

Town of Lovettsville

Town Council Minutes of Regular Meeting May 12, 2011

Mayor Elaine Walker called the regular meeting of the Lovettsville Town Council to order at 7:30 PM on Thursday, May 12, 2011.

Present at Meeting

- Mayor Elaine Walker
- Vice Mayor Robert Zoldos II
- Council Members Tiffaney Carder, Charlotte Coleman, Michael Senate, Shaun Staley
- Town Manager Keith Markel
- Town Attorney Elizabeth Whiting *{arrived at 8:10 PM}*
- Town Treasurer Lance Gladstone *{arrived at 7:43 PM}*
- Town Clerk Judy L. Kromholz

Absent

- None

Call to Order/Welcome/Pledge of Allegiance/Invocation

Mayor Walker led the assembled in the Pledge of Allegiance.

Comments from the Public

No member of the public had signed up to speak (Attachment I: Speaker Signup Sheet).

Community Presentations

A. Loudoun County Sheriff's Office

Loudoun County Deputy Sheriff E. A. Ankers introduced himself as the supervisor of the Community Relations Section of the Loudoun County Sheriff's Office. He confirmed that Deputy Mertz-Myers is currently assigned to both Lovettsville and Ashburn Farms. He explained that there are nine community policing positions but only seven individuals currently assigned to the unit, although he is expecting an additional officer in August. He explained that hiring and training is a slow process. Within the last ten days he has met with a number of deputies concerning the issues raised at the last Council meeting and there has been an increased presence in the Town in response to the public input at the last Town Council meeting. He stated that patrol will remain at this level through the summer. He wants to hear from the Town if there has been any improvement, noting that it is imperative that citizens call the non emergency number whenever they witness an incident, no matter how minor. He will continue to come to Council meetings throughout the summer.

B. Planning Commission

Vice Chairman Jack Burden reported on Planning Commission activities this month.

Additions/Deletions/Modifications to the Agenda

Councilwoman Carder requested that the Council consider any actions requested by the Lovettsville Cooperative Market during their presentation.

Presentations

A. Lovettsville Cooperative Market Update

Board Chairwoman Pamela Baldwin brought the Council up to date on the activities of the cooperative. She reported that they currently have over 90 members and their goal is 200-250 members by the end of the year. Councilman Sparbanie asked if they have spoken with NVRetail about locating in Lovettsville Town Center and Mrs. Baldwin stated that they are engaged in ongoing conversations but neither party is willing to commit at this time. Councilman Sparbanie asked if the cooperative would be able to coexist with a grocery store if one opened in Lovettsville Town Center. Mrs. Baldwin stated that her understanding that the developers of Town Center are looking for a very small grocery store and that it

would depend on what store is built there, if any. She wanted to clarify that no one would be required to be a member to shop in the cooperative. However, the usual practice is that members get special benefits and have a voice in running the business. She informed the Council that the cooperative is eligible to apply for a grant of \$10,000 from a USDA derived organization and they need to provide evidence of support from the community as part of their application. They are asking Council to supply a letter of support for this application. Michelle McIntyre, Treasurer of the Cooperative, added that they are currently very active in the community in many ways and plan to become even more involved as the organization grows.

B. Inova Loudoun Hospital

James Rohrbaugh, Assistant Vice President of Operations at Inova Loudoun Hospital, announced that Inova has signed a contract to open a doctor's office in the old post office building (2 E. Broad Way) in Lovettsville. He acknowledged Mayor Walker's efforts to get an office opened in Lovettsville for at least the last 10 years. He stated that they hope to open the facility in early September and will initially have evening and weekend hours, but they will be adjusted as the demand requires. He reported that Inova has signed a five-year lease with an option for another five years.

Approval of Town Council Minutes

A. Town Council Meeting – April 14, 2011

Motion: To approve the April 14, 2011 minutes of the Regular Town Council Meeting as presented at this meeting.

By: Council Member Sparbanie

Second: Council Member Coleman

Aye: Council Members Carder, Coleman, Senate, Sparbanie, Staley, Zoldos

Nay: None

Abstain: None

Absent: None

Report from the Treasurer

A. Financial Report – March 2011

Treasurer Gladstone presented his report for March 2011. There were no questions from the Mayor or Council

Motion: To approve the March 2011 Treasurer's report as presented.

By: Council Member Senate

Second: Council Member Carder

Aye: Council Members Carder, Coleman, Senate, Sparbanie, Staley, Zoldos

Nay: None

Abstain: None

Absent: None

Staff Reports

A. Report from the Zoning Administrator

Manager Markel presented Administrator McGregor's written report for March 2011. There were no questions from the Mayor or Council.

B. Report from the Project Manager

Project Manager Fellers had provided her written report dated May 5, 2011. There were no questions from the Mayor or Council.

C. Report from the Town Attorney

The Town Attorney had no formal report.

D. Report from the Town Manager

Town Manager Markel reported to the Council that a water line saddle replacement is scheduled for tomorrow morning on Berlin Pike which will necessitate a brief interruption in water service along North Berlin Pike. This information had been posted on the Town website. He also informed Council that some I&I repair warranty work is being done.

Consent Agenda

There were no items on the Consent Agenda.

Action/Discussion Items

A. Lovettsville Town Center- Section 3 Bond Approval

Manager Markel presented this item. Council is being asked to consider accepting a performance bond for the public improvements related to the development of Section 3 of the Lovettsville Town Center. He explained that on March 16, 2011 the Lovettsville Planning Commission approved construction plans for Section 3 of the Lovettsville Town Center. This section includes 59 single family detached home lots on 21.73 acres along with the extension of several existing streets including Fox Meadow Drive, Oakfield Drive, Eisentown Drive and Kimberly Kristen Way. In order to begin site work the developer must post a performance bond for the public improvements that will be installed as part of this section. The Town's engineer, Christopher Consultants, has completed its review and has discussed minor changes to the bonding amount with Bowman Consulting. They both agree that the bonding amount for all public infrastructure is \$3,160,196.36. He stated that this amount includes contingencies and inflation factors.

Motion: I move to approve Resolution 2011-05-001: Approving Bond Securing Public Improvements In Lovettsville Town Center Section 3 (Attachment II)

By: Council Member Staley

Second: Council Member Coleman

Mayor Walker called for discussion. Councilman Sparbanie reported that he has received emails and phone calls concerning cars overhanging the end of their driveways in Lovettsville Town Center. He stated that there had been a Home Owners Association meeting at which this had been discussed and their response was that they are using the maximum allowed under the current zoning ordinance. Councilman Sparbanie wants the record to reflect his sincere displeasure about some of those driveways, stating that he has nothing bad to say about Ryan Homes but does have issues with the length of the driveways and thinks the houses should be pushed back five feet. He stated that he understands that this cannot be done at this point in the process. Councilman Staley noted that the original homes built by other builders have the same problem. Vice Mayor Zoldos stated that he made these same comments four or five years ago about the length of the driveway and only one person in the audience supported him. However, he noted for the record that there are still no sidewalks at all on Loudoun Street. There being no further discussion, Mayor Walker called for the vote.

Aye: Council Members Carder, Coleman, Senate, Staley, Zoldos

Nay: Council Member Sparbanie

Abstain: None

Absent: None

B. WARN Membership for Utility System

Manager Markel presented this item. He stated that the Council is being asked to consider joining the Virginia Water and Wastewater Agency Response Network (VA WARN) system. He explained that the VA WARN system is designed to provide a utility to utility response during an emergency. The mission on their website is to "support and promote statewide emergency preparedness, disaster response, and mutual assistance matters for public and private water and wastewater utilities for natural and manmade events." Although there is no cost for the Town to join, the Town must complete some paperwork including a Resolution and a Mutual Aid Agreement. The system provides support during emergencies and has also provided hard to get parts to communities who need them immediately and have found that the part must be manufactured and may take weeks to receive. Manager Markel reported that, while the Mutual Aid Agreement does allow the supporting community to charge for their help, historically in most cases no charges were made. He emphasized that there is no cost to join and no obligation to provide service if requested.

Motion: I move that Town Council adopt Resolution 2011-05-02: Authorizing Execution of the Virginia Water and Wastewater Agency Response Network Mutual Aid Agreement and direct staff to complete the necessary paperwork to join the Virginia WARN system.

By: Council Member Senate

Second: Council Member Carder

Mayor Walker called for discussion. Councilman Senate stated that he sees this as a very positive opportunity for the Town, especially because of all of the specialized pumps and other equipment the Town uses. Councilman Sparbanie asked if Lovettsville actually has something to bring to this table and

Manager Markel stated that the Town is unlikely to be called upon. There being no further discussion, Mayor Walker called for the vote.

Aye: Council Members Carder, Coleman, Senate, Sparbanie, Staley, Zoldos
Nay: None
Abstain: None
Absent: None

C. ICMA-RC Approval for 457 Employee Deferred Contribution Plan

Manager Markel presented this item. Council is being asked to consider partnering with ICMA-RC to provide a 457 Deferred Compensation Plan for Town employees. He explained that the creation of a 457 plan will allow employees to determine their own level of pre-tax contribution. Unlike the 401a plan, there is no quarterly service charge for the maintenance of the 457 plan for the employer. Employees would have the option of entering into the Plan and setting their own contribution levels.

Motion: I move that the Town Council approve Resolution 2011-05-03: To participate in the ICMA-RC 457 Deferred Compensation Plan and direct staff to sign all necessary paper work to implement a 457 Deferred Compensation Plan administered through ICMA-RC.

By: Council Member Sparbanie
Second: Council Member Coleman
Aye: Council Members Carder, Coleman, Senate, Sparbanie, Staley, Zoldos
Nay: None
Abstain: None
Absent: None

D. Lovettsville Cooperative

Councilwoman Carder asked that the Council approve sending a letter of support as requested by Mrs. Baldwin.

Motion: I move that the Town Council direct the Mayor to write and send a letter to the USDA Food Cooperative Initiative expressing our full support for the development of a cooperative in our Town.

By: Vice Mayor Zoldos
Second: Council Member Sparbanie

Mayor Walker called for discussion. Councilman Sparbanie stated that he is excited for the committee and really hopes it works out. Mayor Walker asked Mrs. Baldwin for the deadline and she stated that they must send in the application before May 30th. There being no further discussion, Mayor Walker called for the vote.

Aye: Council Members Coleman, Senate, Sparbanie, Staley, Zoldos
Nay: None
Abstain: Council Member Carder
Absent: None

Information Items

Manager Markel reported that Joe Mueller has asked not to be reappointed to the Planning Commission when his term expires on June 30, 2011. The Town will begin advertising for a new planning commissioner.

Comments from the Mayor and Town Council

Councilwoman Carder thanked the Mayor and Council for providing the letter supporting the Food Cooperative's efforts. She reported that the conversation at the Lovettsville Business Association meeting concerning commercial development in Lovettsville Town Center went very well. Along with Councilman Staley, she is still working on the Economic Development Advisory Committee and they are waiting for input from Attorney Whiting.

Councilwoman Coleman stated that she was available to assist in planning the Town's Memorial Day ceremony.

Councilman Staley reported that progress is being made in planning the spring/summer fair for next year.

Councilman Sparbanie reported that he had enjoyed the Little League Opening Day ceremonies and congratulated Vice Mayor Zoldos on a job well done.

Vice Mayor Zoldos formally welcomed Mayor Walker back and applauded the strength she had exhibited during her recent illness. He stated that Little League Opening Day was very special this year because of many members of Council who attended along with Mayor Walker.

Mayor Walker reported on the following:

- She stated that in her absence over the past several weeks the Town could not have been in better hands than it was with this Council and Vice Mayor Zoldos. She never stopped thinking about the Town during her recovery.
- She thanked everyone for their help that night, noting how many members of the Council and staff contributed to her positive outcome especially Town Manager Keith Markel, Town Clerk Judy Kromholz and her husband Frank and Councilman Mike Senate all of whom responded immediately.
- She has enjoyed the Little League Opening Day ceremonies for the last few years and was determined not to miss the event this year. She stated that Vice Mayor Zoldos deserves a lot of credit for pulling this event together every year.
- She is very pleased about Inova opening a facility in Lovettsville. She has been working on the project for 15 years.
- Inova is planning a Family Fun Day in conjunction with the Lovettsville Fire and Rescue Department in June. Additional details will be announced.

Vice Mayor Zoldos reminded all present that the first Movie on the Green for 2011 is tomorrow night and the film will be *Secretariat*.

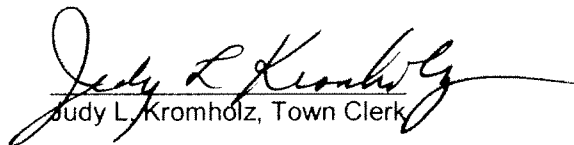
The Council went into closed session at 9:12 PM (Attachment V).

The Council came out of closed session at 10:40 PM and adjourned the meeting.

All Council members certified that only public business matters lawfully exempt for the open meeting requirements under the Virginia Freedom of Information Act were discussed.

Let the record reflect that no vote was taken following the Closed Session.

Respectfully submitted,



Judy L. Kromholz, Town Clerk

Date Approved: June 9, 2011

Attachments:

- I. Speaker Signup Sheet
- II. Resolution 2011-05-001: Approving Bond Securing Public Improvements In Lovettsville Town Center Section 3
- III. Resolution 2011-05-002: Authorizing Execution of the Virginia Water and Wastewater Agency Response Network Mutual Aid Agreement
- IV. Resolution 2011-05-003: To Participate in the ICMA-RC 457 Deferred Compensation Plan
- V. Closed Session Motion

Written Submissions to Council: None

Town of Southville

Speaker Sign - Up Sheet

Town Council Regular Meeting - May 12, 2011

Please Print.

Name and Association	Address	Topic	Email Address (Optional)
James Robinson Thoro Loudon	Leesburg, VA		

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.

Town of Lovettsville

Resolution: 2011-05-001: APPROVING BOND SECURING PUBLIC IMPROVEMENTS IN LOVETTSVILLE TOWN CENTER SECTION 3

MOTION: Staley

SECOND: Coleman

WHEREAS, Town Center Lovettsville LC., has received approval of construction plans for Lovettsville Town Center Section 3 and desires to commence construction of site improvements in accordance with such approval; 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 required with construction of Section 3 improvements is \$3,160,196.36 provided that the appropriate performance agreement is entered setting a completion date not later than [24 months maximum] 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: Carder, Coleman, Staley, Senate, Zoldos

Nays: Sparbanie

Abstentions: None

Absent for vote: None

Approved May 12, 2011


ELAINE WALKER, MAYOR


JUDY L. KROMHOLZ
TOWN CLERK

The German Settlement

Town of Lovettsville

RESOLUTION 2011-05-002: AUTHORIZING EXECUTION OF THE VIRGINIA WATER AND WASTEWATER AGENCY RESPONSE NETWORK MUTUAL AID AGREEMENT

MOTION: Senate

SECOND: Carder

WHEREAS, the National Infrastructure Protection Plan and in particular the Sector Specific Plan for the Water Sector developed by the United States Environmental Protection Agency identifies the development of a Water and Wastewater Agency Response Network in each State as an important means of helping to ensure resilient water and wastewater infrastructure in the public interest; and

WHEREAS, in furtherance of such national Water Sector plan, Virginia's longstanding, nationally-recognized professional associations known as the Virginia Section of the American Water Works Association ("VA AWWA") and the Virginia Water Environment Association ("VWEA") have jointly formed the Virginia Water and Wastewater Agency Response Network ("VA WARN") Committee to develop the EPA-recommended network and associated procedures for implementation in Virginia; and

WHEREAS, the VA WARN Committee has developed the attached form of a VA WARN Mutual Aid Agreement for use by public and private Water Sector utilities for purposes of requesting assistance and responding to such requests as well as a related form of an Event Agreement for providing assistance of a defined scope on defined terms and conditions; and

WHEREAS, this VA WARN Mutual Aid Agreement is intended to supplement and integrate with the Statewide Mutual Aid Program administered by the Virginia Department of Emergency Management, with the Emergency Management Assistance Compact, and with other mutual aid agreements of local, intrastate and interstate scope; and

WHEREAS, TOWN OF LOVETTSVILLE owns or operates water and wastewater facilities, is responsible for public water supply or wastewater management in the Commonwealth of Virginia, and is therefore eligible to participate in VA WARN and the VA WARN Mutual Aid Agreement.

NOW, THEREFORE, BE IT RESOLVED, by the TOWN OF LOVETTSVILLE, that the TOWN MANAGER is hereby authorized to execute the VA WARN Mutual Aid Agreement, which is hereby approved.

VOTE:

Ayes: Carder, Coleman, Senate, Sparbanie, Staley, Zoldos

Nays: None


Abstentions: None

Absent for vote: None

Approved: May 12, 2011


Elaine Walker, Mayor

CERTIFIED:


Judy L. Kromholz, Town Clerk

The German Settlement

Town of Lovettsville

RESOLUTION 2011-05-003: TO PARTICIPATE IN THE ICMA-RC 457 DEFERRED COMPENSATION PLAN

MOTION: Sparbanie

SECOND: Coleman

Account Number: 306815

Name of Employer: Town of Lovettsville State: Virginia

Title of Program Coordinator: Town Manager

WHEREAS, the Employer has employees rendering valuable services; and

WHEREAS, the establishment of a deferred compensation plan for such employees serves the interests of the Employer by enabling it to provide reasonable retirement security for its employees, by providing increased flexibility in its personnel management system, and by assisting in the attraction and retention of competent personnel; and

WHEREAS, the Employer has determined that the establishment of a deferred compensation plan to be administered by the ICMA Retirement Corporation serves the above objectives; and

WHEREAS, the Employer desires that its deferred compensation plan be administered by the ICMA Retirement Corporation, and that some or all of the funds held under such plan be invested in the VantageTrust Company, a trust established by public employers for the collective investment of funds held under their retirement and deferred compensation plans;

NOW THEREFORE BE IT RESOLVED that the Employer hereby adopts the deferred compensation plan (the "Plan") in the form of the ICMA Retirement Corporation Deferred Compensation Plan and Trust, referred to as Appendix A.

BE IT FURTHER RESOLVED that the Employer hereby executes the Declaration of Trust of the VantageTrust Company, attached hereto as Appendix B, intending this execution to be operative with respect to any retirement or deferred compensation plan subsequently established by the Employer, if the assets of the plan are to be invested in the VantageTrust Company.

BE IT FURTHER RESOLVED that the assets of the Plan shall be held in trust, with the Employer serving as trustee, for the exclusive benefit of the Plan participants and their beneficiaries, and the assets shall not be diverted to any other purpose.

BE IT FURTHER RESOLVED that the Employer hereby agrees to serve as trustee under the Plan.

The German Settlement

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BE IT FURTHER RESOLVED that the Town Manager shall be the coordinator for this program; shall receive necessary reports, notices, etc. from the ICMA Retirement Corporation or the VantageTrust Company; shall cast, on behalf of the Employer, any required votes under the VantageTrust Company; Administrative duties to carry out the plan may be assigned to the appropriate departments, and is authorized to execute all necessary agreements with ICMA Retirement Corporation incidental to the administration of the Plan.

VOTE:

Ayes: Carder, Coleman, Senate, Sparbanie, Staley, Zoldos

Nays: None

Abstentions: None


Absent: None

Approved: May 12, 2011



Elaine Walker, Mayor

CERTIFIED:


Judy L. Kromholz, Town Clerk

Town of Lovettsville

VIRGINIA FREEDOM OF INFORMATION ACT Resolution: AUTHORIZE CLOSED SESSION

Date: May 12, 2011
Time: 9:16 PM

MOTION BY: Bob Zoldas

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 a public purpose, 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],
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.

Town of Lovettsville

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: *Mike Senate*

VOTE:

Ayes: *B. Zeldos, T. Spalbone, J. Staley, T. Corder, M. Senate*
Nays: *none*
Abstentions: *none*
Absent for vote: *none* [*C. Coleman*]

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:"

May 12, 2011 at *10:340* PM

Certified:

Daine [Signature]

Mayor