

# Town of Lovettsville

## Town Council Minutes of the September 19, 2013 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 September 19, 2013 at the Lovettsville Town Hall, 6 East Pennsylvania Avenue, Lovettsville, VA.

### Council Members Present

- Mayor Robert Zoldos II
- Vice Mayor Senate
- Council Member Jack Burden
- Council Member Tiffany Carder
- Council Member Rodney Gray
- Council Member James McIntyre

### Council Members Absent

- Council Member Kimberly Allar

### Staff Present

- Town Manager Keith Markel
- Town Attorney Elizabeth Whiting
- Town Treasurer Lance Gladstone

### Pledge of Allegiance

Mayor Zoldos led those assembled in the Pledge of Allegiance.

### Presentations

There were no presentations.

### Comments from the Public

Mayor Zoldos introduced Wyatt Blaur, Eagle Scout candidate. Wyatt Blaur, 12087 Ropp Lane, described his Eagle Scout project to paint the fence at the Lovettsville fire house. He distributed flyers and invited the Mayor and Council Members to attend. Mayor Zoldos said he would include information about the project in the Friday email.

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

Chad Tyson, 25 Hammond Drive, came forward to speak about getting the Town's fence height requirements amended. He said he spoke to the Mayor and Council about this issue a few weeks ago and he has since spoken with the Town Manager about options to get the ordinance changed. Manager Markel informed him there were two options – the Town Council could vote to send it to the Planning Commission or he, as a citizen, could start the process. He wanted to see if this is something that the Town would like to do; if not he would start the process with some of his neighbors.

Mayor Zoldos said he would bring this up for discussion tonight.

### Closed Session

Mayor Zoldos said there would be no closed session.

### Community Presentations

#### A. Loudoun County Sheriff's Office

Deputy Sheriff LoPreto said there was another incident with items stolen from an unlocked vehicle on Stocks Street. He reminded residents to lock their cars.

Mayor Zoldos said he had been contacted by a resident who was concerned about speeding on East Broad Way. Deputy LoPreto said he had been running radar on East Broad Way and Frye Court. He asked the Mayor to have the resident email directly with the times when the speeding was a problem.

B. Lovettsville Fire and Rescue Company

Elaine Walker gave updates on the Fire Department Open House and the indoor/outdoor flea market that will be held each Saturday in October.

There were no other community presentations.

**Town Commission and Committee Reports**

A. Lovettsville Planning Commission

Manager Markel said the Planning Commission met on September 18 to review the current work plan and accomplishments. They also discussed having a joint work session with the Town Council to map out the 2014 agenda.

B. Parks Committee

Vice Mayor Senate gave an update on the Quarter Branch Park Barn.

C. "We're In" Committee

Council Woman Carder gave updates on the brown bag lunch held at the Lovettsville Library and plans for an information booth at Oktoberfest.

D. Oktoberfest Committee

Councilman McIntyre said Oktoberfest is a week away and they have more sponsors, vendors, music, food, and beer than they have ever had.

**Additions/Deletions/Modifications to the Agenda**

Mayor Zoldos called for changes to the agenda. Hearing none, he suggested adding fence height referral to the Planning Commission. There was no objection from the Council.

Manager Markel asked to add an agenda item to discuss a possible Town Hall Open House at Oktoberfest. There were no objections.

**Minutes**

No minutes were presented.

**Report from the Treasurer**

Treasurer Lance Gladstone presented the July 2013 Financial Report. There were no questions from the Council.

**Motion:** I move to accept the Treasurer's Report for July 2013 as submitted.  
**By:** Vice Mayor Senate  
**Second:** Council Member Carder  
**Aye:** Council Members Burden, Carder, Gray, McIntyre, and Senate  
**Nay:** None  
**Abstain:** None  
**Absent:** Council Member Allar

**Staff Reports**

A. Report from the Project Manager

There was no report from the Project Manager. Manager Markel said they had a productive meeting at the Community Center with the property owners along East Broad Way to discuss the easements and right-of-way acquisitions for the Streetscapes project. He added that the County has approved the occupancy permit for the Quarter Branch Barn so they will be able to use it in time for Oktoberfest.

B. Report from the Zoning Administrator

There was no report from the Zoning Administrator.

C. Report from the Town Attorney

There was no report from the Town Attorney.

D. Report from the Town Manager

There was no report from the Town Manager.

Vice Mayor Senate asked if they would be receiving a report on the results of the smoke testing. Manager Markel said they should have the finding by mid-October.

**Action/Discussion Items**

A. 5 North Berlin Pike Development Issues

Manager Markel introduced this item. He discussed the concerns brought up by the property owners (Malcolm and Pamela Baldwin) at the Town Council meeting on September 5, 2013 regarding the Town's requirements for frontage improvements to be made at the time of subdivision. He reviewed the Town's history of frontage improvements for commercial and residential properties. He gave several examples of projects that have either made cash contributions towards frontage improvements or incorporated the improvements into the project site plans. He noted that the Town does not have a Master Transportation Plan; however, the Capital Improvement Plan calls out many critical improvements for the Town. The understanding is that all neighborhood streets will include curb/gutter and sidewalks where there are none now. The major element for future construction on North Berlin Turnpike will be the bike path. Several years ago, VDOT (Virginia Department of Transportation) imposed design requirements for this project which include curb and gutter, underground storm drainage, and an eight-foot wide multi-use asphalt trail on the west side of Berlin Pike. This is what developers along the street would be asked to comply with as new projects are constructed. The Town has been collecting money in lieu of physical improvements for more than 15 years. Deviating from this puts the Town in a difficult position as far as the precedent that has been set. The developer of another project on North Berlin Pike has already made cash contribution to fund the frontage improvements.

Town Attorney Elizabeth Whiting said she reviewed the Zoning Ordinance and Subdivision Ordinance and inventoried all of the waiver and modification options contained in the two ordinances. She reviewed her findings and noted that the authority for waiving capital improvements rests with the Planning Commission. Staff recommends that the Subdivision Ordinance be modified so that this authority is retained by the Town Council, as modifications to frontage improvements have significant financial consequences to the Town.

Malcolm Baldwin said their plans have evolved and they are at least 95% in compliance with the Town's requirements and they will soon be submitting the subdivision application to the Town. They are prepared to pay for the commercial entrance as prescribed by VDOT and onsite storm water management, and to contribute \$5,000 towards the eight-foot bike path. He said they are local citizens, not big developers. They are trying to provide two lots that would allow two different businesses to thrive and they cannot pass on these costs to buyers.

Mr. Baldwin went on to say that based on the state code requirements for subdivision ordinances (Section 15-2241), they should not be required to pay for these improvements; therefore a waiver is not needed. Furthermore, he questioned why the Town would want to pay a considerable amount of money for frontage improvements along North Berlin given that the properties are residential. Lastly, he said that having to pay for the frontage requirements will kill the projects.

Town Attorney Whiting said the state code requirements Mr. Baldwin referenced are part of a different statute. She cited the applicable section of the state code (Section 15.1-2241) which covers subdivision requirements and frontage improvements for projects which front one side of a road. The Town has accepted in-lieu payments whenever someone did not want to build the improvements, not because the Town imposed payment.

For clarification, Mayor Zoldos said that what they are doing now and what the Town has required for the past 15 years is legal. Attorney Whiting confirmed that is correct.

Mr. Baldwin said they have a legal difference of opinion.

Mayor Zoldos suggested that they table this item until Staff could research this further.

Pamela Baldwin said they reviewed Sections 15-2241, 2242, and 2243 and they all contained pieces that are relevant to this situation.

Mayor Zoldos asked if there was a motion to move ahead tonight. Hearing none, the item was tabled until the Town Council meeting on October 10, 2013.

**B. Fence Height Referral to the Planning Commission**

Mayor Zoldos said he has visited with most of the Home Owners Associations and the concern about fence heights requirements has come up at almost every meeting. He asked the Town Council to consider referring this to the Planning Commission for review and called for a motion.

**Motion:** To have the Planning Commission revisit the fence height ordinances in Town and come back with recommendations.  
**By:** Vice Mayor Senate  
**Second:** Council Member Gray

Mayor Zoldos called for discussion. Councilman Gray said this came up a few times when he was on the Planning Commission. Vice Mayor Senate said this is an issue all over Town. Mayor Zoldos said it is a balance of sight-line safety and safety of what you want the fence for in the first place. Hearing no further discussion, the Mayor called for the vote.

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

**C. Open House at Oktoberfest**

Manager Markel asked if there were any plans to have an Open House at Town Hall during Oktoberfest similar to what was done last year. Following discussion, the Mayor and Council agreed to conduct the Open House and invite members of the Planning Commission to participate.

**Information Items**

There were no information items.

**Comments from the Mayor and Town Council**

Councilman Gray thanked Manager Markel and Project Manger Fellers for doing a good job with the East Broadway Streetscapes Project meeting with the property owners.

Vice Mayor Senate said he will not be at the meeting on October 10, 2013.

Councilwoman Carder said that "We're In!" is doing some great things for the Town and supporting local businesses. She was unable to attend the sidewalk meeting because she was attending back-to-school night with her daughter.

Councilman Burden said had gotten clearance from his doctor to resume his normal activities with no limitations.

Mayor Zoldos gave updates on the following:

- They had a nice ceremony for Patriots Day on the Town Square.

- He met with Supervisor Higgins and a few residents to discuss how citizens can help move schools forward. He will prepare a resolution for the Council to approve reiterating the Town's demand for a school or land banking a school site in the Lovettsville area.
- Fuog is working on fixing the outstanding issues with the Pavilion, including drainage.
- He was contacted by representatives from George Mason University about scheduling a meeting to discuss plans for the Quarter Branch Park.
- He met with Pastor Lee Crosby to discuss what his church can do for the Town. They discussed the need for volunteers at Town events.
- The Safety & Security Committee will be well prepared for Oktoberfest.
- The recent Movie on the Green was well attended.
- He attended the sidewalk meeting and thought things went well.

**Closed Session**

There was no closed session.

**Adjournment**

There being no further business before the Council, the meeting was adjourned at 8:39 p.m.

Respectfully submitted,



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Harriet West, Town Clerk

Date Approved: December 19, 2013

Attachments:  
None