

# Town of Lovettsville

## Minutes of the Planning Commission Regular Meeting October 19, 2016

### **Call to Order/Pledge of Allegiance**

Chairman Frank McDonough called the Regular Meeting of the Lovettsville Planning Commission to order at 7:30 p.m. on October 19, 2016 at the Lovettsville Town Hall, 6 East Pennsylvania Avenue, Lovettsville, VA.

### **Pledge of Allegiance**

Chairman McDonough led those present in the Pledge of Allegiance.

### **Present at Meeting**

- Chairman Frank McDonough
- Commissioner Nate Fontaine
- Commissioner Christopher Hornbaker
- Commissioner Joseph Mueller
- Commissioner Shiva Schilling
- Commissioner Stephanie Wolf

### **Absent**

- Commissioner Thomas Ciolkosz

### **Staff Present**

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

### **Public Comment**

Chairman McDonough called for comments from the public. There were none.

### **Additions/Deletions/Modifications to the Agenda**

There were none.

### **Planning Commission Minutes**

There were none.

### **Zoning Administrator Monthly Activity Report**

Chairman McDonough stated that it was one of the most active reports he has seen since he has been here. Chairman McDonough asked about the status of the four lots fronting on the Town Green, and Mr. Bateman stated that he has not yet received zoning permits for any of those lots but has seen the developer install entrances to Hammond Drive and Town Center Drive. Chairman McDonough inquired about the status of the new 7-Eleven convenience store, and Mr. Bateman said that the bond will be considered by the Town Council tomorrow night and that he will sign the plans within days of that. Chairman McDonough inquired about the Lovettsville Community Center, and Mr. Bateman said that Town staff had seventeen pages of comments. Chairman McDonough asked about the status of the Lovettsville Glen Subdivision, and Mr. Bateman said the plans are good to go, although discussions between staff and the developer about the stormwater management agreement and deed are ongoing. Mr. Hornbaker inquired about the three lots on West Broad Way and whether they are part of Lovettsville Glen. Mr. Bateman explained that Ryan Homes is constructing houses on them and that the lots were subdivided years ago as part of the Rehobeth Village Subdivision.

### **Action/Discussion Items**

#### **A. Amendment to Article XI (Sign Regulations) of the Zoning Ordinance**

Mr. Bateman introduced the issue by stating that he provided in the packets information from the Signage Foundation and IMLA Model Sign Ordinance. Chairman McDonough stated that almost every sign ordinance in the state

regulates signs by content and that such regulations are considered a violation of free speech. He said that the ordinance can regulate shape and location but not the sign's message. Upon a question from Chairman McDonough regarding whether his assessment is correct, Mr. Bateman said that, as Mrs. Wolf recently told the Town Council, if one must read the sign to know what type of sign it is, then the regulation is invalid. He said that definitions and regulations pertaining to most types of signs considered content-based are relatively straightforward in the Town sign ordinance. However, Mr. Bateman noted that the Supreme Court's decision regarding certain sign types, such as off-premises signs, was not so straightforward because one must read the sign to determine that it refers to something off-site. He said that temporary signs should be easier to regulate by materials and locations compared to other sign types, but that off-premises signs are difficult to regulate given the Supreme Court's decision in *Reed*. Mr. Bateman gave several examples of sign types in the zoning ordinance which are content-based and several that are not. He said the Town Manager asked why we do not simply repeal our existing ordinance and adopt the model ordinance, and Mr. Bateman replied that the non-content-based regulations in our local ordinance have not been invalidated by the court.

Chairman McDonough asked whether, if the Commission makes the motion per staff's recommendation today, will the Town Attorney be able to render an opinion by the time staff returns with a draft. Mr. Bateman replied that the Town Attorney will render an opinion once a draft amendment has been prepared by staff. Chairman McDonough said that he did not want to forward something to the Town Council that the Town Attorney would intercept in the middle, and Mr. Bateman responded that that has never happened, and he would not recommend that the amendment be forwarded to Council prior to review by the Town Attorney. Chairman McDonough said that he preferred to send items to Council that are clean, and Mr. Bateman explained the Town Attorney's role in the drafting and review of zoning and subdivision ordinance amendments generally.

Mr. Bateman asked whether the Commission had any question on why the Commission is being asked to amend the ordinance. Mr. Fontaine inquired whether provisions that impose time limits or a time after which signs may not be illuminated are considered content-based, and Mr. Bateman replied that they are not. Mr. Bateman said that time, place and manner restrictions are not considered content-based and are therefore lawful. He said that materials are one area that have not been tested, and that restrictions on banners are valid because banners are made with flimsy materials that become torn from the wind and weather.

Chairman McDonough asked whether anyone would like to make a motion.

**Motion:** I move to initiate an amendment to Article XI, Sign Regulations, of the Zoning Ordinance of the Town of Lovettsville in order to eliminate content-based signage regulations and bring the zoning ordinance into compliance with the U.S. Supreme Court's decision in *Reed v. Town of Gilbert*.

**By:** Commissioner Mueller

**Second:** Commissioner Hornbaker

**Aye:** Commissioners Fontaine, Hornbaker, Mueller, McDonough, and Wolf

**Nay:** None

**Abstain:** None

**Absent:** Commissioner Ciolkosz and Shilling

#### **Information Items**

Chairman McDonough announced that he has been nominated and will be approved tomorrow to serve on the County Transportation Improvement and Safety Commission representing the Catoctin District. He said that this is cool since it will enable the Town to have a voice on district-wide transportation issues.

#### **Next Meeting**

Chairman McDonough announced that the next meeting will be on November 2, 2016 at the Lovettsville Game Club to conduct the public hearing on the comprehensive plan amendment. He asked commissioners to volunteer to help staff set up for the meeting. He stated that he posted a message about this on Facebook with a link to the draft comprehensive plan amendment. Chairman McDonough then asked the clerk to email anyone who served on committees inviting them to attend the hearing.

Mr. Bateman stated that he recently posted information on the website regarding the draft plan with links to each chapter. Mr. Bateman said that survey questions in which respondents were asked to provide comments have been summarized in one of the appendices, and he pointed out that the maps have been updated with the latest County GIS information.

Mr. Mueller pointed out that several page references to appendices in the table of contents appeared to be incorrect, and Mr. Bateman stated that these have been recently corrected. Mr. Bateman discussed the process for compiling the draft plan amendment and developing the advertisement for public hearing.

**Committee Reports**

Chairman McDonough introduced the various events committees and asked for updates from Commissioners serving on the various Town Council committees. Commissioners Wolf, Fontaine, and Mueller described recent and upcoming activities by the committees. Mr. Palko discussed the Wellhead Protection Planning Committee meeting yesterday and process for developing the plan.

**Comments from the Mayor and Commissioners**

Mayor Zoldos described recent and upcoming activities and events involving the Town Council and occurring in the Town generally. He described the topics discussed at the Virginia Municipal League Conference in Virginia Beach, Virginia and thanked Planning Commissioners for participating on the Town Council committees. Mr. Bateman asked whether the recent state proffer law was discussed, to which Mayor Zoldos replied in the affirmative. The process for distributing state lottery proceeds to localities was discussed as was the purpose and upcoming meeting schedule of the Coalition of Loudoun Towns (COLT) and Town Association of Northern Virginia (TANV) organizations. The Commission and Mayor discussed the potential installation of fiber optic cable in the Town.

Mayor Zoldos found it noteworthy that the offices of the Town of Hillsboro are located outside the town limits.

Mr. Bateman asked whether repeal of the proffer law would be considered at the upcoming state legislative session, and Mr. Palko replied that TANV would be discussing this topic at an upcoming meeting.

Mr. Fontaine asked Mayor Zoldos whether it would be possible to form an organization like COLT comprised of local Planning Commissioners. Mayor Zoldos responded that he did not see why not provided the membership included equal representation from each town. He stated that such a group would not have the power to vote on any matter, but indicated that Lovettsville has more to win than lose by participating in such an organization.

There being no further business, upon a motion from Mr. Hornbaker, seconded by Mr. Mueller, the Planning Commission voted unanimously to adjourn the meeting at 8:26 p.m.

Respectfully submitted,

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Harriet West, Town Clerk

Date Approved: \_\_\_\_\_

Attachments:  
None