

Town of Lovettsville

Town Council

Minutes of Regular Meeting September 20, 2012

Call to Order/Pledge of Allegiance

Mayor Robert Zoldos called the regular meeting of the Lovettsville Town Council to order at 7:30 PM on Thursday, September 20, 2012.

Mayor Zoldos led the assembly in the Pledge of Allegiance.

Present at Meeting

- Mayor Robert Zoldos II
- Vice Mayor Michael Senate
- Council Member Kimberly Allar
- Council Member Jack Burden
- Council Member Tiffany Carder
- Council Member Rodney Gray
- Council Member James McIntyre

Staff

- Town Manager Keith Markel
- Town Attorney Elizabeth Whiting
- Project Manager Karin Fellers
- Treasurer Lance Gladstone (arrived at 7:45 PM)
- Town Clerk Harriet West

Absent

- None

Presentations

Jeff Fletcher, Loudoun County Office of Emergency Management, gave a presentation on his office's role with regard to County-wide responsibility for all four phases of emergency management, including: **mitigation** to diminish the impact of an event; **preparedness** for citizens, the County, and other groups; **response** through the Emergency Operations Center (EOC) in Leesburg; and **recovery** in the form of clean up and assistance.

The County uses "Alert Loudoun" as its warning system and he encouraged the Town to set up its own notification system using this service. The Town can also tie into the EOC through videoconferencing at the Lovettsville Fire and Rescue Station. He noted that common forms of communication, such as email and social media, were disrupted during the severe storm over the summer. The County is looking to partner with the towns to identify community focal points to post public notices when these methods of communication do not work. The County can also provide assistance to the Town with developing its emergency plan.

Comments from the Public

There were no comments from the public.

Community Presentations

A. Loudoun County Sheriff's Office

Deputy Cooper gave his report. There were two reported crimes this past month – destruction of property on Tritapoe Place and Light Street. He also responded to several calls on Black Forest Lane, as well as a burglary and attempted robbery outside of Town on Milltown Road. He noted that the Sheriff's Office uses Alert Loudoun to send out information about crime waves and encouraged the Town to make use of this service. Deputy Cooper asked if there had been any discussion about the Town adopting the County

ordinance for parking violations and noise. Manager Markel stated the Town had discussed adopting all of the County's policing codes but had not heard back from the Sheriff's Office since it was last discussed with their staff. Attorney Whiting noted there have been conflicting opinions from the Attorney General's office regarding the enforcement of town and county ordinances. Deputy Cooper will look at the County's ordinances and determine which ones apply best to the Town.

B. We're In Lovettsville

Councilwoman Carder gave an update on the workshop held on September 17, 2012. She will be discussing We're In at the workshop on October 9 regarding the new zoning district for East Broad Way.

C. Oktoberfest Committee

Councilman McIntyre gave an update on planning activities and applicants for the Royalty Competition. He also publically thanked the Oktoberfest sponsors: **Super Platinum**, The Town of Lovettsville; **Platinum Sponsor (\$1,000 or more)** INOVA Loudoun Hospital, Thrivent Financial for Lutherans; **Gold Sponsors (\$500)** Elm Street Development, Karen Cooper, Realtor, Shen Yun Performing Arts, Verizon Wireless; **Silver Sponsors (\$250)** Anytime Fitness, BB&T Bank, Bath Fitter, Bonnie's Country Kitchen, Carroll Johnston, DDS, Catocin Coffee Company, Mt. Olivet UMC, SERVPRO of Loudoun County, Sturrock's HVAC Solutions, Summit Community Bank, Valley Energy; **Bronze Sponsors (\$125)** Lovettsville Pizza & Subs, Milltown Creek Tree Farms, Friends of Oktoberfest, Irma Rodriguez, Sara Minor, T.K. Grill, and Flying Dog Brewery.

Mayor Zoldos noted the Oktoberfest Committee still needs help with short-term assignments.

Additions/Deletions/Modifications to the Agenda

Councilwoman Carder asked that an item be added to the agenda to discuss spraying for ticks in Town parks. Mayor Zoldos added an item to discuss the Town Office display during Oktoberfest.

Approval of Town Council Minutes

A. Town Council Public Hearing and Regular Meeting – July 26, 2012

Motion: I move to accept the minutes of the Regular Meeting of the Town Council on July 26, 2012.
By: Council Member Carder
Second: Council Member Senate
Aye: Council Members Burden, Carder, McIntyre, and Senate
Nay: None
Abstain: Council Members Kimberly Allar and Rodney Gray
Absent: None

Report from the Treasurer

Treasurer Lance Gladstone presented the Financial Report for July 2012. Mayor Zoldos asked about the expenditure to repair the fire hydrant. Treasurer Gladstone confirmed this was the final bill.

Motion: I move to accept the Treasurer's Report for July 2012.
By: Council Member Senate
Second: Council Member McIntyre
Aye: Council Members Allar, Burden, Carder, Gray, McIntyre, and Senate
Nay: None
Abstain: None
Absent: None

Staff Reports

A. Project Manager Report

Project Manager Fellers reported on the following:

- The elevated water tank has been off-line while it is being painted.
- Smoke testing of the sanitary sewer line may have to be postponed until next year due to continued rain fall.

Councilman Senate suggested having the fire hydrant at the Community Center drain into the field, rather than into the street. Staff will check with the operators about diverting the water.

B. Report from the Zoning Administrator

Manager Markel referenced the Zoning Administrator's report for August 2012. He noted that staff is preparing for the Old Town District public input session at the Community Center on October 9, 2012.

Councilman Senate asked about the major improvement for 2 Oakfield Drive shown in the staff report. Manager Markel stated this is for a detached garage in Fox Meadow.

Councilman Burden asked about the Zoning Administrator's meeting with a potential new business owner shown in the staff report. Manager Markel stated the meeting was with a family interested in the property at 4 East Broad Way, which is zoned commercial. The Zoning Administrator has met with them several times to discuss potential commercial uses. They expressed an interest in opening a deli/quick service restaurant; however, no applications have been filed and the property has not sold yet.

Manager Markel added that the fence issue at 13 Black Forest Drive has been resolved; however, there is continued animosity between the two neighbors which has escalated to physical damage. The Sheriff's Office is aware of the situation and has talked to both home owners.

C. Report from the Town Attorney

The Town Attorney reported the following:

- She is working with the Project Manager on the easements for the Conditional Use Permit for the Frye case.
- She will be attending the Fall Conference of the Local Government Attorneys of Virginia on October 4-6, 2012.

D. Report from the Town Manager

Manager Markel's written report was distributed at the meeting. He noted the following:

- The Parks Committee is moving forward with the pavilion and the Quarter Branch Park and Support Facility.
- The kick-off meeting for We're In Lovettsville went well.
- The last Movie on the Green was well attended.

Councilman Senate asked if the Lovettsville Historic District was automatically approved at the state level. Manager Markel stated it was approved at the national level and the Town's historic district is now fully listed on the Virginia Landmark Register and National Register of Historic Places. Staff will look into way to promote the Town's designation.

Councilwoman Allar asked why the Lovettsville Montessori School closed. Manager Markel stated he understood there were some licensing issues that need to be resolved and that the school should be reopening in a few weeks. Councilman McIntyre stated he spoke with the owner directly and there was a change in the state regulations that occurred during their application process. This is being resolved and the school will be open again soon.

Action/Discussion Items

A. Water & Sewer Ordinance

Project Manger Fellers presented this item. Council is being asked to approve the Water and Sewer Ordinance with proposed revisions.

Motion: I move that Town Council approve Ordinance 2012-09-001.

By: Council Member Senate

Second: Council Member Burden

Manager Markel stated he spoke with a resident about how this will impact accessory dwelling units on properties. The ordinance provides a new benefit by allowing the connection of water and sewer to accessory buildings, such as an office, studio, or garage. It does not permit connecting to new dwelling units on the property unless the property owner obtains a Conditional Use Permit and pays the water

and sewer connection fees. The resident feels this is something that should be explored in the future as an economic development tool for the Town. Councilman Senate said this needs to be well thought out because you could turn a lot of garages into apartments, which may not be advantageous for the Town.

Mayor Zoldos noted the difference is based on density and that adding an apartment adds density.

Councilman Gray asked if this is based on capacity management. Project Manager Fellers stated the Town allots a certain amount of water for each residence. When apartments are added, this increases the water usage and can exceed capacity very quickly. Mayor Zoldos stated this can be addressed by charging for the capacity; otherwise the Town is losing the opportunity to sell the capacity to someone else.

Councilman McIntyre asked about situations where there is a combination of commercial and residential uses within the same dwelling. Project Manager Fellers stated that if a home business uses significantly more water than the residence would, then an upgrade is required. New apartments must have their own water meters. For apartments being added within an older house, an upgrade to a larger meter is allowed. Attorney Whiting noted there is also the potential for mixed use in the Town Center core, which encourages second-floor residential as an option. Councilman McIntyre asked if NV Retail had expressed an interest in residential use on the second floor. Mayor Zoldos stated this had been brought up with the developer and they did not believe it was a sellable idea.

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

B. Nextel Water Tower Agreement

Project Manager Fellers presented this item. Council is being asked to renew a lease agreement for Sprint/Nextel to place antennas on the Elevated Storage Tank. She noted that the Nextel agreement includes a termination clause since Nextel will be removing their equipment within the next one to two years. The Town will continue to receive rent for six months after the equipment has been removed. Sprint and AT&T will also be coming forward at a later date with Conditional Use Permits for the 4G technology.

Councilman Senate asked if any other companies were interested in leasing space on the water tank. Manager Markel stated T-Mobile has expressed interest in the past and he expects to hear back from them soon.

Motion: I move that the Town Council approve Ordinance 2012-09-002 and authorize the Town Manager to sign the Lease Agreement for Sprint site ID WA54XC800-B once in a form acceptable to the staff and the Town Attorney.
By: Council Member McIntyre
Second: Council Member Carder

Mayor Zoldos called for discussion on the motion. Attorney Whiting noted some minor corrections to the draft Ordinance. She clarified with the Project Manager that the two references to "APC Realty and Equipment Company, LLC" should be replaced with "Nextel Communications for the Mid-Atlantic."

Commissioner Gray noted the exhibits referenced former Mayor Elaine Walker. Project Manager Fellers stated this correction would be made before the documents are signed.

There being no further discussion, Mayor Zoldos called for the vote. Councilman Burden noted the motion did not reflect the changes discussed. Councilman McIntyre accepted the changes as a friendly amendment.

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

Nay: None
Abstain: None
Absent: None

C. Community Planning Month Proclamation

Manager Markel presented this item. Council is being asked to recognize National Community Planning Month and raise the visibility of the important role of planners and planning in the Town of Lovettsville and other communities across the Country.

Motion: I move that the Town Council adopt the attached proclamation, as amended, and declare October 2012 as National Community Planning Month, to recognize the community planning opportunities that will be held in Lovettsville during the month of October and to recognize the hard work of the past and present members of the Lovettsville Planning Commission.
By: Council Member Burden
Second: Council Member Gray

Mayor Zoldos called for discussion on the motion. Councilwoman Carder asked if the proclamation would be presented to the Planning Commission. Mayor Zoldos stated it would be appropriate to present it to them at the next Planning Commission meeting.

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

D. Tick Control for Town Parks

Councilwoman Carder suggested looking into to the cost of spraying for tick in Town parks since Lyme disease is very prevalent in Loudoun County. She referenced an article she read which stated the Loudoun Lyme Disease Commission recommends spraying for ticks in the fall. Following further discussion by Council and staff, this item was referred to the Parks Committee for follow up.

Mayor Zoldos also asked staff to check on the health of the tree in the Town Square. Manager Markel stated he had contacted the Town's landscaping contractor about fertilizing the tree and treating it for mites.

E. Oktoberfest Town Office Display

Mayor Zoldos presented this item. He suggested having the Town Office open to the public during Oktoberfest and asked for recommendations about what information to present. Council discussed ideas for displays and a PowerPoint presentation based on various projects and initiatives underway, as well as staffing the open house with Council Members and Planning Commissioners. Staff will provide a form that can be used to follow up with residents about specific issues.

Information Items

There were none.

Comments from the Mayor and Town Council

Council Member Burden stated that as a candidate for the November 2012 election he was invited to attend a session for the voting machine testing. He explained how the process works.

Councilwoman Allar stated she knows a local realtor who is interested in coming to the meetings for We're In. She also found a potential applicant for the Planning Commission.

Councilwoman Carder stated she is excited about We're In and Oktoberfest. She has been busy promoting Oktoberfest through the Face Book page.

Councilman Senate reported there are still problems with people exceeding the 25 miles per hour speed limit in Town.

Councilman Gray noted there are new dugouts at the Game Club which were built by an Eagle Scout. He thanked the Purcellville Rescue Company for providing medical assistance at one of the Monday night games.

Councilman McIntyre stated he has something really exciting to report for Oktoberfest and that it will be announced at a later date.

Mayor Zoldos reported on the following:

- He thanked the firefighters from Engine 12 for the 9/11 presentation. The old flag pole was successfully removed and the new flag pole was installed on the afternoon of 9/11.
- He and Manager Markel met with the developers of the Town Center last week to discuss next steps. They are still interested in moving forward but still prefer a single story structure.
- There was a good turnout for the last Movie on the Green.
- The We're In meeting went very well.
- He will be attending three events on Saturday including Hands for Hunger at Lovettsville Pizza and Subs, Tea with the Mayor at the Lovettsville Library, and the Lovettsville-Waterford Ruritan Barn Dance.
- He and the Town Manager will be attending the VML (Virginia Municipal League) conference in Williamsburg this coming week.
- He encouraged everyone to sign up for Alert Loudoun.
- He has been in touch with local Paralympian Rob Jones about attending an upcoming Town event.
- The Oktoberfest flags will be going up tomorrow morning.
- He has invited Planning Commissioner Tony Quintana to give a presentation at an upcoming Town Council meeting about his participation in the Citizen Police Academy.

Closed Session

The Mayor and Council went into closed session at 9:36 PM (Attachment 1) to discuss personnel matters. All 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 show that no vote was taken following the Closed Session.

Adjournment

The meeting was adjourned at 10:59 PM.

Respectfully submitted,



Harriet West, Town Clerk

Date Approved: October 25, 2012

Attachments:

1. Closed Session Motion

Town of Lovettsville

VIRGINIA FREEDOM OF INFORMATION ACT
Resolution: AUTHORIZE CLOSED SESSION

Date: 09/20/2012
Time: 9:36 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 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]~~ two officers or employees of the Town.

And thereafter reconvene in open session for action as appropriate.

SECOND: Jack Burden

VOTE:

Ayes: 5

Nays: 0

Abstentions: 0

Absent for vote: 0

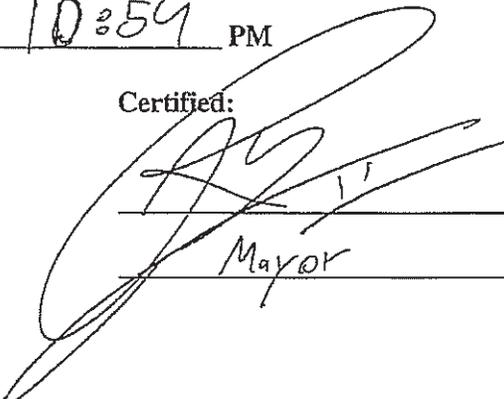
Roll-call poll by presiding official:

“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:”

September 20, 2012 at 10:59 PM

Certified:



Mayor