

# Town of Lovettsville

## Town Council Minutes of the December 12, 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 December 12, 2013 at the Lovettsville Town Hall, 6 East Pennsylvania Avenue, Lovettsville, VA.

### Council Members Present

- Mayor Robert Zoldos II
- Vice Mayor Senate
- Council Member Allar (participated by phone due to a medical condition)
- Council Member Jack Burden
- Council Member Tiffany Carder
- Council Member Rodney Gray
- Council Member James McIntyre

### Staff Present

- Town Manager Keith Markel
- Town Attorney Elizabeth Whiting
- Project Manger Fellers (arrived at 7:37 p.m.)
- Zoning Administrator Melissa Hynes
- Town Clerk Harriet West

### Pledge of Allegiance

Mayor Zoldos led those assembled in the Pledge of Allegiance.

### Presentations

There were no presentations.

### Comments from the Public

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

Former Mayor Elaine Walker, 40 South Berlin Pike, spoke about the Salvation Army. Mrs. Walker said she is on the Board of the Loudoun County Salvation Army. Last year, they served more than 400 families in Loudoun County; however, donations are down this year. She said it has been many years since the Salvation Army has had a presence in Town. She will be picking up a kettle and will have it at the Post Office and would also like to have it at the December 19 Town Council meeting. She is also looking for volunteers to man the kettle at the Post Office. Her goal for next year is to have kettles in all seven of the incorporated towns.

Mayor Zoldos asked if there were other comments from the public. There were none.

Mayor Zoldos announced there would be a closed session at the end of the regular meeting.

### Community Presentations

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

Deputy Sheriff LoPreto said no crimes have been reported recently in Town.

There were no other community presentations.

### Town Commission and Committee Reports

#### A. Lovettsville Planning Commission

There was no report.

#### B. Parks Committee

There was no report.

#### C. "We're In" Committee

Councilwoman Carder gave an update on Berserkle in the Squirkle and plans to include promotional items/coupons from local businesses in the welcome packet for new residents.

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

Mayor Zoldos asked to add an item to the agenda to discuss the tree lighting.

**Minutes**

A. Town Council Regular Meeting – August 22, 2013

- Motion:** I move to accept the minutes of the August 22, 2013 Regular Meeting as amended.  
**By:** Council Member McIntyre  
**Second:** Council Member Carder  
**Aye:** Council Members Allar, Burden, Carder, Gray, McIntyre, and Senate  
**Nay:** None  
**Abstain:** None  
**Absent:** None

**Report from the Treasurer**

There was no report from the Treasurer.

**Staff Reports**

A. Report from the Project Manager

Project Manager Fellers gave an update on the bike path. She received notification from VDOT that the latest cost estimate for the project is \$1.8 million. VDOT anticipates advertising in May 2014 to hire a contractor for the project.

B. Report from the Zoning Administrator

Zoning Administrator Hynes gave updates on permits, home occupations, proposed development projects, the subdivision of 5 North Berlin Pike, zoning enforcement cases, and community projects.

C. Report from the Town Attorney

Town Attorney Whiting said she is continuing to work on the codification of the Town's ordinances.

D. Report from the Town Manager

There was no report from the Town Manager.

**Action/Discussion Items**

A. AT&T Conditional Use Permit

Zoning Administrator Hynes presented this item. The Council is being asked to approve the Conditional Use Permit (CUP) for AT&T to modify the existing communications equipment on the Town's elevated water tank. The Council held a public hearing on this item in August 2013; however, action was deferred until a new lease agreement was negotiated with AT&T. Staff now recommends that the Council approve the CUP with the addition of the following new condition:

- 11) *A new lease agreement, acceptable to the Town, shall be executed within 90 days of approval of this Conditional Use Permit or the approval of the Conditional Use permit shall be rendered void.*

Project Manager Fellers said Staff has been working with AT&T on negotiating the terms of the lease agreement and they hope to have the final agreement in January 2014. Attorney Whiting said they are trying to minimize the changes so the lease agreements with the different carriers are consistent. Hearing no further discussion, Mayor Zoldos called for a motion.

- Motion:** I move that the Lovettsville Town Council approve enacting Ordinance 2013-12-0001 for the Conditional Use Permit request LVCU 2013-0002. (Attachment 1)  
**By:** Council Member McIntyre  
**Second:** Council Member Gray

Mayor Zoldos called for discussion. Hearing none, he called for the vote.

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

**B. Cooper Run Subdivision – Lot Donation to Town**

Zoning Administrator Hynes presented this item. The Council is being asked to review a proposal from Nighthawk Investments to gift a 0.22 acre parcel to the Town. Nighthawk Investments is considering creating five lots for new single family homes on a 1.34 acre parcel they own near at the intersection of West Broad Way and Cooper Run Street. One of the proposed lots includes a storm drainage area which is approximately 0.22 acres in size. Staff has expressed concern over including this drainage area on one of the buildable lots for the project. As a result, Nighthawk Investments has offered to gift this lot to the Town. There is a maintenance easement on this parcel that the Kingsridge Home Owners Association (HOA) is responsible for. If the Town acquired the property, the Kingsridge HOA would still be responsible for maintaining the storm water drainage area.

Zoning Administrator Hynes gave a PowerPoint presentation showing several photographs of the area. She said the donated lot could be used as a pocket park or for signage.

Manger Markel said accepting the gifted lot would help mitigate future conflicts with the owner of Lot 1 since 95% of the storm drainage area is totally unusable wet lands.

Following discussion between the Council and Staff about the maintenance easement, liability, delineation of the property line, and the amount of runoff, Mayor Zoldos called for a motion.

**Motion:** I move that the Town Council authorize the Mayor or Town Manager to sign all necessary paperwork to enable Nighthawk Investments to gift the subject property to the Town of Lovettsville and that the Lot 1 property line be divided with a fence or other attractive device to maintain separation of the properties.

**By:** Vice Mayor Senate

**Second:** Council Member McIntyre

Mayor Zoldos called for further discussion. Hearing none, he called for the vote.

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

**Nay:** None

**Abstain:** None

**Absent:** None

**C. Appointment of "We're In!" Design Team Leader**

Zoning Administrator Hynes presented this item. The Council is being asked to consider appointing Alicia Bruce, owner of Love Knot Photography, as the Design Team Leaders of the "We're In" Lovettsville Business and Tourism Committee. Ms. Bruce has taken photographs at Oktoberfest and Veterans Day and has been acting as the Design Team Leader. She was interviewed by several Council Members prior to tonight's Town Council meeting. Staff recommends approval of the appointment.

**Motion:** I move that the Town Council appoint Alicia Bruce to the Design Team Leader position of the "We're In" Committee.

**By:** Council Member Carder

**Second:** Council Member Burden

Mayor Zoldos called for discussion. Councilwoman Carder said Alicia is very enthusiastic and that she has already volunteered to do some things for "We're In." Mayor Zoldos said the interview with the applicant went well – Alicia has attended several meetings and has been serving as the Design Team Leader. Councilman McIntyre said it is good to have enthusiastic people on board. Hearing no further discussion, Mayor Zoldos called for the vote.

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

**Nay:** None

**Abstain:** None

**Absent:** None

**D. VDOT Bike Path Project Agreements**

Project Manager Fellers presented this item. The Council is being asked to approve two agreements with VDOT related to the bike path project. The first is an amendment of the VDOT Agreement for Administration of the Lovettsville Pedestrian/Bike Path. The second is an Agreement for Adjustment of Water and Sanitary Sewer Facilities. Project Manager Fellers said it would cost approximately \$10,000 to

provide 20 new saddles for the water laterals along the bike path. Following further discussion about the replacement of the saddles, Mayor Zoldos called for a motion.

**Motion:** I move that the Town Council direct the Mayor or Town Manager to sign Appendix A-Agreement Amendment No. 2 to the Agreement with VDOT for the Lovettsville Pedestrian/Bicycle Path and to direct staff to send a check for the matching funds in the amount of \$106,500 from the Gas Tax Funding along with the signed agreement to VDOT. I further move that Town Council direct the Mayor to sign the Agreement between the Town of Lovettsville and Commonwealth of Virginia, Department of Transportation for Adjustment of Water Facilities.

**By:** Vice Mayor Senate

**Second:** Council Member Burden

Mayor Zoldos called for discussion. Councilman Gray asked where the extra funding for the saddles would come from. Project Manager Fellers said it could either come from the Gas Tax Funding or the Water Fund. Hearing no further discussion, Mayor Zoldos called for the vote.

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

**Nay:** None

**Abstain:** None

**Absent:** None

#### E. Town Addressing Modifications

Manager Markel presented this item. The Council is being asked to consider changing the addresses on parcels in Town that are a concern to emergency service personnel.

Manager Markel gave a presentation described the addressing problems on South Church Street and Berlin Pike resulting from the realignment of Rt. 287 and the Town's use of alphabet suffixes (such as 2A, 2B, 2C) for street addresses. This has led to problems ranging from the delivery of packages to timely responses from the Loudoun County Sheriff's Office. The Town Manger and Deputy Sheriff LoPreto recently meet with the County's addressing staff to discuss the least disruptive way to resolve the addressing problems for Church Street and other problem areas identified, including the gravel lane off of Berlin Pike and Town Square. Manager Markel described the recommended changes for each of these areas and the County's process for changing addresses. The impacted property owners would have the opportunity to suggest street names and vote for their favorite names.

Deputy Sheriff LoPreto explained that the County's dispatching system only recognizes alphabet suffixes as apartments. This has led to the Sheriff's Office responding to the wrong address in Town and it could lead to a serious problem in the case of an actual emergency.

Vice Mayor Senate said this has also been an ongoing problem for fire and rescue personnel responding to medical emergencies in Town, especially out-of-town crews not familiar with the Town's addressing.

Councilman Burden said he supports making the changes, but he did not see where the Town Council has the final say in the street-naming process. He would like to see the names associated with the history of the Town and an internal review process of the names before they are voted on by the property owners. Manager Markel said he could incorporate this into the process.

Councilman McIntyre asked if naming the gravel drive off of Berlin Pike would trigger any improvement by VDOT. Manager Markel said this would not need to go to VDOT for review and that the only thing that would be required is signage.

The Council Members and Town Manager also discussed signage around the Town Square and the need to make it easy for drivers to navigate through Town.

Mayor Zoldos said he would like to see the older portion of Church Street remain unchanged. This would preserve the historical parts of Town and it would be the least impact on everyone.

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

**Motion:** I move that the Town Council direct staff to develop a new addressing scheme for all of the properties and streets listed above using as much of the Loudoun County

addressing process as possible.

**By:** Vice Mayor Senate  
**Second:** Council Member McIntyre

Mayor Zoldos called for discussion. Councilman McIntyre said there should not be much impact on the property owners because they are doing this for their safety. Councilman Gray said it makes sense to include the gravel lane while they are looking at this. Mayor Zoldos said they need a better way to address the infill lots. Hearing no further discussion, Mayor Zoldos called for the vote.

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

**F. Tree Lighting**

Based on the weather forecast, the Mayor and Council agreed to postpone the 2013 tree lighting until 2014. Councilman Gray said they are working on holding the letter writing campaign for wounded soldiers at the Lovettsville Library and suggested that residents could drop off donations of warm drinks for the food pantry at Town Hall.

**Information Items**

There were no information items.

**Comments from the Mayor and Town Council**

Councilman McIntyre said *Leesburg Today* is running the "Best of Loudoun" poll and he encouraged everyone to vote for Oktoberfest and the other things the Town has been nominated for. He distributed a flyer for the "Black and Blue on the Green" football game on the Town Square the day after Christmas.

Councilman Gray said he will send out the dates for the letter writing once they are confirmed with the library.

Vice Mayor Senate did not have any comments, nor did Council Members Carder, Burden, and Allar.

Mayor Zoldos gave an update on the judging for Light up Lovettsville and Berserkle on the Squirkle. He asked for someone to represent the Town at the Eagle Scout ceremony on December 16.

**Closed Session**

The Mayor and Council went into closed session at 9:00 p.m. (Attachment 2) and came out of closed session at 11:45 p.m. 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 and that 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.

**Adjournment**

The meeting was adjourned at 11:45 p.m.

Respectfully submitted,



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Harriet West, Town Clerk

Date Approved: January 16, 2014

**Attachments:**

1. Ordinance 2013-12-0001: Approving Conditional Use Permit LVCU 2013-0002
2. Closed Session Motion

# Town of Lovettsville

**Ordinance 2013-12-0001: APPROVING CONDITIONAL USE PERMIT LVCU 2013-0002**

**MOTION: McIntyre**

**SECOND: Gray**

**WHEREAS**, AT&T filed an application for a conditional use permit to allow for the installation of wireless communication equipment at 14A Quarter Branch Road; and

**WHEREAS**, following a public hearing on said application by the Planning Commission on July 17, 2013, pursuant to notice as required by Va. Code Section 15.2-2204, the Planning Commission forwarded its recommendations for approving said application, subject to certain conditions; and

**WHEREAS**, following a public hearing on said application by the Town Council on August 8, 2013, pursuant to notice as required by Va. Code Section 15.2-2204; and

**WHEREAS**, the Town Council has concluded that approval of a Conditional Use Permit in accordance with the conditions set forth below is consistent with the health, safety and welfare of the citizens of the Town and comports with good zoning practice.

**NOW, THEREFORE, BE IT ORDAINED** by the Lovettsville Town Council that the Conditional Use Permit No. LVCU 2013-0002, for the installation of wireless communications equipment at 14A Quarter Branch Road (property identification 333-45-9227), be approved in accordance with Sections 10-7 and 10-8 of the Lovettsville Zoning Ordinance, subject to the following conditions:

- 1) This approval is for equipment as shown on the Site Plan & Project Summary dated April 9, The plans identified in the agreement are titled as follows: AT&T Mobility, Lovettsville, Site ID Number 0290, prepared by Bechtel Communication, Inc. dated April 8, 2013; six (6) Remote Radio Heads and related cables; as well as two cabinets to be mounted inside the fenced, leased space on the ground near the elevated tank. (The three proposed antennas are a permitted use under the previous conditional use permit)
- 2) Antennas, cables and associated equipment located on or attached to the tank must be painted to match the color of the tank; except for the Remote Radio Heads (RRH), which will be enclosed in a colored covering to match the tank.
- 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.

*The German Settlement*

- 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 lease.
- 8) This Conditional Use Permit shall not take effect until a new lease agreement has been executed between the Town of Lovettsville and AT&T for the lease of space on the Town Water Tank.
- 9) AT&T shall install the equipment not later than six (6) months from approval of the new lease agreement, unless further extended by the Town Council.
- 10) An inspection of the items attached through the Conditional Use Permit will be conducted by the Town, or its designee, and reimbursed by AT&T at a cost not to exceed \$2,500. Applicant shall also provide As-Built Construction drawings.
- 11) A new lease agreement, acceptable to the Town, shall be executed within 90 days of approval of this Conditional Use permit or the approval of the Condition Use permit shall be rendered void.

**VOTE:**

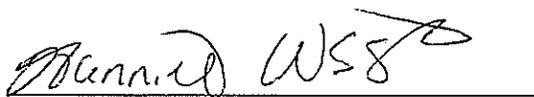
Ayes: Allar, Burden, Carder, Gray, McIntyre, and Senate

Nays: None

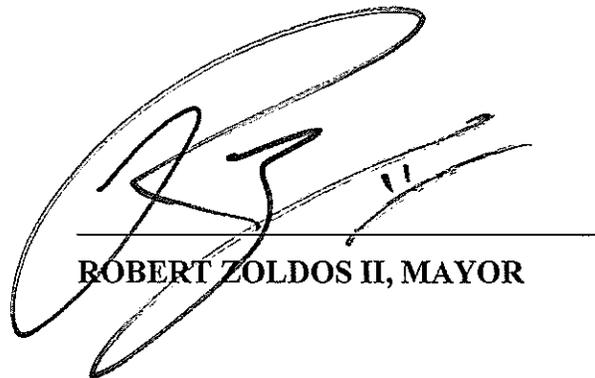
Abstentions: None

Absent for vote: None

**APPROVED:** December 12, 2013



**HARRIET WEST, TOWN CLERK**



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**ROBERT ZOLDOS II, MAYOR**

# Town of Lovettsville

## VIRGINIA FREEDOM OF INFORMATION ACT Resolution: AUTHORIZE CLOSED SESSION

Date: Dec 12, 2013

Time: 9:00 pm

MOTION BY: Mike Senate

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 <sup>two</sup> a public purpose, <sup>5</sup> 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], <sup>regarding contractual</sup>  
<sup>relations w/ Loudoun Water</sup>

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,

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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: Rodney Gray  
VOTE:  
Ayes: 6 (Kim off-site)  
Nays: 0  
Abstentions: 0  
Absent for vote: 0

**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 12, 2012 at 11:45 PM

Certified:

