

Mount Jackson
Economic Development Authority Meeting

March 23, 2023

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Chairman Rick Koontz called the meeting to order at 3:00 PM in the council chambers at 5901 Main Street. Authority members present were Mike Jones, Mike Koontz, and Rod Shepherd. Authority member Steve Povlish was absent. Also in attendance were Neil Showalter, Treasurer; Erick Moore, Planning and Development Director; Mario Rosso, Assistant Treasurer; Barbara Riggelman, Town Clerk; and EDA Counsel Daniel R. Lauro. Visitors were Joseph S. Paxton, Consultant, and Megan Phillips, General Manager of Cave Ridge Vineyard and Winery.

Agenda Additions/Deletions/Changes: Chairman Koontz stated that there should be an addition of an election for EDA Chair and Vice-Chairman. Authority member Shepherd MOVED, seconded by Authority member Jones to APPROVE adding the election of Chair and Vice-Chair to the Agenda. All members present signified approval by saying AYE, motion carried unanimously.

Old Business: None

Approval of Minutes – May 7, 2020

Authority member Koontz MOVED, seconded by Authority member Shepherd to APPROVE the minutes of the meeting on May 7, 2020. All members present signified approval by saying AYE, motion carried unanimously.

New Business:

1. Appointments

Authority member Shepherd MOVED, seconded by Authority member Koontz to APPROVE the appointment of Barbara Riggelman, Town Clerk, as the EDA Secretary. All members present signified approval by saying AYE, motion carried unanimously.

Authority member Shepherd MOVED, seconded by Authority member Koontz to APPROVE the election of Rick Koontz as Chairman. All members present signified approval by saying AYE, motion carried unanimously.

Authority member Koontz MOVED, seconded by Chairman Koontz to APPROVE the election of Mike Jones as Vice-Chairman. All members present signified approval by saying AYE, motion carried unanimously.

2. Financial Review –

a. Presentation of June 30, 2019 Audited Financial Report

Mr. Showalter stated that within the past few days, Staff has received a draft of the 2020 and the 2021 Report, and a promise that the 2022 reports will be received next week. Mr. Showalter stated he had the Statement of Net Position from 2021 Report and it is within a few thousand of the same sheet from 2019. There are some Covid-era loans still being paid down, but the total net position on June 30, 2021 is \$215,812. The 2023 cash balance is \$223,330. Mr. Showalter stated that the report also included a work paper from Mr. Rosso where they reviewed the cash balance, which is in the report following the 2019 Audit Report. Mr. Rosso stated that the Cash Balance as of 2/28/2023 is \$224,533. Of that balance, \$99,950 are reserves from the Rural Business Enterprise Grant, which is what the Authority uses to loan to local businesses. Covid loans that are still outstanding are \$8,333 and a bad loan for Fashion Crisis for \$5,295. This leaves a net Business Enterprise Grant of \$86,320. Other money available in the account

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totals \$138,212; money saved from the bond fees. Authority member Koontz inquired if this was collected annually, and Mr. Rosso answered affirmatively. Mr. Showalter stated that there are two “pockets” of money – the original grant made by the USDA to the Authority, which the Authority has felt should be in play with loans to the business community; the other cash is more available money to use with more flexibility, within the statutes of Virginia in terms of how EDAs operate, but not necessarily committed to making rural business enterprise loans. Mr. Showalter stated that there was a compliance audit about 6-7 years ago, and it was intimated to Mr. Showalter and Charles Moore that this should continue to be put in play or paid back to the USDA, so it has at least been segregated and put back in play during Covid. As appropriate lending opportunities come up, this will continue. Chairman Koontz inquired if the 2020 and 2021 Report would be given to the Authority when they are available. Mr. Rosso stated they should be received sometime this week.

Authority member Shepherd MOVED, seconded by Authority member Koontz to ACCEPT the June 30, 2019 Audited Financial Report. All members present signified approval by saying AYE, motion carried unanimously.

b. Update of Cash Balances to the Present

Authority member Shepherd asked if the cash available for other purposes is money coming to the Authority for various loans, etc. Mr. Showalter answered affirmatively, and for administrative fees, etc. The Authority has legal responsibilities that are defined by Virginia Code but the cash available is a little less restricted than Staff feels the revolving loan money to be. Mr. Lauro clarified that the Rural Business Enterprise Grant is a basic grant through the USDA to use for business loans and things the Authority set up during Covid; the other amount on the spreadsheet is money that is essentially free and clear for the Authority to use as they see fit, as long as it fits within Virginia Code. It could be used for grants, grant it back to the Town for projects, and that sort of use. Authority member Jones asked if the bad loan would continue to be left on the sheet. Mr. Showalter answered that it is not carried on the financials anymore; it is an “off the financial statement” reconciliation of the original Rural Business Enterprise Grant. Staff will let the USDA take it off their column, not off of the Town’s. The loan is over 15 years old and not collectible, so it is not carried in the financials. Mr. Rosso listed the loan to give a rough idea of what the other cash available is. Mr. Rosso stated that one of the Disaster Loans would be going bad also. Authority member Jones inquired if there was a collection or recourse to that loan. Mr. Rosso stated that Staff doesn’t know where she is.

3. Consideration of Grant Proposal by Cave Ridge Vineyard and Winery – January 23, 2023

Mr. Paxton stated that he is friends of the Phillips family and would be representing them as Randy Phillips is in Florida with family and not able to be here. Mr. Paxton introduced Megan Phillips, Randy’s daughter and second in charge at Cave Ridge, who was present to answer questions. Mr. Paxton gave an overview of Cave Ridge’s request, how they feel they are aligned with Mount Jackson, and how they help the Town of Mount Jackson through tourism, with persons visiting their property and traveling through town, purchasing food, gasoline, groceries, etc. Mr. Paxton gave an overview of Cave Ridge and the need for more equipment to add a sparkling wine production. Ms. Phillips stated that all of their bottles of wine they produce for other wineries in the state have “produced and bottled in Mount Jackson Virginia” on the label. This is local and state advertising. This label is on every bottle that is produced there. Mr. Koontz stated that he would feel differently if this were a loan vs a grant, and inquired if the Authority could give grants

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outside of their jurisdiction. Mr. Lauro stated that the Authority does not have bylaws. The initial resolutions and ordinances created are very basic. The IDA act uses the word “Commonwealth”, which has let the EDA do conduit financing, where there is no liability for the EDA; the EDA has the legal ability to make grants under the IDA Act but they are able to be challenged if you don’t have “public purposes” to a locality. The question would be how do you avoid legal risk to prevent someone from suing the Authority, saying you should or shouldn’t have made a grant, and a way to do this is to adopt some policies and procedures as a guideline for how the grant program will work, what you want and don’t want, what you want to see on an application. Normally an agreement is done so you can add provisions. Mr. Lauro stated that yes, the Authority has the ability as long as you can prove a public purpose and can show that you won’t be discriminating against one business or industry vs another. Mr. Lauro recommended making policies and procedures that Staff can recommend and then use them to evaluate criteria of this grant and other grants in the future.

Mr. Koontz stated his concern that Cave Ridge is in the County and the County would get taxes on real estate, machinery, and municipality, Mount Jackson will not. Mr. Lauro stated that the way you protect yourself for this grant and all grants is to have legislative findings to say the economic development is good and how the specific grant being made meets a public purpose and what that purpose is to the locality. If you are funding a grant for an endeavor outside of your locality it would be even more important that you are able to document that public purpose for the locality. Mr. Lauro stated that for the applicant and the Authority’s sake, it would make sense that the Authority have some guidelines, policies, and procedures in place to avoid risks and give the Authority framework in the decision making process of applications received. One criteria the Authority could direct Staff on for these policies and procedures is whether you want to fund grants outside of town limits if they meet all of the other criteria, or no it must be in town limits. Authority member Koontz asked Mr. Paxton why he approached the Town’s EDA and not the County. Mr. Paxton answered that he believed Cave Ridge felt they had more connectivity with the Town then they have with Shenandoah County. The County has not been as responsive in discussing this with them. Authority member Koontz stated that the County has \$2 million in their checking account vs the Town and how could the Town justify the request, if it is even possible. Chairman Koontz inquired if the Town has done any grants or if they have all been loans. Mr. Showalter stated that during Covid, there was a façade improvement grant program that was developed, and under that program, the Nelson Theater received \$15,000 for their marquee, but that was limited to façade improvements. Authority member Koontz asked if this was a grant and not a zero-interest loan. Mr. Showalter stated that it was a grant. Mr. Paxton stated that it was set up to give the Authority the opportunity to provide grants, it wasn’t just limited to the façade but their application limited it to the façade, so there are some guidelines in place.

Chairman Koontz questioned why Cave Ridge has not approached the County, which would seem to be the appropriate first step. Authority member Koontz stated that he thought there were bylaws which would make it clear where funds could go, and questioned that so far, only the one grant for \$15,000 was given. Mr. Showalter answered affirmatively, just the one grant under that particular program that was set up at that time, though several loans have been given. Authority member Jones stated that Mr. Lauro’s recommendation as counsel is to establish guidelines now prior to moving forward. Mr. Paxton suggested that the Authority should look at the ones that were approved in 2020 and see if they need to be modified, expanded, adjusted, etc. and go from there, but there does need to be set procedures. Chairman Koontz inquired if there was a certain percent to let out of the funds that were available for grant and loans; he believed there was something in place, for example not to give 90% of what is available. Authority member

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Koontz stated that it had been capped at a certain percent, but he does not remember doing a grant before. Being a full \$100,000 they wanted to make sure more people had opportunities, so it was capped. Mr. Lauro stated that this is the type of thing that with these policies and procedures, you could say up front if you did want a number, you could put a cap in there to let people know up front how much they could get back. With a lot of these programs, including façade improvement programs, the town council is involved as well, that way they can adopt a resolution that says they will support the program and that they may appropriate funds from time to time for the EDA to use. Authority member Shepherd stated that money has been in the checking account for years and is not benefiting anyone as far as economic development, and part of the Authority's charge is economic development. The Authority has received no requests for help; this has been the first request in about five years, so he would like to see the Authority look at helping Cave Ridge out and he liked the idea of setting some proper guidelines for how to do this.

Authority member Jones inquired what the timeframe would be to set up guidelines. Mr. Showalter stated that Staff is on the cusp of budget season, but he believes there could be something ready to look at in four weeks. Authority member Jones asked if this request would be tabled until guidelines could be established. Mr. Showalter stated that he would like to look into the previously mentioned program and see if a wider applicability is there, and then develop a program outline for the Authority's review. Authority member Shepherd stated that this has probably been done previously with other EDAs, so there should be something to reference to adopt and inquired if Mr. Lauro would work on this. Mr. Lauro stated that he would work with Mr. Showalter to get some applications together. Many times, programs are bigger and relate to bigger industries in counties, but they could certainly get something together. Authority member Shepherd inquired if other EDAs set geographic limits of where they make grants to. Mr. Lauro stated that he has not seen an EDA give grants outside of their locality for obvious reasons, though this is a unique situation where the applicant is close and has ties to the Town, but either way, you have to prove a public purpose to the locality. Chairman Koontz inquired that looking at it that way, how do you put an overlay down between the Town of Mount Jackson and Shenandoah County, how would a person know which way to go if they are in the County but in close proximity to the Town; you would need to establish those guidelines also. Authority member Koontz stated that if the County gives a grant to someone in town, the person would still get taxed by the County; people in town limits are not exempt from county taxes and have to pay both. He stated this was where his concern was and he thought there would be stronger language in the State Code. Mr. Lauro stated that there is language in bond financing context, using Shenandoah University for example, when they finance their buildings through the EDA, they have to get a resolution approval from their locality's EDA to say that they are ok with them going to Mount Jackson first. The way the Code is written, it uses the word "finance" so the question would be is giving grant money finance? Authority member Koontz responded that the Town is getting revenue from that for the Town with no risk to the Town. Mr. Lauro stated that the Code requires that if you finance a project in another jurisdiction, that jurisdiction's EDA has to sign off on a resolution approving it, so then it becomes a question of what does finance mean and is giving a grant to someone outside town limits mean you also have to get Shenandoah County's IDA to sign off.

Mr. Lauro stated that before setting guidelines, the Authority should decide whether they are open to going outside town jurisdiction or if you want to leave it on as-is, case by case basis to be considered along with other criteria. Chairman Koontz stated that he felt the Authority would be taking more risk going case by case, justifying one vs the other, and it looked like the Authority can't do anything until developing these policies, procedures, and guidelines. These are needed before moving forward in any way.

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Authority member Koontz asked Mr. Paxton and Ms. Phillips if they are ready to move forward right now. Mr. Paxton stated that he believed Mr. Phillips would like to know something. If the Authority believes grants should just be inside town jurisdiction, Mr. Phillips would understand that and approach someone else for assistance. If the Authority would consider his request, then he would delay long enough for the Authority to have the opportunity to set guidelines and see whether or not he could fall under them or not.

Chairman Koontz revisited Mr. Paxton's statement of not getting the same type of reception at the County level, but inquired if he has asked them. Ms. Phillips stated that it has been brought up with at least one individual; without mentioning names, it was brought up with someone and she received some pushback. She stated she was not aware of all the details, she was not in that actual meeting. Authority member Koontz asked if it was just the grants in general. Ms. Phillips answered affirmatively. Mr. Lauro inquired if it was a staff member or IDA member. Authority member Koontz stated that he is on the County IDA and did not remember hearing about it. Ms. Phillips answered that it was a prominent staff member. Authority member Koontz stated that he didn't remember doing a grant to any business in the area. Mr. Paxton stated that he believes there is some misunderstanding at the staff level about whether they have the authority to be able to do grants or not; it is really clear that they do, it's just a matter of taking the time to set up the structure, and to his knowledge the County hasn't done that. Authority member Koontz inquired if Ms. Phillips would mind if he could bring up this case at his next meeting; there is a meeting in two weeks and he would like to know more from them. Ms. Phillips answered affirmatively. Mr. Paxton stated that he would be willing to help anyone set up those kind of programs, as he is a big proponent of strategic investment by locality. Authority member Koontz stated that maybe they could work together. Authority member Shepherd asked Authority member Koontz if there could be matching between the County and the Town on a grant from the respective EDAs on this project. Authority member Koontz answered that it is a possibility if the Authority is willing to go outside the town.

Chairman Koontz stated that before the Authority can say what they can and can't do, policies and procedures are needed. Authority member Shepherd stated his agreement and that he was just hypothesizing. Mr. Lauro stated that the Authority could decide as a main question, whether to fund outside of the town, and that could be answered today to let Cave Ridge know. Authority member Koontz stated that he could see the County going in on the project more than the Town, because it doesn't effect County taxes at all; they will still get the same amount whether it is in the County or not. It does affect the Town; the Town will not get any direct tax revenue outside the town limits. Chairman Koontz stated that he would feel differently about a loan vs a grant outside the town limits as a way to get some of those monies back to help develop the town, so there are different way to look at this. Mr. Paxton stated that the Authority currently allows loans outside the Town. Chairman Koontz reiterated that he is ok with loans, but loans are different than a grant. Chairman Koontz asked if the Authority is prepared to make a decision like that. Authority member Koontz stated that he would like to give it some thought, but right now he would not want to give grants outside the town. Chairman Koontz stated his concern of going outside the town, do you put a restriction on it or is opened up to anywhere within the Commonwealth. Mr. Lauro stated you could put restrictions on it, anywhere in Shenandoah County for example. Authority member Jones inquired if you limit it to a zip code; there's a lot of gray area there. Authority member Shepherd stated that Shenandoah County is a pretty easy area to define. Chairman Koontz stated that part of the discussion today was how does it benefit the Town of Mount Jackson, and if you open it up to the county, then you could have something in Strasburg. Authority member Koontz stated that then you could start becoming discriminatory – why this one and not that one. Mr. Lauro stated this would be part of policies

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and procedures. They would have to show on the application how they would benefit the Town of Mount Jackson specifically. Chairman Koontz stated that they are now back to how can the Authority attempt to make a decision today without policies and procedures in place; Mr. Lauro had stated that the Authority could say they could do grants outside the town limits. Chairman Koontz stated that he would feel better with a loan vs a grant outside town limits. Authority member Koontz stated that he would find out why the County can't give grants. Chairman Koontz inquired if they have given grants before. Authority member Koontz stated that he been there for three years and he can't recall any.

Chairman Koontz stated that the consensus is that the Authority will look at giving loans outside the Town, not grants, so that would be a start to the policies and procedures. Mr. Lauro stated that he would work with Mr. Showalter and Town Staff to get together a package of documents. Mr. Paxton stated that he knew Mr. Phillips couldn't be here today, but they have talked and Mr. Phillips understands the hurdle of not being located in the town but he feels like he is part of the town. Authority member Jones stated that as a business owner, Mr. Phillips supports him and it is very much appreciated. Authority member Shepherd stated that he hoped the Authority could find a way of supporting Cave Ridge and that is his position.

Chairman Koontz stated that this request from Cave Ridge would be tabled until the next meeting. Mr. Showalter stated that he would like the Authority to pencil in April 20, 2023 at 3:00 PM for the next EDA meeting. Staff will try to have a packet to the Authority on the Thursday or Friday before the meeting. The Authority members present stated that April 20, 2023 would be acceptable and having information earlier would be appreciated.

4. Other business, if any

Chairman Koontz stated that the Authority is two members short and inquired what Council recommends. Authority member Shepherd asked for suggestions for members. Authority member Koontz inquired if the members present were all that is on the EDA. Mr. Showalter stated that other than Authority member Povlish, yes, all members were present and the EDA is two members short. Authority member Jones stated that Ken Hackenbracht was on the EDA. Mr. Showalter stated that Mr. Hackenbracht had to retire and Joe Proctor asked to discontinue. Chairman Koontz stated that this would then go back to Council and the Authority is open to recommendations. Authority member Shepherd stated his agreement. Mr. Showalter stated that an EDA member could be either a town resident or an adjoining jurisdiction; as long as they are not a New Market or Edinburg citizen, they would be eligible.

Chairman Koontz adjourned the meeting at 3:51 PM.

Submitted By:

Barbara Riggelman
Secretary