

Town of Lovettsville

Planning Commission Minutes of Regular Meeting, April 20, 2011

Chairwoman Mari Bushway called the Regular Monthly Meeting of the Lovettsville Planning Commission to order at 7:29 PM on Wednesday, April 20, 2011.

Present at Meeting

- Chairwoman Mari Bushway
- Commissioners Lorraine Bauer, Jack Burden, Rodney Gray, Aaron Kahn, Joe Mueller
- Town Manager Keith Markel
- Zoning Administrator Steve McGregor
- Town Clerk Judy L. Kromholz

Absent

- Mayor Elaine Walker
- Commissioner Elaine Fischer

Present In the Audience

Among those present in the audience were Councilman Tim Sparbanie, Vice Mayor Robert Zoldos II, and Barbara Lam.

Public Comment

Chairwoman Bushway asked for public comment. There was none at this time. (Attachment I: Speaker Signup Sheet)

Additions/Deletions/Modifications to the Agenda

Chairwoman Bushway called for changes to the agenda. There were none.

Approval of Planning Commission Minutes

A. Planning Commission Meeting – April 6, 2011

Motion: To approve the minutes of the April 6, 2011 Planning Commission Meeting as amended.

By: Commissioner Mueller

Second: Chairwoman Bushway

Aye: Commissioners Bauer, Burden, Bushway, Gray, Mueller

Nay: None

Abstain: Commissioner Kahn

Absent: Commissioner Fischer

Staff Reports

No report was presented.

Action Items

A. LVZA 2010-0007 Temporary Outdoor Sales

Administrator McGregor presented this item. He summarizes the issues discussed by the Commission at the April 6, 2011 meeting and noted that while there appeared to be consensus on some regulations no clear direction was given on many issues. It was generally agreed that the Commission would evaluate the remarks made and respond to staff's attempt to design draft regulations that could be used for further discussion and decision-making.

The Commission began by discussing if itinerant sales should only be located on non-residentially zoned land, except for door to door sales in residential districts. Commissioner Mueller suggested that there is no room in most residentially zoned districts for the vendor and related parking. He asked if the regulation could be based on the size of the property or on the availability of parking. If so, would the Town require signoff by the adjacent property owners? Vice Chairman Burden stated that the Commission had not agreed to ban sales in residential zoning but had discussed residential areas. Chairwoman Bushway asked how these regulations might impact home based businesses. Manager Markel noted that there is so little demand for the ability to conduct itinerant sales in residential zones that the only requests the Town had ever received were from the Lovettsville Game Protective Association (LGPA). Manager Markel noted that the major recommendation in Administrator McGregor's memo is the rezoning of the LGPA property and that would ameliorate the problem of defining areas in other than zoning terms. He noted that staff has recommended looking at the LGPA zoning, and changing it to reflect the community's idea of appropriate activities for that property.

Commissioner Kahn stated that while he is concerned about the LGPA there is also the possibility that by creating an ordinance amendment and a new zoning district for consideration there is a possibility that one may pass and the other may not. Administrator McGregor stated that the vision was to have the two items run concurrently through the Commission and Council. Manager Markel suggested that there is also the possibility of lagging the itinerant vendor ordinance a week or so behind the LGPA rezoning. Commissioner Kahn stated that he would prefer enacting the itinerant vendor zoning ordinance before considering the rezoning of the LGPA. Commissioner Gray noted that if the LGPA or the Town decides not to pursue the rezoning, the LGPA would be bound by this ordinance. Manager Markel noted that if the Town goes forward with the rezoning, the LGPA would lose any residential privileges it currently has unless those uses were included in the new district. Administrator McGregor noted that the rezoning would allow the LGPA to continue their current activities and would not prevent them from applying for another rezoning at a later date. Manager Markel stated that, under the current zoning, the LGPA is not allowed to do many of the things they are currently doing and staff is uncomfortable granting them constant exceptions. He reported that the LGPA maintains that they wish to be commercially zoned. The Comprehensive Plan would guide future rezoning requests for the parcel. The plan currently supports the property becoming medium density residential. Administrator McGregor stated that the Commission could design the new district to include the minimum density residential district that they now exist under. Commissioner Mueller stated that this option would retain their existing rights while legalizing their current activities. Commissioner Kahn stated that he believed it would take too long to implement the zoning change. He stated that if the prohibition against itinerant vending in residential districts was removed, the LGPA would be able to continue their current activities as special exceptions. Manager Markel noted that the LGPA claims to have been zoned commercial but has not been able to produce documentation. All documents in Town Hall support residential zoning of their property. Administrator McGregor noted that even if the restriction on itinerant vendors in residential areas is removed, the LGPA will still be required to adhere to the other restrictions if this ordinance is enacted.

Chairwoman Bushway suggested that the Town is not facing an emergency situation because one furniture truck showed up for a few weekends last year. She stated that she does not want to see the LGPA backed into a corner.

Commissioner Gray stated that he has reservations about trying to force the rezoning issue on the LGPA. Commissioner Mueller stated that he is comfortable with shelving the LGPA issue until the Town resolves the itinerant vendor issue. He agreed that the single vendor last year does not constitute an emergency situation. Administrator McGregor stated that if he receives an application he perceives as controversial he will bring it to the Commission or Council for guidance. Vice Chairman Burden agreed with Chairwoman Bushway that there is not a lot of urgency to this issue. He would prefer that the LGPA be brought into the discussion before any further activity is taken on their property. Commissioner Bauer noted that banning itinerant vendors in residential zones would not resolve the furniture truck issue the Town encountered last year.

Chairwoman Bushway polled the Commissioners and there was general agreement that they did not want to ban itinerant sales in residential areas at this time.

The Commissioner moved to discussing the proposed restriction stating that itinerant sales shall not have an adverse impact on adjacent properties. Upon questioning, Administrator McGregor confirmed that this language will let him exercise discretion. The Commissioners agreed to this restriction.

Administrator McGregor reminded the Commission that if they require vendors to obtain a permit from the Town, County ordinances concerning health and welfare are activated. The Commissioners all agreed to these requirements.

While discussing if a 72 consecutive hour itinerant vending permit is to be required the Commissioners became concerned about how this would impact the annual Carnival at the LGPA. Administrator McGregor stated that they might be required to apply for a number of consecutive permits for the Carnival.

After some discussion, the Commission asked that wording be inserted to state that a for-profit enterprise paying a fee to a nonprofit for use of its property would not be exempted from the fee.

Vice Chairman Burden noted that the proposed ordinance implicitly discourages the private use of fireworks by banning the sale of fireworks in the Town. The Commissioners took a straw poll and agreed to leave the fireworks sale ban in place.

Vice Chairman Burden recommended that staff be directed to prepare a revised draft of the ordinance based on the discussions at this meeting. He also recommended removing the residential zoning ban on itinerant vendors at this time in order to allow for the requirements of the LGPA. The Commissioners all agreed that the LGPA rezoning item should be dropped and that the club should be included in any further discussion of their zoning status.

Commissioner Kahn stated that the public hearing should be scheduled in conjunction with the presentation of the revised draft ordinance. Administrator McGregor stated that he felt the Commission should review the revised draft before scheduling a public hearing and the rest of the Commissioners agreed.

B. Review of Planning Commission By-Laws and Rules of Procedure

Manager Markel presented a revised draft of the Commissions By-Laws and Rules of Procedure. Vice Chairman Burden noted that there was an inconsistency in the definition of a quorum. The Commissioners agreed to define a quorum as a plurality of members. The Commissioners also discussed the order of business and agreed that the Rules should reflect the current agenda format. A number of format and wording changes were also noted.

The Commission directed staff to make the requested revisions, bring the Commission Rules and Procedures into the same format used by the Council Rules and Procedures and bring a new version to the Commission for discussion and action.

Discussion Items

There were no discussion items on the agenda.

Information Items

Manager Markel asked the Commissioners to consider dates for a joint work session with the Council to set the Planning Commissioner agenda for the next year.

Administrator McGregor reminded the Commissioners that there will be a Joint Public Hearing on the application for Heritage Highlands on April 28th. A Planning Commission meeting has been scheduled immediately after the public hearing at which the Commissioners may chose to vote on a recommendation on the application.

Vice Mayor Zoldos reported on the following items:

1. The Loudoun County Sheriff's Office reminds all citizens to report all incidents.
2. Western Loudoun Little League Baseball opening day ceremonies will be on April 30th starting with a procession in the morning and ending with a movie on the fields at sundown.
3. On that Saturday there will also be an event at the Lovettsville Community Park celebrating Arbor Day. The community is hoping to plant 100 trees and shrubs that morning.
4. The Community Center May Day run will be on Sunday, May 1st.
5. The Oktoberfest Committee is up and running under the chairmanship of Councilman Sparbanie.

Vice Chairman Burden asked Manager Markel to review the procedure that will occur at the Joint Public Hearing. Manager Markel explained the following:

- The Town received the final proffers from the applicant earlier today.
- The applicants must get the signatures of all the applicants and present them to the Town before the public hearing.
- The Joint Public Hearing will provide a forum for the applicants and the public to provide information to the Commission and Council.
- At the conclusion of the hearing, the Planning Commission will go into session to discuss the application. They may make a recommendation to Council at that session if they so chose.
- After the Planning Commission has met, the Council will convene their regular meeting. As part of that meeting, they may consider any recommendation made by the Planning Commission.

Comments from the Commissioners

Chairwoman Bushway called for comments from the Commissioners. There were none at this time.

Adjournment

Motion: To adjourn the Planning Commission meeting of April 20, 2011

By: Commissioner Mueller

Second: Commissioner Kahn

Aye: Commissioners Bauer, Burden, Bushway, Gray, Kahn, Mueller

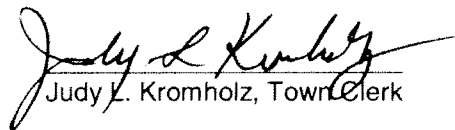
Nay: None

Abstain: None

Absent: Commissioner Fischer

The Meeting was adjourned at 9:46 PM.

Respectfully submitted,


Judy L. Kromholz, Town Clerk

Date Approved: June 1, 2011

Attachments:

- I. Speaker Sign Up Sheet

