

Town of Lovettsville

Town Council Minutes of Regular Meeting August 25, 2011

Mayor Elaine Walker called the regular meeting of the Lovettsville Town Council to order at 7:38 PM on Thursday, August 25, 2011.

Present at Meeting

- Mayor Elaine Walker
- Council Members Tiffaney Carder, Michael Senate, Tim Sparbanie, Shaun Staley
- Town Manager Keith Markel
- Town Attorney Elizabeth Whiting
- Project Manager Karin Fellers
- Town Clerk Judy L. Kromholz
- Treasurer Lance Gladstone

Absent

- Vice Mayor Robert Zoldos II (working)
- Council member Charlotte Coleman (out of town)

Call to Order/Welcome/Pledge of Allegiance/Invocation

Mayor Walker led the assembled in the Pledge of Allegiance.

Special Presentation

The Mayor and Council made a special presentation to Cora Arellano commemorating her service to the Town. Mrs. Arellano had worked as the Town Hall custodian for more than 18 years.

The Council took a brief break and reconvened at 8:06 PM

Comments from the Public

Councilman Staley read the rules for public comment.

Wendy Fitt explained that she is a new Town resident who is trying to establish a home based business with an additional employee who does not reside in the home. They checked on Loudoun County rules before they moved in and discovered that the County allows one non-resident to work at the business as long as there is parking available. The Town does not allow additional employees other than the person that lives in the home. She is requesting that the Town change its Home Based Business ordinance to mirror the County regulations.

Mayor Walker introduced Malcolm Baldwin, a candidate for the County Board of Supervisors from the Catocin District. She noted she always invites the candidates for local office to address the Council prior to local elections, no matter what party they belong to.

Mr. Baldwin detailed his qualifications and described his platform.

Community Presentations

A. Lovettsville Planning Commission

Manager Markel reported that the Planning Commission approved their Comprehensive Plan Implementation Priorities for consideration at the joint meeting planned for September.

B. Economic Development Advisory Committee

Councilman Staley discussed appointments to the Committee and asked if the Council wanted to interview potential members. The Council decided they would like to review a list of proposed candidates before invitations are issued. Council does not want to see the letters before they go out. Organizations will be asked to select their own representative to the Committee.

Additions/Deletions/Modifications to the Agenda

None.

Presentations

No presentations were scheduled.

Approval of Town Council Minutes

No minutes were presented.

Report from the Treasurer

A. June 2011 Treasurers Report

Treasurer Gladstone reviewed the June 2011 Financial Report. Councilman Sparbanie asked if CD interest can be separated out as its own line item and Treasurer Gladstone said he would show this in future reports. Councilman Sparbanie asked if the June bill had been received from Loudoun Water. Treasurer Gladstone explained that Loudoun Water billing is usually at least two months behind, frequently longer. Mayor Walker noted that the June bill could not have been received in June in any case.

Motion: To approve the June 2011 Treasurers Report as presented.

By: Council Member Senate

Second: Council Member Sparbanie

Aye: Council Members Carder, Senate, Sparbanie, Staley

Nay: None

Abstain: None

Absent: Coleman, Zoldos

B. Year End Report

The year-end report was distributed at the meeting. Treasurer Gladstone reviewed the report. Mayor Walker asked about the General Fund loan interest payment and Treasurer Gladstone explained that the only payment was made in January.

Motion: To approve the Year End Treasurers Report.

By: Council Member Senate

Second: Council Member Carder

Aye: Council Members Carder, Senate, Sparbanie, Staley

Nay: None

Abstain: None

Absent: Coleman, Zoldos

Staff Reports

A. Report from the Town Attorney

Attorney Whiting reported that she had met with Manager Markel and Zoning Administrator McGregor on a number of planning and zoning issues. She explained that a resident is contesting a ruling made by Administrator McGregor which Attorney Whiting had reviewed and approved. This item will probably go before the Board of Zoning Appeals.

Action/Discussion Items

A. Vehicle Decal Ordinance

Manager Markel presented this item. Council is being asked to consider modifying the late penalty for vehicle decal purchases to allow for easier implementation. The Town currently charges \$25.00 for automobile decals and \$16 for motorcycle decals. The decals go in sale at the end of September and are required to be on each vehicle by November 15 of each year. If a resident fails to purchase a decal, a late penalty of 10 percent is added to the base cost of the decal beginning on November 16. If a new decal is not purchase by December 1, the ten percent penalty, plus the prorated portion of an annual 10 percent interest on the delinquent payment is assessed. This authorization from the Code of Virginia is as follows:

§ 15.2-105 Penalty and interest for failure to pay accounts when due.

Any person failing to pay, pursuant to an ordinance, any account due a locality on or before its due date, other than taxes which are provided for in Title 58.1, may, at the option of the locality, incur a penalty thereon of ten dollars or an amount not exceeding ten percent. The penalty shall

be added to the amount of the account due from such person. No penalty shall be imposed for failure to pay any account if such failure was not in any way the fault of the debtor. Interest at the rate of ten percent annually from the first day following the day such account is due may be collected upon the principal and penalty of all such accounts.

Manager Markel explained that the implementation of this fee and penalty structure is difficult, as many times residents pay with cash. Because the Town Hall does not operate a daily cash register, making change can be a time consuming or impossible task. This means residents have to go the bank to get exact change or go home and get a check. Staff recommends in favor of authorizing a flat rate increase in decal late penalties. In lieu of the previous formula, a new, more efficient, penalty escalation could be implemented. The code allows for a penalty of up to ten dollars or an amount not exceeding ten percent. Staff recommends that a flat rate of one dollar be added to the cost of a decal each month the decal is delinquent, beginning November 16. This would make a decal purchased September 16 of the same decal year cost \$35.00. In October the new decals would be available for purchase.

Motion: I move that the Town Council direct staff to prepare an Ordinance Amendment to reflect the recommend modifications to the decal late penalty as outlined in this memorandum and return to Council with draft language for consideration.

By: Council Member Staley

Second: Council Member Carder

Aye: Council Members Carder, Senate, Sparbanie, Staley

Nay: None

Abstain: None

Absent: Coleman, Zoldos

B. Town Truck Purchase

Manager Markel presented this item. He distributed three proposals to the Council which is being asked to consider purchasing a Town work truck. He noted that the current budget includes an allocation for the Town to purchase a work pick-up truck to support the Town's daily activities, such as landscaping, utility work, and other general repairs and inspections. The Town Council supported this recommendation and approved the FY 2012 budget with funds to purchase this vehicle. Over the past several weeks he has been talking with dealerships to obtain quotes for trucks of a similar size and design. While this is not a direct comparison, the trucks are the equivalent model for each one of the brands. The truck would be a basic model with four wheel drive, a towing package and enough capacity to push limited amounts of snow, should the Town choose to clear some or all of its own lots at some point in the future. White paint has been specified in the quotes; however other colors could be available at the same cost or slightly higher.

Motion: I move that the Town Council authorize the Town Manager to spend up to \$25,000 to purchase a Town work truck that provides the greatest value to the Town from one of the three dealers who provided quotes.

By: Council Member Senate

Second: Council Member Carder

Mayor Walker called for discussion.

Friendly Amendment: That the Town Manager be authorized to purchase from any dealer offering the best terms.

By: Council Member Sparbanie

Council Members Senate and Carder accepted the amendment.

Attorney Whiting stated that there might be legal problems going to dealers who were not involved in the initial bidding and suggested that Manager Markel contact the County and the State for inclusive agreements the Town might be eligible to ride on.

There being no further discussion, Mayor Walker called for the vote.

Aye: Council Members Carder, Senate, Sparbanie, Staley

Nay: None

Abstain: None

Absent: Coleman, Zoldos

C. Planning Commission Appointment Interview Schedule

Manager Markel reported that there are now two applicants for the opening on Planning Commission. Council is being asked to conduct interviews.

Motion: I move that the Town Council direct staff to schedule interviews with the two applicants for Planning Commission on September 15th, 2011 beginning at 6:00 PM.
By: Council Member Sparbanie
Second: Council Member Senate
Aye: Council Members Carder, Senate, Sparbanie, Staley
Nay: None
Abstain: None
Absent: Coleman, Zoldos

Information Items

Bound copies of the budget and CIP were distributed to Council at this meeting.

Comments from the Mayor and Town Council

Councilman Senate reported that the Parks Committee had gone on field trips to select the materials for the Veterans Memorial. They are awaiting the final design from the vendor and are on track for dedicating the memorial on Veterans Day.

Councilwoman Carder stated that she is excited about the progress at the memorial.

Councilman Sparbanie thanked Mrs. Arellano for her service to the Town and thanked Mayor Walker for planning the event. He thanked Mr. Baldwin for coming out tonight and speaking to Council. He thanked Mrs. Fitt for presenting her concerns to Council and wished her good luck on her business venture. He reported that he had attended the Community Center luau and found it was a great event. He reminded everyone that Oktoberfest is fast approaching and that the next meeting of the Oktoberfest Committee is the day after Labor Day.

Mayor Walker reported the following:

She read a letter from the Catoclin chapter of the DAR requesting a proclamation from the Town commemorating the signing of the Constitution. She will add this to the next Council agenda.

She met with representatives of Inova and the new date for Family Day at the firehouse is September 10th

She read a letter she received from Kelly and Sherry Keating which accompanied an American flag that had flown over an American base in Iraq. The flag will be flown at the Veterans Day ceremony.


Attorney Whiting announced that the Loudoun Museum will sponsor a lecture by Vice Mayor Zoldos on September 2nd discussing his experiences on 9/11.

Closed Session

The Council voted to go into Closed Session at 9:45 PM and came out of Closed Session at 10:48 PM. All council members certified that only public business matters lawfully exempt for the open meeting requirements under the Virginia Freedom of Information Act were discussed (Attachment II)

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

Respectfully submitted,


Judy L. Kromholz, Town Clerk

Date Approved: December 8, 2011

Attachments:

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

Written Submissions to Council: None

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Speaker Sign - Up Sheet

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Please Print.

Name and Association	Address	Topic	Email Address (Optional) ¹
Wendy Fitt	25 Frye Ct Lovettsville	Home Occupation permit	Wendy.fitt@bttdelaware.com
Makolm Baldwin	35505 Weatherstone Ln	Supervisor	mcolb@weatherstone.com

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: 8/25/11
Time: 9:45pm

MOTION BY: T. Spaulding

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,

~~2.~~ 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,

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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: *S. Staley*
VOTE:

Ayes: *Sparshine, Staley, Carter, Senate*

Nays: *none*

Abstentions: *none*

Absent for vote: *Coleman, Zoldes*

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:"

Aug. 25, 2011 at *10:48* PM

Certified:

Daine Walden

Mayor
