

## **MINUTES**

### **TOWN COUNCIL**

### **TOWN OF SHENANDOAH**

### **REGULAR MEETING**

□

**AUGUST 25, 2009**

**CALL TO ORDER:** The Shenandoah Town Council held its regular meeting on Tuesday, August 25, 2009, at 7:00 p.m., with Mayor Clinton O. Lucas, Jr., presiding.

**The Pledge of Allegiance was held at the previous special meeting.**

**ATTENDANCE:** ☐ **Council Members present were:** Mayor Clinton O. Lucas, Jr.; Vice Mayor William L. Kite ; Russell Comer, Jr.; Charles Jenkins; Richard Pierce; Keith Sampson; and Constance Switzer.

**Council Members absent were:** ☐ None.

**Other Town Officials present were:** Larry E. Dovel, Town Manager; Peter J. Monteleone, Chief of Police; Paul Davis, Police Lieutenant; and Juanita F. Roudabush, Assistant Town Manager/CMC.

**Citizens present were:** Dorothy Pendley.

☐

**Media Representatives:** None.

**RECEIVING OF VISITORS**

1. Mayor Lucas noted Council authorized awarding the August 2009 Community Enhancement Award to Paul Dovel, III for improvements made to his property at 311 Virginia Avenue. Mr. Dovel was unable to attend the meeting to accept the award and it will be presented to him at a later date.

2. David Comer addressed Council regarding Town Code regulations which prohibit chickens in the Town limits. He explained he has several disabled family members who purchased several laying hens. Recently they were presented with a notice of violation of the Town Code regulations, which prohibit chickens in Town. He noted the family has suffered many medical issues with subsequent major financial losses, and they felt the need to have the chickens for eggs to supplement their food supply.

He noted two (2) of the family members residing in the home are on disability.

He explained the chickens have been on the property for many months, but a neighbor became upset about another matter and turned them in to the Town.

He noted the City of Harrisonburg recently passed an ordinance allowing chickens in the city and he would like the Shenandoah Council to take the necessary steps to allow chickens in Town, especially in situations like this where the family is dependent upon the eggs to feed their children.

Mayor Lucas and Council Members explained the reasons behind the regulations in Town and noted farm animals are not permitted anywhere in Town, unless they have been grandfathered in. Additionally, it was noted the Town Code regulations must be adhered to or it would be a useless document and not offer the protection it was intended for Town citizens. It was

explained amendments to the Town Code are not undertaken lightly, as it is very expensive to hold public hearings and have changes made to it.

Council stated concerns of avian flu, which could affect nearby poultry farmers who depend upon raising poultry as their livelihood.

They noted farmers and many citizens would likely oppose any changes to Town Code which would allow chickens in Town.

It was noted the City of Harrisonburg regulations do not allow chickens unless the person owns two (2) acres of land, which still prohibits them on almost all of property in the city.

Chief Monteleone stated his church or his department would be willing to work on a program to provide eggs to the family.

Mr. Comer stated the family was very proud and it would be hard for them to accept help from the community. However, he noted they may be willing to accept eggs if it came through him first. He expressed his displeasure at the Town's seemingly unwillingness to assist this family by allowing the chickens to remain on their property, which provides eggs for the parents and children.

Chief Monteleone stated they could work something out to ensure they obtain enough eggs for the family without the family feeling as if they are receiving a handout. He noted a program could possibly be developed to assist the entire community, rather than just one family and he was certain he could get others to assist with it.

Council Members agreed their churches would be willing to assist as well.

Following questions, Chief Monteleone noted if the family did not remove the chickens from their property within 10 days, then his department would have no choice but to impose a fine for the violation of Town Code regulations.

Council Members explained they are not being cold hearted, but rather must treat everyone equally, which includes equal enforcement of Town Code regulations for all citizens. It was the consensus of the Council the Town Code should not be amended to allow for chickens at this time.

It was noted, while everyone feels concern for the family and their hardships being endured, anyone breaking laws would be handled by the appropriate legal action being taken against them.

They explained this not only protects the Town, but its citizens as well.

Council Members noted they are very compassionate, and while it may be easier to look the other way, they simply cannot do so when laws are broken.

Mr. Comer stated he wished things could be done differently to assist those experiencing hardships, but thanked Council for their time. He closed his remarks by stating the chickens would be removed from the property within the 10 day time period from their receipt of the notice of the violation.

**AUGUST 11, 2009, JOINT PUBLIC HEARING AND REGULAR MEETING MNUTES:**

A **Motion** was made by Vice Mayor Kite, **seconded** by Councilman Comer, to approve the **Regular Meeting Minutes** held on August 11, 2009, as presented.

Members Vote was as follows:

**YEA:** Vice Mayor Kite

**NAY:** None.

Councilman Comer

Councilman Jenkins

Councilman Pierce

Councilman Sampson

Councilwoman Switzer

□

**ABSTAIN:** Mayor Lucas.

**ABSENT:** None.

**VOTE:**□□□□□□□ **Unanimous in favor of motion.**

**APPROVAL OF BILLS:**

Councilman Jenkins inquired if it had been determined what type of weed killer the Town was purchasing and if it was being diluted properly?

Town Manager Dovel stated yes, and public works employees assured him they were mixing it properly. He noted he may have Councilman Sampson review their procedures to ensure they are properly diluting this concentrated weed killer and to make sure they are purchasing the appropriate brand.

Councilman Sampson stated he would be willing to review the matter further.

There being no further questions, a ***Motion*** was made by Vice Mayor Kite, ***seconded*** by Councilman Sampson, to approve the bills, dated

**August 25, 2009**

**009**

, in the

**Combined Accounts Disbursements Warrants #27685 - #27717**

in the amount of

**\$45,525.86.**

□

Members Roll Call Vote was as follows:

□

**YEA:** Vice Mayor Kite

**NAY:** None.



Councilman Comer

Councilman Jenkins

Councilman Pierce

Councilman Sampson

Councilwoman Switzer

□

**ABSTAIN:** Mayor Lucas.

**ABSENT:** None.

**VOTE:**□□□□□□□ **Unanimous in favor of motion.**

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**TREASURER'S REPORT:** Mayor Lucas read the Treasurer's report, submitted by Treasurer Cindy Breeden, for August 25, 2009.

A **Motion** was made by Councilman Sampson, **seconded** by Vice Mayor Kite, to approve the August 25, 2009, Treasurer's report in the amount of \$1,283,481.07, as read.

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Members Roll Call Vote was as follows:

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**YEA:** Vice Mayor Kite

**NAY:** None.

Councilman Comer

Councilman Jenkins

Councilman Pierce

Councilman Sampson

Councilwoman Switzer

□

**ABSTAIN:** Mayor Lucas.

**ABSENT:** None.

**VOTE:** Unanimous in favor of motion.

## **CORRESPONDENCE**

**Item # 1** – Mayor Lucas read a letter from the Planning Commission recommending approval of James Shifflett’s request to adjust property lines and allow for two (2) building lots on Ramona Avenue.

A **Motion** was made by Councilman Jenkins, **seconded** by Councilwoman Switzer, to concur with the Planning Commission’s recommendation and approve James Shifflett’s re-subdivision request to adjust property lines and provide for two (2) building lots on Ramona Avenue, on property identified by tax map number 102A2-(1)-22 lots 23 & 24, as presented on the survey plat.

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Members Vote was as follows:

□

**YEA:** Vice Mayor Kite

**NAY:** None.

Councilman Comer

Councilman Jenkins

Councilman Pierce

Councilman Sampson

Councilwoman Switzer

□

**ABSTAIN:** Mayor Lucas.

**ABSENT:** None.

**VOTE:**□□□□□□□ **Unanimous in favor of motion.**

**Item # 2** – Mayor Lucas read a letter from the Virginia Department of Transportation (VDOT) regarding the estimated cost of \$798,725.00 for the Big Gem Park recreational access road.

The bids will be opened on Wednesday, August 26, 2009, and Council will need to reply to VDOT no later than Friday, August 28, 2009, as to their intentions to accept or reject the lowest bid received.

Council agreed Town Manager Dovel could poll them by telephone to get their decision on whether or not to accept the low bid on this project. The Town's portion would be a minimum of \$100,000, as specified in the grant, but would likely be a lot higher if the bids are near VDOT's estimate.

**Item # 3** – Mayor Lucas and Council Members received information regarding courses being taught by volunteer instructors at the Town Computer Center. It was noted one of the instructors has suggested the fee be increased from \$10 to \$25 for the more advanced courses being offered at the center.

Any proceeds would benefit the operation of the center, as the instructors would still be volunteers.

A **Motion** was made by Councilman Jenkins, **seconded** by Councilman Pierce, to authorize increasing the fee to \$25 for the more advanced courses being taught at the computer center, with the proceeds being used to support the operation of the computer center.

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Members Vote was as follows:

□

**YEA:** Vice Mayor Kite

**NAY:** None.

Councilman Comer

Councilman Jenkins

Councilman Pierce

Councilman Sampson

Councilwoman Switzer

□

**ABSTAIN:** Mayor Lucas.

**ABSENT:** None.

**VOTE:** Unanimous in favor of motion.

**Item # 4** – Mayor Lucas and Council Members received a request from Auctioneer Charles Grunewald to close the alley between First and Second Street to allow for public auctions at the Bentley residence at 513 Second Street on August 29, 2009, and September 7, 2009.

Following a brief discussion, a **Motion** was made by Vice Mayor Kite, **seconded** by Councilman Sampson, to authorize closing the alley between First and Second Streets on August 29, 2009, and September 7, 2009, to allow for public auctions at the Bentley residence at 513 Second Street, contingent upon Mr. Grunewald notifying the affected residents and maintaining clearance for emergency vehicles access to this area.

□

Members Vote was as follows:

□

**YEA:** Vice Mayor Kite

**NAY:** None.

Councilman Comer

Councilman Jenkins

Councilman Pierce

Councilman Sampson

Councilwoman Switzer

□

**ABSTAIN:** Mayor Lucas.

**ABSENT:** None.

**VOTE:**□□□□□□□ **Unanimous in favor of motion.**

**Item # 5** – Mayor Lucas read a letter from the Shenandoah Volunteer Fire Company regarding their officers for 2009/2010.



A **Motion** was made by Councilman Comer, **seconded** by Councilman Sampson, to approve the officers selected by the membership of the Shenandoah Volunteer Fire Company as follows:

President Gary Taylor; Vice President C.J. Jarrell; Secretary Billy Foltz; Treasurer David Huffman; Chaplain Doug Rudolph; Chief Ian Rudolph; Assistant Chief Lester Hensley; Captain K. L. Jenkins; First Lt. James Williams; Second Lt. Lee Kite; Chief Truck Driver Gary Taylor; Chief Engineer Dustin Lucas; Chief Electrician Matt Fidler; Chief Fire Warden Bobby Comer, Jr.; Alternative Wardens Bobby Comer, Sr., Guy Monger, Jr., and Billy Foltz.

□

Members Vote was as follows:

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**YEA:** Vice Mayor Kite

**NAY:** None.

Councilman Comer

Councilman Jenkins

Councilman Pierce

Councilman Sampson

Councilwoman Switzer

□

**ABSTAIN:** Mayor Lucas.

**ABSENT:** None.

**VOTE:**□□□□□□□ **Unanimous in favor of motion.**

It was noted the Fire Chief, Assistant Chief, and Wardens need to be sworn in by the Town Clerk.

**Item # 6** – Mayor Lucas and Council Members received a thank you note from Cerretha Davis Nauman for the great job public works did in cleaning out the gutter in front of her house and for putting gravel down. It was noted Mrs. Nauman paid for the gravel for this project in front of her home.

**Item # 7** – Mayor Lucas reminded everyone of the upcoming vehicle Cruise Ins to be held on First Street. beginning on August 28<sup>th</sup>; September 4<sup>th</sup>; September 11<sup>th</sup>; and September 18<sup>th</sup>

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Each vehicle owner who registers their car will be entered in a drawing to win \$100 and participant plaques.

Music will be by DJ and local organizations will sell food.

He noted the boy scouts will present a special ceremony in memory of 9/11 on that Friday as well.

It would be held in the park area across from Town Hall.

**Item # 8** – Mayor Lucas and Council Members received the July 2009 Town vehicle gasoline log for their review.

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## COMMITTEE REPORTS

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## WATER & SEWER

(Chairman Kite and Councilpersons Jenkins and Sampson)

Following questions, Town Manager Dovel reported North American Phillips has not signed the agreement with the Town yet. Once they sign the agreement, the project can move forward to have the water line installed for residents on Shenandoah River Road.

Vice Mayor Kite reported there is a water leak on Fifth Street.

Town Manager Dovel stated they have it on their list for repairs as soon as the exact location of the leak can be determined.

## **STREETS & PUBLIC PROPERTY**

(Chairman Kite and Councilpersons Comer and Sampson)

Councilman Sampson asked for an update on the old lodge building on Pennsylvania Avenue

and the no parking signs Council Members had inquired about at the last meeting?

Assistant Town Manager Roudabush stated the building official noted he plans to send a letter to the property owner of the old lodge building on Pennsylvania Avenue to inspect the building for safety.

Town Manager Dovel stated Mr. Mowry stated the Virginia Department of Transportation will not install additional directional signs to local industry to direct truck traffic to the plants. He noted Mr. Mowry also stated he did not believe VDOT would install no parking signs along Denver Avenue either.

Mayor Lucas and Council Members expressed concern lost truck drivers are traveling down Quincy Avenue toward the narrow end of the street and tearing up resident's driveways and property when trying to get turned around. If VDOT would install a no thru trucks sign at the intersection of South Second Street and Quincy Avenue, it may help to prevent this from happening and alert the truck driver he is not on the correct road for the industrial park.

Councilman Sampson noted VDOT clearances could not be met for emergency vehicles traveling along Denver Avenue in the area near Seventh Street intersection, when vehicles are parked along both sides of this street. He requested VDOT review this matter further to

determine if a solution to these safety problems can be found.

Additionally, he requested VDOT replace the stop sign at the intersection of Shenandoah Avenue and Second Street.

Council agreed to ask Fire Chief Rudolph to review the area of Denver Avenue and Seventh Street for the ability to maneuver emergency vehicles in this area if vehicles were parked on both sides of the street.

Councilman Sampson stated VDOT also needs to be advised they cut the support braces from the culvert on Long Avenue, but did not replace them. He noted the culvert will likely collapse if it is not properly supported.

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## **POLICE, SAFETY, & JUDICIAL**

(Chairman Kite and Councilpersons Comer and Switzer)

Following questions, Chief Monteleone reported the owner of the vehicles on Shenandoah Avenue has complied with the Town Code regulations. He noted they also took care of the car in the alley off Fourth Street as reported at the previous meeting.

He also noted the owner of the commercial garage will remove some the vehicles that have been on his property longer than 30 days.

Councilman Pierce requested the police department make more patrols in the area of Third Street behind the elementary school. He noted residents are reporting Grace House is holding meetings and sometimes 20 or 30 people are attending, which causes parking and traffic congestion in this area.

Following a brief discussion, Council requested the building official be informed the owner of a residence at the intersection of Denver Avenue and Fourth Street has dug out a basement under his home and piled the dirt in the yard causing erosion issues and of the potential collapse dangers for the home.

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## **TAXATION & FINANCE**

(Chairman Pierce and Councilpersons Kite and Switzer)

Committee Chairman Pierce noted the Council received its budget reports for the month ending June 30, 2009, for review.

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## **PARKS & RECREATION**

(Chairman Sampson and Councilpersons Pierce and Switzer)

Committee Chairman Sampson reported the following parks and recreation news: Clearing land at Big Gem Park for the crop planting has been started.

This area will be the location of future ball fields.; the contractor has started work for the clearing of the bicycle trail; two (2) new benches have been installed at Big Gem Park; Town finances will not allow for a parking area to be constructed at this time, and therefore, they will have to cancel all events at Big Gem Park until further notice.

Committee Chairman Sampson stated the Town will request permission from Allegheny Power to relocate their poles along the portage path to allow for a walking trail to be placed in this area.



## **INDUSTRIAL, ECONOMIC DEVELOPMENT & PROCUREMENT**

(Chairman Comer and Councilpersons Jenkins and Pierce)

Committee Chairman Comer stated he felt Council should aggressively review the Town's options to begin receiving income from use of its broadband equipment as soon as possible.

He noted the attorney for Rural Broadband Network Services (RBNS) is supposed to be working on an agreement to settle this matter, but it has been dragging on for months now.

Assistant Town Manager Roudabush noted RBNS' attorney Robert Janney reported he has drafted the initial agreement and will be forwarding it to the Town Attorney for review. Mr. Janney felt there would likely be many changes to the agreement and noted it may be better if the attorney's met with Council to finalize the agreement.

Vice Mayor Kite stated he did not want to hold any closed sessions on this issue, and that was the reason the attorney's were given approval to finalize details of this agreement.

Councilman Comer then made a motion to send an invoice to RBNS for use of the Town's broadband equipment.

Mayor Lucas and Council Members then discussed this matter briefly and since there were many questions regarding the amount of any invoices for use of the equipment and which entity should do the initial invoices, Councilman Comer withdrew his motion.

It was the consensus of the Council the Town is owed money from RBNS in this matter and should contact the attorney's involved to inform them the Town is growing impatient with the long process to resolving this issue, especially since the Town is not receiving any funds for use of its equipment by this private company.

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## **COMMUNITY SERVICE**

(Chairman Kite and Councilpersons Jenkins and Pierce)

Following questions, it was the consensus of the Council to continue giving out the Community Enhancement Awards as the cost to the Town is minimal for this worthwhile show of appreciation to residents and business owners who improve their properties through remodeling, painting, or landscaping.

## PERSONNEL

(Chairman Pierce and Councilpersons Sampson and Switzer)

Personnel Committee Chairman Pierce reported the need for a closed session on personnel issues.

At 7:55 p.m., a ***motion*** was made by Councilman Pierce, ***seconded*** by Councilman Comer, to enter into a closed session for the purpose of personnel matters dealing with all Town employees and salaries, as permitted by Code of Virginia, 1950, as amended, Section 2.2-3711, (A), (1).

Members Vote was as follows:

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□ **YEA:** Vice Mayor Kite

**NAY:** None.

Councilman Comer

Councilman Jenkins

Councilman Pierce

Councilman Sampson

Councilwoman Switzer

**ABSTAIN:** Mayor Lucas.

**ABSENT:** None.

**VOTE:**□□□□□□□ **Unanimous in favor of motion.**

At 8:17 p.m., a ***motion*** was made by Councilman Pierce, ***seconded*** by Councilman Comer, to return to open session and certify that to the best of our knowledge only matters lawfully exempted from open meeting requirements under the Code of Virginia, 1950, as amended, Section 2.2-3711, (A), (1), and only such matters as were identified in the motion by which the closed session was convened were heard, discussed or considered in the meeting by the Town Council.

□ Members Vote was as follows:

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□ **YEA:** Vice Mayor Kite

**NAY:** None.

Councilman Comer

Councilman Jenkins

Councilman Pierce

Councilman Sampson

Councilwoman Switzer

□

**ABSTAIN:** Mayor Lucas.

**ABSENT:** None.

**VOTE:**□□□□□□□ **Unanimous in favor of motion.**

Action as a result of the closed session:

A ***motion*** was made by Councilman Pierce, ***seconded*** by Vice Mayor Kite, to authorize hiring a certified police officer, to be named upon the acceptance of the position, at a salary of \$33,500, with full benefits.

Members Roll Call Vote was as follows:

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**YEA:** Vice Mayor Kite

**NAY:** Councilman Comer.

Councilman Jenkins

Councilman Pierce

Councilman Sampson

Councilwoman Switzer

**ABSTAIN:** Mayor Lucas.

**ABSENT:** None.

**VOTE:** Unanimous in favor of motion.

Councilman Comer clarified he voted due to the financial condition of the Town and his voting no had nothing to do with the qualifications of the officer being offered the position. In fact, he noted if the officer is as well qualified as he appears to be, his current employer may offer him a salary increase to keep him with that department.

Mayor Lucas then reported Chief Monteleone has inquired with the officer, by telephone, and he has agreed to accept the offer of employment with the Town.

Due to his acceptance of the offer of employment, a ***motion*** was made by Councilman Pierce, ***seconded*** by Vice Mayor Kite, to name William Nathan Fadeley as the police officer hired at the set salary of \$33,500, with full benefits, on or before September 8, 2009.

Members Roll Call Vote was as follows:

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□ **YEA:** Vice Mayor Kite

**NAY:** None.

Councilman Comer

Councilman Jenkins

Councilman Pierce



Councilman Sampson

Councilwoman Switzer

**ABSTAIN:** Mayor Lucas.

**ABSENT:** None.

**VOTE:** Unanimous in favor of motion.

Councilman Comer explained his yes vote, since this motion was merely naming the officer and salary other Council Members approved by the previous motion and indicating the hire date.

## POLICE REPORT

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There was nothing further to report during this period.

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## **UNFINISHED BUSINESS**

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There was no unfinished business to report during this period.

## **NEW BUSINESS**

There was no new business to report during this period.

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### **TOWN MANAGER'S REPORT**

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Town Manager Dovel reported the Department of Game and Inland Fisheries will give the Town 50 tons of gravel to use at the river park.

Councilman Sampson requested some of the stone be used on the roadway from the public restroom to the parking area and then spread around the parking area as needed.

Town Manager Dovel reported the Town received a price decrease on the touch read water meters. The new lower price is \$80 each and the salesman has reported he can hold this price for a limited time.

Following a brief discussion, a ***motion*** was made by Vice Mayor Kite, ***seconded*** by Councilman Sampson, to authorize purchasing 100 touch read water meters at \$80 each and request the vendor allow 60 days to pay the invoice.

Members Roll Call Vote was as follows:

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□ **YEA:** Vice Mayor Kite

**NAY:** None.

Councilman Comer

Councilman Jenkins

Councilman Pierce

Councilman Sampson

Councilwoman Switzer

**ABSTAIN:** Mayor Lucas.

**ABSENT:** None.

**VOTE:** ☐ ☐ ☐ ☐ ☐ ☐ ☒ **Unanimous** in favor of motion.

Town Manager Dovel reported Hensil Good was the only paving contractor to bid to repave the areas in the streets where water leaks were repaired. He reported there were four or five different areas to be paved and a couple of speed bumps to be installed.

A ***motion*** was made by Councilman Jenkins, ***seconded*** by Councilman Sampson, to accept the bid of Hensil Good in the amount of \$2,800, to repave the areas of water leak repairs and to install speed bumps, contingent upon the availability of Town funds to pay the bill.

Members Roll Call Vote was as follows:

□

□ **YEA:** Vice Mayor Kite

**NAY:** None.

Councilman Comer

Councilman Jenkins

Councilman Pierce

Councilman Sampson

Councilwoman Switzer

**ABSTAIN:** Mayor Lucas.

**ABSENT:** None.

**VOTE:** Unanimous in favor of motion.

## **MAYOR'S REPORT**

Mayor Lucas reminded everyone of the presentation on the Swine Flu virus at the courthouse in Luray at 10 a.m. on August 26, 2009, and anyone desiring to ride together should meet at the Town at 9:15 a.m. on this date.

He also noted they may tour the new visitors center in Luray following the presentation.

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**FOR THE GOOD OF THE TOWN** □

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There was no one present to speak during this period.

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**ADJOURN**

There being no further discussions, a ***Motion*** was made by Vice Mayor Kite, ***seconded*** by Councilman Sampson, to adjourn the meeting at 9:16 p.m.

Members Vote was as follows:

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**YEA:** Vice Mayor Kite **NAY:** None.

Councilman Comer

Councilman Jenkins

Councilman Pierce

Councilman Sampson

Councilwoman Switzer

□

**ABSTAIN:** Mayor Lucas.

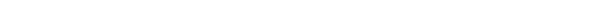

**ABSENT:** None.

**VOTE:**□□□□□□□ **Unanimous in favor of motion.**



APPROVED:

ATTESTED:

**Clinton O. Lucas, Jr., Mayor**   
 **Juanita Roudabush, MMC**