

Town of Lovettsville

Town Council Minutes of the April 25, 2013 Regular Meeting and Special Budget Meeting

Call to Order/Pledge of Allegiance

Mayor Robert Zoldos II called the Regular Meeting of the Lovettsville Town Council to order at 7:30 p.m. on Thursday, April 25, 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 (arrived at 7:33 p.m.)

Staff

- Town Manager Keith Markel
- Project Manager Karin Fellers
- Zoning Administrator Melissa Hynes
- Treasurer Lance Gladstone (arrived at 7:35 p.m.)
- Town Clerk Harriet West

Pledge of Allegiance

Mayor Zoldos asked Carl Grant, Scout Pack 711 to lead those assembled in the Pledge of Allegiance.

Audience

Former Mayor Elaine Walker and Carl Grant were present in the audience. Mayor Zoldos stated that Carl is attending the Council meeting as part of a merit badge requirement.

Closed Session

Mayor Zoldos announced there would be no Closed Session.

Presentations

Michael Maker and Eric Callocchia from Municipal & Financial Services Group (MFSG), gave a PowerPoint presentation on the Town of Lovettsville Water and Sewer Rate Study conducted by their firm. The study process included identifying revenue requirements, identifying customer and usage patterns, developing cost and usage projections, and developing a financial plan and recommended rates. Mr. Callocchia discussed the model used to determine the total revenue requirements to operate the Town's water and sewer system including contributions to reserves, planned capital improvement projects, existing debt service payments, and operating/maintenance expenses. He reviewed the projected shortfalls for Fiscal Year 2014 through FY 2018 based on current rates. The results of the study indicate the need for a rate adjustment of 3% per year for water and 6% per year for sewer. The affect on the average customer is a rate increase of less than \$10 per quarter in the first year. The Town's current and proposed average quarterly bill in FY 2014 would still be below most of the other towns in the area. Mr. Callocchia further discussed the long-term financial impacts on all water and sewer funds with and without the adoption of the recommended financial plan. In addition to adjusting the water and sewer rates as noted, they also recommended that the Town:

- Update the water/sewer model annually with data and compare to projected values.
- Complete another rate study in 3-5 years to more accurately project capital costs.

Mayor Zoldos said the Council undertook the rate study to determine what the rates should be to maintain the Town's water and sewer system. The model will allow the Town to re-examine rates on a year-to-year basis.

Comments from the Public

Vice Mayor Senate read the rules for public comment.

Laura Lieberman, 12383 Taylorstown Road, came forward to speak. Ms. Lieberman said she is on the Board of the Lovettsville Cooperative Market. The Co-op is part of the community and they have the same goals as the Town. They want to make Lovettsville a destination and bring people here to shop and to support the local growers, supplier, and vineyards. They have started with the Farm Market, which has been successful. They want to work with the Town and the Baldwins. She thanked the Council Members for their time and supporting them thus far.

Community Presentations

A. Loudoun County Sheriff's Office

Deputy Sheriff Lopreto gave an update on the incident on Loyalty Road in Taylorstown and his speed enforcement efforts in Town.

There were no other Community Presentations.

Town Commission and Committee Reports

A. Lovettsville Planning Commission

Zoning Administrator Hynes gave updates on the Hours of Operation and Open Space Requirements Ordinance Amendments.

B. Parks Committee

Vice Mayor Senate reported that construction on the Walker Pavilion is coming along well. He hopes to get the funding for the Quarter Branch Park Facility approved tonight so it is ready for Oktoberfest.

C. "We're In" Committee

Councilwoman Carder gave an update on the next committee meeting date and the Town Seal challenge. Mayor Zoldos explained the background on the challenge and the process for submitting an entry.

Zoning Administrator Hynes gave an update on the small business breakfast scheduled at the Community Center on May 17, 2013.

D. MayFest Committee

Councilwoman Carder gave an update on vendors, sponsors, activities, and entertainment. Mayor Zoldos said MayFest and Oktoberfest are events that bring people into Town, but they do require start-up funding. He noted that Councilwoman Carder and her committee will likely break even in their second year.

E. Oktoberfest Committee

Councilman McIntyre said Oktoberfest will be sponsoring the cornhole tournament at MayFest. The committee will be working with Deputy Lopreto to discuss security issues.

Additions/Deletions/Modifications to the Agenda

There were no changes to the agenda.

Minutes

No minutes were presented.

Report from the Treasurer

There was no report.

Staff Reports

A. Report from the Project Manager

Project Manger Fellers said sewer line cleaning is scheduled for early May.

B. Report from the Zoning Administrator

Zoning Administrator Hynes gave updates on new home construction in Town Center, new home occupations permits issued, and a zoning enforcement case involving Catoctin Coffee. The Planning Commissioners and Zoning Adminstrator passed the Certified Planning Commissioner course. Epicurience Virginia, a new trademark event designed to attract culinary travelers from around the country, will be held on Labor Day weekend. The main event will be held at Morven Park and will include many other offsite events throughout Loudoun County.

C. Report from the Town Attorney

The Town Attorney was at a conference and was not in attendance.

D. Report from the Town Manager

Manager Markel said he has been working with the Town Attorney on the code codification. He said they had a successful Arbor Day/Earth Day event which included a tree planting at the Verizon site, and the Town recently received its Tree City USA designation.

Action/Discussion Items

A. 5 North Berlin Rezoning

Zoning Administrator Hynes presented this item, which is a follow up to the Town Council public hearing for LVRZ-2013-0001 held on April 11, 2013. The Council tabled the vote on the application until more information was available to make their decision.

Zoning Administrator Hynes reviewed the background for the rezoning request and discussed the Council's concerns raised at the public hearing which included a lack of engineered concept plan, potentially inappropriate permitted uses, confusing language for Proffer #4 (now revised Proffer #6), vague language for Proffer #5 (now revised Proffer #7), and the future architecture of any new commercial buildings built on site. The Applicants revised their proffers to address the Council's concerns and submitted them to Staff on April 19, 2013 (see Attachment 1). The Zoning Administrator reviewed the Applicants' revised proffers and Council's options to approve, deny, or table the rezoning request. Staff supports the application but still has the same concerns regarding the architecture on the basis that the language is still too vague.

Mayor Zoldos asked if there were any questions regarding the presentation. Hearing none, he called for a motion to take this item off the table.

Motion: I move to take this item off the table.

By: Vice Mayor Senate

Second: Council Member McIntyre

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

Nay: None

Abstain: None

Absent: None

Mayor Zoldos stated the item is back on the table for approval with the changes as presented.

The Mayor said he and all of the Council Members, except one, are members of the Lovettsville Co-op and they fully support the Co-op. He then discussed his reservations regarding Proffer #7 and asked the Applicants for clarification about what it means with regard to potential future property owners if the site does not work out for the Co-op. Malcolm Baldwin said any new owner would abide by that provision and present their plans to the Town Council.

Councilwoman Allar said she is not a member of the Co-op but she fully supports the coffee shop and the Co-op. However, she still has concerns about Proffer #7 because the Applicants have no way of knowing

the intentions of any future property owners. Malcolm Baldwin said all of the proffers would apply to any future property owners.

Councilman Burden said he had the same concerns with the first sentence of Proffer #7; however the rest of the Proffer commits the Applicants to do certain things. He has reviewed the Comprehensive Plan and the property, which is located in Land Bay A, is suitable for multi-use. He is comfortable with the revised proffers considering that the Town has no architectural requirements.

Councilman Gray said he agrees with Councilman Burden and that he is comfortable with the revised proffers.

Mayor Zoldos called for additional questions from the Council.

Vice Mayor Senate said the Council has always had something to look at during a rezoning. He said he has been a member of the Co-op since the beginning, but the Council's decisions last forever and they need to make sure their action is defensible years from now.

Following discussion with the Mayor and Council, the Applicants made the following changes to Proffer # 8 and initialed the changes:

- Remove "two-story" from 8.a
- Add "quonset hut" to 8.e

Mayor Zoldos called for further questions. Hearing none, he restated the motion originally made by Councilman McIntyre and seconded by Council Member Gray at the April 11, 2013 Town Council meeting and noted the friendly amendment to accept the Applicants amendments to the Revised Statement of Proffers.

Motion: I move that the Lovettsville Town Council approve Ordinance No. 2013-04-0001 as amended by the Applicants.
By: Council Member McIntyre
Second: Council Member Gray

Mayor Zoldos called for discussion. Councilwoman Carder thanked the Applicants for staying within Lovettsville and for being willing to provide more definition in the proffers. She said she hopes to see them succeed.

Mayor Zoldos called for further discussion. Hearing none, he 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

Zoning Administrator Hynes presented this item. The Council is being asked to consider a request from property owners Malcolm and Pamela Baldwin for a reduction in the required landscape buffer for the parcel at 5 North Berlin Pike after the property is rezoned from R-1 to C-1. The Planning Commission approved the request for the landscape modification on March 20, 2013. The Town Council is being asked to ratify the Planning Commission decision.

The Zoning Ordinance requires commercial uses, which neighbor a residential property, to plant a Type C Buffer at the width of 35 feet. The total lot size of the property is 0.74 acres (32,234 square feet) and has five sides. Staff conducted a preliminary analysis of the landscape requirement and applied the 35 feet buffer to four sides, leaving out the side bordering the public street. Staff found that it would create a landscape buffer requirement of about 16,080 square feet, which would remove 50% of developable land for the applicant, leaving 16,154 square feet remaining. This 35 feet buffer is applicable for large commercial lots of a few acres or more, but appears not to be applicable for commercial lot that is less than one acre.

Staff has reviewed the preliminary landscape plan for 5 North Berlin Pike with the Applicant. Staff agrees with the following relaxed requirements to the landscape plan:

1. The applicant shall install a six foot tall, board on board fence along the property line with 7 North Berlin Pike to create a solid screen between parcels; but the fence may not be located past the utility pole. The fence shall be installed before the Occupancy Permit will be approved.
2. The minimum landscape buffer for 5 North Berlin Pike shall be Type A, with the planting requirements as described in Section 6-5 (d) Table 6-2; unless otherwise defined within this approval
3. There shall be a three year deferral of landscape requirements along the rear property line, which is shared with 7 North Berlin Pike. The landscape buffer will need to be installed by May 1, 2016. If a site plan is submitted before May 1, 2016, the property owner shall submit a new landscape plan that meets the requirements of the Zoning Ordinance unless the Planning Commission approves otherwise.
4. In addition to the Type 'A' 10 feet landscape buffer along the African American Methodist Church Property and 2 West Broad Way; the buffer shall also include five perennial flowers or five native plant species (that thrive in wet soils) for every 500 square feet of landscape buffer.
5. A final landscape plan shall be submitted to the Zoning Administrator and approved before the Occupancy Permit will be approved. The landscape plan must be implemented and completed by two months from the date of the Occupancy Permit approval.

The Planning Commission approved this request on March 20, 2013. Staff recommends the Town Council ratify the Planning Commission decision.

Mayor Zoldos asked if there were any questions on the presentation. Councilman McIntyre asked about the possibility of car lights flooding the neighboring property if there is no shrubbery where the fence ends at the utility pole. The Applicants said they would be moving the driveway more towards the center of the property. Following further discussion, the Council agreed to defer action on this item until the Applicants and Staff are able to revise the landscape buffer for the northern side of the property.

C. Quarter Branch Park Funding

Project Manger Fellers presented this item. The Council is being asked to approve the Quarter Branch Park Support Facility and Site Work costs. The Park Committee recommends approval of the budget so the facility can be completed in time for Oktoberfest. The Project Manager showed the most recent rendering of the building and discussed changes to the layout.

Mayor Zoldos asked if there were any questions. Councilman Gray asked what the original site development costs were. Project Manager Fellers said the project originally costs \$150,000 for a smaller building. Vice Mayor Senate said the site work and building materials drove the costs up. He said Staff got multiple quotes for the project and the two other quotes were much higher. Mayor Zoldos called for further discussion. Hearing none, he called for a motion.

Motion: I move that Town Council direct Staff to authorize the Mayor or Town Manager to sign all necessary paperwork to enable Double Tree to begin construction on the Quarter Branch Park Support Facility and Site Work for a cost of \$270,000 with a contingency and surety bond cost of \$36,000, once it is in a form acceptable to the Town Attorney. I further identify that the additional \$196,000 of funding above the budgeted amount for the completion of this project will be taken from the General Fund Reserve Fund.

By: Council Member Carder

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

Mayor Zoldos said the Parks Committee has done a nice job on moving this project forward.

D. Credit Card Payments for Town Utility Bills

Treasurer Gladstone presented this item. The Council is being asked to consider partnering with a third party payment processor to accept online payments by credit or debit card, and to decide whether the customer or the Town pays for transaction costs.

Staff contacted two vendors that could process credit card payments for utility bills (Official Payments and Paymentus) and obtained pricing information for their services based on an average utility bill of \$225. Both companies process payments for other towns in Loudoun County. Two options need to be considered with regard to transaction fees – whether they are paid by the customer or the Town. The Treasurer reviewed the options and transactions costs for each company. He noted that there is a much higher participation rate for towns that pay the transaction fee. The online payments would expedite the receipt of payments and reduce Staff time for processing payments by check and cash. Staff recommends the selection of Official Payments based on overall lower pricing of transaction fees. Staff also recommends that transaction fees be charged to the customer using the service.

Following discussion by the Council and Staff, Mayor Zoldos called for a motion.

Motion: I move to direct Staff to contract with Official Payments for electronic bill paying services, and direct the Town Staff and Town Attorney to work with Official Payments to develop the necessary documents for the Mayor or Town Manager to sign. In addition the Town will absorb the transaction fee.

By: Council Member Burden

Second: Council Member McIntyre

Mayor Zoldos called for discussion. Councilman McIntyre asked how long it would take to implement this. The Treasurer said it could be implemented within 90 days.

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

Nay: None

Abstain: None

Absent: None

E. Resolution to Advertize FY 2014 Budget and Not-to-Exceed Rates and Fees

Manager Markel presented this item. Council is being asked to approve a resolution to advertize the Budget and not-to-exceed rates and fees for FY 2014. He noted that this advertizing serves as notice to the citizens of Lovettsville and must reflect the highest tax and fee rates that the Town Council may want to impose. The Council can later decided to lower the rates and fees, but they are not able to increase the amount without a second advertisement and public hearing. The proposed Schedule of Fees includes the recommendations from the MFSG report for water and sewer rates.

The Council and Staff discussed the vehicle decals. The Treasurer said eliminating Town decals would shift the revenue received for decal sales from the Town to the County. Staff suggests continuing to sell Town decals and setting up a separate module in the real estate tax billing software system to make the process more efficient.

The Mayor and Council discussed the utility fund and agreed to advertise a rate adjustment of 3% and 6% for water and sewer user rates respectively, based on the consultant's recommendations.

Hearing no further changes, Mayor Zoldos called for a motion.

Motion: I move that Resolution 2013-04-0001 authorizing the Town Manager to advertise the budget and maximum tax rates and fee changes be accepted, and the schedule of fees as amended.

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, Carder, Gray, McIntyre, and Senate

Nay: None
Abstain: None
Absent: None

F. Lyme Disease Month Proclamation

Mayor Zoldos presented this item. The Council is being asked to approve a resolution proclaiming May 2013 as Lyme Disease Awareness Month.

Motion: I move to adopt Resolution 2013-04-002 proclaiming May 2013 as Lyme Disease Awareness Month in the Town of Lovettsville.

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

No information items were presented.

Comments from the Mayor and Town Council

Councilman Burden suggested increasing the donation to the Lovettsville Fire and Rescue Company by \$1,000 this year to \$3,000 and then increasing it \$1,000 per year over the next two years until it reaches \$5,000. He suggested taking the money out of the tree support line, which is \$3,300. There were no objections from the Council.

Councilwoman Carder said she will be participating in the Community Center Fun Run at Lovettsville Community Park. She said she had a great time at baseball opening day and that she also attended the open house at the new doctor's office and the opening day of Earth Works.

Vice Mayor Senate said the kids had a great time at baseball opening day.

Councilman Gray thanked Staff for their assistance with reviewing the VDOT bike plans.

Councilman McIntyre thanked the Mayor for organizing Volunteer Fest.

Mayor Zoldos reported on the following:

- He thanked everyone for their support of Volunteer Fest. The groups who participated are interested in doing it again next year.
- He thanked Vice Mayor Senate and Manager Markel for their help with baseball opening day.
- The Arbor Day went very well.
- He will be attending the Heritage Highlands home owners meeting on April 30. He invited the other Council Members to join him.
- The Town Seal Challenge ends May 1.
- The Civil War Sign Dedication is next Saturday at 2:00 p.m.
- The Lovettsville Fire and Rescue Company's annual Mud Run will be held June 29.
- He thanked the Parks Committee for their work on the Walker Pavilion and the Quarter Branch Park Support Facility.
- He will be including information about the water/sewer rate increases in the Friday email.

Closed Session

There was no closed session.

Mayor Zoldos noted the time and asked if there was any objection to not discussing the CIP at tonight's meeting. Manager Markel said the Council could discuss this at their meeting scheduled for May 2.

Adjournment

There being no further business before the Council, the meeting was adjourned at 10:38 p.m.

Respectfully submitted,



Harriet West, Town Clerk

Date Approved: July 11, 2013

Attachments:

1. Revised 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 and signed April 19, 2013.

REVISED STATEMENT OF PROFFERS

Submitted by Malcolm F. & Pamela L. Baldwin (4/15/2013)
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)
 - 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 curb service and drive-through windows
 - 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. **Excluded uses otherwise permitted in the Zoning Ordinance**
 - Mixed use commercial dwellings
 - Bed and Breakfast
 - Country inns
 - Corporate center
 - Dry Cleaner, transfer facility only
 - Technology offices
 - Banks and financial institutions
 - Government buildings and facilities
 - Post Office
 - Libraries
 - Country club, golf course
 - Movie theater, performing arts center
 - Communications and broadcast studio
 - Schools, technical, trade vocational, business
 - Colleges and universities
 - Construction and/or sales trailer

3. **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

4. **Excluded uses otherwise conditionally permitted in the Zoning Ordinance:**
 - Art kilns foundries
 - Convenience stores
 - Banks & financial institutions with not more than two (2) drive-through windows
 - Auto repair shops without outdoor storage or operations
 - Feed store
 - Manufacturing and assembling, not to exceed 6,000 square feet
 - Public utility facilities
 - Parking lot, public
 - Wireless communications equipment

5. **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 exterior property lines. In the event that this lot becomes subdivided, any new building will be located at least 10 feet from the new boundary line with the second lot created by the subdivision, in conformance with Section 3.12 (d)(iii) of the Zoning Ordinance.

6. **Building size and roof design restriction:** 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 second building constructed on the property is to be no more than 3,000 square feet in area and no more than 25 feet high. No flat roof will be constructed unless it is professionally designed as a green roof with a garden of durable and appropriate plantings.

7. **Consultation on Building Design:** It is applicants' intention 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 (in the form of four-sided, full-color elevations) 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. In the event that the Town enacts architectural design

standards at a time prior to submission of its initial building design for a building on the property, applicants agree to comply fully with such standards.

8. Excluded Structures and Design Elements (or, What we will NOT build or permit to be built):

None of the following will be built at 5 N. Berlin Pike:

- AR PB
- a. A ~~two-story~~ flat-roofed concrete-block building;
 - b. Any building with a flat roof, unless it is professionally designed and engineered as a "green roof" (i.e., with a living garden on the roof) and well maintained as such;
 - c. A building painted, sided, paneled or roofed in a color that is not usual and customary (e.g. purple, chartreuse, pink, turquoise, orange);
 - d. A predominantly (i.e., more than ¾ of the front façade) glass-fronted structure;
 - e. A building resembling a castle, chateau or Mediterranean villa; ^{worse hut}
 - f. A warehouse, data center or other windowless building.
- AB PB

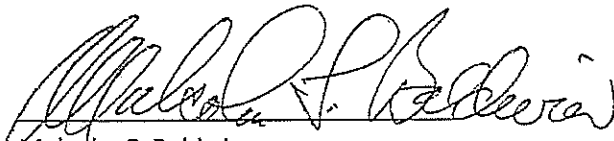
9. Boundaries with AME Cemetery and Mabe Properties: Applicants will supplement the required buffer with additional plantings of flowering shrubs and perennials (rain garden).

10. 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 75 feet from the property line fronting on Berlin Pike.

11. Weekday Operating Hours: Applicants will limit Sunday through Thursday evening closing time to no later than 10:00 PM.

12. 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: April 19, 2013