

# Town of Lovettsville

## Town Council Minutes of the December 11, 2014 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 December 11, 2014 at the Lovettsville Town Hall, 6 East Pennsylvania Avenue, Lovettsville, VA.

### Council Members Present

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

### Absent

- Council Member Rodney Gray

### Staff Present

- Interim Town Manager Samuel Finz
- Town Attorney Elizabeth Whiting
- Project Manager Karin Fellers
- Zoning Administrator Joshua Bateman
- Town Clerk Harriet West

### 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.

**Jack Burden**, 16 Harpers Mill Way, read a written statement regarding the Heritage Highlands adult retirement community (Attachment 1). Mr. Burden said the developer, Lennar, has failed to provide the improvements residents were led to believe would be provided. He requested that the Mayor, Town Council, and Town Staff continue to apply pressure to the developer to complete the build-out of Heritage Highlands.

**Elizabeth Barbee**, 11 Harpers Mill Way, read a written statement regarding Lennar, the developer of Heritage Highlands (Attachment 2). She expressed similar concerns about the developer not living up to their promises.

**Chris Hornbaker**, 15 Black Forest Lane, came forward to speak. He said the Town Center commercial center is a "bait-and-switch" if they have to give nine houses back. Having one, one-level building at the cost of nine houses is not acceptable. He also spoke about the potential re-definition of the R-3 zoning district, which would make it acceptable to build townhomes and condos. He remembers when one of the current Council Members said he was concerned that the infrastructure would be taxed when one of the Mayoral candidates was proposing sending water out. Mr. Hornbaker said if we're allowing new townhomes and condos, we were told not to worry because the County would get money for the schools but they are talking Town interests here. What is the interest of the Town to allow for high density housing? He said developers are at the door step. Why do we have to define something and hold ourselves at risk to be liable if we don't approve a conditional use permit when we say this is available to build in our town? Lastly, Mr. Hornbaker said most people that are here, including Deputy Sheriff LoPreto, have heard of the parking woes and potential concerns if new commercial building is going to be taking place in Lovettsville. He had to pay a \$40 fine for parking the wrong way when he lived in New Town Meadows and he was told he never should have paid it because the Town doesn't adopt the

County ordinances. Now his neighbor has had three vehicles parked in front of their house. There has been action by the Town on one of them but if we have actual ordinances that the Town has on file, then we can actually be able to take some action. He asked the Town Council to consider this going forward.

### **Community Presentations**

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

Deputy LoPreto said there have been no major crimes in Town since his last report. He noted that fraud continues to be the biggest problem in Western Loudoun. Deputy LoPreto said he has been responding to emails about traffic concerns and speeding on Cooper Run Street. He suggested forming a committee after the first of the year once the new Town Manager is here to work on a number of traffic-related projects in Town, including better signage and striping, and then approaching VDOT together.

At the request of the Mayor, the Council moved to the Action/Discussion agenda item regarding "Contract for Law Enforcement Services" while Deputy LoPreto and Captain Ahlemann were present.

### **Action/Discussion Item**

#### **A. Contract for Law Enforcement Services**

Town Attorney Whiting presented this item. The Council is being asked to consider entering into an agreement with Loudoun County and the Loudoun County Sheriff pursuant to Va. Code Section 15.2-1726 providing for certain law enforcement services within the boundaries of the Town. Attorney Whiting said she has prepared a draft agreement for law enforcement within the Town by the Sheriff's Office. She noted that the Town has adopted, by reference, the County fire code, the animal control ordinance, and the vehicle code on abandoned and inoperative vehicles. She suggested additional topics that could be scheduled for enforcement include trespass, loitering, noise, traffic, and parking.

Interim Town Manager Finz said the idea is for the Council to review the draft agreement and provide comments to staff which they can then use to negotiate the final agreement with the County and the Sheriff's Office.

Mayor Zoldos asked Captain Ahlemann if he had any comments. The Captain said this agreement will give the Sheriff's Office an enforcement mechanism they don't currently have. The Mayor and Council expressed concern about prioritizing only certain sections of the County code for enforcement in the Town, rather than the Deputy Sheriffs enforcing the entire code like they would do elsewhere in the County. Captain Ahlemann said any calls in Town would be prioritized through dispatch. In response to a question from Mayor Zoldos, Captain Ahlemann said they have the same challenges in other towns in Western Loudoun. Deputy LoPreto noted that new residents have different expectations. Mr. Finz suggested removing the reference to prioritization in the agreement.

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

**Motion:** I move that the Lovettsville Town Council authorize the Mayor and Town Manager to enter into discussions with representatives of Loudoun County and the Loudoun County Sheriff to finalize an agreement for law enforcement services within the Town and to bring the final agreement back to the Town Council for approval.

**By:** Council Member Jones

**Second:** Council Member McIntyre

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

**Nay:** None

**Abstain:** None

**Absent:** Council Member Gray

#### **B. Lovettsville Fire and Rescue Company**

Councilwoman Jones gave an update on the Santa Breakfast at the fire house and the new ambulance, which will be in service at the end of the month.

#### **C. Community Center**

Councilman Gray had no report.

D. Lovettsville Library

Katie Hall introduced the new Lovettsville Library Branch Manager, Ann Marie Marchant. Ms. Marchant said she has been with the library system for two years and she is excited to be here in Lovettsville. She gave an update on the upcoming programs and invited the Mayor and Council to come visit the library.

Town Commission and Committee Reports

A. Lovettsville Planning Commission

Chairman Joe Mueller gave an update on the December 3, 2014 Planning Commission meeting. The Commissioners discussed the Town Center commercial project and recommended approval to the Town Council. The vote was 4-to-1. The other item was a public hearing for R-3 rezoning. There were 10-12 speakers who voiced major concerns about congestion, traffic, and loss of property value due to higher density of housing. Based on the input received from the public, the Commissioners agreed to table this item to see if they can improve upon it. As it stands now, this is one of the items in the Comprehensive Plan. The Planning Commission does want to move forward on this but they do want to be sensitive to the community. Chairman Mueller responded to questions from the Council Members regarding parking at the Town Center commercial project and the proposed changes to the R-3 district.

B. Parks Committee

Vice Mayor Senate said they will be discussing the Town information sign at the next meeting on December 19.

C. We're In Committee

Councilwoman Carder gave an update on the next meeting and upcoming events.

E. Wintertainment Fest

Mayor Zoldos gave an update on set up for the event which will take place on Friday, December 12.

F. Light Up Lovettsville

Councilwoman Allar gave an update on judging, prizes, and the reception.

G. Berserkle on the Squirkle

Mayor Zoldos reminded everyone that the event is on January 1 at 11:00 a.m.

Additions/Deletions/Modifications to the Agenda

There were no changes to the agenda.

Minutes

A. June 24, 2014

**Motion:** I move to approve the minutes of the July 24, 2014 Special Meeting and Regular Meeting as amended.

**By:** Council Member McIntyre

**Second:** Vice Mayor Senate

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

**Nay:** None

**Abstain:** None

**Absent:** Council Member Gray

B. July 30, 2014

**Motion:** I move to approve the minutes of the July 30, 2014 Special Meeting as amended.

**By:** Council Member McIntyre

**Second:** Council Member Allar

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

**Nay:** None

**Abstain:** None

**Absent:** Council Member Gray

**Report from the Treasurer**

There was no report.

**Staff Reports**

A. Report from the Project Manager

Project Manager Fellers gave an update on the East Broad Way project. She noted that the pre-bid meeting will be held on December 15 and the bid opening will be on January 15, 2015.

B. Report from the Zoning Administrator

Zoning Administrator Bateman referenced his reports for October and November 2014. There were no questions from the Council

C. Report from the Town Attorney

There was no report.

D. Report from the Interim Town Manager

Mr. Finz reported on the following:

- There will be a special meeting at Town Hall on December 15 to discuss the waste water treatment plant.
- There is a Town Council meeting on December 18.
- Laszlo Palko, the new Town Manager, will officially be starting on Monday, December 15. Mr. Palko will then be out of the office for several weeks in December and he will be returning to work on a permanent basis in early January. Mr. Finz offered his continued support to the Town and said he would provide the Council with a general consulting agreement.
- The auditors were onsite this week. Mr. Finz will schedule a time for the auditors to present their report to the Council and he further suggested that this be done every year. In response to a question from Mayor Zoldos, Mr. Finz said the standard practice is to change auditors every three years in order to get a fresh look at the financials. Mr. Finz said the Town has used the same auditors for the past eight years. He suggested opening this up to other proposals next year.

Councilwoman Allar asked about the traffic counter at S. Church Street across from the Montessori School. Deputy LoPreto said this was most likely in response to an inquiry he made about the stop sign at this location.

**Action Items**

B. Cooper Run Subdivision Bond

Zoning Administrator Bateman presented this item. The Council is being asked to consider acceptance of the bond agreement for installation of public improvements in the Cooper Run Subdivision. Zoning Administrator Bateman noted some minor changes to the Resolution (Attachment 3), including a correction in the date (December 11, 2014) and additional clarifying language that was added to the first Whereas clause.

**Motion:** I move to approve Resolution 2014-12-0001 approving bond securing public improvements in Cooper Run Subdivision.

**By:** Vice Mayor Senate

**Second:** Council Member Jones

Mayor Zoldos asked if \$129,000 was a sufficient amount for the bond. Zoning Administrator Bateman indicated that it was.

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

**Nay:** None

**Abstain:** None

**Absent:** Council Member Gray

C. Approval of Legal Support for WWTP

Interim Town Manager Finz presented this item. The Council is being asked to approve attorney support for the waste water treatment plant issues. Mr. Finz said money has been budgeted for this expense and there is sufficient funding to cover the amount being requested, up to \$30,000.

**Motion:** I move that Town Council authorize the expenditure of no more than \$30,000 to Williams and Mullen for continued legal support for the waste water treatment plant.  
**By:** Council Member Jones  
**Second:** Council Member Allar  
**Aye:** Council Members Allar, Carder, Jones, McIntyre, and Senate  
**Nay:** None  
**Abstain:** None  
**Absent:** Council Member Gray

D. Approval of Engineering Scope to Design Drainage Improvements

Project Manager Fellers presented this item. The Council is being asked to approve a Scope of Services for completing the Drainage Design Improvements funded by the National Fish and Wildlife Foundation Grant. Mr. Finz noted that the \$40,000 in matching funds for this project will come out of the Town's capital fund. He stated that any future work on this project should be reviewed in terms of the Town's other priorities and necessity.

**Motion:** I move that Town Council approve the Scope of Services from CPJ titled Keister Lane SWM Retrofit, Field Survey and Drainage Improvements dated November 21, 2014 and authorize the Mayor to sign the paperwork.  
**By:** Council Member McIntyre  
**Second:** Vice Mayor Senate  
**Aye:** Council Members Allar, Carder, Jones, McIntyre, and Senate  
**Nay:** None  
**Abstain:** None  
**Absent:** Council Member Gray

E. VML Insurance Programs Disability Coverage

Town Clerk West presented this item. The Council is being asked to consider selecting the Virginia Municipal League Insurance Programs as the Town's provider of disability coverage for full-time employees. Ms. West reviewed the background for this item, options for insurance coverage, and related costs for the Town to provide short-term and long-term disability coverage, as required by the Virginia Retirement System (VRS). Mr. Finz said the Town does not really have a choice, as part of VRS the Town must enter into this program. He noted this was not budgeted, but he will find a way to pay for the remainder of this year and he will make sure it is included in the FY 2016 budget. Following discussion, the Council agreed to continue this item to allow staff time to further research the requirements for non-work related coverage and report back to the Council next week.

Discussion Items

There were none.

Information Items

There were none.

Comments from the Mayor and Town Council

Councilman McIntyre gave an update on the Friends of the Lovettsville Library's celebration of librarians and the "Black and Blue on the Green" football games.

Vice Mayor Senate said the Town is starting to look beautiful in preparation for Light up Lovettsville.

Councilwoman Carder said she is excited about Light up Lovettsville.

Councilwoman Allar thanked staff for all of their support.

Councilwoman Jones also thanked staff for all of their hard work and said she is excited about Mr. Palko starting next week.

Mayor Zoldos reported on the following:

- He is awaiting the results of the speed study on Loudoun Street.
- Set up for Wintertainment Fest is tomorrow.

Closed Session

There was no closed session.

Adjournment

There being no further business before the Council, the meeting was adjourned at 8:49 p.m.

Respectfully submitted,



Harriet West, Town Clerk

Date Approved: August 27, 2015

Attachments:

1. Written comments from Jack Burden regarding Heritage Highlands/Lennar
2. Written comments from Elizabeth Barbee regarding Heritage Highlands/Lennar
3. Resolution 2014-12-0001: Approving Bond Securing Public Improvements in Cooper Run Subdivision

REMARKS TO THE TOWN COUNCIL 12-11-2014 by Jack Burden

My purpose tonight is to bring the Town Council up to speed on the status of development (or non-development) of the Heritage Highlands Adult Retirement Community and to put it on the record. Mayor Zoldos, former Town Manager Keith Merkel, and Zoning Administrator Josh Bateman are well aware of our situation and I just want to make sure the Town Council Members understand our situation as well

The e-mail I sent to each of you explains the roller coaster ride we have been on the last 7 years. We have been neglected by Lennar and so we are again trying to put pressure on Lennar to complete the development.

Nine of our original residents have died without seeing the community center built or any improvements made. In fairness, after Marie Musante, one of our residents, put pressure on Lennar, they are now in the process of replacing curbs, installing street lights, and paving the streets in front of existing houses.

What we now ask is that the Lovettsville Mayor, Town Council, and Town Staff continue to apply pressure on Lennar to complete the build-out of Heritage Highlands. Lennar apparently has no schedule to continue, even after the Town agreed in 2011 to the proffer change to add a second model Lennar said they needed – they built 6 of the new model and quit building in 2012.

A good first step would be for the Town to request that a senior executive from Lennar brief the Town Council on Lennar's plan and schedule for building the community center and the remaining 52 homes.

## Town Clerk

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**From:** evbarbee@aol.com  
**Sent:** Monday, December 15, 2014 3:29 PM  
**To:** clerk@lovettsvilleva.gov  
**Subject:** Town Council comments

Harriet,

I found my comments this afternoon:

Good Evening,

My name is Elizabeth Barbee, and I also live in Heritage Highlands.  
I am speaking to second Jack Burden's remarks tonight regarding Lennar.  
I would also like to add a few additional items of my own.

I invite any and all to come and visit Heritage Highlands before they buy into a Lennar-built home, so you too can see how Lennar does not live up to their promises. Lennar is now trying to appease us this fall by replacing broken street gutters, laying down a second layer of asphalt on our cracked roads (one of which, that they are NOT repaving, is so wide, one could plant corn in it) and putting up nine street lights. This is being done in the developed area only. It is a slapdash remedy.

If Lennar comes back to Loudoun County, or Lovettsville, and wants a building permit for yet another housing site, I will be the first in line at the podium to object. Before they can start another development, their feet should be held to the fire to finish Heritage Highlands, including our trail, replacing our dead and missing landscaping, our houses, our sidewalks, and our clubhouse. We don't have a golf course or a pool; we are a very simple community, but we at Heritage Highlands like it here. But, after eight years, we just want it finished.

# Town of Lovettsville

## Resolution: 2014-12-0001: APPROVING BOND SECURING PUBLIC IMPROVEMENTS IN COOPER RUN SUBDIVISION

**MOTION:** Senate

**SECOND:** Jones

**WHEREAS**, H2 Land Company on behalf of Nighthawk Investments, LLC has submitted construction drawings for the Cooper Run Subdivision to the Town of Lovettsville for approval and desires to commence construction of site improvements; and

**WHEREAS**, the Town's engineering consultant, Christopher Consultants, Ltd., has reviewed the construction plans and agrees that the amount of the bond securing proper installation of the public improvements is \$129,304.00 provided that the appropriate performance agreement is entered setting a completion date not later than 24 months from November 20, 2014 and secured by surety acceptable to the Town.

**NOW, THEREFORE, BE IT RESOLVED** that the Lovettsville Town Council hereby approves the recommendation of the Town's engineer referenced above and authorizes the Mayor and Town Attorney to sign the performance agreement and bond as appropriate when tendered in a form approved by the Town Attorney.

**VOTE:**

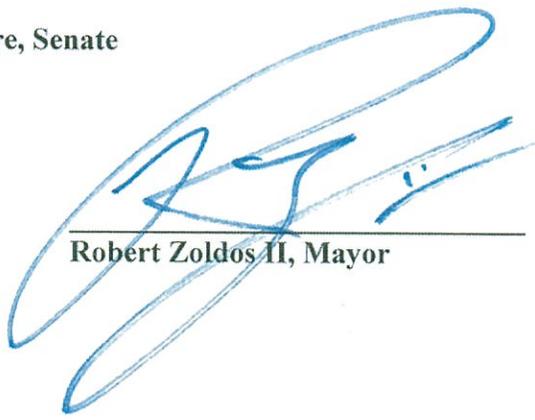
**Ayes:** Allar, Carder, Jones, McIntyre, Senate

**Nays:** None

**Abstentions:** None

**Absent for Vote:** Gray

**APPROVED:**



Robert Zoldos II, Mayor

**CERTIFIED:**



Harriet West, Town Clerk

*The German Settlement*