

Town of Lovettsville

Town Council Minutes of Public Hearing and Regular Meeting December 8, 2012

Call to Order/Pledge of Allegiance

Mayor Robert Zoldos called the Regular Meeting of the Lovettsville Town Council to order at 11:00 AM on Saturday, December 8, 2012 at the Lovettsville Town Hall, 6 East Pennsylvania Avenue, Lovettsville, VA. He welcomed everyone to the Town Council's second Saturday meeting.

Pledge of Allegiance

Mayor Zoldos invited William Krise of Cub Scout Pack 962 to lead the assembly in the Pledge of Allegiance.

Present at Meeting

- Mayor Robert Zoldos II
- Council Member Kimberly Allar
- Council Member Jack Burden
- Council Member Tiffany Carder
- Council Member Rodney Gray
- Council Member James McIntyre

Staff

- Town Manager Keith Markel
- Treasurer Lance Gladstone
- Project Manager Karin Fellers
- Zoning Administrator Melissa Hynes
- Town Clerk Harriet West

Absent

- Vice Mayor Michael Senate

Mayor Zoldos announced that the Town Council would be going into Closed Session near the end of the meeting for consultation with legal counsel or briefings by staff members or consultants pertaining to actual or probable litigation related to the sewer treatment plant.

Presentations

Mayor Zoldos presented a Certificate of Appreciation to Cub Scout Pack 962 in recognition of their assistance to the Town at the 2012 Veterans Day Ceremony. He asked Cub Scout William Krise and his father to come forward to accept the certificate.

Comments from the Public

There were no comments from the public.

Community Presentations

A. Loudoun County Sheriff's Office

Mayor Zoldos introduced Vic Lopreto, the new Deputy Sheriff assigned to the Lovettsville area. Deputy Lopreto said there has been no major crime activity in the Town since he began working in the area in November. He has been working on a speeding project on South Loudoun Street.

B. Lovettsville Volunteer Fire and Rescue Company

Former Mayor Elaine Walker said she had just come from the Santa breakfast at the fire house. She said the Town's tree lighting event last night was fantastic, it exceeded anything the Town has done before, and it was the talk of those at the breakfast.

C. Lovettsville Community Center

There was no report from the Community Center.

D. Lovettsville Library

There was no report from the Library.

Town Commission and Committee Reports

A. Lovettsville Planning Commission

Councilman Burden attended the most recent meeting of the Planning Commission. He said it was a discussion meeting and no action was taken.

B. Parks Committee

Mayor Zoldos deferred this item awaiting the arrival of Vice Mayor Senate.

C. We're In

Councilwoman Carder said they would be discussing the work plan and making appointments at today's Town Council meeting. She thanked Sugar and Spice bakery for contracting with the Town to provide cookies at the tree lighting and said this is a good example of how the Town can promote local businesses through the We're In Committee.

D. Light Up Lovettsville

Councilwoman Allar gave an update on judging, the reception, and donations from sponsors. She thanked Manager Markel for getting the electrical outlets installed so they could decorate Town Hall.

E. Town Tree Lighting

Mayor Zoldos congratulated Councilman Gray for doing a spectacular job with the tree lighting event. Councilman Gray thanked everyone for their help including the Mayor and Council Members, Manager Markel, Scott Dockum for the light show, Sarah Stillman and the Lovettsville Elementary School chorus, the Community Center for leading the lantern parade, Deputy Lopreto for blocking traffic, the Lovettsville Fire and Rescue Company for escorting everyone down the street safely, John Rodal for his reading of *'Twas the Night Before Christmas*, everyone who helped set up and tear down for the event, and Brenda Stanley for selling cookies to the Town. He also thanked Kate Bland and Renee Edmonston for taking care of the arrangement for the table set up for Gabriella Miller's letter writing campaign to Macy's and the Make-A-Wish Foundation.

F. Berserkle on the Squirkle

Mayor Zoldos gave an update on the New Year's Day fun-run in the Town Square. He discussed the T-shirt design, Yerkle (the mascot), and prizes. Local businesses from the 20180 zip code have been invited to attend for free and display their wares on "pit row."

G. MayFest Committee

Councilwoman Carder said the next MayFest Committee meeting will be scheduled in January and that she has already received payments from several vendors.

Additions/Deletions/Modifications to the Agenda

Mayor Zoldos added an agenda item to discuss and approve funding for Beserkle on the Squirkle.

Approval of Town Council Minutes

A. Town Council Regular Meeting – October 25, 2012

Motion: I move to accept the minutes of the Regular Meeting for the Town Council on October 25, 2012.

By: Council Member Carder

Second: Council Member McIntyre

Aye: Council Members Allar, Burden, Carder, Gray, and McIntyre

Nay: None

Abstain: None

Absent: Vice Mayor Senate

Report from the Treasurer

Treasurer Gladstone presented the Financial Report for September 2012. He noted the Town is withholding payment of two invoices from Loudoun Water until they receive an explanation why their bills are so high. There were no questions from the Council.

Motion: I move to accept the September 2012 Financial Report as presented.
By: Council Member Carder
Second: Council Member Gray
Aye: Council Members Allar, Burden, Carder, Gray, and McIntyre
Nay: None
Abstain: None
Absent: Council Member Senate

Staff Reports

A. Report from the Project Manager

There was no written report from the Project Manager. Project Manager Fellers discussed scheduling the selection committee meeting for the water and sewer rate study. The meeting was scheduled on December 18 at 2:00 PM.

B. Report from the Zoning Administrator

There was no written report from the Zoning Administrator. Zoning Administrator Hynes said she received 100 responses to the Community Vision Survey. The survey results will be included in the Old Town District Study which will lead to the proposed Zoning District. She is working on revisions to the Town's parking requirements and Floodplain Ordinance.

C. Report from the Town Attorney

There was no report from the Town Attorney.

D. Report from the Town Manager

Manager Markel said there will be two training programs for newly elected officials coming up in January 2013.

Action/Discussion Items

A. Sprint Antenna Conditional Use Permit (Public Hearing)

Mayor Zoldos recessed the Regular Meeting at 11:24 AM and opened the Public Hearing for LVCU 2012-0004, Sprint Antenna Conditional Use Permit at 11:24 AM. This public hearing is to consider a request by Sprint, for approval of a new Conditional Use Permit to Section 3-3 (c)(xi) of the Lovettsville Zoning Ordinance, to allow for the installation of wireless communications equipment as a conditionally permitted use. The parcel is located at 14A Quarter Branch Road.

Manager Markel noted that Council received the Staff presentation for this case at the November 15, 2012 Town Council meeting; however, due to an error with advertising the public notice, the public hearing was rescheduled for today's Town Council meeting. Staff has addressed the comments raised by the Counsel at the November 15 meeting including coordinating inspections and details of the lease agreement.

Zoning Administrator Hynes reviewed Sprint's proposal to install new equipment on the Town's elevated water tank as part of an upgrade from 3G wireless service to 4G. She addressed the concerns that had been raised including additional wind load and weight to the water tank, capacity for other lessees, painting the equipment to make it less visible, ensuring the equipment is installed properly, and the impact on the neighborhood. The Lovettsville Planning Commission held a Public Hearing on October 17, 2012 on LVCU 2012-0004 and voted to recommend approval to the Town Council, with the following recommended conditions made by Staff:

- 1) This approval is for equipment as shown on the Site Plan & Project Summary dated September 12, 2012; this includes up to three (3) antennas, six (6) Remote Radio Heads, four (4) cables and

one (1) Microwave Dish on the water tank; as well as one (1) additional battery backup cabinet located on the existing steel platform adjacent to Sprint's existing cabinets.

- 2) Antennas and associated equipment of such a co-located facility must be identical to or very close with the color of the Lovettsville Water Tank; except for the Remote Radio Heads (RRH).
- 3) Regular maintenance activities for this facility shall be limited to the hours of 8:00 AM and 6:00 PM, Monday through Friday. For maintenance or replacement activity that requires entering the fenced in water tank area, the applicant shall notify the Town Office at least twenty four (24) hours in advance.
- 4) No outdoor storage, other than what is shown on the site plan, shall be permitted in association with this use.
- 5) The proposed use shall be passive and will not generate noise, dust, light, glare, vibrations, traffic or odors.
- 6) The proposed use shall not interfere with area telephone, radio, television reception or the signal of other co-located communications equipment.
- 7) This Conditional Use Permit shall co-extend with any lease entered between the applicant and the Town as owner of the real property on which the approved facilities are to be located. The Permit shall terminate upon expiration or termination of such lease.
- 8) This Conditional Use Permit shall not take effect until a new lease agreement has been executed between the Town of Lovettsville and Sprint, Inc. for the lease of space on the Town Water Tank.
- 9) Per Paragraph 6 of the Lease Agreement, an inspection of the items attached through the Conditional Use Permit will be conducted by the Town, or its designee, and reimbursed by Sprint, Inc. at a cost not to exceed \$2,500. Applicant shall also provide As-Built Construction drawings.
- 10) Sprint shall install the equipment not later than 6 months from approval of this Conditional Use Permit, unless further extended by the Town Council.

Project Manager Fellers said the tank will be at full structural capacity with Sprint's upgrades; however, there will be additional space and capacity for other lessees when the Nextel equipment is removed. The Town has separate lease agreements with each of the carriers and they have been updating each of the agreements prior to renewal. The Nextel agreement was revised in November 2012 and will be used as the format for the Sprint lease agreement. Council has the opportunity to make additional changes to the lease agreement, such as the rental costs. Manager Markel said the Council can move forward with approving the Conditional Use Permit, if they are comfortable with the change of equipment, then discuss the details of the lease agreement at a later date. Project Manger Fellers said the lease agreement would be negotiated before the equipment can be installed.

Mayor Zoldos read the Notice of Public Hearing for LVCU 2012-0004 (Attachment 1) and asked for comments from the public.

Claudia Gary, 12 N. Berlin Pike asked if Verizon had antennas on the tank. Manager Markel said Verizon is not on the tank. Zoning Administrator Hynes said Sprint, AT&T, and Nextel are the only carriers on the Town's tank.

Mayor Zoldos called for additional comments from the public. There were none.

The Mayor declared the Public Hearing closed at 11:42 AM. He opened the Regular Meeting at 11:42 AM.

Motion: I move that the Lovettsville Town Council vote to approve LVCU 2012-0004 with the conditions as recommended.
By: Council Member Burden
Second: Council Member Allar

Mayor Zoldos called for discussion on the motion.

Councilman Gray asked if the inspection costs referred to in Condition 9 will be passed back to Sprint. Staff confirmed this cost would be reimbursed by Sprint and that up to \$2,500 had been budgeted for this expense.

Councilman McIntyre asked when the inspection would take place. Staff said this would occur after the equipment is installed.

Councilman Gray asked about the length of the transition time for the removal of the existing equipment and installation of the new equipment. Project Manager Fellers said she would check on this.

Mayor Zoldos asked if the wind load and weight load numbers account for both sets of equipment being on the tank at the same time. Project Manager Fellers said this does account for all of the equipment that is or will be installed. The tank is structurally sound but at capacity.

Councilman Burden addressed those in the audience and explained that this is not the first time the Council has seen this agenda item and the other items that were presented. The Council Members have the opportunity to review the materials well in advance of the meetings.

Mayor Zoldos asked if there were any additional comments or questions; hearing none, he called for the vote.

Aye: Council Members Allar, Burden, Carder, Gray, and McIntyre
Nay: None
Abstain: None
Absent: Council Member Senate

Manager Markel asked Council for direction for on the lease agreement, especially with regard to the financial component. He explained there is currently a four percent cost escalator in the lease agreement. The new equipment will take up approximately 20 percent more space. Staff will check with other communities to see what their rates are and report back to Council. Councilman Burden said they also need to consider the benefit of better service to the community.

B. We're In Work Plan & Leader Appointments

Zoning Administrator Hynes presented this item. Council is being asked to consider approving the 2013-2014 "We're In" Work Plan and to consider appointing three Town residents as Team Leaders of "We're In" (Lovettsville Business & Tourism Committee). She recapped the draft work plan for the new We're In Committee that was presented to Council in July/August. The Committee members were asked to rank the items in the draft work plan including projects, responsibilities, and partnerships with other groups. This is the basis for the 2013 We're In Projects being presented to Council for approval.

Mayor Zoldos said the Council has the opportunity to approve the work plan as presented, change the priorities, or not approve it at all. He noted this is what the Committee members have brought forward. Council has seen the work plan before. The only thing new is the project rankings. The Mayor asked if there were any questions about the proposed work plan. Hearing none, he called for a motion.

Motion: I move that Town Council approve the 2013-2014 Work Plan of the "We're In" Committee."

By: Council Member Carder
Second: Council Member McIntyre

Mayor Zoldos called for discussion.

Councilwoman Carder referred to the last action item listed under We're In Responsibilities ("Recommend enhancements to Lovettsville's social media presence") and asked if the We're In Committee will have its own Facebook page. Zoning Administrator Hynes explained this is to make sure there is consistency with the Town's other social media platforms. Councilman McIntyre said the staff time shown for this action item is listed as "small," but that it could be very time consuming.

Councilman McIntyre said this is a good model for the other committees to follow. Mayor Zoldos said this is the format they want the other committees to use.

Mayor Zoldos took questions from the We're In Committee members. Claudia Gary said they had discussed completing the business directory by Valentine's Day. Zoning Administrator Hynes said the proposed due date is March 2013 to give the Committee a cushion of two weeks. Brenda Stanley asked if the Committee members will get copies of what was presented to the Town Council. Mayor Zoldos said they would. Michelle McIntyre asked if the Committee could have the opportunity to review the work plan further. Zoning Administrator Hynes said the work plan will give the Committee the flexibility to select the projects they want to work on this year. Claudia Gary asked if there are budget estimates for the items listed in the work plan. Zoning Administrator Hynes said this is something Staff and the Committee will develop as they implement the work plan.

Councilman Burden asked what the process is if the Committee wants to make changes to work plan. Zoning Administrator Hynes said the Committee is not required to complete all of the items in the work plan. If they want to add additional items, they would come back to Council with a formal request. Councilman Burden said it would be good to hear back from the Committee on a regular basis. Mayor Zoldos said Councilwoman Carder is the We're In Committee liaison and will be able to provide regular updates to the Council.

Councilwoman Allar said the priority ranks are unclear. Zoning Administrator Hynes said the "due dates" indicate what the Committee will be starting first.

Manager Markel asked if it would be better for Staff to clarify the priorities for the work plan. Mayor Zoldos suggested the Council move forward with this item today based on what has been presented, unless there was an objection by the Committee members.

Aye: Council Members Allar, Burden, Carder, Gray, and McIntyre
Nay: None
Abstain: None
Absent: Council Member Senate

Mayor Zoldos said there are three appointments for team leaders. He introduced the nominees - Claudia Gary as Organization Team Leader and Vice-Chair, Michelle McIntyre as Economic Team Leader, and Brenda Stanley as Promotion Team Leader.

Appointment of Team Leaders:

Motion: I move that Town Council appoint the following residents to three of the five positions of the "We're In" Committee

- Claudia Gary - Organization Team Leader (also Vice-Chair)
- Michelle McIntyre - Economic Team Leader
- Brenda Stanley - Promotion Team Leader

By: Council Member Carder
Second: Council Member Gray
Aye: Council Members Allar, Burden, Carder, and Gray
Nay: None

Abstain: Council Member McIntyre
Absent: Council Member Senate

Following the vote, the newly appointed We're In Committee members came forward for a photograph with the Mayor and Town Council.

C. Tree City USA Application

Zoning Administrator Hynes presented a summary of the presentation given at the November 15, 2012 Town Council meeting. Council is being asked to consider adopting a Lovettsville Tree Conservation Ordinance in order to meet one of the four requirements necessary in applying to become a member of Tree City USA.

Mayor Zoldos called for questions from the Council. Councilman Burden said some sections of the Ordinance do apply to private trees. Zoning Administrator Hynes said this applies only to trees that are overhanging any street or public right-of-way.

Council and Staff discussed changes to Section 8 of the Ordinance to clarify that this section refers to "Town owned" trees only, as well as additional corrections to Section 13 of the Ordinance and the Proclamation.

Mayor Zoldos called for a motion.

Motion: I move that Town Council adopt the Lovettsville Tree Conservation Ordinance with the changes as amended.
By: Council Member Burden
Second: Council Member McIntyre
Aye: Council Members Allar, Burden, Carder, Gray, and McIntyre
Nay: None
Abstain: None
Absent: Council Member Senate

D. Berserkle on the Squirkle Funding

Mayor Zoldos presented this item. He is asking Council to approve funding not to exceed \$2,000. This includes \$1,500 for T-shirts for the event, which will be reimbursed, and \$500 to run the event.

Motion: I move that funding is given to Berserkle on the Squirkle not to exceed \$2,000.
By: Council Member Carder
Second: Council Member McIntyre

Mayor Zoldos called for discussion. Councilman Burden asked if the funding will come from the events line item and, if so, what is the balance that is not either spent or committed. Manager Markel said there is approximately \$3,900 available. Councilman Burden suggested an accurate accounting at the next meeting. Mayor Zoldos said Oktoberfest is paying for itself and MayFest is moving in that direction. Mayor Zoldos asked if there were any additional questions. Hearing none, he called for the vote.

Aye: Council Members Allar, Burden, Carder, Gray, and McIntyre
Nay: None
Abstain: None
Absent: Council Member Senate

E. Approval of Ordinance 2012-12-001

Manager Markel said that Council passed the motion to approve the Conditional Use Permit for Sprint but to formalize it they needed to approve the Ordinance.

- Motion:** I move that Council approve Ordinance 2012-12-0001 approving Conditional Use Permit LVCU 2012-0004.
- By:** Council Member McIntyre
- Second:** Council Member Allar
- Aye:** Council Members Allar, Burden, Carder, Gray, and McIntyre
- Nay:** None
- Abstain:** None
- Absent:** Council Member Senate

Information Items

There were no information items.

Comments from the Mayor and Town Council

Councilman McIntyre said he received very positive feedback about the Town from one of the vendors at Oktoberfest. The soft opening of Lowry's Farm Market is today.

Mayor Zoldos reported on the following:

- Lowry's Farm Market (formally the Mini Mart) is open as of this morning.
- Inova Medical Center will provide an updates soon.
- Lighting for the flag pole is being upgraded in response to a concern the Town received.
- Stop Hunger Now was last Saturday. The volunteers packaged 60,000 meals in two hours.
- They had some new volunteers sign up through Doozer Lovettsville for the Christmas tree lighting.
- He thanked the We're In Committee members for their participation.
- He encouraged the Council Members to attend the Newly Elected Officials Conference.
- Gabrielle Miller received 570 letters from the Town for her letter writing campaign.

Closed Session

The Council went into Closed Session at 12:55 PM to discuss sewer plant design and construction issues (Attachment 2).

The Council came out of Closed Session at 1:27 PM. All Council Members certified that only public business matters lawfully exempt from the open meeting requirements under the Virginia Freedom of Information Act were discussed.

Let the record reflect that no vote was taken following the Closed Session.

Adjournment

There being no further business before the Council, the meeting was adjourned at 1:27 PM.

Respectfully submitted,



Harriet West, Town Clerk

Date Approved: January 24, 2013

Attachments:

1. Notice of Public Hearing, LVCU 2012-0004, *Purcellville Gazette*
2. Closed Session Motion

Public Hearing/Legal Notices

current and upcoming

the above Commission, all during normal work hours for an application. For consideration by November 30, 2012. If you have any questions, please do not

Notice of Public Hearing Town of Lovettsville Town Council

The Lovettsville Town Council will hold a public hearing on the following item at their meeting on Saturday, December 8, 2012 at 11:00am at the Lovettsville Town Hall, 6 East Pennsylvania Avenue:

LVCU 2012-0004 14A Quarter Branch Road

Consider a request by Sprint, for approval of a Conditional Use Permit to Section 3-3 (c)(xi) of the Lovettsville Zoning Ordinance, to allow for the installation of wireless communications equipment as a conditionally permitted use. The parcel is located at 14 A Quarter Branch Road and is identified as Loudoun County PIN 333-45-9227.

The application and related documents being considered are available for review at the Town Hall between the hours of 8:30am and 4:30pm weekdays, or by special appointment, holidays excepted. Call 540-822-5788 for more information or visit www.lovettsvilleva.gov.

RETAIL LICENSE APPLICATION – POSTING AND PUBLISHING

November 23 & 30

Bogati Bodega & Winery Trading as Bogati Bodega
35246 Harry Byrd Hwy Suite 190, Round Hill, Loudoun County, Virginia 20141

The above establishment is applying to the VIRGINIA DEPARTMENT OF ALCOHOLIC BEVERAGE

Town of Lovettsville

VIRGINIA FREEDOM OF INFORMATION ACT Resolution: AUTHORIZE CLOSED SESSION

Date: 12/8/2012

Time: 12:57 PM

MOTION BY: Tiffany^e_v Carder

I move that the Lovettsville Town Council convene in closed session pursuant to Va. Code section 2.2-3711 A

1. Discussion, consideration, or interviews of prospective candidates for employment; assignment, appointment, promotion, performance, demotion, salaries, disciplining, or resignation of specific public officers, appointees, or employees of any public body; and evaluation of performance of departments or schools of public institutions of higher education where such evaluation will necessarily involve discussion of the performance of specific individuals,

3. Discussion or consideration of the acquisition of real property for a public purpose, or of the disposition of publicly held real property, where discussion in an open meeting would adversely affect the bargaining position or negotiating strategy of the public body,

4. The protection of the privacy of individuals in personal matters not related to public business,

5. Discussion concerning a prospective business or industry or the expansion of an existing business or industry where no previous announcement has been made of the business' or industry's interest in locating or expanding its facilities in the community,

6. Discussion or consideration of the investment of public funds where competition or bargaining is involved, where, if made public initially, the financial interest of the governmental unit would be adversely affected,

7. Consultation with legal counsel and briefings by staff members or consultants pertaining to actual or probable litigation, where such consultation or briefing in open meeting would adversely affect the negotiating or litigating posture of the public body; or consultation with legal counsel employed or retained by a public body regarding specific legal matters requiring the provision of legal advice by such counsel [For the purposes of this subdivision, "probable litigation" means litigation that has been specifically threatened or on which the public body or its legal counsel has a reasonable basis to believe will be commenced by or against a known party. Nothing in this subdivision shall be construed to permit the closure of a meeting merely because an attorney representing the public body is in attendance or is consulted on a matter],

19. Discussion of plans to protect public safety as it relates to terrorist activity and briefings by staff members, legal counsel, or law-enforcement or emergency service officials concerning actions taken to respond to such activity or a related threat to public safety; or discussion of reports or plans related to the security of any governmental facility, building or structure, or the safety of persons using such facility, building or structure,

Town of Lovettsville

29. Discussion of the award of a public contract involving the expenditure of public funds, including interviews of bidders or offerors, and discussion of the terms or scope of such contract, where discussion in an open session would adversely affect the bargaining position or negotiating strategy of the public body,

33. Discussion or consideration of confidential proprietary records and trade secrets excluded from this chapter pursuant to subdivision 18 of § 2.2-3705.6,

40. Discussion or consideration of records excluded from this chapter pursuant to subdivision 3 of § 2.2-3705.6 [Confidential proprietary records, voluntarily provided by private business pursuant to a promise of confidentiality from a public body, used by the public body for business, trade and tourism development or retention; and memoranda, working papers or other records related to businesses that are considering locating or expanding in Virginia, prepared by a public body, where competition or bargaining is involved and where, if such records are made public, the financial interest of the public body would be adversely affected],

with regard to [person, issue or property subject of discussion]

And thereafter reconvene in open session for action as appropriate.

SECOND: *Burden*

VOTE:

Ayes: *BURDEN, Allan, Candler, Gray, and McIntyre*
Nays: *NONE*
Abstentions: *NONE*
Absent for vote: *SENATE*

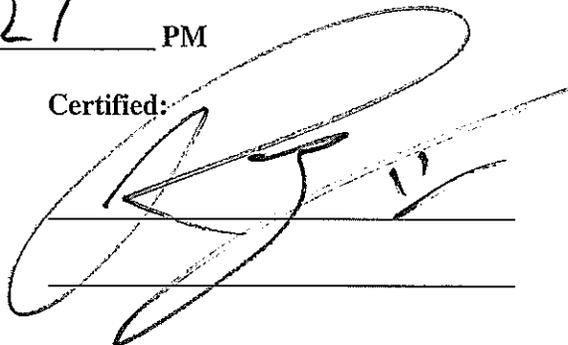
Roll-call poll by presiding official:

“Do you certify to the best of your knowledge that (i) only public business matters lawfully exempted from open meeting requirements under this chapter and (ii) only such public business matters as were identified in the motion by which the closed meeting was convened were heard, discussed or considered in the meeting by the Lovettsville Town Council?”

When polled as to whether (i) only public business matters lawfully exempted from open meeting requirements under the Virginia Freedom of Information Act and (ii) only such public business matters as were identified in the motion by which the closed meeting was convened were heard, discussed or considered in the closed meeting, the following members stated “Aye:”

December 8, 2012 at 1:27 PM

Certified:



A large, stylized handwritten signature in black ink is written over two horizontal lines. The signature is highly cursive and loops around itself.