

Town of Lovettsville

Town Council Minutes of Regular Meeting October 13, 2011

Mayor Elaine Walker called the regular meeting of the Lovettsville Town Council to order at 7:30 PM on Thursday, October 13, 2011.

Present at Meeting

- Mayor Elaine Walker
- Vice Mayor Robert Zoldos II
- Council Members Charlotte Coleman, Michael Senate, Tim Sparbanie
- Councilwoman Tiffaney Carder *{arrived 7:53 PM}*
- Town Manager Keith Markel
- Town Attorney Elizabeth Whiting *{arrived at 7:57 PM}*
- Treasurer Lance Gladstone
- Town Clerk Judy L. Kromholz

Absent

Council Member Shaun Staley

Call to Order/Welcome/Pledge of Allegiance/Invocation

Mayor Walker led the assembled in the Pledge of Allegiance.

Presentations

A. Lovettsville Lion's Club

Julie Balch, Dave Kirk, and Scott Dockum represented the Club. Mrs. Balch made a presentation concerning their recent activities and discussed what they do for the community. They had a number of proposals concerning future activities and Vice Mayor Zoldos requested that they submit their suggestions in writing for the Council to consider. Mr. Dockum agreed to provide the list. Mayor Walker thanked them for their presentation.

Comments from the Public (Attachment I – Speaker Signup Sheet)

Vice Mayor Zoldos read the rules and procedures for speaking.

Howard Williamson reported to the Council that there is again have a problem with juveniles in Town. Citizens have been calling the Sherriff's Office regularly but by the time the deputies arrive the offenders have disbursed. They are intimidating people, vandalizing property, and hanging out and making noise late at night. We are looking to the Town to do something to hold the people doing this responsible.

Michael Page brought his grandson who is being bullied by this group of teenagers, especially at the school bus stop.

Jason Lage, owner Market Table Bistro, reported that last Tuesday night they reported fighting in the street. The deputy response time was good but after the deputy left the teenagers starting hanging around his walk-in cooler. The majority of the problems happen at night, but he also sees teens riding around during the day when they should be in school. *{Councilwoman Carder arrived at 7:53 during this discussion}* Mr. Lage stated that businesses cannot thrive in this community under these conditions. This must be controlled now, while it is still controllable. Mr. Lage also spoke in favor of a curfew. He stated that the Town must do something or it will never get any better.

Wendy Sims reported that her son has been bullied at the bus stop and that today a child at the bus stop had been sat on. She stated that her family moved here in December because it was a safe location. She reported that her son was offered a joint. *{Attorney Whiting arrived at 7:57 PM during this discussion}*. The children cannot move between houses without being intimidated. She is really concerned with the teenagers' audacity in the face of authority.

Lorrain Fongsanger reported that she met with Deputy Wacker last week. She believes there are major hard core drugs available. She stated that "These people have no morals - they run the streets at night". She believes Deputy Wacker has made a good start on the problem and emphasized that citizens must continue to report all incidents to the Sherriff's Office.

Community Presentations

A. Loudoun County Sheriff's Office

Loudoun County Deputy Sheriff B.H. Wacker introduced himself. He is the new Lovettsville Community Policing Officer and has been a Community Policing Officer in Sterling Park. He reported that he has been meeting with the community and with the local business owners. He emphasized how important it is to call the Sherriff's Office for each and every incident. He explained actions that have already been taken or are being planned. He stated that the Town has a handful of problem residences which will be targeted.

Vice Mayor Zoldos thanked Deputy Wacker for the update and asked him to report again at the next Council meeting. Deputy Wacker said that he would. Vice Mayor Zoldos said that the Council is pleased with the Deputy's plan and happy to have him as our "Town Marshall". Vice Mayor Zoldos noted that the Loudoun County Sheriff's Office has not expressed great support for a curfew. Deputy Wacker stated that he will bring the curfew issue up with his chain of command.

Mayor Walker reported that she has spoken with Supervisor Kurtz many times this week concerning this issue. Supervisor Kurtz is working on scheduling a multilevel meeting as soon as possible.

B. Lovettsville Planning Commission

Manager Markel delivered Vice Chairman Burden's report on the Commission's recent activities. There were no questions.

E: Economic Development Advisory Committee

Councilwoman Carder reported that one person has joined the committee and they are awaiting other replies.

Additions/Deletions/Modifications to the Agenda

Councilman Sparbanie added the proposed Curfew Ordinance to the agenda as an action item. Mayor Walker added the Proclamation for Young Marines as an action item.

Approval of Town Council Minutes

Councilman Staley had not had an opportunity to review the tapes of the July 14, 2011 meeting and those minutes were again tabled.

Report from the Treasurer

A. August 2011

The Council tabled discussion of the report at this time.

Staff Reports

A. Report from the Zoning Administrator

Manager Markel presented Administrator McGregor's written report for September 2011. There were no questions.

B. Project Manager Report

Manager Markel reported that work on the Veterans Memorial has begun. We have assurances it will be completed on time.

C. Report from the Town Attorney

The Town Attorney had no formal report.

D. Report from the Town Manager

Manager Markel's written report was distributed to the Council. Councilman Sparbanie thanked Manager Markel for all of his work before and during Oktoberfest.

Action/Discussion Items

A. Appointment to Planning Commission

Mayor Walker suggested going into Closed Session to discuss the applicants and then come out and vote. Councilman Sparbanie asked to postpone the closed session until after the two new items are discussed by Council.

B. Curfew Ordinance

Councilman Sparbanie stated that this is almost identical to the Purcellville Ordinance, the major difference being the time set for curfew and he is flexible on that issue. He stated that he thinks the Council has had enough time to consider this and it is time the Council dealt with the issue. He stated that the Town has the authority to enact a curfew and that the Loudoun County Sherriff's Office would have the authority to enforce it once a memorandum of understanding was in place.

Motion: I move to adopt the Curfew Ordinance as drafted.

By: Council Member Sparbanie

Second: None

The motion died for lack of a second.

Councilman Senate stated that we have heard that at most times there only three deputies in the western end of the County and the Council needs information from Deputy Wacker to verify how the ordinance would be enforced. He stated that until the enforcement methodology has been determined, the Ordinance is just fluff. Ideally, the effort should be made to get the half dozen bad citizens out of Town and not penalize the good citizens in Town.

Vice Mayor Zoldos said that while he feels Councilman Sparbanie's frustration also he feels it is out of order to pass an ordinance that the Council has just tasked the Deputy with researching and resolving.

Councilman Sparbanie said that he cannot believe he cannot even get a second on this crucial issue because the second would allow the Council to legally discuss this issue.

Mayor Walker asked Attorney Whiting if she had reviewed the proposed ordinance. Attorney Whiting said she has not been charged by the Council to review this ordinance. She said she has a curfew ordinance she has carried over from year to year that was drafted to comply with prevailing case law and that she was reasonably certain that the proposed ordinance would not comply with that case law. She has not been charged by the Council to research this draft.

Councilman Sparbanie said that this is the same language he proposed five months ago and Attorney Whiting reiterated that she had not been assigned to review this by the Council and therefore did not incur any billable hours on this topic.

Vice Mayor Zoldos suggested that what could be appropriate at this time is to direct staff to research this item. He noted that there are bigger cities with bigger budgets that have done the due diligence, citing Montgomery County where the police have led the effort. He suggested that the smart thing to do now is not to spend any additional funds until Deputy Wacker reports back to Council on his efforts.

Mayor Walker reported that a local business owner had contacted Supervisor Sally Kurtz about these problems. Supervisor Kurtz was contacting County staff and would get back to Mayor Walker. Mayor Walker further noted that Captain Noble is very much involved and a meeting is being set up with him and his superiors but she also thinks the Council owes it to Deputy Wacker to let him implement his plans and report back to Council.

Councilman Sparbanie stated that Supervisor Kurtz said that the Town Council has the authority to pass this ordinance. Councilman Senate stated that he agrees with Councilman Sparbanie that if a curfew is required it is required, but he is leery of writing a law that the Town cannot enforce. He noted that the Council could have written this law at any time and has considered doing so on numerous occasions but the Town has no means of enforcement and that is much more frustrating than not having the law at all.

Mayor Walker asked Attorney Whiting if this would require a public hearing. Attorney Whiting stated that she needs to research this to be positive that the Town is procedurally correct and that a public hearing is not required.

Motion: I move to adopt the Curfew Ordinance as drafted.

By: Council Member Sparbanie

Second: Council Member Senate

Motion: I move to table the Curfew Ordinance as drafted.

By: Vice Mayor Zoldos

Second: Council Member Coleman

Mayor Walker called for discussion of the Motion to Table. Councilman Sparbanie stated that it is perfectly ok with him to table the motion at this time. He stated that he is very concerned about this issue. He stated that he is troubled that people have moved out of Town because of these incidents and worried about the impact on local businesses. He stated that he has spoken with several deputies who have told him they could use this tool. Councilman Senate noted that if this was an easy issue, the County would have a curfew – they have the resources to enforce one. Councilwoman Coleman stated that she would prefer that the Ordinance state exact times and Councilman Sparbanie had no problem with that change. Vice Mayor Zoldos stated that he would prefer that the Loudoun County Sheriff's Office ask for this tool rather than having the Council force it on them. Councilwoman Carder stated that she agreed with Vice Mayor Zoldos, noting that Deputy Wacker had talked about a partnership and Council needs to work with him to foster that relationship. Mayor Walker stated that Attorney Whiting must review the document in order to protect the Town. There being no further discussion, Mayor Walker called for a vote on the Motion to Table.

Aye: Council Members Carder, Coleman, Senate, Sparbanie, Zoldos

Nay: None

Abstain: None

Absent: Council Member Staley

C. Proclamation for the Young Marines

Mayor Walker presented this item.

Motion: I move to Adopt the Proclamation for Young Marines as presented (Attachment II)

By: Vice Mayor Zoldos

Second: Council Member Coleman

Aye: Council Members Carder, Coleman, Senate, Sparbanie, Zoldos

Nay: None

Abstain: None

Absent: Council Member Staley

Information Items

No information items were presented.

Comments from the Mayor and Town Council

Councilwoman Coleman thanked Councilman Sparbanie and Ms. Miller for their work on Oktoberfest. She stated that she is glad to see work starting on the Veterans Memorial.

Councilman Senate reported that the Parks Committee is prodding the contractor on the Veterans Memorial, working on creating the order form for engraved pavers and are creating a pamphlet for the Memorial. The Committee has started working on the bandstand project, which will require more professional help.

Councilwoman Carder stated that Oktoberfest was wonderful. She also attended the Catoclin Art Tour which featured many local artists.

Councilman Sparbanie thanked all the Oktoberfest Committee members with special thanks to Ms. Miller, Vice Mayor Zoldos, Councilwoman Coleman, Manager Markel and Co-chairman Scott Dockum. He also thanked the sponsors who were instrumental in keeping this a free event. He reported that Oktoberfest will not be able to put the main tent in the same location next year because of the propane tank. He also

thanked his two oldest daughters and his wife for their work and support throughout Oktoberfest. He thanked Mayor Walker for all her support.

Vice Mayor Zoldos thanked Councilman Sparbanie for running Oktoberfest. He recommended that the Movie in the Park tomorrow night be postponed until next week, given the weather report and the competing event at the Community Center. The Council agreed to reschedule the movie to next Friday night.

Mayor Walker reported on the following:

1. The Lovettsville Fire and Rescue Open House will be this Sunday.
2. The Lovettsville Historical Society lecture series also continues this Sunday.
3. She is still working on having a speed limit sign installed at the south end of Town. She thanked Councilman Sparbanie for chairing Oktoberfest and Mr. Dockum for co-chairing the event. It was a successful event and she is thankful for the day of sunshine.
4. She learned a great deal at the Mayors Conference and at the VML Conference.
5. She would like to schedule a Council retreat on a Saturday in the near future.
6. The closed session with Loudoun County Public School was cancelled because Council did not have a quorum. She will work to establish a new date for the session.
7. The Lovettsville Business Association is sponsoring a debate Monday night for the candidates for the Board of Supervisors. The debate will not include candidates for the School Board or for the at-large Board position.
8. She attended a reception for Project Hope and has committed to setting up a community meeting on this topic.
9. The Fine Arts Fair at Lovettsville Elementary School is next week.

Councilwoman Coleman reported that the local food bank at New Jerusalem Church is desperately in need of contributions.

Closed Session

The Council went into closed session at 9:55 PM (Attachment III: Closed Session Motions) and came out of closed session at 12:06 AM.

Councilman Staley arrived during the Closed Session.

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 I)

Action Items (Continued)

D. Appointment of Planning Commissioner

Motion: I move to appoint Debra Summitt to the Planning Commission effective immediately with a term to end on June 30, 2015.

By: Council Member Coleman

Second: Council Member Carder

Aye: Council Members Carder, Coleman, Senate, Staley

Nay: None

Abstain: Council Members Sparbanie, Zoldos

Absent: None

Vice Mayor Zoldos and Councilman Sparbanie explained that they were abstaining because they had not been able to attend the candidate interviews for this position.

E. Resolution of Water and Sewer Tap Billing Inconsistencies

Mayor Walker called for discussion. Councilman Sparbanie stated that he would not be voting in favor of the motion but understands this is a difficult decision.

Motion: I move to adopt Resolution 2011-10-01: Resolution of Water and Sewer Tap Billing Inconsistencies (Attachment IV)

By: Vice Mayor Zoldos

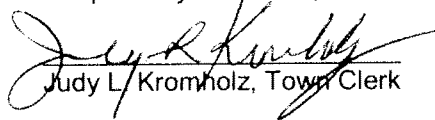
Second: Council Member Senate

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

Vice Mayor Zoldos requested that the Town Manager prepare a letter of explanation to address how the Town got to this point and how, with this resolution, the interpretation of previous Council actions and future billing will be consistent.

The meeting was adjourned at 12:19 AM.

Respectfully submitted,



Judy L. Kromholz, Town Clerk

Date Approved: January 12, 2012

Attachments:

- I. Speaker Signup Sheet
- II. Proclamation for Young Marines
- III. Closed Session Motions
- IV. Resolution 2011-10-01: Resolution of Water and Sewer Tap Billing Inconsistencies

Written Submissions to Council: None

Town of Lovettsville

Speaker Sign - Up Sheet

Town Council Regular Meeting - October 13, 2011

Please Print.

Name and Association	Address	Topic	Email Address (Optional) ¹
Julie Balderson	530 Forest St. Lovettsville	Fire Club	thomasbalderson.net
HOWARD WILLIAMSON	12609 LUTHERAN DR. RD LOVETTSVILLE	Juveniles	
Marilyn Feg	14 East Braddock Lovettsville	Juveniles	cmstrngs@aol.com
Jason Lege	13 Get Broad way	Juveniles	
Meady Simms	7 Get N. Light St	Juveniles	
Loraine Forster	158 CMS Roadway		

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.

Town of Lovettsville

PROCLAMATION FOR THE YOUNG MARINES

WHEREAS, The Young Marines is an educational and service program for girls and boys, ages eight through completion of high school, and promotes the mental, moral, and physical development of its members; and

WHEREAS, The Young Marines established a mission to develop good citizenship and to nurture and develop their members into responsible citizens who enjoy and promote a healthy, drug-free lifestyle; and

WHEREAS, The Young Marines will recognize and pay tribute to DEA Special Agent Enrique' "Kiki" Camerena by promoting Red Ribbon Week from October 22 through October 30, 2011 throughout the nation, and in Germany, Japan, as well as affiliates in other countries; and

WHEREAS, The Young Marines are asking that municipalities and community groups wear red ribbons as a symbol of support for their program to fight against illegal drug use and trafficking.

NOW, THEREFORE, BE IT RESOLVED that the Town Council of the Town of Lovettsville supports The Young Marines in their endeavors to educate youth to live a healthy drug-free lifestyle, thereby promoting and building drug-free communities.

ADOPTED THIS 13th DAY OF OCTOBER 2011.


ELAINE WALKER, MAYOR


ROBERT ZOLDOS, II, VICE-MAYOR

The German Settlement

Town of Lovettsville

VIRGINIA FREEDOM OF INFORMATION ACT Resolution: AUTHORIZE CLOSED SESSION

Date: 10/13/11

Time: 9:55 PM

MOTION BY: Bob Zaldar

I move that the Lovettsville Town Council convene in closed session pursuant to Va. Code section 2.2-3711 A

1. Discussion, consideration, or interviews of prospective candidates for employment; assignment, appointment, promotion, performance, demotion, salaries, disciplining, or resignation of specific public officers, appointees, or employees of any public body; and evaluation of performance of departments or schools of public institutions of higher education where such evaluation will necessarily involve discussion of the performance of specific individuals,
3. Discussion or consideration of the acquisition of real property for a public purpose, or of the disposition of publicly held real property, where discussion in an open meeting would adversely affect the bargaining position or negotiating strategy of the public body,
4. The protection of the privacy of individuals in personal matters not related to public business,
5. Discussion concerning a prospective business or industry or the expansion of an existing business or industry where no previous announcement has been made of the business' or industry's interest in locating or expanding its facilities in the community,
6. Discussion or consideration of the investment of public funds where competition or bargaining is involved, where, if made public initially, the financial interest of the governmental unit would be adversely affected,
7. Consultation with legal counsel and briefings by staff members or consultants pertaining to actual or probable litigation, where such consultation or briefing in open meeting would adversely affect the negotiating or litigating posture of the public body; or consultation with legal counsel employed or retained by a public body regarding specific legal matters requiring the provision of legal advice by such counsel [For the purposes of this subdivision, "probable litigation" means litigation that has been specifically threatened or on which the public body or its legal counsel has a reasonable basis to believe will be commenced by or against a known party. Nothing in this subdivision shall be construed to permit the closure of a meeting merely because an attorney representing the public body is in attendance or is consulted on a matter],
19. Discussion of plans to protect public safety as it relates to terrorist activity and briefings by staff members, legal counsel, or law-enforcement or emergency service officials concerning actions taken to respond to such activity or a related threat to public safety; or discussion of reports or plans related to the security of any governmental facility, building or structure, or the safety of persons using such facility, building or structure,

Town of Lovettsville

29. Discussion of the award of a public contract involving the expenditure of public funds, including interviews of bidders or offerors, and discussion of the terms or scope of such contract, where discussion in an open session would adversely affect the bargaining position or negotiating strategy of the public body,

33. Discussion or consideration of confidential proprietary records and trade secrets excluded from this chapter pursuant to subdivision 18 of § 2.2-3705.6,

40. Discussion or consideration of records excluded from this chapter pursuant to subdivision 3 of § 2.2-3705.6 [Confidential proprietary records, voluntarily provided by private business pursuant to a promise of confidentiality from a public body, used by the public body for business, trade and tourism development or retention; and memoranda, working papers or other records related to businesses that are considering locating or expanding in Virginia, prepared by a public body, where competition or bargaining is involved and where, if such records are made public, the financial interest of the public body would be adversely affected],

with regard to [person, issue or property subject of discussion]

And thereafter reconvene in open session for action as appropriate.

SECOND: *Charlette Coleman*
VOTE:

Ayes: *B. Zoldos, T. Sparbanie, T. Carder, M. Senate, C. Coleman*

Nays: *None*

Abstentions: *None*

Absent for vote: *S. Staley*

(Mr. Staley arrived during the closed session)

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:”

10/14, 2011 at 12:07 ~~PM~~ AM

Certified:

Daine Waller
Mayan

Town of Lovettsville

Resolution 2011-10-0001: RESOLUTION OF WATER AND SEWER TAP BILLING INCONSISTENCIES

MOTION: Zoldos

SECOND: Senate

WHEREAS the Water and Sewer Ordinance of the Town of Lovettsville requires minimum quarterly service charges for all water and sewer tap holders, regardless of whether the tap is connected to the Town's water distribution or sanitary sewer collection system, and

WHEREAS the Town of Lovettsville inconsistently billed water tap holders beginning in August of 2002 to the present, and

WHEREAS the Town of Lovettsville failed to bill sanitary sewer tap holders who purchased taps after March of 2001

WHEREAS the Town of Lovettsville recognizes that it must treat all tap holders fairly and correct the billing error.

THEREFORE BE IT RESOLVED, that the Town of Lovettsville shall issue refunds of all minimum quarterly service charges paid by Water Tap holders during the time the tap was privately held but not connected to the Town distribution system, beginning in August 2002 to the present and refunds of all minimum quarterly service charges paid by Sewer Tap holders during the time the tap was privately held, but not connected to the sanitary sewer collection system beginning in March 2001.

BE IT FURTHER RESOLVED that all owners of privately held taps that have not connected to the Town's collection and distribution system will begin receiving quarterly bills commencing on January 1, 2012 based on the billing cycle of the address of the unconnected tap.

BE IT FURTHER RESOLVED that other than forgiveness of sums due as provided herein, nothing in this resolution shall be deemed a waiver of rights by the Town of Lovettsville under any existing contract or duly-adopted policy.

VOTE:

AYES: Carder, Coleman, Senate, Staley, Zoldos

NAYS: Sparbanie

ABSTENTIONS: None

ABSENT FOR VOTE: None

Adopted this 13th day of October, 2011


Elaine Walker, Mayor

Attest:


The German Settlement