

Town of Lovettsville

Town Council Minutes of Regular Meeting September 9, 2010

Mayor Elaine Walker called the regular meeting of the Lovettsville Town Council to order at 8:00 PM on Thursday, September 9, 2010.

Present at Meeting

- Mayor Elaine Walker
- Vice Mayor Robert Zoldos II
- Council Members Tiffany Carder, Charlotte Coleman, Scott Dockum, Michael Senate, Shaun Staley
- Town Manager Keith Markel
- Town Attorney Elizabeth Whiting {arrived at 8:50 PM}
- Town Treasurer Lance Gladstone {arrived at 8:40 PM}
- Project Manager Karin Fellers {arrived at 9:25 PM}
- Town Clerk Judy L. Kromholz {arrived at 8:25 PM}

Absent

None

Audience

Among those present in the audience were Alan Dykstra, Amanda Staley, Commissioner Jack Burden, Bing Lam, Stephen Johnson (*Brunswick Citizen*), Howard Williamson, and Darren Casper (Lovettsville Business Association).

Call to Order/Welcome/Pledge of Allegiance/Invocation

Mayor Walker welcomed everyone and asked for a moment of silence in remembrance of the victims of the terrorist attacks of 9-11-2001 before leading the room in the Pledge of Allegiance.

Comments from the Public

Bing Lam of 2 Eisentown Drive spoke about his concern of the increase in Town utility costs. He asked why the Town's utility surplus for FY 10 was not used to reduce rates and fees for citizens in FY 11.

Community Presentations

A. Oktoberfest Committee Update

Councilman Scott Dockum provided an update on the planning activities for this year's event.

B. Planning Commission Update

Jack Burden, the Vice Chair for the Planning Commission updated the Council on recent activities of the Planning Commission, including progress on the revised sign ordinance.

Additions/Deletions/Modifications to the Agenda

None.

Presentations

Lovettsville Cooperative Grocery – Pamela Baldwin

Mrs. Baldwin made a presentation on the Lovettsville Cooperative Grocery initiative and then asked for questions from the Mayor and Council.

Vice Mayor Zoldos thanked Mrs. Baldwin for her presentation. He asked if she knew how much a membership in the Frederick, MD grocery coop cost and she stated that she believed a share in that coop was a couple of hundred dollars. He then asked how the Council can encourage this initiative while supporting other businesses in the community. Mrs. Baldwin stated that at this point they are asking only for the Town's enthusiasm and help in spreading the word about the initiative. She stated that an eventual coop would be a nonprofit business, but a business like any other in the community.

Councilman Staley thanked Mrs. Baldwin and asked that she update the Council as the group progresses. He stated that he thinks this is a cool idea and hopes the enthusiasm will continue. Mrs. Baldwin reported that the group is hoping to incorporate by the end of the year.

Councilman Senate stated that he is all for a coop and asked how they perform against competition. Mrs. Baldwin stated that coops tend to find their niche in natural/organic products, and that they do not offer only food. Councilman Senate asked how big a store they will need and Mrs. Baldwin said it will be smaller than a small grocery.

Councilman Dockum thanked Mrs. Baldwin for a great presentation and reported that he is a Common Market shopper because the produce is fresher and local. He agreed that this is a niche market but it is a 'nice niche market'.

There being no further questions from the Council, Mayor Walker called for a brief recess at 8:55 PM and reconvened the meeting at 9:00 PM.

Audience

Remaining in the audience were Alan Dykstra, Howard Williamson and Amanda Staley.

Public Comments

Mr. Alan Dykstra explained that he is applying for a Conditional Use Permit at 19 East Broad Way. The required buffering would render the lot unusable for his proposed business. Administrator McGregor has informed him that the Council has the authority to modify the requirements under a Conditional Use Permit and he is in the process of completing that application.

Approval of Town Council Minutes

A. Town Council Public Hearing – May 20, 2010

Motion: To approve the minutes of the May 20, 2010 Town Council Public Hearing as amended.
By: Council Member Senate
Second: Council Member Coleman
Aye: Council Members Carder, Coleman, Dockum, Senate, Staley, Zoldos
Nay: None
Abstain: None
Absent: None

B. Town Council Meeting – May 27, 2010

Motion: To approve the minutes of the May 27, 2010 Town Council Meeting as amended.
By: Council Member Dockum
Second: Council Member Coleman
Aye: Council Members Carder, Coleman, Dockum, Senate, Zoldos
Nay: None
Abstain: Council Member Staley
Absent: None

C. Town Council Meeting – June 10, 2010

Motion: To approve the minutes of the June 10, 2010 Town Council Public Hearing as amended.
By: Council Member Coleman
Second: Council Member Carder
Aye: Council Members Carder, Coleman, Dockum, Senate, Staley, Zoldos
Nay: None
Abstain: None
Absent: None

D. Town Council Closed Session – June 17, 2010

Motion: To approve the minutes of the June 17, 2010 Town Council Closed Session.
By: Council Member Staley

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

Report from the Treasurer

A. Financial Report – June 2010

Treasurer Gladstone presented his report for June 2010. Mayor Walker stated that she appreciates that meal and cigarette tax receipts are now being displayed as their own line item. She confirmed with Treasurer Gladstone at all the restaurants in Town are current in remitting these receipts.

Vice Mayor Zoldos asked for an explanation of the higher than usual legal service expenses in the Utility Fund and Manager Markel reported that it was primarily due to water tower lease agreements and other contractual reviews. Attorney Whiting reminded the Council that she is required to review all bids, not just approved bids, received by the Town. There being no further questions, Mayor Walker called for the vote.

Motion: To approve the June 2010 Treasurer's report as presented.
By: Council Member Senate
Second: Council Member Staley
Aye: Council Members Carder, Coleman, Dockum, Senate, Staley, Zoldos
Nay: None
Abstain: None
Absent: None

Staff Reports

A. Report from the Project Manager

Project Manager Fellers presented her report revised August 20, 2010. Councilwoman Coleman asked if Germanna Drive is completed and Project Manager Fellers stated that the work is complete and awaiting Virginia Department of Transportation (VDOT) review which could take some time.

B. Report from the Town Attorney

The Town Attorney had no formal report.

C. Report from the Town Manager

Manager Markel distributed his report to the Council. He reported that when the Council of Governments declared a drought watch he consulted with our system operators who reported that the Town well levels are normal. It appears that Town citizens are conserving water based on their perception of general conditions.

Consent Agenda

There were no items on the Consent Agenda.

Action/Discussion Items

A. 2 East Pennsylvania Ave. – Conversion of Use

Manager Markel presented this item. He reported that VDOT has reviewed the request again to provide approval for the existing entrance to the site. VDOT has verbally stated that it is comfortable with leaving well enough alone and not requiring a full 30 foot commercial entrance. Staff has recommended that the Town Council amend the June 30, 2005 resolution to remove the requirement for the applicant to provide an entrance improvement based on VDOT standards; and direct the Zoning Administrator to approve a conversion of use zoning certificate for the subject property based on the amended resolution.

Attorney Whiting stated that there will always be problems applying ordinances to existing properties to make sure that we are staying in tune with the purpose of the ordinances. Mayor Walker said that we have to work with what we have.

Vice Mayor Zoldos stated that he is once again troubled that momentum allows people to do what they want in this Town. He stated that the applicant agreed to meet these conditions five years ago, was reminded multiple times, and did not meet the original requirements. He has been in violation for five

years and now the Town is paying for having the application reviewed again. He stated that he does not see any other resolution to this issue. Manager Markel confirmed that other conditions were waived in prior resolutions.

Councilman Staley suggested that the Town needs some sort of checklist going forward for these issues, acknowledging that it would be hard to maintain. Manager Markel noted that the Council had directed staff to expedite this process as much as possible. Vice Mayor Zoldos stated that the Town must do better and be more consistent going forward with how properties are converted into different uses.

Motion: I move that the Town Council amend its June 30, 2005 resolution concerning property at 2 Pennsylvania Avenue to remove reference to the applicant's requirement to provide an improved entrance that meets Virginia Department of Transportation standards, as shown in the draft resolution provided, and direct the Zoning Administrator to approve a conversion of use zoning certificate based on the amended Council resolution.

By: Council Member Senate

Second: Council Member Staley

Mayor Walker called for additional discussion. Attorney Whiting explained that a conversion of use certificate would trigger a new review of the property. There being no further discussion, Mayor Walker called for the vote.

Aye: Council Members Senate, Staley

Nay: Council Members Carder, Coleman, Dockum, Zoldos

Abstain: None

Absent: None

The motion fails. Councilman Dockum stated that he would like to see a letter from VDOT confirming that they will not address this driveway. Manager Markel said he has an email from VDOT, but they have stated that if a formal letter is required they will state what the official standard requires, which is a 30 foot commercial entrance. Copies of the email were distributed to the Council. The Council agreed that they want something in writing in order to reconsider this issue.

B. Mayor and Town Council Rules of Procedure
Discussion postponed due to the lateness of the hour.

C. Economic Development Committee
Discussion postponed due to the lateness of the hour.

Information Items

No information items were presented.

Comments from the Mayor and Town Council

Vice Mayor Zoldos reported that he will not be available for to set up tomorrow night's Movie in the Park and asked for someone else to assist Manager Markel. Councilman Senate said that the Lovettsville Fire and Rescue Company will assist with setup.

Mayor Walker reminded those present that she will be ringing the bells at St. James Church in honor of 9/11 on Saturday morning and invited everyone to participate.

Closed Session

Mayor Walker called for a motion.

Motion: To go into Closed Session.

By: Vice Mayor Zoldos

Second: Council Member Coleman

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

Nay: None

Abstain: None

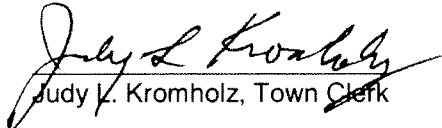
Absent: None

The Council went into Closed Session at 11:15 PM to discuss a Town telecommunication lease agreement.

The Council came out of closed session at 11:48 PM and all members present attested that only lawfully exempted matters were discussed during the closed session.

The meeting was adjourned at 11:50 PM.

Respectfully submitted,


Judy K. Kromholz, Town Clerk

Date Approved: December 9, 2010

Attachments:

- I. Speaker Signup Sheet
- II. Closed Session Motions

Town of Southville

Speaker Sign - Up Sheet

Town Council Regular Meeting - September 9, 2010

Please Print.

Name and Association	Address	Topic	Email Address (Optional) ¹
Brylan	2 E. Station Dr	Budget	

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.

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VIRGINIA FREEDOM OF INFORMATION ACT Resolution: AUTHORIZE CLOSED SESSION

Date: 09/09/10

Time: 11:02 pm

MOTION BY:

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.] *related to lease renewal and a cost-sharing agreement proposed to be entered with Loudoun Wireless.*

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,

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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:

VOTE:

Ayes:

Nays:

Abstentions:

Absent for vote:

Bob Zaldes
Charllette Coleman
B. Zaldes, S. Dodson, S. Staby, T. Cade
none *M. Senate, C. Coleman*
none

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 9, 2010

Certified:

Ernie Walden, Mayor