

Town of Lovettsville

Town Council

Minutes of Regular Meeting August 13, 2009

Mayor Elaine Walker called the regular monthly meeting of the Lovettsville Town Council to order at 8:01 PM on Thursday, August 13, 2009.

Present at Meeting

- Mayor Elaine Walker
- Council Members Charlotte Coleman, Scott Dockum, DiJon Jones, Michael Senate, Shaun Staley
- Town Manager Keith Markel
- Town Attorney Liz Whiting
- Project Manager Karin Fellers
- Town Clerk Judy L. Kromholz

Absent

- Vice Mayor Robert Zoldos, II

Audience

Among those present in the audience were Tracey Senate (*Brunswick Citizen*), Howard Williamson (Lovettsville Business Association), Floyd Blethen (Lovettsville Game Club), Tiffany Carter and Bing Lam.

Call to Order/Welcome/Pledge of Allegiance/Invocation

Mayor Walker led the assembled in the Pledge of Allegiance.

Comments from the Public

Mr. Floyd Blethen announced that the Lovettsville Game Club will be hosting a Carnival August 25th – August 29th from 6:00 PM -10:00 PM. They have hired the same company that appeared at the Loudoun County Fair. Dinner will be served every night. Mayor Walker confirmed with the Town Manager that all relevant agencies and neighbors of the Game Club have been notified. (Attachment I: Sign up Sheet)

Loudoun County Sheriff's Office

Loudoun County Deputy Sheriff Mertz-Myers reported that National Night Out activities at the Community Center on August 4 had gone very well.

Additions/Deletions/Modifications to the Agenda

There were no changes to the agenda.

Presentations

No presentations were scheduled.

Approval of Town Council Minutes

A. Town Council Regular Monthly Meeting – January 22, 2009

The Council agreed to table these minutes because Councilman Zoldos was not present.

B. Town Council Regular Monthly Meeting – March 26, 2009

- Motion:** To approve the minutes of the March 26, 2009 Town Council Meeting as corrected.
By: Council Member Senate
Second: Council Member Coleman
Aye: Council Members Coleman, Dockum, Jones, Senate, Staley
Nay: None
Abstain: None
Absent: Council Member Zoldos

C. Town Council Reconvened Monthly Meeting – April 2, 2009

- Motion:** To approve the minutes of the April 2, 2009 Town Council Meeting as corrected.
By: Council Member Jones
Second: Council Member Staley
Aye: Council Members Coleman, Dockum, Jones, Senate, Staley
Nay: None
Abstain: None
Absent: Council Member Zoldos

D. Town Council Regular Monthly Minutes – April 23, 2009

Motion: To approve the minutes of the April 23, 2009 Town Council Meeting as corrected.
By: Council Member Coleman
Second: Council Member Dockum
Aye: Council Members Coleman, Dockum, Jones, Senate, Staley
Nay: None
Abstain: None
Absent: Council Member Zoldos

E. Town Council Reconvened Regular Meeting – April 30, 2009

Motion: To approve the minutes of the April 30, 2009 Town Council Meeting as presented.
By: Council Member Dockum
Second: Council Member Jones
Aye: Council Members Coleman, Dockum, Jones, Senate, Staley
Nay: None
Abstain: None
Absent: Council Member Zoldos

F. Town Council Special Budget/CIP Meeting – May 14, 2009

Motion: To approve the minutes of the May 14, 2009 Town Council Meeting as presented.
By: Council Member Dockum
Second: Council Member Coleman
Aye: Council Members Coleman, Dockum, Jones, Senate, Staley
Nay: None
Abstain: None
Absent: Council Member Zoldos

Report from the Treasurer

No report was submitted.

Staff Reports

Manager Markel reported on the following:

- Town Hall painting will begin next week.
- The Virginia Cigarette Tax Board reported that the Town had received incorrect information from a supplier to the mini-mart. The end result is that projected revenues from this tax will be about \$25,000 less than budgeted.
- He attended a very successful meeting with VDOT, Project Manager Fellers and Mayor Walker on the East Broad Way sidewalk and drainage project. PRH+A will attend the next meeting to share plan updates. VDOT has stated their willingness to work with the Town on the narrow streetscape.
- The Fall Events Committee has been meeting regularly to plan Oktoberfest and has been making good progress.
- Bound copies of the approved CIP were distributed to Council.

Project Manager Fellers offered a status update on the Dominion Power problem at the Wastewater Treatment Plant. She has consulted with some other engineers about 480 volt power and reported it would require being stepped down to 240 volt power, but would allow the Town to keep all existing equipment. She reported that she is continuing to investigate alternatives. Councilman Dockum requested that the longevity of the equipment be included in the estimates. Councilman Senate noted that the step down might cause some of the motors to run hot which might shorten longevity. Project Manager Fellers stated that she is trying to get the contractor to move quickly on providing these estimates. The transformer will cost roughly \$40,000-\$50,000, excluding the costs of installation and conversions. She will return to Council when she has more information.

Action Items

A. Cost Share of Antenna Reattachment Design for Elevated Water Tank

Manager Markel presented this as a continuation of the discussion from the last Town Council meeting (Attachment II). Councilman Dockum stated that he has reviewed the options and feels that Option B is a better choice. He is in favor of providing some consideration to the lessees because it is not that much money and worth it in goodwill. Councilman Staley asked what advantage Option B offers and Councilman Dockum noted that many of the lessees have been with the Town for a while and he thinks the Town will be on a better negotiating basis if it appears willing to assume some of the responsibility. He noted that the revenue stream is important to the Town.

Motion: I move that Town Council authorize the Mayor, Town Attorney and staff to negotiate with the carriers in cost sharing for the project design using Option B
By: Council Member Senate
Second: Council Member Dockum

Mayor Walker called for additional discussion. Councilman Staley stated that while he understands Councilman Dockum's position, he favors Option A because it involves a very small cost spread over three providers and would be an insignificant increase in their projected cost. He also noted that it would be miniscule compared to their cost if they had to provide their own facilities. Councilman Jones agreed with Councilman Staley and further stated that this is a cost of doing business for the providers. Councilman Senate noted that the Town is asking the providers to modify their proposals in order to preserve the Town's water tower and therefore the Town should bear a portion of the cost. He noted that these improvements will contribute to the longevity of the tower and stated that \$3,000 is a small price for preserving our existing facility. Councilman Dockum stated that many of the tasks involved are for the benefit of the Town, not the providers and are requirements for maintaining our own property. He suggested that there may be a third option, but maintained that the Town must show some good faith; we want the providers to remain on our water tower. Councilman Staley stated that he believes the providers have no alternative and will remain on the water tower despite an extra few hundred dollars. Councilwoman Coleman noted that the providers can build their own towers and Councilman Dockum noted that there are other locations around Town that are appropriate. Councilman Dockum asked Attorney Whiting who will own the documents we are requiring if we do not share in the cost of developing them. Attorney Whiting stated that the documents would belong to the Town; only the cables and other proprietary equipment will belong to the providers. She expressed concern that the users be required to remove old or unwanted equipment and not leave it on the tower for the Town to remove. She noted that technically the antennas and cables belong to the providers and are to be removed at the end of their lease. Project Manager Fellers noted that the Town does have one antenna of its own on the tank for the SCADA system. That antenna's wire is attached to another provider's cable run. Councilman Dockum asked Manager Markel if he sensed that the companies would withdraw if forced to bear some of the cost. Manager Markel said that he did not think that would be the case and he reported that there are two other companies waiting for space to open up on the tower. He also noted that in the past the Town had allowed materials to be attached to the tower without close supervision. Many times the companies chose the least expensive attachment option. He felt that because the Town did not monitor the installation and set clear standards it shares in the responsibility to correct the situation. He does not believe that any user would walk away because of an extra few hundred dollars but did note that some of the agreements limit the vendors' liability to upgrade their attachments. Councilman Staley suggested a split involving a smaller share for the Town and asked if the vendors would know how much the Town spent. Manager Markel stated that the vendors are aware of the cost and refer to their original leases to define their responsibilities. He noted that the small wireless provider has stated that it is being unfairly burdened by their share of this expense and that some of the agreements contain a \$5,000 cap on relocation expenses. Project Manager Fellers stated that the analysis should quantify the incremental costs of upgrading the tank entirely due to the users' presence on the tank. Councilman Senate pointed out that the availability of all these services is an asset to the community. Attorney Whiting noted that the vendors do appreciate that the Town is paying for the design and coordinating the project, thus saving the vendors the expense of redesign. Councilman Jones asked if the Town can reduce its share of the expenses associated certain tasks, which are primarily a cost of doing business for the vendors, while other tasks are strictly for the benefit of the Town.

Councilman Senate withdrew his motion and Councilman Dockum withdrew his second.

Motion: I move that Town Council authorize the Mayor, Town Attorney and staff to negotiate with the carriers in cost sharing for the project design using Option C, which removes the Town's portion of Task 2 (\$306), Task 3 (\$332) and Task 9 (\$722) from Option B. The costs associated with these tasks are to be evenly distributed among the vendors.
By: Council Member Senate
Second: Council Member Jones

Mayor Walker stated that Task 3 definitely belongs to the vendors and that Task 9 represented an open ended commitment if additional meetings are required. She noted that the revised motion will save the Town about \$1,300. She also stated that Task 6 is definitely a Town problem and has been a long standing issue. She stated that she approves of the revised motion and appreciates it. There being no further discussion, she called for the vote.

Aye: Council Members Coleman, Dockum, Jones, Senate, Staley
Nay: None

Abstain: None
Absent: Council Member Zoldos

B. Authorization to Renegotiate Antenna Leases

Project Manager Fellers presented this item, explaining that it addresses the need to renegotiate all of the leases when they expire and authorizes the Town Manager to renegotiate as the leases come due over the next five years. She explained that each lease is four years, eleven months. Attorney Whiting recommended that the renegotiated leases be for five years. Project Manager Fellers pointed out that the Town has never renegotiated the leases; they have just carried forward automatically.

Motion: I move that the Town Council authorize the Town Manager to draft and send a letter (after review by the Town Attorney) to Elevated Water Tank Lessees as the contracts come up for renewal notifying them that the Town will NOT renew the agreement under the current terms and initiating renegotiation of contract terms.

By: Council Member Jones

Second: Council Member Coleman

Mayor Walker called for discussion. Councilman Staley asked if the Town has specific changes it is planning to propose. Attorney Whiting stated that we have notes on each of the contracts concerning changes the Town will request. As an example, she reported that none of the leases impose a penalty for late payment. She also stated that the Town must give six months notice of the intent to renegotiate. Councilman Dockum asked if a trigger system could be put in place to track frequent late payment and other lease violations. Attorney Whiting stated that Project Manager Fellers and Treasurer Gladstone have already established a tracking system. There being no further discussion, Mayor Walker called the vote.

Aye: Council Members Coleman, Dockum, Jones, Senate, Staley
Nay: None
Abstain: None
Absent: Council Member Zoldos

C. Meter Sizing Policy

Manager Markel introduced the item, explaining that the information has been refined since the Council's last discussion. Project Manager Fellers explained the information presented and how different scenarios would affect different users. Attorney Whiting commended the work Project Manager Fellers has done on this issue and stated that she is the only engineer she has ever worked with who understands the importance of language. Attorney Whiting explained that we will want a laundry list of enforcement options to address different scenarios. Mayor Walker suggested a separate work session on this topic because there are so many open questions. Attorney Whiting noted that public hearings will be required and expressed concern about how the Town will enforce the meter upgrades. Mayor Walker suggested asking Virginia Rural Water to participate in formulating a sizing policy. Project Manager Fellers requested that the Council submit any questions they have before the work session to facilitate the work session process. The Council agreed to hold a work session on September 3, 2009 at 7:00 PM to discuss meter sizing policy.

D. Performance Bond Release – New Town Meadows (Phase 1)

Manager Markel presented this topic and reviewed all the steps that have been taken to validate this release. He reminded the Council that there will still be a warranty assurance in the form of a Letter of Credit for over \$100,000 for one year. He recommended releasing the performance bond and reinstalling their warranty agreement.

Motion: I move to accept Resolution 2009-08-01: Approve Warranty Agreement and Acceptance of Letter Of Credit No. 1854; Release of Letter Of Credit No. 473: New Town Meadows Phase 1 (Attachment III)

By: Council Member Senate

Second: Council Member Staley

Mayor Walker called for discussion. Councilman Staley asked if the completion of Phases 2A and 2B might affect Phase 1 downstream. Manager Markel stated that the only areas that are interrelated are water and sewer and there is a very small probability that problems would occur in those areas. He noted that VDOT has already accepted the streets in Phase 1 and Mayor Walker noted that the pipes have been re-cameraed as part of the acceptance process. There being no further discussion she called for the vote.

Aye: Council Members Coleman, Dockum, Jones, Senate, Staley
Nay: None
Abstain: None
Absent: Council Member Zoldos

Information Items

No information items were presented.

Comments from the Mayor and Town Council

Councilman Staley reported on the following:

- He has been hearing a lot of requests and complaints concerning the Town Square but has noticed that work has been started on weeding and mulching the Square.
- He reported that the CPAC community forum with members of the public went pretty well.
- He has heard various statements that the Town is not being business friendly so he talked to John Broman. Neither one of them could pinpoint the causes, so Mr. Broman promised to try to get some factual information about what the complaints are.
- He has heard that people are interested in fixing up the Town Sign and getting some additional sign information installed. He would like to work on this project. Manager Markel noted that Councilman Zoldos has expressed strong feelings about this issue during prior Council discussions. Councilman Dockum stated that Councilman Zoldos had stated that he had some prototypes for new signage.
- He suggested that the Saturday morning coffee and donuts start up and asked that this topic be on the next retreat agenda.
- He noted that there was a presentation at a CPAC meeting about how part of the Town is eligible to become a historic district. While he believes the Town should investigate this, he also thinks there are a lot of misconceptions about what a historic district involves.

Councilman Senate noted that the Council has been hearing reports the Town is not business friendly from the day the LBA started and they have made repeated attempts to track down the problem but could not find any facts. He himself has spent five years chasing this statement.

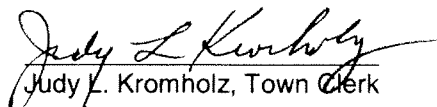
Mayor Walker reported on the following:

- National Night Out was very successful with about 400 in attendance. She has sent a letter of thanks to the newspapers thanking Deputy Mertz-Myers, Community Center Director Bracey, Mr. Chuck Blough of Lovettsville Pizza and Subs, the Lovettsville Volunteer Fire and Rescue Company, and Target for their support of this event.
- The Alleghany Power State Corporation Commission Public Hearing on PATH was held in Purcellville last Wednesday and about 32 people spoke. She read the Town's resolution into the record and thanked Governor Kaine, Congressman Wolf and Delegate May for their support on this issue. She stated that there is a good possibility that there will be another hearing later this year.
- She reported that the Town government picnic was a success and thanked everyone for coming.
- She attended the memorial service for Mike Wild and she sent Mrs. Wild a letter of condolence from the Town.
- The meeting with VDOT on the East Broad Way project was very successful.
- There will be a Movie in the Park tomorrow evening.
- She is meeting with PATH next week.
- She would like another Council retreat to be held in September.
- She is hoping to start the Saturday coffees again in September.

Closed Session

The Council went into Closed Session at 10:10 PM (Attachment IV).

Respectfully submitted,


Judy L. Kromholz, Town Clerk

Date Approved: December 10, 2009

Attachments:

- I. Speaker Sign Up Sheet
- II. Cellular Antenna Cost Share Proposals, Options A and B
- III. Resolution 2009-08-01: Approve Warranty Agreement and Acceptance of Letter Of Credit No. 1854; Release of Letter Of Credit No. 473: New Town Meadows Phase 1
- IV. Recordation of Closed Session

Town of Lovettsville

Speaker Sign - Up Sheet Town Council Monthly Meeting - August 13, 2009

Please Print.

Name and Association	Address	Topic	Email Address (Optional)

Each speaker will be limited to no more than three (3) minutes at the beginning of the meeting, or no more than five (5) minutes at the end of the meeting.

¹ If you provide your email address, you will be added to the Town Council & Planning Commission Meetings Notification List.

Engineering Services for Town of Lovettsville Cellular Antenna Design Proposal

Option A Cost Share

Task	Total	Loudoun Wireless	Nextel	Sprint	AT&T	Town	Total Cost
Task 1	19		\$ 830.00	\$ 830.00			\$ 1,660
Task 2	18	\$ 383	\$ 383	\$ 383	\$ 383		\$ 1,530
Task 3	19	\$ 415	\$ 415	\$ 415	\$ 415		\$ 1,660
Task 4	20			\$ 1,790			\$ 1,790
Task 5	24		\$ 1,960				\$ 1,960
Task 6	44					\$ 3,590	\$ 3,590
Task 7	24	\$ 590	\$ 590	\$ 590	\$ 590		\$ 2,360
Task 8	50	\$ 1,170	\$ 1,170	\$ 1,170	\$ 1,170		\$ 4,680
Task 9	32	\$ 903	\$ 903	\$ 903	\$ 903		\$ 3,610
Task 10	26	\$ 335	\$ 335	\$ 335	\$ 335		\$ 2,220
Directs		\$ 268	\$ 268	\$ 268	\$ 268	\$ 268	\$ 1,340
	302	\$4,063	\$6,853	\$6,683	\$4,063	\$3,858	\$ 26,400

Engineering Services for Town of Lovettsville

Cellular Antenna Design Proposal

Option B Cost Share

Task	Description	Total	Loudoun Wireless	Nextel	Sprint	AT&T	Town	Total Cost
Task 1	Design new cable attachment for two legs of the tank to reattach Sprint and Nextel cables.	19		\$ 830.00	\$ 830.00			\$ 1,660
Task 2	Design new cable attachment for all cables on the tank to reach the subsequent antennas.	18	\$ 306	\$ 306	\$ 306	\$ 306	\$ 306	\$ 1,530
Task 3	Design new attachment to the handrail to permit painting of all surfaces. This may require reinforcement of the balcony	19	\$ 332	\$ 332	\$ 332	\$ 332	\$ 332	\$ 1,660
Task 4	Design new attachment for Sprint Antennas.	20			\$ 1,790			\$ 1,790
Task 5	Design new method to extend Ice Bridge for Nextel cables from the leg the cables are currently on to the new leg.	24		\$ 1,960				\$ 1,960
Task 6	Design support for the tank overflow pipe, revise ladder for access to balcony and design balcony modifications.	44					\$ 3,590	\$ 3,590
Task 7	Conduct a new structural analysis with the designed redistribution and relocation connections to confirm that the new design will not be detrimental to the tank.	24	\$ 472	\$ 472	\$ 472	\$ 472	\$ 472	\$ 2,360
Task 8	Develop preliminary construction documents for Town of Lovettsville and carrier review and for construction.	50	\$ 936	\$ 936	\$ 936	\$ 936	\$ 936	\$ 4,680
Task 9	Participate in up to two meetings with the Town of Lovettsville and the carriers to discuss the design needs of the attachment.	32	\$ 722	\$ 722	\$ 722	\$ 722	\$ 722	\$ 3,610
Task 10	Revise preliminary contract documents per Town of Lovettsville and carrier comments and submit final contract documents.	26	\$ 268	\$ 268	\$ 268	\$ 268	\$ 268	\$ 2,220
Directs	Direct Costs (copying, travel time and expenses)		\$ 268	\$ 268	\$ 268	\$ 268	\$ 268	\$ 1,340
	TOTAL	302	\$3,304	\$6,094	\$5,924	\$3,304	\$6,894	\$ 26,400

Town of Lovettsville

**Resolution 2009-08-01: APPROVE WARRANTY AGREEMENT AND
ACCEPTANCE OF LETTER OF CREDIT NO. 1854;
RELEASE OF LETTER OF CREDIT NO. 473
NEW TOWN MEADOWS PHASE 1**

MOTION: Senate
SECOND: Staley

WHEREAS, Lovettsville Development Partners, LLC, entered an Agreement dated September 28, 2004 requiring it to construct certain public improvements within Phase 1 of a project known as New Town Meadows and dedicate them to the Town or other public bodies upon completion and acceptance; and provided as security for its performance a certain letter of credit issued by Virginia Commerce Bank, numbered 473; and

WHEREAS, Lovettsville Development Partners, LLC, completed the public improvements for Phase 1 as required and has obtained their acceptance by appropriate public bodies and further has tendered a warranty agreement, secured by letter of credit No. 1854 issued by Virginia Commerce Bank, guarantying the said public improvements for a period of 12 months, and has asked that the Town release the letter of credit No. 473, securing the original construction obligations within Phase 1.

NOW, THEREFORE, BE IT RESOLVED that the Lovettsville Town Council hereby accepts the Physical Improvements Warranty Agreement dated August 13, 2009, and authorizes signature thereto by the Mayor, and accepts as security therefore the Letter of Credit No. 1854 issued by Virginia Commerce Bank.

BE IT FURTHER RESOLVED that the Town Council hereby acknowledges that the obligations of Lovettsville Development Partners, LLC under the agreement of September 28, 2004, have been satisfied and merged into the warranty agreement and its associated letter of credit No. 1854 and the Mayor is hereby authorized to release letter of credit No. 473 issued by Virginia Commerce Bank, referenced above to Lovettsville Development Partners, LLC.


VOTE:

Ayes: Coleman, Dockum, Jones, Senate, Staley
Nays: None
Abstentions: None
Absent for vote: Zoldos

Approved: August 13, 2009


Elaine Walker, Mayor

CERTIFIED:


Judy L. Kromholz, Town Clerk

The German Settlement

Town of Lovettsville

Motion to Convene a Closed Session

Date and Time: August 13, 2009 - 10:15 PM

Motion: That the Lovettsville Town Council convene in Closed Session pursuant to Va. Code section 2.2-3711 A 1 for the purpose of discussing the performance of particular public officers, appointees or employees, and thereafter reconvene in open session for action as appropriate.

Made By: D. Jones

Seconded By: C. Coleman

Aye: D. Jones, S. Dockum, S. Staley *M. Senate
C. Coleman*

Nay: None

Abstain: None

Absent: B. Zeller

Vote Recorded by: Elaine Walker

End of Closed Session

Date and Time: August 13, 2009 - 10:56

When polled as to whether (i) only public matters lawfully exempted from open meeting requirements under the Virginia Freedom of Information Act and (ii) only such public 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:"

List Council members stating "Aye":

D. Jones, S. Dockum, S. Staley
M. Senate, C. Coleman

Statement Recorded by: Elaine Walker