

Town of Lovettsville

Town Council

Minutes of Regular Meeting August 28, 2008

Mayor Elaine Walker called the regular monthly meeting of the Lovettsville Town Council to order at 8:17 P.M. on Thursday, August 28, 2008.

Present at Meeting

- Mayor Elaine Walker
- Council members Scott Dockum, Richard Efthim, Shaun Staley, Robert Zoldos
- *Council member Michael Senate arrived at 9:25 PM, during the Lovettsville Pedestrian/Bike Path Agreement with VDOT Discussion*
- Town Manager Keith Markel
- Town Attorney Liz Whiting
- Town Treasurer Lance Gladstone
- Zoning Administrator Steve McGregor
- Town Clerk Judy L. Kromholz

Absent

- None

Audience

Among those present were Tracey Senate (*Brunswick Citizen*), Howard Williamson (Lovettsville Business Association), Planning Commissioners Mari Bushway and Charlotte Colman, Loudoun Soccer representatives Kacey DeBerry and Caroline Deutsch.

Call to Order/Welcome/Pledge of Allegiance/Invocation

Mayor Walker gave a brief history of Labor Day, commemorated the anniversary of 9/11 and led the assembled in the Pledge of Allegiance.

Loudoun County Sheriff's Office

Loudoun County Deputy Sheriff Lambert presented his monthly report for the period July 22 through August 27, 2008.

Lovettsville Business Association

President Howard Williamson reported that the LBA is conducting a drive to renew memberships. On the Thursday before Oktoberfest the LBA will be sponsoring a business mixer in the main tent.

Lovettsville Volunteer Fire and Rescue Company

President Bill Mungovan, Fire Chief Mike Deli, Rescue Chief Karen Deli and many members of the Company attended the Council meeting to make a statement in response to a news piece which had been shown on CBS news concerning the Company's response to a call. President Mungovan noted that the victim was already deceased when the call was made and that there were many issues related to the call. He stated that the company is always working on improving, has requested a peer review of the incident and is in need of volunteers. Mayor Walker called for questions from the Council and from the public and there were none.

Comments from the Public

Ms. DeBerry stated that she was here to request the Council to authorize the use of Mr. Keena's property by Loudoun Soccer. Ms. Deutsch is also here to answer any questions the Council may have on this issue.

Additions/Deletions/Modifications to the Agenda

There were none.

Presentations

No presentations were scheduled.

Approval of Town Council Minutes

A. Town Council Meeting – June 26, 2008

Motion: To approve the minutes of the June 26, 2008 Town Council Meeting as presented at this meeting.
By: Council Member Dockum
Second: Council Member Efthim
Aye: Council Members Dockum, Efthim
Nay: None
Abstain: Council Members Staley, Zoldos
Absent: Council Member Senate

Report from the Treasurer

A. Financial Report – May 2008

Treasurer Gladstone reviewed his memo addressing questions about the website expense account that Council asked for at their last meeting. Manager Markel explained that this expense straddled the fiscal year and Attorney Whiting noted that there is a clause in the budget resolution that brings those funds forward.

Motion: To approve the May 2008 Treasurer's report as presented last month.
By: Council Member Efthim
Second: Council Member Staley
Aye: Council Members Dockum, Efthim, Staley, Zoldos
Nay: None
Abstain: None
Absent: Council member Senate

B. Financial Report - June 2008

Treasurer Gladstone presented the June 2008 Treasurer's Report. It was noted that there are still outstanding invoices and adjustments to be made to the year end accounting.

Motion: To approve the June, 2008 Treasurer's report as presented.
By: Council Member Zoldos
Second: Council Member Dockum
Aye: Council Members Dockum, Efthim, Staley, Zoldos
Nay: None
Abstain: None
Absent: Council member Senate

Staff Reports

A. Report from the Zoning Administrator

Administrator McGregor presented his written report dated July 2008. He added that the Falconsix applicants have told him they plan to withdraw their application. Council member Dockum asked if the spring house has been moved and Manager Markel stated that they have not yet been able to set a date. He is hopeful that the move will be done in the next few weeks

B. Report from the Town Attorney

The Town Attorney had no formal report. She has reviewed the action items below.

C. Report from the Town Manager

- The Town Clerk has provided a schedule for all of the meetings scheduled in September.
- Manager Markel and Project Manager Fellers have been working with Virginia DEQ to finalize the Consent Order and begin work on the I&I problem.
- A sewer blockage on South Loudoun Street was reported and resolved yesterday. A similar problem was resolved a few months ago.
- Administrator McGregor sent a letter concerning internally lighted signs to many businesses in the community. He reminded the businesses that the Town has no ordinance allowing these signs.
- Manager Markel asked the Council if they wanted a correspondence clipboard kept in the Town Hall or if they wanted to be informed of such matters via email. Council member Zoldos said that he would prefer being notified via email and Council member Dockum agreed. Council member Efthim preferred that a log of correspondence be available from which they could request additional information if necessary. Council member Zoldos said that the Council is most concerned about letters being sent to the Town by staff.

- Manager Markel reported that three of the firms applying to do I&I work have been interviewed and all three are very qualified and made good presentations. He hopes to bring a recommendation to Council next month, after references have been checked.
- In preparation for Oktoberfest, Manager Markel has been getting estimates to spruce up the Town Square, including mulching and weeding. The estimates are all about \$5,000 and he is looking for direction from Council as to whether or not they want to spend this from the park enhancement allocation budget.
- The Loudoun County Planning Commission will be holding a Public Hearing on Lovettsville Community Park on September 18, 2008. It is important that the Town have a strong presence at the hearing. Mayor Walker stated that the hearing will begin at 6:00 PM and that there are three items on their agenda with the Lovettsville Park scheduled to be the second item. Administrator McGregor noted that the County did not proceed with the second access point requested by the Town. Council member Dockum asked for a listing of items the Town requested that were not included. Council member Zoldos expressed concern that these requests will delay development of the Park and Manager Markel stated that this issue is very important and should be addressed.
- Manager Markel reported that this was another very expensive month for the Skada system. The Town has added heavy duty, longer lasting battery backup to the system.
- There are forms available at Town Hall to nominate local businesses for Loudoun County small business awards.
- The well head grant application was submitted on time.
- Finally, he is happy to report that the Town has received an \$80,000 CDBG funding grant for sidewalk and streetscape planning. Council member Dockum asked how often we can apply for this funding and Manager Markel said it is an annual program. He noted that the Park Place area meets the CDBG requirements for sidewalk construction to the Community Center and that the Town must use the funds within one year.

Action Items

A. LVZA 2008-0001 Home Occupation Zoning Text Modifications

Administrator McGregor briefly presented this report and detailed changes resulting from the Council's work session (Attachment I).

Motion: To Approve Ordinance Number 2008-08-01 - LVZA 2008-0001 – Amending Sections 3-1, 7-8, and 13-2: Home Occupations as presented

By: Council Member Zoldos

Second: Council Member Dockum

Mayor Walker called for discussion. Council member Zoldos asked Attorney Whiting if she approved of the changes made and Attorney Whiting replied that the change made was excellent. There being no further discussion, Mayor Walker called for the vote.

Aye: Council Members Dockum, Efthim, Staley, Zoldos

Nay: None

Abstain: None

Absent: Council member Senate

Council member Efthim thanked Administrator McGregor for his efforts in cleaning up this ordinance.

B. Water Tower Structural Analysis (Engineer Selection & Scope)

Manager Markel stated that there was no additional information since the Council's work session.

Attorney Whiting expressed concern that there is no trigger in the proposal or contract to separately authorize Phase III. It will be up to staff to ensure that the paperwork is in order for Phase III.

Motion: I move that Town Council select KCI to complete the structural analysis, approve the scope of services dated July 18, 2008 and revised July 30, 2008 and August 6, 2008 and authorize the Mayor or Town Manager to sign the contract once the scope of services and contract is to the satisfaction of the Town Attorney and authorize staff to initiate Notice to Proceed for Phases 1 and 2 of the plan costing not to exceed lump sum of \$27,010 plus a contingency of \$3,000 for hourly services if needed.

By: Council Member Zoldos

Second: Council Member Efthim

Aye: Council Members Dockum, Efthim, Staley, Zoldos

Nay: None
Abstain: None
Absent: Council member Senate

C. Lovettsville Pedestrian/Bike Path Agreement with VDOT

Manager Markel stated that there was nothing new to present since Council's work session. Council member Dockum said that he would like Attorney Whiting's opinion as to any impact this agreement might have on implementing the sidewalk project. Council member Efthim noted that the grant money is strictly for the Berlin Pike and Broad Way sections of the bike path and cannot be used for any other purpose. He stated that the bike path was considered to be the easier project to implement, incurring fewer problems with property owners. Council member Zoldos stated that originally these were viewed as two separate funding issues but after all these years of discussion it is time for the Town to fund both projects, including floating a bond issue if necessary.

Motion: I move that Town Council choose Option 1 (the full length of the path) as shown in the attached staff report (Attachment II) and direct staff to draft the new agreement with VDOT to administer and manage the project as appropriate based on the option chosen and authorize the Mayor to sign the agreement once it is in a form acceptable to the Town Attorney.

By: Council Member Zoldos
Second: Council Member Efthim

Mayor Walker called for discussion. *{Council member Senate arrived at 9:35 PM during this discussion.}* Council member Efthim stated that this project will have a positive economic impact on the Town and that it will also boost the Town's image, creating a secondary impact beyond the investment itself. There being no further discussion, Mayor Walker called for the vote.

Aye: Council Members Dockum, Efthim, Staley, Zoldos
Nay: None
Abstain: Council member Senate
Absent: None

Mayor Walker stated that this project is near and dear to her heart since 1993 when the Town first applied for this money. She noted that this money is designated for highway enhancements and cannot be used for sidewalks. She reported that as recently as last week she was concerned about the economy and Virginia transportation issues noting that in 2000 this project was fully funded and then there were engineering and surveying problems. The Town found we did not have VDOT approval; we were relying on the engineers at that time. She was concerned that all of this money would be used on engineering and that we would never see asphalt on the ground. After speaking with the project manager in Chantilly and at the Leesburg Residency Office she feels more comfortable now because they are truly going to write a very flexible agreement for the town to sign – we can change things at any time. There are also other pots of money we may be able to draw from that will become available as we proceed.

D. Town Square/Park Master Plan Public Input Session

Manager Markel presented a slide presentation of the proposed Town Square/Park Master Plan. He noted that this is a proposed plan subject to change. Attorney Whiting asked if this plan and the Master Transportation & Streetscape Plan have to be brought into the Comprehensive Plan track.

Motion: I move that Town Council direct staff to hold a Public Input Session on September 10, 2008 for the Town Park and Town Square Master Plan.

By: Council Member Dockum
Second: Council Member Efthim

Council member Efthim asked Attorney Whiting if this is simply a refinement to the Comprehensive Plan since the parks were included in the Plan; this project is more detailed, but does not redefine the elements of the Plan. Attorney Whiting noted that her intent was to remind Council that modifications to the Comprehensive Plan should be considered and scheduled appropriately. Manager Markel noted that this will go back through the Planning Commission and then back to Town Council. Council member Efthim stated that the Council needs to consider this issue when it gets the final document.

Aye: Council Members Dockum, Efthim, Senate, Staley, Zoldos
Nay: None
Abstain: None
Absent: None

E. Temporary Use of Keena Property for Soccer Fields

Council member Zoldos requested that the Council take up this issue at this time because there were members of the audience waiting to discuss this issue. Council member Zoldos stated that Council was concerned about the lack of parking in the vicinity of this property if this facility is allowed. There is no parking available on Locust Street or Frye Court and the Community Center parking is generally at

capacity when it is open. Ms. DeBerry stated that they could park on the field itself, right next to the brush and off the road. She has also checked the Community Center on those evenings the soccer fields would be in use and there is some parking available on these nights. She expected there to be two or three games occurring at one time and stated that the parents are used to walking some distance from their cars to the playing fields. Council member Zoldos requested letters from the concerned parties allowing parking before the Council can approve this application.

Administrator McGregor stated that the zoning on the property in question does not allow this as either a temporary or permanent use of the property. The Zoning Concept Plan would have to be amended and he further stated that other issues, including light and noise, would have to be addressed. The property is a designer zoning district and it is limited to the design and proffers that have already been approved by Council. Attorney Whiting agreed with this analysis. Council member Efthim stated that, in light of these conditions, Mr. Keena did not have the right to offer the space because of pre-existing conditions. Ms. DeBerry stated that their organization is trying to find ways to hold these games in Town both now and in the future and asked if there are alternative locales they can look to. Council member Zoldos stated that the Soccer League should attend the County Special Exemption hearing mentioned earlier because the Town is trying to get Lovettsville Park approved as quickly as possible and that is where the sports fields will be located in the future. He suggested that Loudoun Soccer link up with the Lovettsville Park Committee to get these fields developed at no cost to the County.

The Council agreed that no action could be taken on this matter at this time.

F. Master Transportation & Streetscape Plan Public Information Session

Manager Markel distributed a handout received from the Timmons Group today. He announced that Timmons will attend the Council work session on September 2, 2008 to discuss the plan.

Motion: I move that Town Council direct staff to organize a second Public Information Session for the Master Transportation and Streetscape Plan on September 16th, 2008 with a Public Hearing to follow at a future Town Council meeting. I further move that Town Council hold a work session on September 2, 2008 to prepare for the Public Information Session.

By: Council Member Zoldos

Second: Council Member Efthim

Aye: Council Members Dockum, Efthim, Senate, Staley, Zoldos

Nay: None

Abstain: None

Absent: None

G. Audit Proposal

Motion: I move that the Town Council authorize the Mayor or Town Manager to enter into a contract with YNBP & Company to conduct the financial audit for FY 2008 for the amount of \$15,250 plus out of pocket expenses not to exceed \$2,000 and that the Town Manager place the Audit Contract for FY 2009 for bid.

By: Council Member Zoldos

Second: Council Member Staley

Aye: Council Members Dockum, Efthim, Senate, Staley, Zoldos

Nay: None

Abstain: None

Absent: None

H. Wellhead Protection Grant Application

Manager Markel reported that the application has already been delivered to Virginia DEQ and is asking Council to endorse the application.

Motion: I move that the Town Council direct the Town Manager to pursue funding through the Virginia DEQ to develop a protective overlay district surrounding the Town's public wells.

By: Council Member Dockum

Second: Council Member Senate

Aye: Council Members Dockum, Efthim, Senate, Staley, Zoldos

Nay: None

Abstain: None

Absent: None

The Council took a five minute break between 10:35 PM and 10:40 PM.

Information Items

No information items were presented.

Report from the Planning Commission Liaison

Manager Markel reported that the Planning Commission did not have a work session this month and will have a training session at their meeting next week. Most of the Commissioners have signed up for the Planning Commissioners Training Program being held in Leesburg in November.

Comments from the Mayor and Town Council

Council member Senate apologized for being late, explaining that he was attending a fire school course. He expressed appreciation that the Council is trying to assist the Soccer League, but was even more appreciative that the entire Town's concerns were addressed.

Council member Staley expressed his appreciation for all of the extra time being devoted to the Town by Council members during September and hopes that this will help speed projects along. He would like to see additional mechanisms put in place to alert the Town citizenry to the activities of the Council.

Council member Dockum acknowledged that the Council members already had a great deal to accomplish in September but asked the members to also staff the Town booth at Oktoberfest. He asked that the Town website address be included on water and sewer bills and suggested a Town Tidbits publication be disseminated with the bills.

Council member Efthim noted that there were significant costs associated with the public hearing held on the budget and wondered if something more creative could have been done with that money in terms of communications.

Council member Zoldos wants to revisit the idea of having some standing committees formed by the Council. He also suggested redesigning the Town sign to make it more useful. The first Movie in the Park is tentatively scheduled for September 20th and he is investigating borrowing the blow up movie screen from the County

Mayor Walker reported on the following:

1. Loudoun Street is still very dark at night and the Town needs to install additional lighting.
2. The Mayor asked Attorney Whiting to schedule her annual FOIA review for the Council and Commission. Attorney Whiting reported that she is currently in discussion to prepare a presentation at Ida Lee Park for all the Loudoun Towns.
3. She endorsed the formation of standing committees and suggested including members of the public. She is hoping to start her weekend coffee gatherings for the public again in September.
4. The Mayor reported that National Night Out was a true success.
5. The Town picnic was successful and she will plan something again around the holiday season. She thanked everyone for attending the event.
6. She is very happy to see the Bike Path Project moving forward.
7. The Mayor attended the meeting at the elementary School concerning Alleghany power and found it very informative. She reported that the new power line will probably follow the existing power line with additional right of way on either side.
8. She attended the Army Band concert in the Purcellville ball field which was part of Purcellville's celebration of its 250th anniversary.
9. She met with the new representative of English Construction who's building the third module at the waste water treatment plant.
10. The Health Council meeting this month was concerned with Lyme's Disease and its prevalence in Loudoun County.
11. The Museum Board met on Monday night and the Town is still asking the Board to present their priorities for the Museum building renovation.
12. The Oktoberfest Committee still needs volunteers to man the barricades and perform other duties during Oktoberfest.
13. The Town office will be closed on Labor Day.

Comments from the Public

Tracey Senate reported that she has heard from a number of Town residents asking for a town sign in the Town Square.

Commissioner Coleman reported that the American Legion is encouraging everyone to fly their flag on September 11th. Mayor Walker reported that she will be ringing the church bells on 9/11 and placing a commemorative wreath.

Adjournment

There being no further business before the Council tonight, Mayor Walker asked for a motion.

Motion: To recess the August 28, 2008 monthly meeting of the Lovettsville Town Council until Thursday, September 4, 2008 at 8PM

By: Council Member Zoldos

Second: Council Member Senate

Aye: Council Members Dockum, Efthim, Senate, Staley, Zoldos

Nay: None

Abstain: None

Absent: None

The meeting was recessed at 11:10 P.M.

Respectfully submitted,


Judy L. Kromholz, Town Clerk

Date Approved: December 18, 2008

Attachment I: Staff Report: LVZA 2008-0001 Home Occupation Zoning Text Modifications

Attachment II: Staff Report: Bike Path

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Town of Lovettsville

MEMORANDUM

TO: Town Council

FROM: Stephen E. McGregor, Zoning Administrator

DATE: August 28, 2008

SUBJECT: LVZA 2008-0001 Home Occupation Uses and Regulations
Zoning Ordinance Amendment

PURPOSE: To take action on proposed changes to the Zoning Ordinance text related to home occupations.

BACKGROUND: At the August 21 work session that followed the public hearing the Town Council discussed the item. The Council discussed the various types of sales, including internet sales, that can occur in a home and the regulation of these activities. The Council concluded informally that the definition should include the term "ongoing" activity.

The Town Attorney, Elizabeth Whiting, provided an email a few hours before the public hearing expressing her issue that home child care is not defined in the State Code as a home occupation (requiring a permit) if there are five or fewer children involved. Such care is deemed by the State as a function of family activity and not subject to regulation. Therefore, the proposed text in 3-1 (b)(v), paragraph H should not reference home child care and the phrase "except for home child care with four or fewer children" should be omitted.

RECOMMENDATION: The staff and Administrator support the revised ordinance text that is attached. A draft resolution for approving this item will be provided at the August 28, 2008 regular Town Council meeting.

ATTACHMENT: 1) Text for amending the zoning ordinance amendment for home Occupations and signs, dated August 22, 2008

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LVZA 2008-0001 Home Occupations
(Zoning Ordinance Amendment)

For Town Council regular meeting, August 28, 2008.

MODIFY: Page 13-7, Section 13-2, DEFINITIONS, to read:

“HOME OCCUPATION: Any ongoing activity carried out for gain by a resident and conducted in the resident’s dwelling unit.”

MODIFY: Page 3-5, Section 3-1 DISTRICT REGULATIONS, (b) General Standards for Certain Uses, (v) Home Occupation, to read:

“HOME OCCUPATION: Home occupations may be conducted in a residence provided:

- (A) No employees other than residents of the dwelling shall be permitted to be engaged in such employment.
- (B) The use of dwelling for home occupations shall be clearly incidental and subordinate to its use for residential purposes by its occupants, and not more than twenty-five percent (25%) of the floor area may be used in the conduct of the home occupation.
- (C) There shall be no change in the outside appearance of the building or premises or other visible evidence of the conduct of such home occupation. Internal alterations or construction modifications not customary on dwellings shall be prohibited.
- (D) No outside storage shall be used in conjunction with the home occupation.
- (E) Signs shall not be permitted.
- (F) The preparation of food or the hand manufacture of other products is permitted if it complies with other standards in this section.
- (G) No goods, products or commodities made on the premises or bought or secured for the express purpose of resale shall be sold on the premises directly to customers who come to the premises. This prohibition does not apply to the sale of goods, products or commodities over the Internet from the premises by residents of the premises in which case customers do not come to the premises.
- (H) No traffic shall be generated by such home occupation in greater volume than would normally be anticipated in a residential

neighborhood. No expansion of parking areas on the site shall be permitted for home occupation activity.

- (I) Deliveries or pickups shall be allowed only between the hours between 9:00 a.m. and 6:00 p.m. Not more than two (2) trips per day shall be permitted for such purposes. Regular pickups and deliveries shall not be made by tractor trailer trucks.
- (J) No equipment or process shall be used in such home occupation which creates noise, vibration, glare, fumes, odors, or electrical interference detectable to the normal senses beyond limits of the parcel of property. In the case of electrical interference, no equipment or process shall be used which creates visual or audible interference in any radio or television receivers off the premises, or causes fluctuations in line voltage.
- (K) No hazardous materials may be manufactured, stored, processed or disposed of on the premises.
- (L) Persons conducting a home occupation shall obtain a business license and pay the business license tax as described in the Town's Business, Professional and Occupational License Tax Ordinance.
- (M) An application for Home Occupation shall be completed by the applicant and approved by the Zoning Administrator prior to the commencement of the home occupation.

MODIFY: Page 7-12, Section 7 SIGN REGULATIONS, 7-8 Signs in Residential Districts, (b)(iv), to read:

“iv. Home Occupation. None permitted.

Town of Lovettsville

MEMORANDUM

TO: Mayor and Town Council
FROM: Karin Fellers, Project Manager
DATE: August 28, 2008 Town Council Meeting
SUBJECT: Lovettsville Pedestrian/Bike Path, VDOT Agreement for Administration

ISSUE:

The Town of Lovettsville passed a resolution September 20, 2007 declaring their desire for Virginia Department of Transportation (VDOT) to administer and manage the Bike Path Project. It is necessary to develop and sign a new agreement with VDOT describing the scope of the project, responsibilities and funding. Town Council needs to provide direction in order to finalize the agreement.

BACKGROUND:

Additional information for this project is provided in a power point presentation developed and presented at the Bike Path Project Hand Off meeting with VDOT that will be presented at the Town Council work session. A copy of the slides is attached to this staff report as well for your reference.

In 1997, the Town was approved as a recipient of \$220,000 in grant money through the VDOT ISTEAs program to build a bike path along 287 through Town. In 2000, the Town hired an engineer to complete the design of the bike trail. In 2002, when the Engineer had identified the plans ready for bidding of contractors, it was identified that the ISTEAs process required VDOT review and approval before construction commencement. The subsequent review process reveals VDOT identifying many concerns with the design drawings and environmental paperwork. The Town entered a period where it was a challenge to get complete and consistent feedback and direction on the project and the progress of the project was halted.

In 2007, VDOT approached the Town with the option for VDOT to take over and administer the project. VDOT has identified that it is imperative that the funding be used soon. The Town passed a resolution on September 20, 2007 requesting that VDOT take over the administration responsibility for the design and construction of the trail.

This spring VDOT identified that resolution must be followed by a new agreement identifying the responsibilities of VDOT and the Town before the transition can occur. It has been a challenge to develop this new agreement as new costs for the project needed to be estimated to be included in the agreement. Since the current available funds are no longer sufficient to complete the whole project, the Town must now define the project approach through the

agreement in order to ensure that the project is completed to best meet the needs of the community and that there is not a funding shortfall throughout this process.

ANALYSIS:

Table 1 identifies the funding sources, the amount already spent and what remains available. As part of the agreement development, VDOT has helped the Town to develop updated cost estimates for the project using their project formula software. Table 2 provides the cost estimates for the project and shows the current funding shortfall. VDOT has relayed to the Town that it is important to recognize that the estimates are targeted to be within 20% of what the actual estimate will be if constructed today. Once the design is finished, a new estimate can be calculated that will more accurately predict the construction cost of the project. It is expected that the construction cost could be higher than the estimate because of the increased cost for materials, manpower and energy between now and the time of construction. Table 2 provides the cost of the whole project as well as the costs by dividing the project into two sections in order to determine if the current funds might be sufficient to complete half the project. Unfortunately, there is an estimated shortfall for any of the project segments as presented.

Table 1. Funding Sources Available for Bike Path				
Funding Sources	Transportation Enhancement Grants (80%)	Town Match (20%)	Gas Tax Funding	Total
Total Allocation	\$220,000	\$55,000	\$281,970	\$556,970
Amount Already used	\$14,604	\$3,344	\$13,043	\$30,991
Funding Available as of 8/2008	\$205,396	\$51,657	\$268,927	\$525,979

Table 2. Cost Estimates for Town of Lovettsville Bike Path (May, 2008)					
Project Segment	Scoping Cost Estimate				
	Preliminary Engineering	Right-of-Way & Utilities	Construction*	Total Cost	Current Funding Shortfall
Trail from Retirement Village to Town Square	\$102,000	\$100,000	\$520,000	\$722,000	\$196,000
Town Square to Northern Town Limits	\$111,000	\$130,000	\$568,000	\$809,000	\$283,000

Total Project from Trail from Retirement Village to Northern Town Limits	\$204,000	\$230,000	\$1,088,000	\$1,522,000	\$996,000
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*Construction costs are in Today's Dollars. Depending on when the project goes to construction the cost will likely be higher.

When comparing these two tables, it is important to note that the Town does not currently have sufficient funding to complete any portion of the project as estimated in Table 2. The Agreement has been drafted to provide VDOT with the direction to complete Preliminary Engineering and then to complete the project in logical phases based on the funding available. This language ensures that VDOT does not continue to do work when the Town does not have funds to pay for it.

VDOT has recommended to the Town that the Preliminary Engineering be completed for the whole length of the project which will bring the project to the Design Approval Milestone. This phase and milestone includes all surveying, conceptual and detailed engineering, and environmental reviews and approvals. At the Design Approval Milestone the Environmental assessments are approved and will not need to be completed again unless the area impacted by the project changes. Once the Preliminary Engineering is completed, the project will be able to move directly into the right of way (ROW) acquisition and construction phases. If VDOT standards change before the project goes to construction, the design will need to be updated to meet them however, updating the plans would not be expected to take a lot of time or effort to complete.

Town Staff participated in the VDOT handoff meeting on August 13, 2008 and met Calvin Britt, the VDOT project manager who will be administering the Town Bike Path project. Mr. Britt strongly encouraged the Town to complete the design for the whole project in order to be better placed for funding. He said that often there are opportunities where funding is available but needs to be consumed very quickly and he says if the design is complete, the project would be well placed for those type of funds. If the Town Council would like to see the Bike Trail completed fully, it appears that more funding opportunities would be available if the design of the whole project is completed up front.

It is necessary for Town Council to look at the costs for this project, the available funding for the project and make some decisions on whether to continue and how to approach the project. There are several different approaches including pursuing the whole project, part of the project or none of the project. The options are discussed in greater detail below: (It should be noted that as part of the development of the Retirement Village, the developer has agreed to install the portion of the trail that would traverse the 287 frontage of their property.)

Option 1. Goal to Complete the Full Length of the Original Project: Move forward with the project with the intention of eventually completing the whole project. This would involve completing all the Preliminary Engineering up front and then breaking the project into logical phases based on available funding. Completing the Preliminary Engineering would complete the Environmental Assessment requirements for the project, however, if VDOT standards or drainage design for the trail change before construction bidding occurs on any portion of the designed trail, the design will need to be updated to meet these new standards. This should be a minimal redesign effort but will involve some additional funding and time. The Town would need more than

\$1,000,000 in additional funding to complete the whole project and VDOT has indicated that by completing the Preliminary Engineering, the project is ready to move forward and this will help with obtaining additional funding sources. If funding does not become available and it is not feasible to use Town funds or borrow, then the project may not be completed and the engineering done for that segment would not have been needed. If only half the project is built for instance, the Town will have spent approximately \$100,000 in engineering that is not used.

Option 2. Goal to Complete a Segment of the Original Project: With this option the Town would move forward with design for only a segment of the project. Perhaps only completing the preliminary engineering for the first half of the project and then immediately moving forward with ROW, land acquisition and construction in logical phases based on available funding. This might mean that only a portion of the route from the trail built at the Retirement Village to the Town Square can be built with the available funding. An estimated \$200,000+ additional funding is expected to be needed to complete the construction of the trail from the Retirement Village to the Town Square. This option saves approximately \$100,000 in preliminary engineering by not completing engineering on the other half of the project and this money can be applied to construction. However, if the Town plans to complete the other half at some point in the future, there will be additional preliminary engineering costs at that time to complete the engineering and environmental assessment. With Option 2, there will be less cost to address VDOT standard changes as the design work for the second half has not been completed yet. Please note that it may be more challenging to obtain funding for the second half of the trail as the project will not be as far along in the process and therefore not poised to use funding that may come available with a short time line.

Option 3. Table the Project: If the Town tables this project it is likely that the funding sources will be retracted. Both funding sources are anxious to see the money be used as the project is well behind schedule. More delays will not demonstrate interest by the Town in completing the project and could result in loss of the current funding sources.

Option 4. Terminate the Project: The Town can choose not to continue with the project. As there is not enough funding available and it cannot be guaranteed at this point that more funding can be obtained, the Town could choose to cancel the project and the grant money would become available for other projects. This option guarantees that the Town will not face the possibility of needing to find additional funding in order to complete the project.

RECOMMENDATIONS:

The Town must evaluate whether there is continued interest in constructing a bike path and act accordingly. Town Staff walked the route of the trail with VDOT and it certainly would be a welcome trail to those that would like to be able to walk 287 to the center of Town. If the Town really wishes to complete the full length of the trail within the next 5-10 years, completing the preliminary engineering for the whole trail demonstrates this desire on the Town's part and may put the Town in better position for future funding opportunities. VDOT personnel has indicated to Town Staff that a community is in a much better position to obtain funding if the whole project has been designed and an even better opportunity if a portion of the trail is already under construction.

Unfortunately, there is always the possibility that funding will no longer be available or that the Town will not be successful in obtaining any funding that is available. If this is the case, the Town may be faced with borrowing the necessary funds and using some sort of tax revenue for financing in order to complete the project or the project winds up being partially completed.

Option 1 and 2 can be considered to reach a similar outcome if no additional funding is applied to the project. Option 1 may fund a slightly longer portion of trail if the additional \$100,000 will permit the trail to be extended to another logical end point. VDOT has told the Town that the phasing must be logical, meaning that the trail must start and stop at logical points not in the middle of a block or just before a drainage crossing, etc.

VDOT personnel have recommended that the Town complete the preliminary engineering for the whole trail (Option 1). They identified that this does lock in some of the Design Milestone elements such as the environmental approvals as well as put the Town in a much better position to take advantage of available funding opportunities. If the Town desires completion of the whole trail, staff recommends Option 1 as well. There is always an economy of scale and more continuity if the design elements of a project are all completed at the same time. If the Town is concerned that there is a good chance funding cannot be obtained, then Option 2 would be most appropriate.

MOTION:

“I move that Town Council choose Option 1 and direct staff to draft the new agreement with VDOT to administer and manage the project as appropriate based on the option chosen and authorize the Mayor to sign the agreement once it is in a form acceptable to the Town Attorney.”

ATTACHMENTS:

Resolution No. 07-09-01 Requesting VDOT to assume responsibility for the Lovettsville Bike Path

Power Point Presentation Slides for Lovettsville Bike Path presented to VDOT at the hand off meeting on August 13, 2008.

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Town of Lovettsville

Resolution No. 07-09-01 - Resolution Requesting the Virginia Department of Transportation to Assume Responsibility for the Route 287 – Berlin Pike Bicycle Path Enhancement Project

MOTION: Zoldos

SECOND: McDonough

WHEREAS, the Town of Lovettsville initiated the Route 287 Bicycle Path project in 1993 to construct a ten (10) foot multi-use trail along the west side of Route 287 - Berlin Pike for the safety, health and enjoyment for pedestrians and cyclists; and

WHEREAS, the Town of Lovettsville wishes to expedite the construction of the Bicycle Path for the betterment of the community; and

WHEREAS, the Virginia Department of Transportation has offered their assistance in completing the project on behalf of the Town of Lovettsville; and

WHEREAS, the Town of Lovettsville wishes to void the existing Locality Agreement and execute a new Standard Project Administration Agreement to allow the Virginia Department of Transportation to oversee all aspects of the project, including design, right-of-way acquisition, utility relocation, and construction; and

WHEREAS, the Town has secured funding through cost share grants and local aid and is willing to seek other sources of revenue in the event the project costs exceed the currently allocated funds and is willing to pay the twenty (20) percent match necessary for the federal grant minus legitimate expenses the Town incurred during the time it was administering the project; and

WHEREAS, the Town of Lovettsville understands that the Virginia Department of Transportation cannot use its powers of eminent domain to acquire right of way under the Enhancement Program; and

WHEREAS, the Town of Lovettsville is committed to working with Town residents and Bicycle Path stakeholders to assist in the development of this project.

Now therefore, be it resolved, that the Town of Lovettsville hereby requests the Virginia Department of Transportation assume responsibility for the completion of design and construction of the Lovettsville Bicycle Path along Route 287.

VOTE:

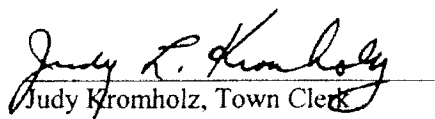
Ayes: Zoldos, Eftim, McDonough, Miller, Engel

Nays: None

Abstentions: None

Absent for vote: Treptow

Approved: September 20, 2007


Judy Kromholz, Town Clerk


Elaine Walker, Mayor

The German Settlement

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