

Town of Lovettsville

Town Council Minutes of the January 22, 2015 Regular Meeting

Call to Order/Pledge of Allegiance

Mayor Robert Zoldos II called the Regular Meeting of the Lovettsville Town Council to order at 7:30 p.m. on January 22, 2015 at the Lovettsville Town Hall, 6 East Pennsylvania Avenue, Lovettsville, VA.

Mayor Zoldos announced there would be no closed session.

Council Members Present

- Mayor Robert Zoldos II
- Vice Mayor Michael Senate
- Council Member Kimberly Allar
- Council Member Tiffany Carder
- Council Member Rodney Gray
- Council Member Jennifer Jones
- Council Member James McIntyre

Staff Present

- Town Manager Laszlo Palko
- Town Attorney Elizabeth Whiting
- Treasurer Lance Gladstone
- Zoning Administrator Joshua Bateman
- Town Clerk Harriet West

Also present were several members of the Planning Commission including Chairman Joe Mueller, Commissioner Rob Gentile, and Commissioner Frank McDonough.

Pledge of Allegiance

Mayor Zoldos led those assembled in the Pledge of Allegiance.

Comments from the Public

Mayor Zoldos called for comments from the public. Vice Mayor Senate read the rules for public comment.

Andy Koch, 18 Black Forest Lane, said he is part of the Garden Club and was involved in laying out the area for the Community Garden at Quarter Branch Park. He said he is bringing up the subject again because he understands it will require money to put up a fence to keep the deer out. Councilman McIntyre said the Garden Club has acquired the fencing and it just needs to be put up. Town Manager Palko said he is meeting with a representative of the Garden Club tomorrow.

Mayor Zoldos suggested suspending or tabling the Community Presentations and Town Commission and Committee Reports until after the agenda items. There was no objection from the Council.

Additions/Deletions/Modifications to the Agenda

There were no changes to the agenda.

Minutes

No minutes were presented.

Report from the Treasurer

Treasurer Gladstone gave the November 2014 Financial Report.

Motion: I hereby move to accept the November 2014 Financial Report.
By: Council Member Carder
Second: Vice Mayor Senate

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

Staff Reports

A. Report from the Project Manager

There were no questions regarding the Project Manager's written report.

B. Report from the Zoning Administrator

There were no questions regarding the Zoning Administrator's staff report.

C. Report from the Town Attorney

There was no report from the Town Attorney.

D. Report from the Town Manager

Town Manager Palko reported on the emergency management plan he is working on and the upcoming meeting with English Construction on negotiations regarding the waste water treatment plant.

Action Items

A. Public Hearing – LVRZ 2014-0001 Lovettsville Town Center Proffer and Concept Plan Amendment
Mayor Zoldos closed the regular meeting at 7:42 p.m. and opened the public hearing. Vice Mayor Senate read the rules for public comment.

Joe Mueller, Chairman of the Planning Commission, said the Commissioners have studied the proffer and recommended approval of this project. He noted the project meets the basic elements in the Town's Comprehensive Plan for economic development and the applicant has addressed the questions that were expressed regarding access through the alleyway and parking. Chairman Mueller said the Town does give up some commercial space but the Planning Commission feels this is an appropriate trade off and it moves the Town in the right direction. He said this puts a nice commercial building on the Town Square, which is something many citizens have been asking for.

Zoning Administrator Bateman gave an update on the application since the joint public hearing on November 19, 2014. He noted that the Planning Commission took action at their meeting on December 3, 2014. Prior to that the applicant submitted a revised concept plan showing 16 additional offsite parking spaces on property located across the street that they also own. Staff and the Planning Commission had concerns that those spaces would need to remain designated for the use that is the subject of this request whenever that property develops in the future. Since then, the applicant has come back with a proffer change for a parking license agreement that would be finalized at the time of site plan approval.

Sarah Searle spoke on behalf of the Lovettsville Cooperative Market. She said the Co-op has been working for the past four years to try and bring a community-owned grocery store to Lovettsville. She is here to urge approval of the zoning amendment proffer for the Town Center. That commercial space will be important to Lovettsvillians in general and to the mission of the Lovettsville Cooperative Market because they hope to contribute to a vibrant local economy that supports all local businesses. The Co-op hopes to be in the pre-construction phase of the grocery store by the end of the calendar year and to that end they have pursued a Letter of Intent with NVRetail to hopefully open the Lovettsville Cooperative Market in that commercial space. Based on their extensive research over the past four years, Ms. Searle said no large grocery store will be coming to Northern Loudoun; therefore, a smaller commercial space may be more attractive.

Kimberlee Welsh Hise, representing Lovettsville Square, said they filed an affidavit that they submitted letters to adjacent property owners and that they submitted the signed proffer statement prior to the public hearing.

Judd Bostian, NVRetail, said they hope this initial effort will drive Phase 2 of the commercial development. They have several solid Letters of Intent and hope to bring the community some unique

uses including sit-down and quick service restaurants, expanded medical service, and potentially a grocery co-op. They have addressed the Zoning Administrator's comments as best they could. In response to questions from the Mayor and Council, Mr. Bostian said:

- there could be 6 to 10 users, depending on how the space is divided up;
- they are very excited about the project; and
- Building A is still not attractive to tenants.

Bing Lam, 2 Eisentown Drive, discussed the amendment to the amendment regarding parking, which is not the original piece of property. What this does is put a temporary or permanent parking lot that is not in back of a building. The original concept plan was to have parking in back. This amendment was given at the December Planning Commission meeting and was just handed to those who were there. No one knew about it other than those who were there. It did not provide the public safeguards that are required in the Virginia Code. The Planning Commission did not follow the Code. They have done this to accommodate the developer. As a solution, they need to go back to the beginning. It should have been made known that this other proffer was going to be handled like that. People should be given the opportunity to see whether they agree or not on the matter. Furthermore, he does not see how this Planning Commission can approve it because they have already had a resolution to approve this going forward. It's tainted. Mr. Lam said that 95% of the people who have come forward object to what is going on. There has not been an adequate study or discussion for what is going to happen.

In response to a request from Mayor Zoldos, Attorney Whiting addressed Mr. Lam's concerns regarding the Virginia Code and the legality of the process. She noted that changes in the proffers are allowed up to the time of the public hearing. The proffer changes are absolutely responsive to the concerns and the conditions that the Planning Commission put on the application. It is within the Town Council's discretion, if they chose, to re-refer the application to the Planning Commission; however, the need to go back to the Planning Commission on this point is not compelling.

Bernadette DaCruz, 20 Town Center Drive, said she appreciates the amendments that have been made to address the primary concerns; however, she still has concerns about parking. Putting 16 spaces across the street is not a good solution. Giving up one of the housing lots is a better solution. People are still going to migrate onto the street, not across the street, to park. Once the Town gives up this other space, they are done. Now is the time to truly address the parking situation. She suggested giving the commercial space a year or two to see if it is successful, before giving it up to homes. As has been said over and over again, once the Town loses the commercial space, it is gone. She said it is exciting that the Co-op came forward because that means there is interest in commercial space in Town Center. The Town is giving away the farm for just a building to get it started. There should be an opportunity for the Town Council to put a hold on the six houses for a year or two until they see how the commercial space does.

Chris Hornbaker, 13 Black Forest Drive, said he bought in Town Center after living in Lovettsville for five years. He said three, one-story buildings looks a lot better than what they are proposing tonight. He said the developer will make \$3 million on six new houses.

Mr. Bostian addressed some of Mr. Hornbaker's comments and noted they are selling graded lots, not finished homes, and that the lots are not worth \$3 million.

Jack Burden said he first heard about this project in 2007 before he moved to Lovettsville. He said they are finally at the point where they are ready to build and we should let them do it. He cannot speak for the HOA but he has talked to almost every one of the 40 residents and they are anxious for this to happen. He urged the Council to get the project going.

Hearing no further public comments, Mayor Zoldos closed the public hearing at 8:10 p.m. and reopened the regular meeting.

Manager Palko said there are always positives and negatives when making big decisions. He is new to the Town so he has not been here through all of the debate but he has been briefed heavily on the

situation. He brings a fresh perspective as someone who is coming from the outside but who loves this Town already. He wants the Town to be successful and from his perspective, the risks of saying "no" are greater than saying "yes" in terms of fiscal and economic development impacts. The Town has long-term liabilities that need to be addressed as the Town has been growing dramatically over the past 10-15 years. If they want to do more, they need the revenue. The best way to generate revenue is through economic growth from commercial development, not by raising taxes. The risk of saying "no" will impact the Town from a fiscal standpoint. There are many unknowns, but if they don't move forward now those are years the Council will be putting off collecting needed revenue. From an economic development standpoint, saying "yes" will tell the Northern Virginia area that Lovettsville is a place to do business. The Town needs businesses here to drive economic growth. Manager Palko said this may not be what the Town wanted from the start, but it will build momentum for positive things going forward. He asked the Council to accept the motion.

Hearing no further discussion, Mayor Zoldos called for a motion.

Motion: I move to adopt Ordinance 2015-01-0001 (Attachment 1), to approve the application from Lovettsville Square, LLC to amend the proffers and concept plan (LVRZ-2014-0001) for the Lovettsville Town Center Planned Development District approved on January 22, 2009.

By: Commissioner McIntyre

Second: Commissioner Carder

The Mayor and each of the Council Members expressed their concerns about many aspects of this project, including parking, the loss of commercial space, and the risk of further delaying action. They noted how beneficial it would be to have the Co-op located there and the economic development benefits this would bring, as discussed by Mr. Palko.

The Mayor and Council discussed getting the applicant to put forth additional proffers regarding parking and commercial space, which Mr. Bostian said he was not in a position to do. Attorney Whiting noted they are being offered a proffered package which would require the Council to grant residential zoning on those six lots; however, the applicant cannot start the residential construction until the commercial building is under occupancy.

Mayor Zoldos said he felt they were giving up too much, especially the transfer of commercial space to residential. He said he's also very concerned about the parking and how this could affect the availability of parking for Buildings C, D, and E. Mr. Bostian said Phase 2 is a just a concept plan and at this stage they do not know what the market will bear. He added that they can include signage in their lot across the street and stipulate in the parking license agreements that employees are required to park there, but they cannot control people parking on the side streets. Mayor Zoldos said the game changers of tonight are the Co-op and the Town Manager's fresh perspective on the risk of saying "no".

Following further discussion, Mayor Zoldos called for the vote.

Aye: Council Members Allar, Carder, Gray, Jones, McIntyre, and Senate

Nay: None

Abstain: None

Absent: None

Mayor Zoldos recessed the meeting from 8:49 p.m. to 9:00 p.m.

B. Virginia Municipal League Insurance Programs Disability Coverage

Town Manager Palko presented this item. The Council is being asked to approve the Town's participation in the VML/Lincoln Financial Plan and to fund this Plan from the current Insurance Line Item. Manager Palko said he has reviewed both options available through VACO and VML and determine the VML program is more cost effective and provides better coverage. The Town has the required funding available to cover full-time employees for FY 15 due to under-run funding in another section of the budget, but will need to budget this new expenditure for the FY 16 Budget.

- Motion:** I move to approve Ordinance 2015-01-0002 (Attachment 2), Approving Joint Powers Association Agreement, and to authorize the Mayor to sign the Virginia Local Government Insurance Association Joint Powers Agreement and all other documents necessary to obtain disability coverage for full-time Town employees through the Virginia Municipal League Insurance Programs.
- By:** Council Member Jones
- Second:** Council Member Allar
- Aye:** Council Members Allar, Carder, Gray, Jones, McIntyre, and Senate
- Nay:** None
- Abstain:** None
- Absent:** None

C. General Consulting Agreement with Mr. Samuel A. Finz

Town Manager Palko presented this item. The Council is being asked to approve a General Consulting Agreement with Mr. Samuel A. Finz to support the Town with special projects.

- Motion:** I move to approve, and authorize the Mayor to sign, the attached "General Consulting Agreement" with Mr. Samuel A. Finz.
- By:** Vice Mayor Senate
- Second:** Council Member Gray
- Aye:** Council Members Allar, Carder, Gray, Jones, McIntyre, and Senate
- Nay:** None
- Abstain:** None
- Absent:** None

Town Commission and Committee Reports

Mayor Zoldos asked if there was anything pressing that needed to come before the Town Council.

Planning Commission Report

Chairman Mueller said that the Planning Commission conducted a public hearing on the amendment to the R-3 Zoning District to allow housing types other than single family homes. The Commissioners received a lot of feedback at the public hearing and have decided to table action on the text changes so that they can review and update the Town's Comprehensive Plan first. Mayor Zoldos suggested that the Planning Commission go through the process of reviewing the entire Comprehensive Plan now, rather than just focusing on the housing-related sections. Chairman Mueller agreed this was a good suggestion.

Parks Committee

Vice Mayor Senate said they have had several meetings with the contractor designing the Town Information Sign and they have selected a much lower cost sign.

We're In Committee

Councilwoman Carder gave an update on the recent We're In meeting. They discussed the business directory and business expo, which will be held in March at the Game Club.

Mayfest Committee

Councilwoman Carder gave an update on planning for Mayfest.

Volunteer Fest

Councilwoman Jones gave an update on Volunteer Fest, which will be held on April 19, from 2:00-4:00 p.m. at the Game Club.

Discussion Items

There were none.

Information Items

There were none.

Comments from the Mayor and Town Council

Councilman McIntyre gave updates on the next Black & Blue on the Green, the upcoming Co-op Annual Meeting, and a poetry reading night at the Lovettsville Library.

Councilman Gray said he recently attended a fundraiser for autism and Asperger's in Purcellville.

Councilwoman Carder said We're In is looking into doing concerts at the Pavilion. She reminded everyone about the next Potomac Partnership meeting on February 2.

Councilwoman Jones thanked staff for all of their hard work.

Mayor Zoldos gave updates on the following:

- Recent water leaks.
- Emergency planning and notification using a single number and Alert Loudoun.
- Snow plowing expectations – VDOT plows when snow fall exceeds 2 inches.
- Two new businesses in Town - Mad Horse Coffee Shop and Minuteman Arms.
- The Town Council retreat, which will be held on January 31 at 8:30 a.m.
- The Town Charter update.
- The meeting scheduled with Sheriff Chapman on February 6.
- Judging for the Pinewood Derby.
- Black & Blue on the Green.
- Two new proposed Town events.

Closed Session

There was no closed session.

Adjournment

There being no further business before the Council, the meeting was adjourned at 9:37 p.m.

Respectfully submitted,



Harriet West, Town Clerk

Date Approved: October 22, 2015

Attachments:

1. Ordinance 2015-01-0001
2. Ordinance 2015-01-0002

Town of Lovettsville

Ordinance 2015-01-0001: APPROVE ZONING CASE NO. LVRZ-2014-0001 TO AMEND THE PROFFERED CONDITIONS AND CONCEPT PLAN FOR LOVETTSVILLE TOWN CENTER

MOTION: McIntyre
SECOND: Carder

WHEREAS, Lovettsville Square, LLC has applied to the Town to amend the Proffered Conditions (hereinafter “the Proffers”) and revise the Concept Plan for the T-C Town Center Planned Development District, previously approved on January 22, 2009, for Parcel Identification Number (PIN) 369-20-4273, PIN 369-20-2899 and PIN 369-20-2773, all of which are owned by the applicant; and

WHEREAS, the applicant has requested revisions to the Concept Plan to reduce the total area currently designated Town Center Core from 7.73 acres to 6.23 acres in order to support the creation of five (5) proposed residential parcels (proposed lots 208-212) which would become part of the Town Center Residential area, and change to the Concept Plan designation of one (1) existing parcel (PIN 369202773000; proposed lot 207) from Town Center Core to Town Center Residential, for the purpose of building six (6) new single-family residential dwelling units; and

WHEREAS, the applicant has requested amendments to the Proffers as described in the notice of public hearing advertised in the Purcellville Gazette on January 9, 2015 and January 16, 2015; and

WHEREAS, the requested amendments and revisions are described in the Proffers dated November 17, 2014 and revised November 26, 2014 and December 22, 2014, including all exhibits and attachments thereto; and

WHEREAS, the properties to be subject to the application are more specifically identified in Exhibit D and those properties that are excluded from the application are identified in Exhibit C, both of which are attached to the Proffers dated November 17, 2014 and revised November 26, 2014 and December 22, 2014; and

WHEREAS, the Lovettsville Planning Commission and the Lovettsville Town Council conducted a joint public hearing on the application on November 19, 2014, pursuant to notice given in accordance with the requirements of §15.2-2204 of the Code of Virginia; and

WHEREAS, the Planning Commission recommended approval of the application at the meeting on December 3, 2014, subject to modifications; and

WHEREAS, the applicant modified the Proffers and Concept Plan in an effort to address the Planning Commission’s recommendation by: (i) proposing to install signage and removable

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bollards at the end of Kestrel Alley to prevent vehicular access, with the exception of emergency and maintenance vehicles, and to coordinate with the Zoning Administrator as to the location of such signage and bollards prior to the issuance of the first Certificate of Occupancy for the commercial building; (ii) increasing the width of the landscaped buffer area shown on the Sheet 7 of 7 of the Concept Plan to seven (7) feet between the proposed parking lot serving the commercial area and proposed Lot 207 adjacent to the parking lot; and (iii) proposing to construct and stripe a temporary parking lot to accommodate up to sixteen (16) parking spaces on the property described as Loudoun County Tax Map and Parcel Number 9A211-3 (MCPI #369-10-2939) as shown on "Building B – Parking Area Details Exhibit", Sheet 7 of 7 of the Concept Plan, for the purpose of providing parking for the commercial building (Building B). The applicant shall submit to the Zoning Administrator a Parking License Agreement in a form acceptable to the Town Attorney, and record the Agreement among the land records of Loudoun County, Virginia; and

WHEREAS, the Town Council conducted a public hearing on the revised Proffers on January 22, 2015 in accordance with the requirements of §15.2-2204 of the Code of Virginia; and

WHEREAS, the Town Council has determined that approval of the application and acceptance of the Proffers, including all exhibits and attachments thereto, will promote the health, safety, and welfare of the community and is consistent with good zoning practices.

NOW, THEREFORE BE IT ORDAINED that the Lovettsville Town Council hereby APPROVES the application by Lovettsville Square, LLC to amend the Proffers and revise the Concept Plan previously approved by the Town Council on January 22, 2009;

BE IT FURTHER ORDAINED that the foregoing approval is subject to the Proffered Conditions, voluntarily proffered and signed by the applicant pursuant to Section 42-34 of the Zoning Ordinance, attached hereto.

VOTE:

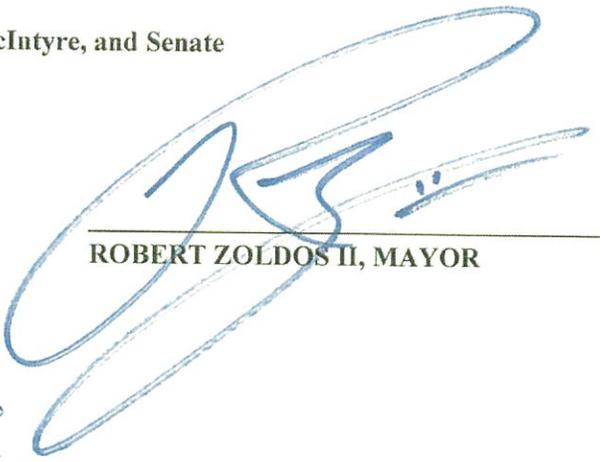
Ayes: Allar, Carder, Gray, Jones, McIntyre, and Senate

Nays: None

Abstentions: None

Absent for vote: None

APPROVED: January 22, 2015



ROBERT ZOLDOS II, MAYOR

CERTIFIED:



HARRIET WEST, TOWN CLERK

Town of Lovettsville

Ordinance 2015-01-0002: Approving Joint Powers Association Agreement

MOTION: Jones

SECOND: Allar

WHEREAS, Virginia political subdivisions are authorized by law to provide group life insurance, accident and health insurance and other employee benefits programs for their officers and employees; and

WHEREAS, Virginia Code §15.2-1300 provides that any power, privilege or authority exercised, or capable of being exercised by a political subdivision in the Commonwealth of Virginia may be exercised and enjoyed jointly with any other political subdivision of the Commonwealth having a similar power, except where express statutory procedure is otherwise provided for the joint enterprise; and

WHEREAS, said Code section authorizes two or more political subdivisions to enter into agreements with one another for such joint action and to appropriate funds and sell, lease, give or otherwise supply such property, personnel or services therefore as legally empowered to furnish; and

WHEREAS, the Virginia Public Procurement Act (the "Procurement Act") exempts from its competitive sealed bidding and competitive negotiation requirements (the "Requirements") the joint procurement by public bodies, utilizing competitive principles, of insurance purchased through member associations under the conditions set forth in the Procurement Act; and

WHEREAS, members of Virginia Local Government Insurance Association (the "Association") are Virginia political subdivisions who have executed the Joint Powers Association Agreement, a copy of which is attached to and made part of this Resolution (the "Joint Powers Agreement"); and

WHEREAS, members of the Association may procure insurance through the Association; and

WHEREAS, insurance products purchased through the Association are more cost effective than those purchased through alternative means; and

WHEREAS, the procurement of insurance should be effectuated as provided in the Joint Powers Association Agreement, in accordance with applicable provisions of the Procurement Act, such as the utilization of competitive principles pursuant to an exemption from the Requirements; and

WHEREAS, it appearing to the Town Council of the Town of Lovettsville that the procurement of insurance pursuant to the Joint Powers Agreement is otherwise in the best interests of the Town of Lovettsville;

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NOW, THEREFORE, BE IT HEREBY ORDAINED that:

(1) Competitive sealed bidding and competitive negotiation for the procurement of insurance are not fiscally advantageous to the public because of the administrative and economic advantages of procuring such insurance through the Association.

(2) The procurement of insurance pursuant to the Joint Powers Agreement is hereby approved.

(3) The Joint Powers Agreement and the performance of the terms and conditions thereof on behalf of Town of Lovettsville are hereby authorized and approved.

(4) The Mayor is hereby authorized and directed to execute and deliver the Joint Powers Agreement on behalf of the Town of Lovettsville in substantially the form presented to this meeting.

(5) The payment obligations of the Town of Lovettsville pursuant to the provisions hereof and the Joint Powers Agreement shall be subject to annual appropriation of requisite funds therefore by the Lovettsville Town Council.

(6) This Ordinance shall take effect immediately upon its adoption or passage.

VOTE:

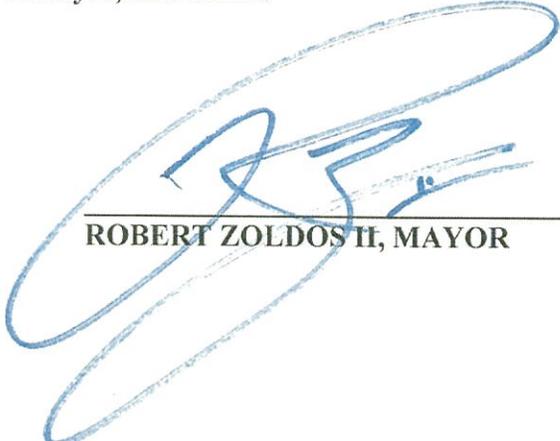
Ayes: Allar, Carder, Gray, Jones, McIntyre, and Senate

Nays: None

Abstentions: None

Absent for vote: None

APPROVED: January 22, 2015



ROBERT ZOLDOS II, MAYOR

CERTIFIED:



HARRIET WEST, TOWN CLERK