

# Town of Lovettsville

## Town Council Minutes of the March 16, 2017 Special Meeting

### Call to Order/Pledge of Allegiance

Mayor Zoldos called the meeting to order at 7:31 p.m. The meeting was held at the Lovettsville Town Hall, 6 East Pennsylvania Avenue, Lovettsville, VA.

### Council Members Present

- Mayor Robert Zoldos II
- Council Member Jim McIntyre
- Council Member Mike Senate
- Vice Mayor Tiffany Carder
- Council Member Kimberly Allar
- Council Member Jennifer Jones

### Council Members Absent

- Council Member Rob Gentile

### Staff Present

- Town Clerk Harriet West
- Town Manager Laszlo Palko
- Town Attorney Elizabeth Whiting
- Zoning Administrator Joshua Bateman

Planning Commission Chairman Frank McDonough was in the audience.

The Mayor announced there was no scheduled closed session.

### Pledge of Allegiance

Mayor Zoldos led those assembled in the Pledge of Allegiance.

### Comments from the Public

Mayor Zoldos called for comments from the public. Vice Mayor Carder read the rules for public comment.

**Elizabeth Barbee**, 11 Harpers Mill Way, read written comments regarding the rezoning at the fire house and the effect it could have on Heritage Highlands (Attachment 1).

**Jack Burden**, 6 Harpers Mill Way, read written comments regarding the potential zoning for the fire house properties (Attachment 2).

**Tom Ciolkosz**, spoke about the rezoning of the fire house property. He said that by the end of next month, all of the Planning Commissioners will be fully trained, certified, and engaged; and they recently completed an 18-month review of the Comprehensive Plan. He said he wanted to reinforce why the Town Council appoints them as Planning Commissioners. He asked the Council to take caution as they proceed and, if they must act, he asked them for two things: 1) that they proceed with caution in regards to changing the zoning for the parcels because it affects other properties with the same zoning and it also affects the Comprehensive Plan; and 2) that the Council directs the Planning Commissioners to perform a review of the zoning districts so that they can be further defined, cleaned up, and re-written so they continue to support the Comprehensive Plan. Mr. Ciolkosz said that on a personal note he supports finding a way to make it a win-win for the fire station, the volunteer company, and the residents of Lovettsville. It is the gateway to our community and he wants to make sure they get this right. He said that when you look at the Light Industrial versus CR-1, we need to take our time to make sure that we do this right because it's going to be a big decision that we all have to live with in the future.

**Stephanie Wolf**, said she was speaking as a Town resident and an individual Planning Commissioner and that she is not authorized to speak on behalf of the entire Commission. She said her comments are two-fold. First, the Commission's perceived objectives were to set up a zoning situation with a boundary line adjustment. They felt they addressed the perceived objectives with the CRA-1 and developed a mechanism to allow the annexation. They were not given a chance to review C-2 as part of this process. Acknowledging that the Planning Commission did not follow the explicit instructions in the resolution as it related to I-1, she asked the Council to please move ahead with CRA-1 and resolve that the Planning Commission review all of the non-residential zoning and return the recommendation to the Council. She said that even small changes can make big implications and should be done with due diligence. She went on to discuss part two of her comments by stating that not all economic development necessarily fits with Town goals. When choosing to make the Squirkle, instead of a traffic circle, the goal is to slow down and enjoy the Town, not just cruise through it. Allowing and fostering opportunities for restaurants with drive-throughs sends a different message. Fast food with drive-throughs is a staple of the highway exit. This is critical, it is more than just one piece of land; this is all of the outskirts. If the West End property is annexed, this provides opportunities for more drive-through restaurants and drives people away from the Town Center. This is in direct contradiction to the Town Council's overall strategy to utilize tourism, specifically events, to attract visitors to Town. Lowering the bar and enticing big chain, fast food restaurants makes Lovettsville utterly forgettable. She is not the only one; this sentiment is reflected in the economic survey results. The downtown restaurants in Leesburg struggle to attract patrons. There is an app called Spot Luck that has restaurants offering discounts so that people drive down town. If we develop our fringes as the fast food area for Lovettsville, are we short-changing our main-street and local restaurants? People say all the time, we don't want Purcellville. No one calls Purcellville charming. Conversely, Middleburg's commercial district is concentrated down town and they don't allow drive-throughs. It has a very different feel. They actually define their commercial core as a tourism district. Their tourism businesses are defined as, "A business whose primary purpose is to establish a desirable destination to attract tourist from outside of the district and create an environment for those visitors that will deliver a memorable experience." She said we don't want Middleburg, Purcellville or Leesburg, we want Lovettsville; but we want to be remembered, not utterly forgettable. Change is inevitable, but we are making the choices that shape Lovettsville that will be here for our children. She made this her forever home. They are at the precipice of forever changing the landscape. She wants economic development too, but she does not want to sell the future of Lovettsville to get it.

**Stacy Evans**, said that like everyone else she is new to understanding this, she has only lived here almost two years. One of the things she got from last week's meeting, was the possibility of a shopping center there and that will really detract from Lovettsville, in her opinion, if the Town annexes the land. She said that looking at the buildings for the bingo hall as a revenue source and possible a grocery store for the Town, it's not a quaint building. To put a retail business into it and possible in front of it, will really Woodbridge Lovettsville; there are a lot of weird things like that with little shopping centers and industrial behind it. The building looks industrial. Is the fire department going to be able to pay for the upkeep and make it look nice? In addition, she thinks that anyone that is involved, or their family is involved, in the co-op, which is looking at renting that spot, should be recused from voting on this because they stand to benefit from it. She is not sure how a fire department in an industrial building will really be suitable for a grocery store, or something other than a big box building; it's going to be very hard to make it something attractive that we want in the Town. She thinks it's great the volunteer fire department gets the benefit of raising revenue and the things they donate the bingo hall to, but is that the best use for something we are adding to our Town? When she went to the co-op meeting, they were saying the fire department was hoping later to get more land to put in a training ground along Berlin Turnpike. She is just not sure if annexing it is really in the best look of Lovettsville. She moved here because it's a quaint Town and having an industrial entrance isn't what she is looking for.

**Sean Staley**, 28 Tritapoe Place, said he attended an earlier Planning Commission meeting about this and there was a bit of back and forth with the light industrial and what it should be zoned as. One of the things he pointed out was drive-through and light industrial because that is not the only light industrial part in Town. It's a whole Town effect. His understanding was there was work on it and he had heard some of it and saw some things and it seemed like a decent compromise; but, now he's back looking at what's being presented and some of the work is there, but some of it has gone back, like the drive-through and

light industrial. This affects the whole Town, not just the entrance of the Town. He keeps hearing we need this, we need this, but he never heard it. If they are going to be making changes to the zoning, he wants data to back it up. If he's not mistaken, we already have curbside service in the zoning. He wants to see the data for where this is coming from and what is needed. It seems like an add-on because light industrial was an option for bringing in the fire hall. He agrees, he does not think light industrial for the fire hall is appropriate. He would like to see, as everybody said, carefully looking at this and making sure we're doing the right thing because it just doesn't feel right to him based on everything he has been reading and the conversations we've had. That's where he'd like to leave it, to back everybody else up. He does think there could be a compromise solution, but let's make sure we're not impacting other properties adversely.

**Chris Hornbaker**, 15 Black Forest Lane, said he is also on the Commission but is here as a resident. He referenced a *Loudoun Times Mirror* article from May 21, 2015 about fast food restaurants in Purcellville. He said he grew up in Berryville, Virginia which could be defined as a small town. In 1998, Berryville had a Bi-Rite a tenth of a mile from Route 7 and for 19 years McDonalds wanted to come into town and it is just being talked about this year. There is more controversy about that McDonalds than they have had with every major project in Lovettsville. When Purcellville was a small town it had a Tasty Freeze, it had a fast food restaurant that didn't have a drive-through. He worked at the Tasty Freeze in Berryville, there was a fast food restaurant in Berryville that didn't have a drive-through. He looked at the Comprehensive Plan and the economic development data and he noticed that the question that was being cited spoke nothing about a drive-through; it spoke of a fast food/quick serve, or fast casual. He said that is a huge discrepancy between a Chipotle, between a Panera, all the way to McDonalds. If you ask that same question and said would you rather have fast casual, fast food, or fast food with a drive-through, those same results would not occur. He said that some of the survey comments were against having a McDonalds, or fast food restaurants with drive-throughs. He knows there is an economic development driver and the reason he is citing this is because this is the one item that had probably the most back-and-forth during the planning meetings and it's one of the key differences of what's being proposed and the option, what he calls Option C, which was proposed by the Commission. He does not think a drive-through is consistent with the definition of a small town. We have the opportunity to bring in the dollars with a fast casual, fast food type of restaurant without the need for a drive-through.

### **Action/Discussion Items**

#### **A. Work Session to Discuss Amendment to Zoning Ordinance Related to Future Boundary Line Adjustment of the LVFRC**

Mayor Zoldos explained the process and noted those present are at the beginning of the process, before the Council decides what goes to public hearing. He further explained that representatives from the Lovettsville Fire and Rescue Company and Loudoun County Fire and Rescue will be discussing where they are in the process. He added that staff and Planning Commission Chairman McDonough would also be presenting information.

**Karen Deli**, President of the Lovettsville Volunteer Fire and Rescue Company, said they have outgrown their space. They had been looking at building a new building on the 14-acre site they own outright; however, that would have been very expensive. They approached Loudoun County Fire and Rescue about assisting them and, together, they have looked at several options. The bingo hall is the company's primary money maker, but the County is not allowed to build a new bingo hall. They are trying to find a way to maintain the current building so they can continue fundraising through the bingo hall and build a new fire house. They have come to the decision to build a new fire house just south of the current building. When they started this process, they looked at zoning for the County. If they stay in the County, they will not be able to continue to do bingo, and will likely struggle to survive as a volunteer company. She does think they are big part of the community, they have been here for 50 years, and it's important that they continue. In order to do that, they need to be able to continue to raise money. They ended up talking with Mayor Zoldos and the Town Council about the options for moving into the Town and then be able to do bingo. What they are trying to do is keep their building, maintain the use of the back hall for assembly, and renovate it so that it meets the fire code. They were introduced through the Town Council to the Co-op as a potential user for the front space. They had not even been thinking about that, all they were trying to do is get a new fire house and keep their bingo. At the moment, that is their entire plan. They

want to use the back hall primarily for bingo and other assembly purposes and potentially use the front for the Co-op, and build a new fire house. The back property is something that could be developed, but it's not anything they have thought about. They are struggling to buy new equipment and build a new building, so developing property is not at the top of their list. She stated emphatically that they have no plans to put a drive-through back there; that would be a nightmare for the fire company. She is not sure where some of that came from but literally what they are trying to accomplish is the opportunity to be part of the Town, maintain the assembly hall, and get the new fire house as quickly as possible.

Mayor Zoldos said the challenge for the Council is what happens to the property if 50 years from now the fire company moves.

**Chief Tobia**, Loudoun County Fire and Rescue Company, said the single most important thing they are concerned about is the safety and well-being of the emergency responders. The original station, built in the 1970s, was never intended for continuous human occupancy, but the demands of the community requires them to be available 24-hours a day, seven days a week, to immediately respond to emergencies. When the station was originally built in the 1970s, it was a "come from home" fire/rescue station. Over the years, the demands for service have increased significantly. They had a comprehensive evaluation of the building done and there are some significant electrical concerns relating to the building and the ability to continue to maintain it. Rather than putting money into the existing building, the County decided to partner with the Volunteer Fire and Rescue Company to site a new fire and rescue building on the property. The County has allocated \$13.5 million to build a comprehensive new facility that will serve the community for a minimum of the next 50 years. The County has accelerated this project to ensure that this fire and rescue station got built more quickly due to the urgency of the safety issues in the existing station. The money is immediately available to begin the design process. They are ready to literally go out of the gate today and they would like to be able to help the Volunteer Fire and Rescue Company do that. They are supportive of the effort to zone the property in such a way to ensure that a fire and rescue station could be built by-right so they do not have any addition delays. They want the apparatus and personnel to be safe, so they can continue to provide service to the community that everyone relies on. A big part of the quality of life in Lovettsville, that makes it a livable community, is uninterrupted fire/rescue services provided by volunteers and career personnel. The leadership of the Volunteer Fire and Rescue Company has done a tremendous job of indicating that they want to be able to continue to fundraise, while recognizing their limitations to build a new fire and rescue station. Captain Tobia said he could affirm that there has been no discussions of any kind, or any vision, or any suggestion of any other intended use for the existing fire and rescue station other than the assembly hall for community events and bingo, as well as trying to find a partner for this vision of a co-op. The Company and the County are extraordinarily sensitive to any potential impact on traffic to their primary mission to provide fire and rescue services. They would never want to see anything put on that property that could adversely affect their ability to timely provide services to citizens.

Captain Tobia responded to a question about the location of the fire station and stated it would be located along the roadway below the parking lot, where the woods are.

Mayor Zoldos responded to a question about the zoning and stated the Council has to consider the use of the land if the Volunteer Fire Company moves and that land is for sale. They need to make sure that whatever it's zoned is accepted. He explained that there are only three non-residential zones in Town now – C-1, C-2, and Light Industrial.

In response to a question, Karin Deli explained that if the Volunteer Fire Company ever becomes financially unable to maintain the facility, the County would take over the new facility and the Company would have to sell the rest of the property.

Captain Tobia confirmed the new building would be County owned and County maintained and would include a right of survivorship for that parcel of land that includes the fire and rescue station to ensure uninterrupted services. In response to several questions, Captain Tobia said that, as a 5013(c), there are IRS laws governing how the Volunteer Company dissolves their assets. He added that the County would only be interested in ensuring the provision of the essential fire and rescue services being provided by the

parcel of land upon which the new facility will be located. He also explained the timeline for design and construction and noted that there will be a year's worth of design with construction scheduled to begin in 2019.

Planning Commission Chairman Frank McDonough addressed concerns that this is being rushed through. He explained the process the Commission has gone through since this was referred to them last December. The Commission has held three meetings, including a public hearing and the Town Council has yet to hold a public hearing. He said that things are moving along on what would be considered a normal course of action. The Planning Commission was tasked to look at transitional zoning. This is required whenever there is a boundary line adjustment or annexation since they need to "park" the property somewhere until it's determined what its permanent zoning will be. The Commission created transitional zoning, called CRA-1; many of the uses that are included in commercial or industrial zoning are included in this, as well as a minor provision for residential. It's not the intent of the Town Council, through the Annexation Policy, to bring in a lot of residential. The Planning Commission made their recommendation for a CRA-1 transitional district that doesn't just address the fire department, it would be for any piece of property that would ever ask to come into Town. Then, once it comes in, this body determines what they want the zoning to be, once it's determined what the uses will be. The Planning Commission was instructed to develop additional provisions and definitions pertaining to uses in the I-1 District; they were able to accomplish what they needed to do with the transitional zoning by creating the CRA-1. The Planning Commission did not make any recommendations for changing I-1 and they did not have a mandate to do anything with C-2. It is the feeling of the Planning Commission, that at least for the long term, they are instructed in the Comprehensive Plan to come back and address all of the zoning districts as part of completing the Comprehensive Plan process. The Planning Commission has made a recommendation to the Town Council, which they will be debating.

In response to a question from Mayor Zoldos, Mr. McDonough said they are still on the Town Manager's and Zoning Administrator's calendar to revisit all of the zoning districts in the near future. He said it is his feeling that will be soon enough to accommodate any uses that may come up for the fire department. He emphasized that any changes they make don't just affect one piece of property. At this point, they understand this will come back to the Planning Commission in the very near future anyway. In response to a question from Councilman Senate, Chairman McDonough said that the CRA-1 zoning would be used for all parcels that are annexed. Commissioner Wolf said that CRA-1 covers all three potential uses, including the assembly space, the new building for fire and rescue, and the farm store, which is the Co-op. A discussion ensued regarding using CRA-1 permanently. Zoning Administrator Bateman said that there is a 45% open space requirement in the existing CR-1, what is to become the CRA-1, which would limit the development potential of the property under that zoning category. He said that works fine for the current intended uses. Chief Tobia said the concept plan for the new facility shows 30% maximum lot coverage.

Town Manager Palko said he wanted to address the main disagreement between the Planning Commission and Town staff in terms of the vision of economic development for the Town and the Annexation Policy. He presented several examples of how drive-throughs can fit into the small town feel. Mr. Palko said that based on his discussions with quick service restaurants, they will not invest in the Town without drive-through capacity. He said that Dunkin Donuts was very interested in moving into Phase 1 of Lovettsville Square but they went to Purcellville instead because they can have a drive-through. He said the market study shows the Town has the capacity for additional restaurants, but there is strong market demand for drive-through restaurants. He presented data on the economic impact of drive-throughs and noted that the four drive-through restaurants in Purcellville represent 6% of businesses, but account for 25% of meal tax revenues. Manager Palko said the conservative estimated revenues if the Town could attract a couple of drive-through restaurants in the southern end of Town, away from the Town Square, ranges between \$50,000-\$100,000 in meals taxes and business license fees. He showed how this additional revenue could benefit the timeline for the Town's capital projects.

Mr. Bateman discussed the results of the Comprehensive Plan economic survey regarding fast food and quick serve restaurants. He noted that while the survey did not specifically address drive-through

facilities, 55% percent of those who responded favored that type of use. He then reviewed some of the relevant Comprehensive Plan policies related to restaurants.

Mr. Palko said the compromise solution is conditional use which will allow the Town to apply its standards. He reviewed the staff recommendation to move forward with CRA-1 transitional zoning, begin the review of C-2 and I-1, and task the Town staff to work with the Planning Commission to develop recommended standards for drive-throughs in the zoning ordinance. He then showed his vision for the southern end of Town which included options for commercial and light industrial usage.

Following further discussion, Vice Mayor Carder made the following motion:

**Motion:** I move that we move on CRA-1 and then send C-1 and I-1 back to the Planning Commission.

**Second:** Jones

Council Members McIntyre and Allar expressed their support for CRA-1. A discussion ensued regarding the Planning Commission's review of C-1 and I-1, how the survey was conducted, and how the survey results were interpreted.

For the record, Councilman McIntyre said since it was brought up during the public comments about anyone having a relationship with the Co-op should recuse themselves from the discussion or from voting. He said he has talked to the Town Attorney in the past about this very issue since his wife is on the Board of Directors of the Co-op. She receives no compensation for her volunteer time so he stands nothing to gain.

**Aye:** McIntyre, Senate, Carder, Allar, and Jones

**Nay:** None

**Abstain:** None

**Absent:** Gentile

#### **Information Items**

Attorney Whiting said the Town of Leesburg is offering Freedom of Information Act training.

#### **Comments from the Mayor and Town Council**

Councilwoman Jones said the President of Lennar's Virginia District announced they will start building at Heritage Highlands again, and they will finish the bike path and recreation center. A discussion ensued regarding the project.

#### **Adjournment**

There being no further business before the Council, the meeting was adjourned at 9:12 p.m.

Respectfully submitted,



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Harriet West, Town Clerk

Date Approved: October 12, 2017

#### Attachments:

1. Written Comments from Elizabeth Barbee
2. Written Comments from Jack Burden

March 16, 2017

Comments on Potential Zoning for the Firehouse Properties  
by Jack Burden, 16 Harpers Mill Way, Lovettsville

I am speaking for myself but on behalf of the residents of the Heritage Highlands community, the closest housing to the firehouse. A number of the residents are concerned that the Town Council may not be taking the Heritage Highland residents into consideration when debating zoning for the firehouse properties during the future Boundary Line Adjustment.

We are the Town residents who will be most affected by development whatever is allowed on the property. The firehouse is not a problem to us; in fact it is great to be so close and so accessible. The concern is the parcel behind the current firehouse. It appears that parcel will not be needed for the firehouse expansion and could be developed commercial or light industrial.

If this happens then the worst case for the senior community, would be if in the future Bill Reed, the owner of the property directly west of Heritage Highlands and south of Lutheran Church Road, might request his property be brought into the Town as commercial or industrial using the BLA for the firehouse as a precedent. Heritage Highlands would then be exposed to “who knows what” right across our fence.

There has been no effort that I know of, to reach out to the Heritage Highlands residents on this issue. There has been no public information meeting that I know of, for all the residents so the Town government can explain why we should even bring the parcels into the Town and then what the residents might want to allow on the properties.

I believe this zoning ordinance is moving all too fast. My suggestion is that if the firehouse parcels are brought into the town, they should be at the most restrictive zoning, such as R-1, as the Town has done for most or all of previous Boundary Line Adjustments. After the BLA was complete, the property owners applied for a zoning change. It is at that time the Town determined the proper zoning for the property.

I see no reason to change the way past BLAs have been done since they worked quite well.

**This zoning effort should not be rushed. Once done we will have to live with it!**

Good evening.

My name is Elizabeth Barbee and I live at 11 Harpers Mill Way in the Heritage Highlands Development, which is at the corner of South Berlin Turnpike and Lutheran Church Road.

Before I moved to Lovettsville's Over-55 Community, over seven years ago, I visited the Town Hall and Keith Markel, the-then Town Manager, showed me maps of the adjacent areas surrounding Heritage Highlands. At that time, the twenty acres that is Heritage Highlands, which is zoned RC retirement community, was surrounded on all three sides by CR-1 Residential zoning, with the firehouse on the fourth side.

This end of Lovettsville is the southern entrance into the town. What is built on this corner, and along the southern end of Rt 287, should be compatible with the homes that were built there starting ten years ago. And, when finished, with open areas, and walking paths and professional landscaping will complement our town.

My understanding is that the firehouse wants to make some money off it's existing property, after building a new firehouse on another portion of their land, and leave the existing ugly building and hall where it is to make money off of bingo.

The town is talking commercial or light industrial rezoning. And, what in Heaven's name is "Highway Mixed Use" that the Comprehensive Plan states can be built on South Berlin Turnpike? Horizontally-integrated sounds an awful lot like a strip mall.

Rezoning the properties light industrial or commercial is going to have a detrimental effect on the Heritage Highlands community.

I am worried that this could very well have a "slippery slope" potential for land use changes to move further into the adjacent neighborhood, ie the William Reed property that lies behind Heritage Highlands on Lutheran Church Road. It is presently in the County; but, could easily be annexed into Lovettsville in the future.

Please, do not unravel the fabric of our stable community that is Heritage *Highlands*

*Thank you*