

Town of Lovettsville

Town Council Minutes of the June 2, 2016 Special Meeting

Call to Order/Pledge of Allegiance

Mayor Zoldos called the regular meeting of the Lovettsville Town Council to order at 7:30 p.m. on June 2, 2016 at the Lovettsville Town Hall, 6 East Pennsylvania Avenue, Lovettsville, VA.

Council Members Present

- Mayor Robert Zoldos II
- Vice Mayor Michael Senate
- Council Member Kimberly Allar
- Council Member Tiffaney Carder
- Council Member Rodney Gray
- Councilman James McIntyre

Council Members Absent

- Council Member Jennifer Jones

Staff Present

- Town Manager Laszlo Palko
- Zoning Administrator Joshua Bateman
- Town Attorney Elizabeth Whiting
- Utility Director Stephen Gates
- Town Clerk Harriet West

The Mayor recognized Planning Commissioner Frank McDonough who was in the audience.

Closed Session

The Mayor announced there would be no closed session.

Pledge of Allegiance

Mayor Zoldos led those assembled in the Pledge of Allegiance.

Presentations

There were none.

Comments from the Public

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

Elaine Walker, spoke about the 7-Eleven application. She said the Council received the application from the Planning Commission with recommendation for approval. The Planning Commission had no choice than to recommend approval because the application met all the criteria for what they needed to do, but this was after many, many amendments to the Town's Zoning Ordinance after the application came in. The concerns she has are that the facility is located in the historic district and that there will be traffic to contend with. She's not going to debate the leakage of the tanks anymore because the experts have already done that, but she is very concerned about spillage. This is something that would be an immediate reaction, such as if a cigarette was thrown into the gas, there would be a mighty explosion. She is also concerned about the gas tankers coming into Town. She asked if all of the promises that have been made by the applicant are in writing, such as the street going up towards the post office and beautification. She also noted it would be difficult to pull the conditional use permit for this facility if there was ever a problem and that the gas canopy is an exception. With regard to economic development, the Town is not going to realize any revenue from the sale of gasoline; that goes to the County and jurisdictions have to apply for gas tax allocation money. Lastly, she said she understands the applicant is not going to build a new building unless the Town grants them permission to build the gas pumps. Ultimatums are not something the Town needs to deal with and in her opinion that is an ultimatum. The

applicant should want to build a nice building to beautify the Town and to cooperate with the Town, with or without the gas pumps.

Mayor Zoldos recognized Lieutenant Colonel Jack Burden, who was in the audience, and thanked him for speaking at the Memorial Day Ceremony.

Community Presentations

A. Loudoun County Sheriff's Office

Deputy Sheriff LoPreto said there have been no major crimes in Town.

B. Lovettsville Library

Councilman McIntyre said the library is taking applications for teen volunteers to assist with the summer reading program.

Town Commission and Committee

A. Lovettsville Planning Commission

Chairman McDonough reported on the first reading of the omnibus subdivision ordinance, the annexation committee meeting, and scheduling interviews for the Planning Commission vacancy.

B. Parks Committee

Vice Mayor Senate reported on the voting for the clock faces and noted they had a great time talking to people at MayFest. Manager Palko said it was difficult explaining the LCD clock face to people. There will be several other opportunities for the public to vote including online and at the first concert and first movie. Councilwoman Carder said they raised \$409 for the clock tower at MayFest.

C. We're In Committee

Councilwoman Carder reported on the upcoming concert series.

D. MayFest Committee

Councilwoman Carder said she would present a formal report at the next meeting.

E. Memorial Day

Councilwoman Allar thanked Lieutenant Colonel Jack Burden for the wonderful keynote and she recognized everyone else who made this such a special event.

F. Oktoberfest Committee

Councilman McIntyre reported on sponsors, vendors, and the online voting process to select the artwork for the program booklet cover.

G. Music on the Green

Councilwoman Carder reviewed the summer music schedule and staffing for each event.

H. Movies on the Green

Councilman McIntyre reported on the movie schedule and said they will be testing out the new screen.

Additions/Deletions/Modifications to the Agenda

The following items were added to the agenda:

D. Proclamation for Principal Forcino

E. Discussion about AT&T Facility

Minutes

A. August 27, 2015 Regular Meeting & Public Hearing

Motion: I move to accept the minutes of the August 27, 2015 Regular Meeting & Public Hearing, as amended.

By: Council Member McIntyre

Second: Council Member Allar
Aye: Council Members Allar, Carder, Jones, McIntyre, and Senate
Nay: None
Abstain: Council Member Gray
Absent: Council Member Jones

Quarterly Financial Report

There was no report.

Staff Reports

A. Report from the Town Engineer

There were no questions from the Council regarding the Town Engineer's written report.

B. Report from the Zoning Administrator

There was no report.

C. Report from the Utility Director

Utility Director Gates gave an update on water testing for lead and copper, work on the waste water treatment plant, and the new part-time operator.

D. Report from the Town Manager

Town Manager Palko discussed scheduling interviews for the Planning Commission vacancy. Following discussion, the Council agreed to schedule the interviews before the Town Council meeting on June 16.

Action/Discussion Items

A. 7-Eleven Conditional Use Permit Discussion

Zoning Administrator Bateman presented this item. The Council is being asked to consider revisions to the Planning Commission's recommended conditions to reflect changes in circumstances and legal review by the Town Attorney for LVCU 2016-0001 – Conditional Use Permit for Convenience Store with Fuel Sales at 1 East Broad Way.

Mr. Bateman read the revised conditions aloud (Attachment 1). Staff and the applicant's representative responded to questions from the Mayor and Council regarding Town Well No. 4; reporting requirements for leaks and spills; getting N. Church Street accepted by VDOT; and requirements for street lights to match existing lights around the Town Square.

Zoning Administrator Bateman said he investigated Councilwoman Jones' inquiry about deliveries. Based on the conditional use permit passed in 2012 to extend the 7-Eleven's business hours to 24 hours/day, seven days/week, the store can have deliveries whenever they are open. The only restriction is for servicing the trash dumpsters.

Mr. Bateman responded to additional questions from the Council regarding trees in the VDOT right of way and the landscaping plan.

Mayor Zoldos noted that the Council will not be taking action on this item tonight. Town Manager Palko said this would be scheduled for action on June 16, 2016. He noted that in response to a previous question from a resident, there will be an initial loss of \$4,200 in revenue while the store is closed for construction; however, he anticipates making that up by the third quarter of the following year.

The Applicant's representative responded to additional questions regarding safety measures in case of a spill. She said the new store will be a tremendous addition to the Town and it has been designed to complement and mimic the architecture of the Town Square. She said they have a very aggressive construction scheduled and want to start in September and re-open in December.

Mayor Zoldos asked the applicant to compare and contrast the new gas station with a 10-year old station from a safety stand point and to present that information at the meeting on June 16. He noted that all of

the previous gas tanks in the Town have failed and that's a concern to many people who live here. He noted that the Council needs to make sure this is the right decision 50 years from now.

B. Resolution to Request VDOT Acceptance of Streets in LTC Section 3

Zoning Administrator Bateman presented this item. The Council is being asked to adopt Resolution 2016-06-0001 (Attachment 2) requesting the addition of the subdivision streets in Lovettsville Town Center Section 3 to the secondary state highway system for maintenance purposes.

Motion: I move that Town Council adopt Resolution 2016-06-0001 requesting that VDOT accept the streets within Section 3 of the Lovettsville Town Center into the secondary state highway system for maintenance.

By: Vice Mayor Senate

Second: Council Member McIntyre

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

Nay: None

Abstain: None

Absent: Council Member Jones

C. Lovettsville Fire and Rescue Hall

Zoning Administrator Bateman provided an update on his meeting with Karen Deli, President of the Lovettsville Volunteer Fire and Rescue Company. They discussed bringing the entire parcel into the Town through a boundary line adjustment to take advantage of more favorable zoning which would permit the new fire station and allow for commercial use and assembly use. Mayor Zoldos said he is meeting with the Loudoun County Fire Chief on June 17.

D. FY 2017 Budget/Fiscal Policy Discussion

Mayor Zoldos asked if there was anything the Council wanted to bring up or discuss prior to being prepared to vote on the budget on June 16. There were no questions from the Council.

E. Proclamation for Principal Forcino

Mayor Zoldos presented the Proclamation for the Council's approval so he could present it to Principal Forcino at her upcoming retirement party.

Motion: I move to adopt the Proclamation in honor of Principal Kimberly Forcino.

By: Council Member Carder

Second: Council Member Gray

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

Nay: None

Abstain: None

Absent: Council Member Jones

F. AT&T Facility Discussion

Mayor Zoldos said he contacted Supervisor Higgins and asked him to have County staff discuss this at the Town Council meeting on June 9. Following discussion, the Council agreed to hold the meeting at the Fire Hall or the Game Club.

Information Items

There were none.

Comments from the Mayor and Town Council

Councilman McIntyre thanked the team who helped put up the flags.

Vice Mayor Senate said he is excited about the voting for the clock faces.

Councilwoman Carder thanked everyone for their help with MayFest and said she has received lots of positive feedback.

Councilwoman Allar said it was a busy weekend between MayFest and the Memorial Day ceremony.

Mayor Zoldos reported on the following:

- MayFest was very well done but more help is needed for setup and break down.
- Memorial Day was spectacular and Jack Burden was the best speaker ever.
- There are a number of events coming up later this month including a Concert on the Green, kindergarteners' tour, Principal Forcino's retirement party, civics lessons for first graders, the AT&T Facility meeting, Movies on the Green, and the Town Associations of Northern Virginia meeting.
- The Mayor of Purcellville is working on restoring the Coalition of Loudoun Towns (COLT).

Closed Session

There was no closed session.

Adjournment

There being no further business before the Council, the meeting was adjourned at 9:34 p.m.

Respectfully submitted,



Harriet West, Town Clerk

Date Approved: March 23, 2017

Attachments:

1. LVCU 2016-0001 Revised Conditions for Approval
2. Resolution 2016-06-0001

REVISED CONDITIONS OF APPROVAL – EDITED VERSION

Updated by Staff to Reflect Changes in Status/Circumstances and Review by Town Attorney

May 26, 2016

I move to approve Case No. LVCU 2016-0001, subject to the following conditions, which are deemed necessary for the protection of the general welfare and to ensure compliance with the intent and objectives of the zoning ordinance:

1. The installation of fuel (gasoline, kerosene, diesel) storage and dispensing facilities will be permitted so long as: (1) no part of the underground storage tank, piping, and dispensing system is located within 1,000 feet of any Town water supply well (excluding Town Well No. 4, the final status of which will be determined at a later date); (2) all requirements of the Revised Underground Storage Tank Regulations (published on July 15, 2015 in the Federal Register and described in the U.S. Environmental Protection Agency document titled *Musts For USTs Updated 2015*), including requirements scheduled to go into effect beginning on October 13, 2018, will be implemented on or before the date ~~of system startup~~the convenience store re-opens for business; and (3) the owner will notify the Town manager of any and all suspected petroleum leaks and releases at the facility within the same 24-hour time period that such releases are required to be reported to the Commonwealth of Virginia;

Applicant verbally agreed 3/16/2016.

2. All buildings and structures constructed on the site shall be developed in substantial conformance with the character, massing, scale, materials and colors on the exhibit titled "Review Board Elevations, Proposed 7-Eleven #28400", dated _____, April 15, 2016, prepared by Perry M. Petrillo Associates, PC, which is attached as Exhibit D of the Statement of Justification. Final architectural elevations for all buildings and structures shall be submitted to the Town at the time of site plan submittal in order for the Zoning Administrator to determine compliance with this requirement;

Applicant verbally agreed 3/16/2016.

3. ~~During construction of the new convenience store~~ Prior to opening the new convenience store to the public, the applicant shall undertake and complete any improvements, repairs and modifications to the section of North Church Street lying adjacent to the subject parcel necessary and required, as identified by VDOT during the walkthrough inspection conducted on April 22, 2016, to have the street segment accepted by the Virginia Department of Transportation (VDOT) into the secondary system for maintenance purposes, in accordance with the following:
 - a. By September 15, 2016, the zoning administrator shall make a written determination as to whether the Principal named in Bond No. 1811867 has defaulted on his obligations and, if so, whether the Town has obtained the

necessary funds from the Surety named ~~in in Bond No. 1811867~~ the bond for in order to make the repairs to the street segment as described in the preceding paragraph, that is, the section of North Church Street lying immediately adjacent to the applicant's property herein. If such determinations ~~is~~ are made in the affirmative, the Town and applicant shall enter into a development agreement, in a form acceptable to the Town Attorney, which shall state that, upon completion of construction of any improvements subject to Bond No. 1811867 to VDOT standards by the applicant, the Town shall issue payment to the applicant for the costs of constructing any such improvements using the funds that have been paid by the Surety to the Town; or

- b. If by September 15, 2016, pursuant to paragraph (a), the zoning administrator determines that the Principal named in the bond has not defaulted on his obligations, or determines that the Principal is in default but that the Town is unable to obtain the necessary funds from the aforementioned bond within twenty-five (25) days of such determination, the applicant shall undertake improvements to North Church Street described herein at his expense, provided that construction by the Principal named in the bond by September 15, 2016, of any of the improvements, repairs and modifications to the street segment which is the subject of this condition ~~by the Principal named in the bond by September 15, 2016~~ shall relieve the applicant of the need to undertake said improvements;

Applicants agreed to the timeline, but are still working with the Town on estimating the cost of improvements.

4. The requested modification to the required width of the Type C Buffer Area located on the subject parcel adjacent to Parcel Identification (PARID) Number 333251081000 owned by the New Town Meadows Homeowners Association (HOA), shall be approved, provided the applicant obtains the necessary written authorization from the HOA to install up to two (2) canopy trees and four (4) understory trees as otherwise required for the full Type C Buffer Area, on the HOA parcel. Failure of the HOA to grant such written authorization by September 15, 2016 shall relieve the applicant of the ~~need~~ requirement to install any additional trees on the HOA property;

Applicants indicated that they will continue to work on that condition with the Town.

5. ~~The requested modification(s) to the maximum area permitted for a monument sign pursuant to Section 42-403(b)(2) shall be approved.~~ No modifications to the requirements of the zoning ordinance pertaining to monument, canopy or wall signage shall be authorized by issuance of this permit;

Applicant has withdrawn the requested modification to the maximum area of the sign; the condition has been modified accordingly.

6. ~~During construction of the new convenience store~~ Prior to opening the new convenience store to the public, the applicant shall install bicycle and pedestrian improvements on Parcel Identification (PARID) Number 333251081000 or VDOT right-of-way adjacent to North Berlin Pike as necessitated by the proposed use and agreed upon by the Town and applicant, subject to the Town acquiring the necessary land or easement from the owner or Land Use Permit or other such equivalent authorization from VDOT, as applicable, no later than September 15, 2016, thereby making the property available to the applicant for construction and installation of the following improvements, at a maximum, for which the Town shall assume responsibility for maintenance:
- a. Picnic table, shelter and concrete pad;
 - b. Bicycle rack and concrete pad;
 - c. Bicycle repair station and concrete pad;
 - d. Concrete pad for installation of a trash receptacle by the Town; and
 - e. Sidewalk or walkway connecting the sidewalk(s) on the applicant's parcel to the picnic area;

Applicants indicated that they are working on that condition with the Town to come up with the proposed amenities at a location mutually acceptable to the Town and applicant.

7. Streetlights shall be installed along E. Broad Way to match the style and appearance of the pendant-style streetlights to be installed on the Town Square by the owner/developer of Lovettsville Square project. The number and placement of streetlights shall be determined by a photometric study submitted as part of the site plan for the project;

Applicant verbally agreed 3/16/2016.

8. All fuel canopy lighting shall be flush or recessed in relation to the canopy ceiling in order to minimize glare;

Applicant verbally agreed 3/16/2016.

9. In the event the Town is unable to acquire land or permit pursuant to Condition No. 6 by the deadline prescribed therein, the applicant shall install on his property at least two (2) picnic tables and one (1) trash receptacle located on one or more concrete pads to match the style and appearance of the picnic tables and trash receptacles located on the Town Green, as well as two (2) bicycle racks in order to meet the needs of bicyclists utilizing the new convenience store; and

No indication as to whether the applicants agree or disagree; this condition was drafted at the meeting on 4/20.

10. The applicant shall execute an agreement, in a form acceptable to the Town Attorney, ensuring perpetual maintenance of any stormwater facilities intended to treat or control the quantity and quality of runoff generated from the site. Such maintenance agreement shall, at a minimum:

- a. Ensure that responsibility for maintenance of the stormwater facilities shall remain with the property owner and shall legally pass to any successor or subsequent owner;
- b. Identify the person(s) or party responsible for conducting regular inspections and maintenance of such facilities in accordance with a schedule provided for in the manufacturer's instructions, recommendations and procedures for maintenance of the facilities, including but not limited to replacement of filter cartridges. Copies of inspection and maintenance reports and photographs shall be delivered to the Zoning Administrator for recordkeeping purposes within thirty (30) days of the date maintenance was undertaken by the responsibly person(s) or party; and
- c. Provide for a reasonable fee to be charged by the Town to the applicant to recover the Town's costs for conducting inspections of the facilities, using either Town staff or a third-party inspector operating on behalf of the Town, in the event the applicant fails to do so as required by the maintenance agreement.

No indication as to whether the applicants agree or disagree; this condition was drafted for the meeting on 6/2.

Town of Lovettsville

**RESOLUTION 2016-06-001:
TO REQUEST THE VIRGINIA DEPARTMENT OF TRANSPORTATION ADD
LOVETTSVILLE TOWN CENTER, SECTION 3 FOR ADDITION TO SECONDARY SYSTEM
MAINTENANCE UNDER SECTION 33.2-334, CODE OF VIRGINIA**

MOTION: Senate

SECOND: McIntyre

WHEREAS, the Town of Lovettsville has authority pursuant to Section 33.2-334 of the Code of Virginia to request the addition of any new streets or highways into the secondary state highway system for maintenance if such streets or highways have been developed and constructed in accordance with the adopted Secondary Street Acceptance Requirements (SSAR) established by the Commonwealth Transportation Board; and

WHEREAS, the owner, Town Center Lovettsville LC, is responsible for the provision of surety, maintenance fees, and administrative cost recovery fees required by the 2011 regulations for all mileage to be added to the secondary system and has posted a one-year maintenance bond in the amount of \$36,000.00 with the Virginia Department of Transportation for any first year maintenance issues.

NOW, THEREFORE, BE IT RESOLVED, the Lovettsville Town Council requests the Virginia Department of Transportation add the street(s) described in the attached additions form AM-4.3 to the secondary system of state highways and accept the street for maintenance purposes, pursuant to Section 33.2-334 and Section 33.2-705 of the Code of Virginia and the Department's Secondary Street Acceptance Requirements (SSAR).

BE IT FURTHER RESOLVED, that a certified copy of this resolution be forwarded to the Permits Manager for the Virginia Department of Transportation.

VOTE:

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

Nays: None

Abstentions: None

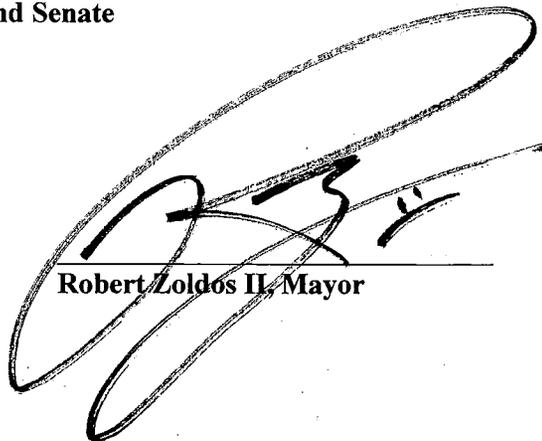
Absent for Vote: Jones

ADOPTED: June 2, 2016

CERTIFIED:



Harriet West, Town Clerk



Robert Zoldos II, Mayor

The German Settlement