

Town of Lovettsville

Town Council Minutes of the April 11, 2013 Public Hearing and Regular Meeting

Call to Order/Pledge of Allegiance

Mayor Robert Zoldos II called the Regular Meeting of April 11, 2013 of the Lovettsville Town Council to order at 7:30 p.m. on Thursday, April 11, 2013 at the Lovettsville Town Hall, 6 East Pennsylvania Avenue, Lovettsville, VA.

Present at Meeting

- Mayor Robert Zoldos II
- Vice Mayor Mike Senate
- Council Member Kimberly Allar
- Council Member Jack Burden
- Council Member Tiffany Carder
- Council Member Rodney Gray
- Council Member James McIntyre

Staff

- Town Manager Keith Markel
- Town Attorney Elizabeth Whiting
- Zoning Administrator Melissa Hynes
- Treasurer Lance Gladstone (arrive 7:36 p.m.)
- Town Clerk Harriet West

Pledge of Allegiance

Mayor Zoldos led those assembled in the Pledge of Allegiance.

Closed session

Mayor Zoldos announced that the Council would be going into Closed Session to discuss the location of Town Hall.

Presentations

There were no presentations.

Comments from the Public

Mayor Zoldos called for comments from the public. There were none.

Community Presentations

A. Loudoun County Sheriff's Office

Deputy Sheriff Lopreto gave an update on setting up the checkpoint on East Broad Way and two incidents in Town including tampering with a locked door at 21 East Broad Way and items taken from an unlocked vehicle on Stocks Street. There was also a report of kids riding mini-bikes at Quarter Branch Park. Manager Markel said the Park is not open yet so it is considered private property. Deputy Lopreto suggested posting the property. He also suggested that the Town develop regulations for monitoring the Walker Pavilion at night since it is located on common ground and is accessible to the public. He will be moving the electronic messaging sign to different locations around Town. Deputy Lopreto and the Council discussed coverage for MayFest.

Mayor Zoldos stated there were no other Community Presentations.

Town Commission and Committee Reports

A. Lovettsville Planning Commission

Planning Commission Vice Chair Joe Mueller said he will be presenting the Old Town Study later in tonight's meeting. This is the key issue the Planning Commission has been working on, as well as parking requirements and a recent zoning request.

B. Parks Committee

Vice Mayor Senate gave an update on the construction of the Walker Pavilion, which will be completed in time for MayFest. The committee is also working on the recommendations for funding and the design of the Quarter Branch Park.

C. "We're In" Committee

Councilwoman Carder gave an update on the recent committee meeting, the new business directory, and the hex sign challenge. Mayor Zoldos provided additional background on the challenge, which draws on the Town's German-American history, and the process for submitting entries. The top three designs will be voted on at MayFest. The winning design will then be sent to an artist who will prepare several mock ups for further review.

D. MayFest Committee

Councilwoman Carder gave an update on preparations for MayFest including vendors, sponsors, KidZone activities, the poster design, and entertainment.

E. Oktoberfest Committee

Councilman McIntyre said the committee will be participating in Volunteerfest.

Additions/Deletions/Modifications to the Agenda

Mayor Zoldos asked if there were any changes to the agenda. Councilwoman Carder Tiffany asked to add an Action Item to request funding for MayFest 2013. There was no objection from the Council.

Minutes

A. Town Council Regular Meeting – February 14, 2013

Motion: I move that the Town Council accept the minutes of the Regular Meeting held February 14, 2013.

By: Council Member Allar

Second: Council Member Carder

Mayor Zoldos called for discussion. Hearing none, he called for the vote.

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

Nay: None

Abstain: Vice Mayor Senate

Absent: None

Report from the Treasurer

The Treasurer gave the Financial Report for February 2013. Councilman Burden asked about the procedures for those who do not obtain a business license. Treasurer Gladstone said there is a 10% penalty if the license fee is not paid by March 1 and that liens can also be imposed.

Motion: I move to adopt the Treasurer's Report for February 2013 as presented.

By: Vice Mayor Senate

Second: Council Member McIntyre

Mayor Zoldos called for discussion. Hearing none, he called for the vote.

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

Nay: None

Abstain: None

Absent: None

Staff Reports

A. Report from the Project Manager

There were no questions regarding the Project Manager's report.

B. Report from the Zoning Administrator

There was no report from the Zoning Administrator.

C. Report from the Town Attorney

The Town Attorney will not be at the next Town Council meeting but she will coordinate with staff ahead of time.

D. Report from the Town Manager

Manager Markel gave updates on the rain barrel workshop and upcoming meetings for the Parks Committee and Information Flow Committee. The Facilities Committee will meet next week to finalize the selection of the firm for the Town Office expansion.

Action/Discussion Items

A. LVRZ 2013-0001: Public Hearing for Rezoning Application - 5 North Berlin Pike

Mayor Zoldos recessed the Regular Meeting at 8:02 p.m. to open Public Hearing for the Rezoning Application for 5 North Berlin Pike.

Presentation

Zoning Administrator Hynes presented this item. The Council is being asked to consider a request from Malcolm and Pamela Baldwin to rezone a 0.74 acre parcel located at 5 North Berlin Pike from R-1 (Residential) to C-1 (Community Commercial), with proffers. The subject parcel is located in Land Bay A (of the Town's Comprehensive Plan) which is suitable for commercial use. She discussed neighboring properties and their respective commercial and residential uses, as well as the view from Town Square. The Applicants have proposed a two-phase development plan, which includes:

- **Phase 1:** Renovating the existing house into a coffee house and commercial kitchen, which would be available to rent. The existing footprint of house would not change.
- **Phase 2:** Building a new commercial structure up to 4,000 sq ft in size, to be used as a small grocery store.

In addition to the rezoning request, the Applicants are requesting a reduction in the landscape buffer and earlier opening hours.

The Zoning Administrator reviewed the proffer process and noted that proffers are voluntary conditions proposed by the applicant to address land use issues during the rezoning process. Proffers are tied to the land.

The Zoning Administrator reviewed the Applicants proffers for permitted uses, conditionally permitted uses, building location, building size, consultation on building design, boundaries with neighboring properties, weekday operating hours, and support to bike trail users (see Attachment 1). All of Staff's concerns have been addressed except for the building design, which states:

Proffer #5 Consultation on Building Design: *It is applicants' intention to do everything they can to ensure that any new building designed for construction on the subject property (either by them or by others) will serve as an aesthetic enhancement to the Town. While recognizing that the Town has no architectural design standards or requirements, the applicants hereby commit to share any proposed building design for the property with the Town at the conceptual stage, to take seriously any comments or concerns the Town may have, and to work toward a mutually satisfactory resolution of any concerns.*

The Zoning Administrator said it will be difficult to enforce something that is not tangible. Pamela Baldwin stated their commitment to share the design with the Town is enforceable. Councilman Burden said that intentions are not enforceable. Malcolm Baldwin said the Town has no architectural standards with which to match their intentions against; hence, a certain amount of trust is required. All they can say is that they

will submit the plans for review. The Zoning Administrator stated it is possible to proffer architecture and elevation as has been done with other projects in Town. She gave the example of Town Center and noted the public opposition when the developer proposed changes to the proffered design.

The Planning Commission Public Hearing was held on March 20, 2013. There was no opposition from the community. There were people in attendance who were in favor of the application, including the owner of the proposed coffee shop, a member of Lovettsville Co-op Board, and the Applicants. The Planning Commission discussed the architecture at length. The final vote was four to one (with one Commissioner absent) recommending approval of the application to the Council.

The Zoning Administrator stated the only time the Town can discuss the architecture is during the rezoning process. She noted they are not approving the Applicants, but rather the property being rezoned from residential to commercial. She reviewed the Council's options which include approving, denying, or tabling the application. Staff does not recommend denying the application because the Applicants would have to wait one year to bring the application back.

Vice Mayor Senate said this is a small parcel and he would like to see engineering drawings showing how the 30-foot commercial driveway, two-lane road, and parking area will work.

Councilman McIntyre asked what happens if the property gets subdivided. Zoning Administrator Hynes said both parcels would have to meet the proffers. He also asked if there had been any discussion with the Applicants about attaching photographs or renderings. The Zoning Administrator said the Applicants included language about architecture and illustrative photographs with their draft proffers in January 2013 but withdrew them when Staff reminded them they would have to do what was presented in the proffers. Pamela Baldwin said they did include illustrative drawings in their application.

The Council, the Applicants, and Staff further discussed design standards and options for proffers.

Planning Commission Vice Chair Joe Mueller, who was in the audience, discussed the reasons for the Commission's action including location and permitted business uses.

The Zoning Administrator said Staff recommends approval after a thorough discussion of the design standards.

Vice Mayor Senate read the public notice and instructions for public comment.

Public Comment

Mayor Zoldos called for comments from the public.

Colton Seale, 40140 Quarter Branch Road, came forward to speak. He said he and his wife will be running the coffee shop. A coffee shop is something that is needed and it will provide a public space in Town.

Mayor Zoldos asked if anyone else would like to speak before the Council regarding the rezoning application. Hearing none, the Mayor declared the Public Hearing closed at 8:54 p.m. and resumed the Regular Meeting. The Mayor called for a motion.

Motion: I move that the Lovettsville Town Council approve Rezoning Application LVRZ 2013-0001.

By: Council Member McIntyre

Second: Council Member Gray

Mayor Zoldos called for discussion.

Councilman Burden said most of the Council members are probably all members of Co-op and that he would love to see the Co-op go in there, but that's not what this is about. It's about this piece of property and what the Council might want to include or preclude for being built there, including the

architecture. His problem with proffer #5 is it is not enforceable. He read the Planning Commission report thoroughly. He is concerned about parking for employees and customers. His main concern is the long list of permitted uses. He would prefer that everything be a conditional use other than what the Applicants are proposing. He appreciates the Applicants intentions but the words in the proffer have to protect the Town and their neighbors. Intentions are not enough. He has no objection to the 5:00 a.m. opening and 11:00 p.m. closing. He is in favor of the whole idea, but what has been presented does not protect the Town. He would recommend tabling this until they can work through the language with the Staff.

Vice Mayor Senate said he would like to see a grocery store and coffee house, but he is concerned about not having a plat with actual dimensions prepared by an engineer that shows everything laid out to scale. They also need to make sure the site will meet VDOT (Virginia Department of Transportation) standards. He said they could come up with a way to address the architecture that will protect the Applicants and the Town.

Upon further discussion about VDOT standards, Pamela Baldwin said the Zoning Administrator sent the application to VDOT and received a letter stating the agency had no objection to the proposed use.

Councilman Gray said he was looking forward to having a place to meet in Town. He is not in favor of having the Town determine what buildings look like. No other business that comes into an existing commercial zoned site would have to go through the same process. He said there is a difference in a large commercial development like Town Center and a small business, like the Co-op.

The Council further discussed design standards, architectural concerns, and clarifying the wording for Proffer #4 regarding the limitations on total square footage.

Councilwoman Allar stated she is not a member of the Co-op; however, she is really excited to see the coffee shop and Co-op moving forward. The Council needs to do what is best for the Town and she is not comfortable with Proffer #5 as presented.

Malcolm Baldwin said he appreciates Councilman Burden's concerns; however, he is not happy with submitting something that is open ended, in the absence of any standards. The Town has a "mishmash" of buildings. They are committed to Lovettsville and will make this as good a building as they can possibly make it. The language, such as "substantial compliance," creates all kinds of legal issues and is not something they want to get into. There is an element of trust in all of these dealings. While he understands this is not sufficient for the Council, it is important that he convey that they want to be part of this community and make it better. He does not know if the language that has already been suggested can be improved. Their intention is to meet the aesthetic qualities in Lovettsville. That is as far as they are willing to go. He does not know if they can commit to submitting photos which many not fit the kind of building they have in mind, but they may be able to eliminate some of the permitted uses. If the Co-op does not work out, they may have to sell the property to someone who would be an enhancement to Lovettsville. They have done a topographical survey for the parking area, and there is additional room around the back of the property. They will not be able to put together something costly, like an engineering design for the parking, and then have an open ended question whether the Council will approve the architecture. He asked the Council to think about what they are trying to do for the community. They are taking a lot of risks.

Mayor Zoldos said this has been a good discussion. He was present at the Planning Commission public hearing on the Applicants rezoning request and said much of the discussion came down to fairness. The Town needs to treat all applicants the same, regardless of their resources. If the Town starts treating the small business different than the big business, they will never have big business in Town. He is comfortable with anything the Baldwins do because they are committed to the Town, but if something goes wrong, the Council needs to minimize risk to the Town. He said the best way for the Applicants to show their intent is to provide a broad range of photographs that are representative of the design. Proffer #5 has no meaning and the Council is not doing its due diligence if they leave it opened. He encouraged tabling this item tonight to address the concerns that have been raised.

Attorney Whiting said if the Council has reservation with parts of the application, then a work session in order. In the end, this is the Applicants' application and it is up to them to submit something they are comfortable with. The Council can then vote it up or down.

Pamela Baldwin said they will take the next step and come back with revised language for Proffers # 4 and 5, a revised list of permitted uses and conditionally permitted uses, and a better sketch based on the recent topographic survey. She said it is likely they will sell the property to the Co-op before anything gets built. They will be talking to VDOT about the driveway. They will also work with their colleagues in the Co-op to come up with a list of design elements they would not do without unduly restricting the future owner. The five photos were meant to show the kind of look they think is appropriate, but she would be very wary of submitting them as any kind of commitment because they are not the developers. They have been advised by an attorney that they should not agree to "substantial conformance" with any particular thing because it is a very vague term which is open to interpretation and therefore litigation.

The Council, the Applicants, and Staff discussed how the proffers could be revised to ensure they are clear and something the Zoning Administrator can enforce.

Mayor Zoldos called for the question or a motion to table.

Councilwoman Carder made a motion to table the discussion. Councilman McIntyre seconded the motion. Mayor Zoldos called for the vote.

Aye: Council Members Allar, Burden, Carder, Gray, McIntyre, and Senate
Nay: None
Abstain: None
Absent: None

B. Landscape Modification: 5 North Berlin Pike

This item was tabled until the Applicants bring back their revised rezoning application.

Meeting Recessed

The meeting was recessed at 9:46 p.m. and reconvened at 9:52 p.m.

C. Old Town Study Presentation by Planning Commission

Planning Commission Vice Chair Joe Mueller presented this item. The Council is being asked to endorse the Old Town Study, which is an outgrowth of the Town's 2011 Comprehensive plan. The purpose is to:

- Create **new zoning district** for Old Town allowing commercial expansion and mixed use in existing structures
- Maximize economic development potential in Old Town
- Support the general Main Street design concept
- Foster business uses that in turn foster tourism
- Encourage pedestrian circulation and access
- Support and promote a mixture of housing types

Vice Chair Mueller reviewed the location and current zoning of the Old Town Study area, community outreach efforts and results, the types of zoning to consider, goals, and objectives. He discussed the recommended features for the proposed Old Town Zoning District including parking accessibility, pedestrian oriented space, mixed use for commercial and residential, setbacks, outdoor seating areas, entryways, street facades, and landscaping. The goal is to have a vibrant main street area by creating a new zoning district.

Vice Mayor Senate said parking will be the biggest challenge. Vice Chair Mueller said parking is limited but there may be opportunities for public parking lots.

Vice Chair Mueller reviewed the next steps. The Planning Commission is requesting that the Council endorse the Old Town Lovettsville Study. The Planning Commission will refer input to Town Council as they continue to draft the Old Town Zoning District. Once in form acceptable to the Commission, the Draft District Text will go to Public Hearing.

Zoning Administrator Hynes said this is a voluntary district and property owners would have to choose to have their property rezoned. Vice Chair Mueller said idea is to allow people to opt in. The benefit is that it gives the home owners more flexibility with what they can do with their property.

Vice Mayor Senate said he has not had good experiences with having apartments above businesses. Manager Markel said the water and sewer investment will help control the financial viability of these types of apartments.

Motion: I move that the Town Council endorse the plan as presented and encourage the Planning Commission to do more of what they are really supposed to do, plan.
By: Council Member Burden
Second: Council Member Gray

Mayor Zoldos called for discussion.

Councilman Burden said parking has to come first. Zoning Administrator Hynes said the next step is to conduct a public parking study.

Commissioner Gray said the study is very impressive. The Planning Commission has identified a lot of things that could be done.

Councilman McIntyre suggested that Staff should present funding resources for property owners to make some of these changes. Zoning Administrator Hynes said the next step will be to identify incentives.

Mayor Zoldos called for additional discussion. Hearing none, he called for the vote.

Aye: Council Members Allar, Burden, Carder, Gray, McIntyre, and Senate
Nay: None
Abstain: None
Absent: None

Mayor Zoldos thanked the Planning Commission and Staff for doing an outstanding job.

D. Volunteer Month Proclamation

Motion: I move that the Town Council approve the Proclamation for National Volunteer Month for April 2013.
By: Vice Mayor Senate
Second: Council Member Carder

Mayor Zoldos said this proclamation works well with Volunteerfest, which is coming up this weekend. He noted that volunteers are a very important part of community. Mayor Zoldos called for additional comments. Hearing none, he called for the vote.

Aye: Council Members Allar, Burden, Carder, Gray, McIntyre, and Senate
Nay: None
Abstain: None
Absent: None

E. Request for Funding for MayFest 2013

Motion: I move to give the MayFest Committee \$2,000 in support of MayFest 2013.
By: Council Member Carder
Second: Council Member McIntyre

Mayor Zoldos called for discussion. Hearing none, he called for the vote.

Aye: Council Members Allar, Burden, Carder, Gray, McIntyre, and Senate
Nay: None
Abstain: None
Absent: None

Information Items

Manager Markel said he received a letter from the Lovettsville Game Club requesting permission to conduct the overnight tear down of the annual carnival. The request is similar to what Council has approved in the past. The Mayor and Council Members discussed the request and noted there were no complaints last year.

Motion: I move to accept the 2012 operating procedures for the tear down of the Snyder Carnival at the Lovettsville Game Protective Association to be handled overnight like it has been done in the past, June 18-22, 2013 with the tear down on June 22/23.
By: Vice Mayor Senate
Second: Council Member Burden

Mayor Zoldos called for discussion. Hearing none, he called for the vote.

Aye: Council Members Allar, Burden, Carder, Gray, McIntyre, and Senate
Nay: None
Abstain: None
Absent: None

Manager Markel said they had been contacted by a local college student requesting an interview with a Town Council Member. Councilwoman Carder agreed to be interviewed.

The next meeting of the Facilities Committee was scheduled for Thursday, April 18 at 9:00 a.m.

Comments from the Mayor and Town Council

Councilman McIntyre said he had a fantastic meal from the new Thai food truck.

Councilman Gray discussed participating in Volunteerfest.

Vice Mayor Senate said Loudoun Street is having a yard sale this Saturday.

Councilwoman Carder said she will be participating in the 5K race at the Community Center on April 28. She is looking forward to the opening day of EarthWorks on April 20, the new business located next door to Town Hall. She thanked the Council for their financial support for MayFest.

Mayor Zoldos gave updates on the Walker Pavilion construction, Girl Scout Palooza, Virginia Senate Delegation meeting, Information Flow Committee meeting, PTO fundraiser, Volunteerfest, and the baseball opening day parade.

Closed Session

Motion: I move that the Lovettsville Town Council convene in closed session pursuant to Va. Code section 2.2-3711A, 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, with regard to location of the Town Hall.
By: Vice Mayor Senate
Second: Council Member Carder

Mayor Zoldos called for discussion. Hearing none, he called for the vote.

Aye: Council Members Allar, Burden, Gray, McIntyre, and Senate
Nay: None

Abstain: None
Absent: None

The Mayor and Council went into Closed Session at 10:55 p.m. and went back into Open Session at 11:15 p.m. Upon a roll-call poll by Mayor Zoldos, all Council Members certified that: 1) only public business matters lawfully exempt for the open meetings requirements under the Virginia Freedom of Information Act and 2) 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 (Attachment 2).

Adjournment

There being no further business before the Council, the meeting was adjourned at 11:16 p.m.

Respectfully submitted,



Harriet West, Town Clerk

Date Approved: June 27, 2013

Attachments:

1. Statement of Proffers Submitted by Malcolm F. & Pamela L. Baldwin in Support of the Application for Rezoning from R-1 to C-1 for 5 North Berlin Turnpike, Lovettsville (Parcel #369-20-6741-000), dated January 23, 2013 and amended March 14, 2013.
2. Resolution: Authorized Closed Session.

STATEMENT OF PROFFERS

Submitted by Malcolm F. & Pamela L. Baldwin

in Support of the Application for Rezoning from R-1 to C-1 for

5 NORTH BERLIN TURNPIKE, LOVETTSVILLE (PARCEL # 369-20-6741-000)

1. **Permitted uses:** Limit the permitted uses of the property to the following:
 - Child care centers, day care centers or nursery schools subject to Section 3-1(b)(iii)
 - Bed and breakfast (subject to section 3-1(b)(ii))
 - Churches, places of worship
 - Fraternal clubs, lodges and community buildings for use by non-profit organizations
 - Offices, administrative, business and professional
 - Office, medical and dental
 - Studio space – artist, crafter, writer
 - Museum, cultural center
 - Dance, music and/or fitness studio
 - Restaurant, excluding drive-through windows
 - Libraries
 - Communications and broadcast studio
 - Services, personal
 - Furniture and cabinet making shops
 - Retail nurseries, greenhouses, farm and garden shops, farmer’s market, subject to the provisions of Section 3-11(d) for outdoor sales and storage
 - Retail sales establishment (note: applicants wish to retain eligibility of all retail establishments listed in the Zoning Ordinance as permitted uses)

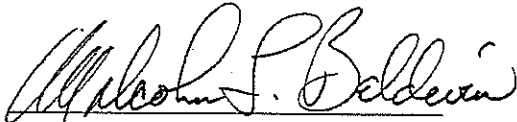
2. **Limit the conditionally permitted uses to the following:**
 - Hardware store
 - Indoor recreation facilities
 - Retail sales and/or service with outdoor storage and/or display
 - Microbrewery, wine-tasting facility
 - Medical care facility, outpatient only
 - Veterinary hospital

3. **Building Location:** Any new building will be located at least 30 feet from the route 287 right-of-way and 20 feet from all other property lines.

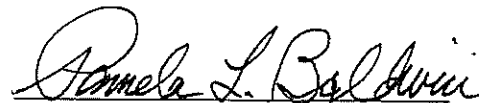
4. **Building size:** Any new building constructed on the property is to be no more than 4,000 square feet in area and no more than 25 feet high. As long as existing house remains on the property, any additional building constructed on the property is to be no more than 3,000 square feet in area and no more than 25 feet high.

5. **Consultation on Building Design:** It is applicants' intention to do everything they can to ensure that any new building designed for construction on the subject property (either by them or by others) will serve as an aesthetic enhancement to the Town. While recognizing that the Town has no architectural design standards or requirements, the applicants hereby commit to share any proposed building design for the property with the Town at the conceptual stage, to take seriously any comments or concerns the Town may have, and to work toward a mutually satisfactory resolution of any concerns.
6. **Boundaries with AME Cemetery and Mabe Properties:** Applicants will supplement the required buffer with additional plantings of flowering shrubs and perennials (rain garden).
7. **Boundary with Espejo Property:** Applicants will construct a 6' fence on the northern portion of boundary, between northwest corner point of subject property and the Dominion power pole approximately 30 feet from the property line fronting on Berlin Pike.
8. **Weekday Operating Hours:** Applicants will limit Sunday through Thursday evening closing time to no later than 10:00 PM.
9. **Support to Bicycle Trail Users:** Applicants will construct a permanent bicycle rack on the subject property.

Respectfully submitted,



Malcolm F. Baldwin



Pamela L. Baldwin

Date: 1/23/2013 amended 3/14/2013

Town of Lovettsville

VIRGINIA FREEDOM OF INFORMATION ACT Resolution: AUTHORIZE CLOSED SESSION

Date: 04-11-2013

Time: 10:55

MOTION BY: Mike Senate

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,

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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~~] *location of the Town Hall*

And thereafter reconvene in open session for action as appropriate.

SECOND: *Tiffany Carder*

VOTE:

Ayes: 6

Nays: 0

Abstentions: 0

Absent for vote: 0

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:”

April 11, 2011 at *11:15* PM

Certified:

Dann WSS