick stated it would be defined as their requirement for this revenue sharing application. It's an estimate that is prepared by an engineer that would include engineering, right-of-way acquisition, construction and administration.

Commissioner Sours stated so am I to read in 6 that the five year window has to be done within that time frame, and upon request, is that saying as soon as we request, the funds are there. It's not a 30 day or 60 day scenario. Within 180 days you are to construct it and scenario a. there is no time. Mr. Roderick stated we did not define a time period with that. Commissioner Sours stated otherwise you could wait until the end of five years in theory. Mr. Roderick stated in a. at the end prior to the semicolon, after Memorial Drive, "deliverable within 60 days of the formal written request by the Town of Luray". Commissioner Sours stated would it be "shall be furnished within". Mr. Roderick stated prior to a. it says "shall furnish". Mr. Webb stated: a. "A contribution to the Town of Luray in the amount of \$165,000.00 to be utilized for the signalization of the intersection of Main Street & Memorial Drive, deliverable within 60 days of formal notice by the Town".

Mr. Webb stated we have had two changes here to a. and b. that are agreeable by the applicant and after this meeting the staff will be receiving an updated proffer statement. The last one is b. the last sentence – "The Developer/Owner shall also reimburse the Town of Luray for 50% of any incurred costs associated with such right-of-way acquisition in this scenario, for a total contribution not to exceed \$10,000".

Commissioner Campbell stated before we make a motion, would you read this with the corrections. Mr. Webb stated do you want me to read the whole thing with the corrections. Mr. Webb stated for the record we'll just start with 1) and read through all the conditions with the corrections that have been accepted by the applicant.

- 1) Read with no corrections.
- 2) Read with no corrections

3) Read with no corrections.

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4) Read with no corrections.

5) Read with no corrections.

6) Read with no corrections.

6) a. “A contribution to the Town of Luray in the amount of \$165,000 to be utilized for the signalization of the intersection of Main Street & Memorial Drive, deliverable within 60 days of formal written notice provided by the Town of Luray, or “

6) b. “The design and construction necessary for the signalization of the intersection of Main Street & Memorial Drive, with the Town of Luray responsible for any necessary right-of-way acquisition. Such design shall be in accordance with all applicable codes and regulations, and furnished within 180 days of request; construction shall be furnished within 180 days of the Town of Luray acquiring any/all necessary right-of-way. The Developer/Owner shall also reimburse the Town of Luray for 50% of any incurred costs associated with such right-of-way acquisition in this scenario, for a total contribution not to exceed \$10,000.00”.

Commissioner Hakel stated in paragraph b., “construction shall be furnished within 180 days”. “Furnished” meaning starting, completing – what does the word “furnished” mean there? Mr. Roderick stated “construction shall be completed” – completed. Mr. Webb stated for the official record on b. that sentence shall read as follows: “Such design shall be in accordance with all applicable codes and regulations, and completed within 180 days of request;”. Mr. Webb stated once again for the record we will strike what I just said and another change will be after the; “construction shall be completed within 180 days of the Town of Luray acquiring any/all necessary right-of-way”.

Commissioner Potts stated with our commencement of discussion, we basically opened the public hearing and I by-passed that, so I need to re-open the public hearing from our last meeting and ask if there is any input from the public. There being no further input from the public, we will close the public hearing.

Commissioner Hakel stated I think this statement is substantially improved from what it was previously at our meeting.

Commissioner Campbell made a motion that the request from Page Memorial for their property to be rezoned from the R-3 that it is now, to B-1 as requested with the corrections that have been stated in our proffers tonight. I would like for us to

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recommend to Council that this be accepted. Motion was seconded by Commissioner Hakel. Commissioner Potts stated we have a motion made and seconded that we recommend to Council approval of Page Memorial Hospital's request for rezoning of their property on Memorial Drive from R-3 to B-1, conditional on proffers which have been made and satisfying those proffers and construction of the light on Main Street and further enhancements to the property. The one issue I would question as part of the discussion is whether drugstores should be included in the things allowed since they are talking hospital related activity. I'm not sure that we need a commercial drugstore on the property. We already have three drugstores in town and talking about another one at the corner of Memorial and I'm not sure a drugstore should be on the hospital property. Certainly if we approve this as written, we are setting it up so they can operate a drugstore on the property.

Commissioner Sours asked would that become a potential deterrent to the gentleman on the corner of the Modjeska property. He was considering that as well and as a potential fulfillment of his proffers. Mr. Webb stated the drugstore would have to be within the footprint that they are showing us. Most large hospitals do have a drugstore, so I assume that's what they are talking about. If for some reason they want to bring in a CVS on their campus, they would have to submit a site plan and then we are talking about traffic. I do not think that is the extent of what I read here. I see it as a pharmacy in the hospital, like most large hospitals have. I would not interpret that as a free standing drugstore on their property. Commissioner Hakel stated we need to clarify what Joey has said here. Modjeska hasn't made any suggestion of a drugstore, so if he has to change it, he has to come back again. Commissioner Potts stated it's always floating around that somebody rumored that this drugstore on the corner was going to happen.

Commission Sours stated I think actually I would counter it if the intent were to have the drugstore within the actual facility itself. It would have been within the parenthesis rather than outside the parenthesis as is medical office buildings which is a separate structure. So if it will be on campus, I would read that as being a separate structure, otherwise, I would assume that it would be a part of the structure itself.

Mr. Webb asked Mr. Clark if they were planning for a pharmacy in the hospital. Mr. Clark stated that it is always something that we have considered. As far as providing services to our patients; it would be considered an outpatient pharmacy. We currently have a pharmacy within the hospital. Potentially if you have an outpatient pharmacy in the new hospital, in one of the buildings, that would be owned and operated by Valley Health or one of Valley Health's subsidiaries. You asked why it was outside. That's

written as drugstores as an allowable use, whereas allowable uses were simply written down inside the existing B-1, so it was kind of a designation as examples of medical related uses, versus a separate competitor.

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Commissioner Campbell stated in other words, it's not in your plans to go out and build a separate drugstore. Commissioner Potts stated that the word "drugstores" was inserted there to make sure that it is a protected and allowable use.

Commissioner Flasch stated that it seems that the hospital is thinking of a pharmacy that would be operated by Valley Health versus your working with CVS or Rite Aide or whatever, to bring in something else on the campus. Mr. Clark stated that would be our intent. I don't know of any specific plans to address this, but there is certainly a possibility that as we mentioned, most hospitals these days have some type of outpatient pharmacy where patients can stop by and get prescriptions. I could never rule out that if CVS or Rite Aide came to Valley Health and asked to partner in a joint venture we wouldn't consider it, but that certainly is not our intent at this time.

Mr. Webb stated if they wanted to bring in another structure, then of course they would have to come back with a site plan but it would be by-right. They would just have to go through a staff review to determine dimensionally if it would fit on the site and would be appropriate engineering-wise. The next bit of the conversation would be talking about a drugstore that's going to probably have considerable traffic impact. Then discuss other improvements that could be made to accommodate that so, you are right, it's in there and is a possibility, but I just interpret it as being something part of the medical campus that would be contained in one of the existing buildings. There is a remote possibility that they could put in a free-standing drugstore; I guess it does. It would not have a public hearing, but it would still be reviewed by staff and we still have the same ability to sit down with these guys and engineers and say we have some traffic issues here, so they would still not be released from addressing traffic issues, they would have to meet requirements.

Commissioner Potts stated we have a motion made and seconded. The roll was called and the vote was as follows: YEA: Commissioners Hakel, Sours, Campbell, Potts, Flasch, Meaney and Good. **APPROVED: 7-0**

Mr. Spitler entered the meeting.

Commissioner Potts asked Mr. Spitler if he had reviewed this revised proffer statement, and did you endorse it and recommend it to the Council like we have been told.

Mr. Spitler stated I reviewed it on Monday and did not have a problem with it from a legal standpoint. I usually don't get into some of the other issues, but honestly I felt like they would step up to the plate. From a legal standpoint, I think it's solid.

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Mr. Webb advised Mr. Spitler that the Commission did make a few changes to the proffer this evening. We will get a new letter from the hospital in the next few days and we'll just move that forward with the application to Council.

NEW BUSINESS:

Review and Consider Measures to Increase Luray's Tree Canopy

Mr. Webb stated this is something that has been brought to my attention by Pat O'Brien. He had a letter from the Department of Forestry. When Pat forwarded this to me, I thought it was a nice study that someone had undertaken and that it would behoove the town to do something about it. That's why I asked Pat to have the Planning Commission look at this and talk about ways to enhance our tree canopy. We have already done some of this in the past with our landscape ordinance. As I said in my write up, I wasn't necessarily thinking we had to adopt ordinances or anything. I wanted the Planning Commission to think of ways that we could promote increasing that canopy to the 40% that the Department of Forestry thinks is a good number. That's really what I was sort of after. I know that I did not provide an example. I have some model comprehensive tree ordinances that we can look at. I don't think we want to get into a situation where people can't cut down trees or what not in their yards but I just thought we would talk about ways to increase the canopy in the Town to 40% long range – 20 years. Bryan and Rick did point out that one of the maps that calculates our tree canopy percentage does not reflect the actual Town boundary, but rather includes some parcels that are in the County.

Mr. Black stated that since we will soon be updating the Comprehensive Plan, we could incorporate these objectives into the Comprehensive Plan; this study and how it might be advanced. Mr. Webb stated we already have some things in the Comprehensive Plan that we have implemented. The next step might be to think about things that we could do that doesn't have to be policy oriented; doesn't have to be an ordinance.

Commissioner Hakel stated on page 7, I have a hard time believing that the City of Richmond and the City of Roanoke have more canopy than we do. We have 27% and they have 42% and 48%. Mr. Webb stated, having lived in all three places, Richmond, Roanoke and Luray, I can tell you that I can believe it. There is a lot of tree coverage in those cities and they do have full time arborists and tree plans and an urban forester. I don't know of any ordinances in those cities regarding private citizens cutting down trees.

Commissioner Campbell stated you have to keep in mind that Maryland, DC and some areas of Virginia have been without electricity for 10 days to 2 weeks; why? You see the trees hanging over the lines, that's the problem and we will bring some of that on ourselves with some of these programs. They don't want you to cut the trees, but at the

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same time they want their electricity and they want it now. So we need to be careful what we are asking for.

Commissioner Good stated this is also something you could do during the site plan review that we have for the hospital and other projects like this.

Mr. Chrisman stated the landscaping portion of the code is a good step in that direction. There are utility friendly trees and try to utilize those in places where you have water and sewer mains. We don't have a lot of buried electricity in Luray, but we do have large tracts of agricultural land still within the confines of the corporate limits, so that counts against us in terms of our overall tree canopy coverage. The other good thing about this report is that it details pervious versus impervious surfaces, which is great information to have from the storm water/rain/runoff perspective. Also something I would like to see Ligon bring into the Comprehensive Plan is the best management practices for run off because if there is one thing that any community gets complaints on, it's storm water.

Commissioner Potts stated it's not on the agenda, but I would like to talk to the Planning Commission about the discussions we have been having on increasing business permits in different zoning district areas. He indicated he continues to get questions about the issue, and concerns about allowing too much in our residential neighborhoods. I would propose that before we take it up again at another regular meeting, we take it up in a work session so that we can talk about the issues. I'm hearing that opening R-1, R-2 and R-5 and allowing certain types of businesses there may not be in the Town's best strategic interests. Mr. Black and I talked about the need for some sort of check list from the town staff. How are you going to address the issues of parking, making sure that they don't expand to businesses that need parking, signage, and other issues that may cause problems?

Mr. Webb stated since we don't have a public hearing next month, it might be a good time to have a work session. I can get back with you on some dates and times and contact everyone. Commissioner Campbell stated that if we only have one item come up for a public hearing, we still would have possibly an hour we could use for a work session to discuss this.

Commissioner Potts stated that I have to tell everybody that the approval on the hospital request for me was very hard primarily because I believe the hospital is going to be a growing business and generate a lot more traffic in this area of town that what is

projected. By sharing the expense for the improvements, and by approving the rezoning, we have given up part of what would have been a bargaining chip on future improvement of the thoroughfare there. I think the proffer as we handled it, and as it was developed by the applicant, is far superior to the initial submittal. I also believe that this group is pretty

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much satisfied with it. I believe that if you live here for 10 or so years, you will see a commercial drugstore on that site. Health care in America is a growing business and it's about to become a volcanically growing business. The health care industry has been consolidating to build up and to establish markets that can protect and keep competition out. Growth of large medical facilities and organizations aimed at building greater facilities and establishing markets that feed more patients into the system are just at the very beginning of unfolding.

Mr. Webb stated that the possibility of a stand-alone drug store on the site is a point of concern. I wrote down your recommendations and tried to summarize it the best I could and I will read it to the Town Council. Whether they take action on it or not is up to them.

Commissioner Flasch stated that it is certainly a wonderful thing to be able to get your medication before you leave, especially if you are sick. I like the idea of having the drugstore/pharmacy under the same roof. Like in a military facility, you always have pharmacies downstairs; you get everything when you leave. To think that a large CVS box store could be built on the corner by the Mimslyn just makes me sick.

Mr. Webb stated that it also concerned him, and others, on what such a store in that location would look like.

A motion was made by Commissioner Meaney and seconded by Commissioner Good to adjourn the meeting. Motion carried.

Respectfully submitted,

Bryan T. Chrisman
Assistant Town Manager

ATTEST:
