

Town of Lovettsville

Town Council Minutes of the December 10, 2015 Regular Meeting

Closed Session

Pursuant to Virginia Code section 2.2-3711A, the Mayor and Council went into closed session at 5:58 p.m. to conduct interviews for Planning Commission appointments.

- Motion By:** Vice Mayor Senate
Second: Council Member Jones
Aye: Council Members Allar, Carder, Jones, McIntyre, and Senate
Nay: None
Abstain: None
Absent: Council Member Gray

The Mayor and Council came out of closed session at 7:30 p.m. All Council Members present certified that only public business matters lawfully exempt from the open meeting requirements under the Virginia Freedom of Information Act were discussed and that only such public business matters as were identified in the motion were heard, discussed, or considered in the meeting by the Lovettsville Town Council.

The Council took a brief recess at 7:31 p.m.

Call to Order/Pledge of Allegiance

Mayor Robert Zoldos II called the regular meeting of the Lovettsville Town Council to order at 7:41 p.m. on December 10, 2015 at the Lovettsville Town Hall, 6 East Pennsylvania Avenue, Lovettsville, VA.

Pledge of Allegiance

Mayor Zoldos led those assembled in the Pledge of Allegiance.

Council Members Present

- Mayor Robert Zoldos II
- Vice Mayor Michael Senate
- Council Member Kimberly Allar
- Council Member Tiffany Carder
- Council Member Rodney Gray (arrived at 8:39 p.m.)
- Council Member Jennifer Jones
- Council Member James McIntyre

Staff Present

- Town Manager Laszlo Palko
- Town Attorney Elizabeth Whiting
- Town Engineer Manager Karin Fellers
- Zoning Administrator Josh Bateman
- Economic Development Coordinator Jonathon Rowles
- Town Clerk Harriet West
- Town Consultant Sam Finz

Presentations

A. Christy Adams, Lovettsville-Waterford Ruritans

Christy Adams reported on the organization's fundraising activities and how the funding is distributed to other organizations and individuals in the community. She noted the Ruritans raised approximately \$11,000 this past year through various activities. She said they would like to work with the Town again this year on the Eggstravaganza. Mayor Zoldos thanked Ms. Adams for everything the Ruritans do for the community. Councilwoman Jones invited the Ruritans to attend Volunteer Fest on April 24.

Comments from the Public

Mayor Zoldos explained the following:

- There would be a public hearing on convenience store definitions later on the agenda.
- The public hearing on bonds has been cancelled because the Council has not received the rate information it needed to consider this item. He noted this public hearing would be rescheduled and re-advertised for a later date.
- There was opportunity for members of the public in attendance to discuss anything they wished to at this time.

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

Community Presentations

A. Loudoun County Sheriff's Office

Deputy LoPreto introduced Sergeant Labrie, who is in charge of community policing for Western Loudoun's dayshift. In response to a question from Vice Mayor Senate, Sergeant Labrie said the dayshift covers the hours of 6:00 a.m. to 6:00 p.m.

B. Lovettsville Library

Anne Marie Marchant reported on the book sale during Oktoberfest and upcoming programs at the library. She said they are looking forward to participating at Berserkle on the Squirkle.

Town Commission and Committee Reports

A. Lovettsville Planning Commission

Chairman McDonough gave updates on the Comprehensive Plan process and the committee he is forming on annexations and boundaries. He thanked the Mayor and Council for moving quickly on appointing a new Commissioner.

B. Parks Committee

Vice Mayor Senate reported on the glockenspiel design.

C. We're In Committee

Councilwoman Carder gave an update on plans for Light Up Lovettsville.

D. WintertainmentFest

Mayor Zoldos thanked Councilwoman Jones for taking over coordinating this event and others who helped with this event including Scott Dockum, the Lovettsville Elementary Chorus, the Lovettsville Volunteer Fire and Rescue Company, the Loudoun County Sheriff's Office, the Lovettsville Library, the Community Center, the We're In Committee, Town staff, and Master of Ceremonies John McNeilly.

E. Light Up Lovettsville

Councilwoman Allar gave updates on judging, new awards, and the reception.

F. Berserkle on the Squirkle

Mayor Zoldos explained the event and gave an update on pit row.

G. Information Flow Committee

Councilman McIntyre gave an update on the design for the new website and the development of a publicity/social media policy. He explained the main purpose of the committee is to address how the Town disseminates information to the public.

Additions/Deletions/Modifications to the Agenda

There were no changes to the agenda.

Minutes

A. March 12, 2015 Regular Meeting

Motion: I move to accept the minutes of the March 12, 2015 meeting as amended.
By: Council Member McIntyre
Second: Council Member Carder
Aye: Council Members Allar, Carder, Jones, McIntyre, and Senate
Nay: None
Abstain: None
Absent: Council Member Gray

Monthly Financial Report

There was no report.

Staff Reports

A. Report from the Town Engineer

The Town Engineer submitted a written report.

B. Report from the Zoning Administrator

The Zoning Administrator submitted a written report.

C. Report from the Utility Supervisor

There was no report.

D. Report from the Economic Development Coordinator

Economic Development Coordinator Jonathon Rowles reviewed his written report. He noted they received no responses to the Marketing Study RFP (Request for Proposals). He will be looking into alternatives for getting this work done, including increasing the budget and working with local universities. In response to a question from Council Member Jones about the lack of response to the RFP, Mr. Rowles said the feedback he got from the major firms is that the Town was asking for a lot – a complete study of the area and marketing proposals targeting specific industries. The firms indicated they could do either one task or the other with the budget that was available. Based on this feedback, he recommends breaking this into two separate components. The Council and staff discussed additional economic development strategies and prospective tenants for the new Lovettsville Square. Mr. Rowles said NVRetail has one signed lease for a business currently located in Town, Leesburg-Sterling Family Practice.

E. Report from the Town Attorney

There was no report.

F. Report from the Town Manager

There was no report.

Action/Discussion Items

A. Public Hearing: Convenience Store Definitions

Mayor Zoldos explained the public hearing for a bond that was under consideration will not be held tonight because the Council is not ready to move forward at this time. He said there will be an opportunity for the public to comment on this at a future public hearing.

Mayor Zoldos moved on to the public hearing for convenience store definitions. Vice Mayor Senate read the rules for public comment and the notice of public hearing.

Zoning Administrator Bateman presented this item. The Council is being asked to consider a zoning ordinance amendment requested by 7-Eleven to add a definition for convenience stores and to clarify the process for authorizing convenience stores, with and without fuel pumps, in the C-2 Mixed Use Business District. He noted the Applicant is considering a new convenience store at the current site. Convenience stores are permitted by conditional use in the C-2 Mixed Use Business District; however, the Town's

zoning ordinance lacks a definition for convenience store. He said the Applicant drafted the following changes to the Zoning Ordinance:

1. Add a definition for "convenience store" to Section 42-2 so as to define it as "a commercial establishment designed and intended to serve daily or frequent trade needs of the surrounding population, characterized by the retail sale of food and other household products. If the retail sale of fuels is included with the convenience store, approval of a conditional use permit is required."
2. Add "Convenience stores without fuel sales" to the end of Section 42-259 (b)(31) in order to add such stores to the list of retail sales establishments permitted by-right in the C-2 District.
3. Add the phrase "with fuel sales" to the end of the phrase "Convenience stores" in Section 42-259(c) so that convenience stores which include retail fuel sales (and associated fuel pumps and gas canopies) will be a conditional use in the C-2 District.

Mr. Bateman said a public hearing on this matter was held before the Planning Commission on November 18, 2015. No one spoke at the public hearing. Staff recommended the definition be modified as follows:

"Convenience store means a small-scale commercial establishment designed and intended to serve daily or frequent trade needs of the surrounding population, characterized by the retail sale of a limited line of groceries and household items generally purchased in small quantities and intended for the convenience of shoppers, including pre-packaged food products, tobacco, periodicals, medicines, cosmetics, and limited beer and wine items. Such stores may have on-site service of food or drink for immediate consumption and may include the dispensing of fuel for retail sale on the premises, subject to any additional requirements which may be applicable to such uses or activities in the zoning district where located."

Mr. Bateman said he recommends approval of the amendments to the zoning ordinance, with the modifications recommended by staff. He noted the Planning Commission voted unanimously to recommend approval, with the modifications recommended by staff.

In response to a question from Mayor Zoldos, Mr. Bateman explained the differences in his definition of convenience store versus the definition prepared by the Applicant. His definition includes more specific language regarding the types of products that can be sold. It is also consistent with a proposed amendment to the zoning ordinance regarding height exemptions for certain types of structures, like clock towers and copulas, to allow gas canopies to be taller than the 15 feet currently permitted for accessory structures in the C-2 District. He clarified the 7-Eleven as it exists today will become a by-right use under the new definition; whereas, the addition of fuel pumps would be a conditional use.

Kimberlee Hise, a land use planner with Walsh-Colucci, spoke on behalf of the 7-Eleven. She said she agreed with the Zoning Administrator's recommendations and requested the Council consider and pass LVZA 2015-0004, as recommended by staff.

Mayor Zoldos recessed the regular meeting and opened the public hearing at 8:27 p.m. and called for comments from the public.

Carolyn Woodland, 23 S. Loudoun Street, said she was opposed to the 7-Eleven having gas pumps for a couple of reasons. She feels they do not need gas pumps in Town, especially at that particular location. She said that 7-Eleven needs it to increase their revenue but the Town people do not; they have convenient sources for gas. She said she was not clear on the definition of conditional use and to her that meant something that was temporary. Having gas pumps in the ground is not temporary, it seems very permanent. Zoning Administrator Bateman explained the difference between a by-right use and a

conditional use. He noted that only the Town Council can approve a conditional use and that the Council can attach reasonable conditions based on anticipated effects on adjacent properties or the public. Mayor Zoldos explained the purpose of tonight's public hearing is to create the definition for convenience stores; if the 7-Eleven wants to build a new convenience store with gas pumps, they would have to come back before the Town Council and request a conditional use. Following further discussion regarding the process, Mrs. Woodland stated that corner is the face of the old town and she asked the Council to consider the ambience of the old town.

Hearing no further discussion, Mayor Zoldos closed the public hearing and moved back into open session at 8:31 p.m. Mayor Zoldos called for a motion.

Motion: I move to adopt Ordinance No. 2015-12-0001 (Attachment 1) to approve Case No. LVZA 2015-0004 with the following modifications recommended by staff and contained in the corrected version attached thereto:

1. The last sentence of the proposed definition of convenience store shall be deleted; and
2. The proposed definition of convenience store shall be further modified as recommended by staff in Item #2 above (under "Discussion") in the memorandum dated November 18, 2015.

By: Vice Mayor Senate
Second: Council Member McIntyre

Attorney Whiting noted the staff memorandum is dated December 10, 2015, not November 18, 2015. Vice Mayor Senate accepted the friendly amendment for the date of December 10, 2015. In response to a question from Mayor Zoldos, Zoning Administrator Bateman explained that the use of the wording "...a limited line of groceries..." is intended to differentiate the difference between a convenience store and a grocery store.

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

B. Annexation Policy

Town Manager Palko presented this item. The Council is being asked to consider approving the Draft Annexation Policy, Process, and Map so that: 1) the Town Manager can present this to the County for inclusion in their future Comprehensive; and 2) the Planning Commission can include the policy in the Draft Lovettsville Comprehensive Plan as a new chapter. Manager Palko explained that, at the Council retreat, they identified that the Town does not currently have a process outlined if approached about an annexation request. In addition, the Town wants to take advantage of potential opportunities for annexation for commercial, office, and light industrial expansion outside of Town to improve its fiscal base. He noted the Council also made it clear the goal is not large-scale residential annexation because they do not want to reach the population limit VDOT sets for managing roads, which is set at 3,500. Manager Palko said he worked with the Town's consultant, Sam Finz, and staff to put together the policy and process which is being presented tonight.

Mr. Finz explained how he developed the policy and process which included researching other jurisdictions; specifically Loudoun County and the Town of Purcellville. He discussed provisions in the County's Comprehensive Plan as it relates to annexation by the towns. He said there is a lot of evidence that shows commercial annexation would provide a financial benefit to the Town over the cost of providing services. Built into the policy is the need to conduct a financial analysis for every single application and anything the Town might initiate. He noted the intent is to generate or enhance economic development in the Town. He said the key issue is providing water and sewer services, the cost of which has to be borne by the applicant. Mr. Finz said he used the Town of Purcellville's policy as a template since they have been through many annexations, but it has been modified to reflect the Town's needs.

C. East Broad Way Impact on CIP

Town Manager Palko presented this item. He previewed budget amendments that will be presented in January regarding cost overruns for the East Broad Way project and the impact on the Capital Improvement Program. He noted the overrun for the General Fund is estimated at \$106,000 and \$91,000 for the Utility Fund. To finance these overruns, the Town will need to borrow money. He will come back in January to discuss the borrowing of funds. He discussed eliminating or pushing back several capital projects to get more favorable loan terms, including eliminating restrooms on the Town Green, cancelling the asset management plan this year, postponing some of the meter replacement projects, and deferring the new elevated water tank until 2029, contingent on the assessment of the current water tank. He explained the Town will not be able to undertake a lot of capital improvement projects over the next few years, as will be discussed in the upcoming budget cycle.

In response to a question from Councilman Gray, Manager Palko discussed the cost overruns for the East Broad Way construction project which came in at about 5%. He recommended that in the future they budget based on the "worst case scenario." He noted the biggest cost overrun was the reconstruction of a portion of the road. A discussion ensued regarding the costs and funding for future capital projects and the benefits to the Town.

Information Items

There were none.

Comments from the Mayor and Council

Councilwoman Jones said she had a great time at Wintertainmentfest. She thanked blacksmith Bill Moore for making the yule log and everyone else who helped with the event.

Councilwoman Allar said the Light Up Lovettsville winners reception will be held at the Planning Commission meeting on Wednesday.

Councilman Gray thanked Mayor Zoldos for handling Wintertainmentfest. He said Stop Hunger Now prepared more than 49,000 meals this past Saturday morning and it was great to see so many people from the community there.

Councilman McIntyre said there were more than 250 people at Stop Hunger Now and every job was taken. He presented Oktoberfest donation checks to several local organizations and said it's exciting to see that money going back into the community.

Mayor Zoldos reminded everyone about Light Up Lovettsville and said he will be participating at Career Day at Harmony Middle School.

Closed Session

Pursuant to Virginia Code section 2.2-3711A, the Mayor and Council went into closed session at 9:18 p.m. to discuss Planning Commission appointments.

Motion By: Vice Mayor Senate
Second: Council Member McIntyre
Aye: Council Members Allar, Carder, Jones, Gray, McIntyre, and Senate
Nay: None
Abstain: None
Absent: None

The Mayor and Council came out of closed session at 10:33 p.m. All Council Members present certified that only public business matters lawfully exempt from the open meeting requirements under the Virginia Freedom of Information Act were discussed and that only such public business matters as were identified in the motion were heard, discussed, or considered in the meeting by the Lovettsville Town Council.

Mayor Zoldos called for a motion.

Motion: I move that the Town Council appoint Shiva Shilling as the Planning Commissioner to fill the unexpired term to end June 30, 2016.
By: Council Member Allar
Second: Council Member Carder
Aye: Council Members Allar, Carder, Jones, McIntyre, and Senate
Nay: Council Member Gray
Abstain: None
Absent: None

Adjournment

There being no further business before the Council, the meeting was adjourned at 10:35 p.m.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Harriet West", written over a horizontal line.

Harriet West, Town Clerk

Date Approved: November 3, 2016

Attachments:

1. Ordinance 2015-12-0001

Town of Lovettsville

Ordinance No. 2015-12-0001: AMENDMENT TO THE ZONING ORDINANCE TO CLARIFY THE ZONING REQUIREMENTS APPLICABLE TO CONVENIENCE STORES IN THE C-2 DISTRICT

MOTION: Senate

SECOND: McIntyre

WHEREAS, Article VII, Section 42-259 of the Zoning Ordinance lists the uses permitted by-right and conditionally within the C-2 Mixed Use Business District; and

WHEREAS, convenience stores are listed as a conditionally permitted use in the C-2 District; and

WHEREAS, Section 42-2 contains the definitions for various terms and phrases used throughout Chapter 42 of the Town Code (hereinafter the "Zoning Ordinance"); and

WHEREAS, "convenience stores" are not specifically defined in Section 42-2 of the Zoning Ordinance; and

WHEREAS, 7-Eleven, Inc. has filed an application to amend the Zoning Ordinance in order to add a definition for "convenience stores" to Section 42-2, add "convenience stores without fuel sales" to the list of uses permitted by-right in the C-2 District, and add the phrase "with fuel sales" to the end of the phrase "Convenience stores" in Section 42-259(c) so that convenience stores which include the retail sale of gasoline and similar fuels will be a conditional use in the C-2 District; and

WHEREAS, the Planning Commission conducted a public hearing on the proposed amendment on November 18, 2015, pursuant to notice given in accordance with Va. Code Section 15.2-2204, and subsequently recommended approval of the amendment to the Town Council; and

WHEREAS, the Town Council conducted a public hearing on the proposed amendment on December 10, 2015 and has determined that adoption of the proposed amendment will promote the health, safety and welfare of the citizens of the Town and is consistent with the public necessity, convenience, general welfare, and good zoning practices generally.

NOW, THEREFORE, BE IT ORDAINED that Article VII, Section 42-259 and Article I, Section 42-2 of the Zoning Ordinance of the Town of Lovettsville be amended as set forth in the attachment hereto.

BE IT FURTHER ORDAINED that the Zoning Administrator and Town Attorney are hereby authorized to make corrections of misnumberings or misspellings found in the said attachment without further action by the Council.

The German Settlement

VOTE:

Ayes: Allar, Carder, Jones, McIntyre, and Senate

Nays: None

Abstentions: None

Absent for Vote: Gray

Approved: 12/10/15



CLERK TO THE COUNCIL



ROBERT ZOLDOS, MAYOR