

Town of Lovettsville

Town Council

Minutes of Public Hearing and Regular Meeting August 27, 2009

The Lovettsville Town Council Public Hearing on LVZA 2009-0005: Wireless Communication Equipment Zoning Ordinance Amendment was called to order by Mayor Elaine Walker at 8:05 P.M. at the Lovettsville Community Center, 58 East Broad Way, Lovettsville, VA 20180.

Welcomes and Introductions

Mayor Walker welcomed the citizens attending the meeting. The Mayor introduced Vice Mayor Robert Zoldos II, and Council Members Scott Dockum, DiJon Jones, Michael Senate and Shaun Staley. The Mayor also introduced Town Staff, including Town Manager Keith Markel, Town Attorney Elizabeth Whiting, Project Manager Karin Fellers, Zoning Administrator Steve McGregor, and Town Clerk Judy Kromholz.

Absent: Council Member Charlotte Coleman

Explanation of Procedures and Opening of the Hearing

The assembled were led in the Pledge of Allegiance by Cub Scout Robert Zoldos, Jr. Mayor Walker read the public notice of this Public Hearing as it appeared in Leesburg Today as shown in Attachment I.

Presentation

Zoning Administrator McGregor made a presentation (Attachment II). He noted that a resolution will be prepared for the next Town Council meeting and that no action will be taken at this meeting.

Public Speakers

No members of the public had signed up to speak at this Hearing. Mayor Walker asked if anyone desired to speak on this issue and there were no speakers. She asked if any communications had been submitted to Town Hall for presentation at the Hearing and Town Clerk Kromholz stated there were none as of close of business today.

Declaration to Close the Public Hearing

Mayor Walker stated that this issue would be open for written comments for an additional ten days and declared this Public Hearing closed at 8:13 P.M.

Town Council Regular Meeting

Mayor Elaine Walker called the regular monthly meeting of the Lovettsville Town Council to order at 8:14 PM on Thursday, August 27, 2009.

Present at Meeting

- Mayor Elaine Walker
- Council Members Scott Dockum, DiJon Jones, Michael Senate, Shaun Staley, Robert Zoldos
- Town Manager Keith Markel
- Town Attorney Liz Whiting
- Town Treasurer Lance Gladstone
- Zoning Administrator Steve McGregor
- Project Manager Karin Fellers
- Town Clerk Judy L. Kromholz

Absent

- Council member Charlotte Coleman

Comments from the Public

Mayor Walker called on speakers in the order in which the signed up to speak (Attachment II)

Pat Taylor introduced herself as a long time resident of Lovettsville (lives outside of Town) and thanked the Mayor for coming to a meeting of her neighbors last night. She stated that she had invited Mayor Walker and the Loudoun County Board of Supervisors to view the implications of the route proposed by the PATH application. She explained the conservancy easement along the existing route and stated that

many people did not understand that these easements had existed for many years. The concern today is for the proposed loop and stated that there are approximately 32 families who would be affected by this change. She extended an invitation to anyone to contact her to tour the topography that would be affected.

Bing Lam reported that the Purcellville Gazette had incorrectly published the Lovettsville Game Protective Association Carnival fees. He stated that he is opposed to the Elm Street proposal for Phases 2 through 4 of the Lovettsville Town Center. He distributed a handout to the public. No member of Council or Staff was given the handout (No attachment available).

No other speakers had signed up to speak.

Loudoun County Sheriff's Office

Loudoun County Deputy Sheriff Mertz-Myers presented her monthly report. She stated that it was a quiet month. Councilman Dockum asked for the summary that the Council had been receiving and Deputy Mertz-Myers agreed to begin preparing the report.

Lovettsville Volunteer Fire and Rescue Company

No member of the Company was present. Councilman Senate stated that the new ambulance will be here on September 10th.

Lovettsville Business Association

No member was present.

Additions/Deletions/Modifications to the Agenda

None

Presentations

Jim Morgan –Civil War Trails Signage

Mr. Morgan was here representing the Loudoun County Sesquicentennial Committee commemorating the 150th anniversary of the Civil War. He distributed a list of upcoming events and wants the Town to become involved as a partner in the expansion of the Civil War Trails signage. He stated that the signs cost \$2,600 each and that there are matching fund grants available so that the Town's share would be \$650 including installation. He offered to do a presentation on Lovettsville's involvement in the Civil War at a future time. He stated that the Committee needs a response by October 1st if the Town wants to participate this year. The commemoration will go on for several years. Mr. Morgan explained the procedure for sponsoring a sign. The first step would be to send a letter to the County Board of Supervisors saying that the Town would contribute \$650 towards each sign Lovettsville chooses to sponsor. Councilman Zoldos asked Mr. Morgan if he had a suggestion for the topic. Mr. Morgan presented a few suggestions including the Loudoun Rangers. He stated that the Town must decide on their financial commitment by October 1st and the selection of a topic can take place at a later date.

Approval of Town Council Minutes

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

Councilman Zoldos offered a verbal change to the minutes and agreed to submit that change in writing in order to allow the other Council members to review it before voting. The January 22, 2009 minutes were tabled.

B. Regular Town Council Meeting Minutes – May 28, 2009

Motion: To approve the minutes of the May 28, 2009 Town Council Meeting as presented at this meeting.
By: Council Member Dockum
Second: Council Member Senate
Aye: Council Members Dockum, Jones, Senate, Zoldos
Nay: None
Abstain: Council Member Staley
Absent: Council Member Coleman

C. Town Council Public Hearing – June 2, 2009

Motion: To approve the minutes of the June 2, 2009 Town Council Public Hearing as presented at this meeting.
By: Council Member Jones
Second: Council Member Staley
Aye: Council Members Dockum, Jones, Senate, Staley, Zoldos

Nay: None
Abstain: None
Absent: Council Member Coleman

Report from the Treasurer

A. Financial Report – May 2009

Treasurer Gladstone presented his report for May 2009. There were no questions from the Mayor or the Council.

Motion: To approve the May 2009 Treasurer's report as presented.
By: Council Member Senate
Second: Council Member Jones
Aye: Council Members Dockum, Jones, Senate, Staley, Zoldos
Nay: None
Abstain: None
Absent: Council Member Coleman

Staff Reports

A. Zoning Administrator's Report – July 2009

Administrator McGregor presented his report for July 2009. He stated that the Comprehensive Plan Advisory Committee community forum at the elementary school had gone very well and reported that the committee has agreed to meet twice a month.

Councilman Dockum asked if Administrator McGregor is close to taking legal action on any of the on-going zoning infractions. Administrator McGregor reported that there are a handful of people who are not responding to his letters and the Town may have to take legal action in those cases. He noted that in some instances, he has not been allowed on the property to investigate reported infractions.

B. Project Manager's Report – July 2009

Project Manager Fellers presented her report for July 2009. She asked that the Council cooperate in helping her accumulate pictures for the grant application for the bike path. Councilman Dockum volunteered to ride his bike on Route 287 to show the need for the path.

C. Report from the Town Manager

Manager Markel reported that we are one third of the way through the Town Hall makeover and expects completion in three weeks. He reminded the Council that there will be a special work session on meter sizing next Thursday beginning at 7:00 PM. Project Manager Fellers will attend the meeting. Councilmen Senate and Dockum stated that they will not be able to attend the work session.

Action Items

A. Broad Way Sidewalk Design Parameters Approval

Fred Ameen and Mark Thomas of PHR+A made a presentation and detailed the different scenarios and different actions the Town may undertake regarding the street design. They discussed the width of the streets and drainage issues. They noted that the narrowest sections are about 33 feet and there may be on-street parking limitations because of the narrow right of way. They have met with VDOT informally a couple of times and reported that VDOT has been cooperative and willing to answer questions. They noted that utility poles may have to be moved, at the utility company's expense because they are in the current right of way. PRH+A is asking the Council for direction on moving forward.

Councilman Dockum addressed the truck traffic issue and asked if that should be resolved before Council takes action. Project Manager Fellers stated that the two alternatives are known, including what action will be necessary in each case. Councilman Dockum stated that he would be more comfortable having the data in front of him before making a motion. He asked how many property owners the Town would have to negotiate with to get easements. Manager Markel stated that there may be no permanent acquisitions necessary; instead, on-street parking may be prohibited in those areas. He stated that some owners might negotiate for parking in front of the homes by granting the necessary easements. Councilman Dockum asked what the typical easement would be and Mr. Ameen said the maximum would probably be about 10 feet, primarily for temporary construction easements. These easements would be removed after the construction. Councilman Dockum asked about the Community Development Block Grant deadline to spend allocated funds. Manager Markel stated that the deadlines have already passed but they are satisfied with our forward motion. Mr. Ameen reported that they have established that all of the drainage issues are correctable and that there will be minimal interference with the sewer system.

Councilman Dockum asked if VDOT will repave East Broad Way at the end of the project and Project Manager Fellers stated that repaving would be part of the project. Manager Markel said staff will bring it up with VDOT at the proper point in the project.

Councilman Senate asked if moving the utility poles will bring them too close to a structure and Mr. Ameen stated that what may have to happen is some poles may be moved horizontally along the street as well as shifting them out of the right of way. Councilman Staley asked how far the poles will need to be moved and was told it would vary and noted that a few property owners are not aware of where their property really begins. Manager Markel noted that the purpose of tonight's presentation is to inform the Council before presenting a proposal to the public.

Mayor Walker suggested that Council make this a discussion item at its next meeting. Manager Markel stated that the Town will have traffic counts by the end of September, noting that the County transportation office will collect the counts for free after school starts.

Mayor Walker and the Council congratulated PRH+A on a good report and thanked them for the presentation and effort.

B. LVZA 2009-0005: Wireless Communication Equipment

This topic will be brought forward at the next Council meeting.

C. Acceptance of I&I Program

Project Manager Fellers stated that this is the final program required by the Department of Environmental Quality consent order. She stated that the Town has gotten an extension for this project, but the deadline is early November. Therefore the Council must vote at their October 22, 2009 meeting. She requested that Council submit questions in advance so the consultants can prepare answers in a timely manner.

D. Civil War Trail Signage

Ed Spannaus (Lovettsville Historical Society) asked that he and the LHS be involved in talks with Mr. Morgan about the Civil War signage. Mayor Walker assured Mr. Spannaus that the Historical Society will be invited to all meetings. Council verbally agreed that they want to proceed on this matter and Councilman Dockum asked Mr. Spannaus to poll the Historical Society members for ideas. He noted that the amount of text is limited. Mr. Spannaus agreed with Council that the Loudoun Rangers should be the highlighted topic.

E. Bike Path Letter of Support

Project Manager Fellers stated that one of the elements for the grant application is letters of support from various groups in the community. She is looking for help to reach out to different types of organizations in the community. Mayor Walker asked the Council if they supported her efforts to reach out to various organizations and that they themselves reach out to organizations they are involved with. She noted that the letters should address differing benefits of the trail, including economic, safety, social and environmental issues. The Council encouraged the Mayor to solicit letters on behalf of the bike trail.

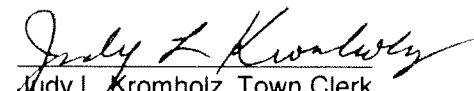
Information Items

No information items were presented.

Closed Session

The Council moved into Closed Session at 10:14 PM (Attachment IV).

Respectfully submitted,


Judy L. Kromholz, Town Clerk

Date Approved: December 17, 2009

Attachments:

- I. Leesburg Today Public Notice
- II. Staff Report: LVZA 2009-0005: Wireless Communication Equipment Zoning Ordinance Amendment
- III. Regular Meeting Speaker Signup Sheets
- IV. Closed Session Motions

**TOWN COUNCIL
PUBLIC HEARING
LVZA 2009-0005 WIRELESS
COMMUNICATIONS
EQUIPMENT – ZONING
ORDINANCE AMENDMENT
PUBLIC HEARING
NOTICE**

The Lovettsville Town Council will hold a public hearing at 8:00 PM Thursday August 27, 2009, to hear comments from any person on the following:

To amend the Town of Lovettsville Zoning Ordinance to Add to Sections 3-2, 3-3, 3-4, 3-5, 3-6, 3-7, 3-8, 3-12, 3-13, and 3-14 of the Zoning Ordinance under Conditionally Permitted Uses, Wireless Communications Equipment as a use; and ADD to section 13-2 of the Zoning Ordinance, DEFINITION OF CERTAIN TERMS, a definition of Wireless Communications Equipment.

The hearing will take place at the Town Office, 6 E. Pennsylvania Avenue, Lovettsville, Virginia 20180. The text under consideration is available at the Town Office between the hours of 9AM and 3PM weekdays, holidays excepted. Call 540-822-5788.

8/14 & 8/21/09

STAFF REPORT

Town of Lovettsville

TOWN COUNCIL PUBLIC HEARING

AUGUST 27, 2009

LVZA 2009-0005 Wireless Communications Equipment
(Zoning Ordinance Amendment)

Applicant: Town of Lovettsville

Location of Hearing: Town Office at 6 E. Pennsylvania Avenue

Time of Hearing: 8:00PM

Call for Information: Steve McGregor (540)-822-5788

smcgregor@lovettsvilleva.gov

Town Office Hours: 9AM-3:00PM (except holidays)

PURPOSE: To provide background and issue analysis for a potential amendment to the Zoning Ordinance to allow wireless communications equipment use in all zoning districts as a conditionally permitted use.

BACKGROUND: On April 23, 2009 the Town Council authorized a zoning ordinance amendment by the Town to amend the Zoning Ordinance in order to allow wireless communications equipment use on all land throughout the Town with a conditional use permit to assure that there would be no adverse impact by its installation.

A national wireless communications provider approached the Town about the possibility of installing wireless communications antennas and related equipment on the Town's elevated water storage tank. The Town ordinance does not permit such use, although it has in its previous ordinances. The 1987 ordinance permitted antennas in residential and commercial zoning districts. The 1992 ordinance permitted communications uses in the C-1 district with a conditional use permit. A number of antennas have been approved for installation in the past on the Town water tower under conditional use permits.

The Planning Commission discussed the item and brought it to a public hearing July 1. The Commission made a positive recommendation on this item without changes to the amended text as recommended in the staff report.

DISCUSSION: Wireless communications equipment is a necessary public utility (provided by private companies licensed for operating such service) for public use. The Town should help provide such service where there is a need by people in the Town and surrounding area. Various companies provide such service and the public expects they can partake of such services from any company they choose. Therefore, the Town ordinance needs to be amended if the Town wishes to accommodate wireless communications providers. In order to assure that such facilities are designed and maintained in a satisfactory manner, the use would need to be allowed only under a conditional use permit. The Council requested that the use be available on any property under any zoning district in the Town in case it may be appropriate on other sites than the Town water tower. A definition of wireless communications equipment needs to be included in the ordinance if the use is added to the ordinance.

The following should be considered when evaluating the conditions applicable to wireless communications equipment use:

1. Dimensions of antenna.
2. Visual impact of antenna.
3. Specifications for ancillary cabinets or similar equipment, including materials.
4. Height of antenna from the ground.
5. Location of all equipment, including if it is co-located on existing structure.
6. Screening of equipment on the ground.
7. Location of connecting wires/cables (underground or over ground).
8. Material and color of all equipment, including separate tower if applicable
9. Access details.

10. Details of maintenance and repair schedule and responsibility.
11. Lighting and impact on adjacent and nearby property.
12. Backup power and alarm system to determine if sound is an issue.
13. Security (fences or other).
14. Any adverse visual impact or adverse impact on other utilities or equipment.
15. Contract details with property owner.

PLANNING COMMISSION RECOMMENDATION: The Commission discussed the issues related to including wireless communications equipment use in all zoning districts as a conditionally permitted use and recommended the Zoning Ordinance be amended as follows:

- ADD:** Sec. 3-2 Residential District CR-1 (c) Conditionally Permitted Uses (xxiii) Wireless Communications Equipment.
- Sec. 3-3 Residential District R-1 (c) Conditionally Permitted Uses (xi) Wireless Communications Equipment.
- Sec. 3-4 Residential District R-2 (c) Conditionally Permitted Uses (ix) Wireless Communications Equipment.
- Sec. 3-5 Residential District R-3 (c) Conditionally Permitted Uses (viii) Wireless Communications Equipment.
- Sec. 3-6 Retirement Community R-C (r) Wireless communications equipment is permitted under a conditional use permit.
- Sec. 3-7 Town Center Planned Development District T-C (j) Conditionally Permitted Uses (iv) Wireless communications equipment.
- Sec. 3-8 Planned Infill District (g) Conditionally Permitted Uses (iv) Wireless communications equipment.
- Sec. 3-12 Community Commercial District C-1 (c) Conditionally Permitted Uses (ix) Wireless communications equipment.
- Sec. 3-13 Mixed Use Business District C-2 (c) Conditionally Permitted Uses (vii) Wireless communications equipment.
- Sec. 3-14 Light Industrial District I-1 (g) Conditionally Permitted Uses (viii) Wireless communications equipment.

ADD: Sec. 13-2 Definition of Certain Terms [Insert in alphabetical order]

"WIRELESS COMMUNICATIONS EQUIPMENT:
Sending and receiving antennas attached to a tower or similar structure, such as a steeple or silo, and a prefabricated or modular structure of cabinets containing electronic hardware. For purposes of this ordinance, amateur radio transmission equipment is not classified as wireless communications equipment."

DRAFT MOTION: A draft motion is provided below so the Town Council may take action after the public hearing:

"I move that the Town Council approve proposed Zoning Ordinance amendment LVZA 2009-0005 Wireless Communications Equipment, as stated in the Planning Commission Recommendation section of this report."

2

Town of Lovettsville Date: _____
 Request to Speak at Public Hearing Speaker # _____
 (Clerk's Use Only)

Subject	Phone 2 & 4 opposition
Name <small>(Please Print)</small>	Bike Lane
Mailing Address	
Telephone Number	
Email Address	
Organization <small>(If you represent a group)</small>	

1

Town of Lovettsville Date: 8/27
 Request to Speak at Public Hearing Speaker # _____
 (Clerk's Use Only)

Subject	CONSERVANCY EASEMENTS - PATH
Name <small>(Please Print)</small>	PAT TAYLOR
Mailing Address	39635 SUGAR MAPLE LANE LOVETTSVILLE VA 20180
Telephone Number	540-822-4155
Email Address	BeyondABay@AOL.COM
Organization <small>(If you represent a group)</small>	

**Resolution: AUTHORIZE CLOSED SESSION FOR
CONSULTATION WITH LEGAL COUNSEL REGARDING
POTENTIAL LITIGATION AND SPECIFIC LEGAL MATTERS RELATED TO
LAND USE DISPUTES AND CONTRACT PERFORMANCE**

MOTION: *B. Zaldas*

I hereby move that the Lovettsville Town Council convene in closed session pursuant to Va. Code section 2.2-3711 A 7 for 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; and consultation with legal counsel employed or retained by a public body regarding specific legal matters requiring the provision of legal advice by such counsel; related to (i) development of property within a project known as Lovettsville Town Center, (ii) contract disputes regarding expansion of the Wastewater Treatment Plant, and (iii) a zoning violation on property in New Town Meadows, thereafter reconvene in open session for action as appropriate.

SECOND: *S. Doekum*

VOTE:

Ayes: *Zaldas, Jones, Doekum, Staley, Senate*
Nays: *None*
Abstentions: *None*
Absent for vote: *Colman*

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:"

August 27, 2009

Certified:

Paine Wadlow
~~Town Clerk~~ *Mayer*