Public Hearing and Open Meeting Minutes of December 12, 2023

As reviewed, approved and accepted by the Town Council on January 2, 2024

Mayor Charles Hendricks called to order at 7:31 p.m. the Public Hearing on a draft moratorium ordinance. The meeting was held using video conferencing. Council Members Charles Bradsher, Tom Burke, Amy Koval, and Christina Pellegrino were present. Also present were Town Clerk Mary Burke, Assistant Clerk Joy Jackson, Treasurer Angela Hoffman, Town Counsel Victoria Shearer of Eccleston and Wolf, and Mr. Robert Diss of Lindsey and Associates. There were approximately 36 residents and guests present. The Notice of Hearing was posted on the Town website, at the Town Hall, and at the Post Office.

Mayor Hendricks explained this public hearing is a continuation of a public hearing held on December 5, 2023, regarding a temporary moratorium on commercial development. He said eight or nine individuals spoke at the last public hearing and the record has remained open. Mayor Hendricks asked if anyone wanted to submit testimony at this time. There being none, Mayor Hendricks called the hearing to a close at 7:33 p.m.

Mayor Hendricks called the regular monthly meeting of the Laytonsville Town Council to order at 7:33 p.m.

Minutes: The minutes from the Town Council Meeting held November 7, 2023, were approved as submitted.

Report on Audit of Town Finances:

Mayor Hendricks introduced Mr. Robert Diss, President of Lindsey and Associates. **Mr. Diss reviewed the annual Independent Auditor’s Report for fiscal year July 1, 2022, through June 30, 2023. Mr. Diss said the auditor’s opinion letter provides reasonable assurance the statements in the report are not materially misleading. The Management Discussion/Analysis Financial Highlights, written by the town staff/representatives provides a comparison of 2022 to 2023 and does not show much difference. The Government-wide Financial Statements beginning on page 10 are based on a full accrual basis of accounting and show an increase in equity of $286,000. The related income statement on page 13 is based on a modified accrual basis of accounting and shows an increase in equity of $239,000. Note 3, on page 23 shows almost $900,000 in investments and $32,000 of depreciation expense. Pages 28 and 29 compare the budget to the actual and the only difference is in Miscellaneous Revenue of approximately $300,000 from a government grant. Mayor Hendricks said this was the American Rescue Plan Act (ARPA) funds. Mr. Diss explained how depreciation is calculated and Mayor Hendricks commented that the difference in the two accounting figures was likely from the repairs made to the Town Hall.**

**October Treasurer’s Reports: Treasurer Hoffman reviewed the Profit and Loss report for the month of October 2023. She said the major sources of income were $10,032 from Income Tax, $6,411 from Real Property Taxes, and $1,162 from Franchise Fee. The major expenses were $3,588 for Accounting, $5,734 for Payroll Expenses, $3,464 for Grounds Maintenance and $6,333 for Waste Collection. Treasurer Hoffman said the Balance sheet was similar to the previous month.**

**Council Member Koval made a motion to approve the October Treasurer’s report subject to audit. Council Member Bradsher seconded the motion. *Unanimously approved.***

**Commission and Board Reports**

**Eric Wenger, Planning Commission Chair, said the Planning Commission 4th Quarter meeting will be held on December 21, 2023. He said the meeting will include work on the Comprehensive Plan.**

**New Business**

**Wayside Signs Update: Mayor Hendricks stated that the Town Council approved the designs and locations for five wayside signs. He reported that the process has moved forward with two contracts recently signed. One contact is for construction of the signs, and the second is for installation of the signs. The goal is to have the signs produced this winter and installed in the spring.**

**Report on WSSC Matters: Representatives from WSSC held a community meeting at the Laytonsville District Volunteer Fire Department on November 9, 2023, at which they announced they are continuing to study what is causing the black sludge in some residents’ pipes. It has not been determined what is causing the problem. Potential factors being considered are the pipes installed by the developer, the main pipe ending in a cul-de-sac and not looping back out, and low water usage. The current chlorine levels are better, and as results become available, they are posted on the town website.**

**Report on Birdie Lane Trail: Mayor Hendricks said that because of the erosion on the Birdie Lane trail, in part caused by the flushing station installed by WSSC, he has arranged a meeting with representatives from WSSC; Montgomery Parks; Mr. Crum of Macris, Hendricks and Glascock; Mr. Romano, president of the Laytonsville Grove Homeowners Association; and Council Member Pellegrino. He stated that a survey of the trail will be necessary to fully consider options to address the issue, and a proposal from Macris, Hendricks, and Glascock was provided for the Council’s consideration. Council Member Koval agreed that something needs to be done and believes the project would qualify for ARPA funding. Council Member Pellegrino said the survey is a necessary first step.**

**Council Member Pellegrino made a motion to approve the proposal from Macris, Hendricks and Glascock to survey the Birdie Lane trail, in the amount of $1,200 with funds from ARPA if it meets the requirements. Council Member Koval seconded the motion. *Unanimously approved.***

**Appointment: Mayor Hendricks explained why Joy Jackson, who has served as Assistant Clerk since April of 2018, was not on the Resolution for Compensation to Employees in June. He said that as she continues to provide work for the town, he would like to regularize her service by having her appointed and making it retroactive to July 1, 2023.**

**Council Member Koval made the motion to appoint Joy Jackson as Assistant Clerk. Council Member Burke seconded the motion. *Unanimously approved.***

**Consideration of Resolution R-05-23: Mayor Hendricks said resolution R-05-23 was provided to the Council for their consideration. This resolution defines the rate of pay for Assistant Clerk Joy Jackson as $37.50 per hour from July 1, 2023, through June 30, 2024.**

**Mayor Hendricks made the motion to approve resolution R-05-23. Council Member Koval seconded the motion. *Unanimously approved.***

Update on Enforcement of Town Ordinances: Mayor Hendricks reviewed some of the items that have been requiring his time and that of the town staff to enforce. Most significant has been enforcing the town’s sign ordinance and the zoning ordinance’s provisions on vape shops. He explained that he has been attempting to hire a Code Enforcement Officer as one was not appointed in recent years.

Town Council Decision on Whether to Recess to Closed Session for Consultation with Town Counsel

Mayor Hendricks said he would like to read a statement relative to closing the open meeting because the Town Council will be holding a closed session to consult with town counsel on the draft moratorium ordinance.

“I will now read into the record a closing statement that is available for public inspection. The Mayor and Council will reconvene after the closed session. The Mayor and Council will meet in closed session to consult with counsel to obtain legal advice relative to possible amendments to the town’s zoning ordinance as authorized by General Provisions Article Section 3-305(b)(7) of the Open Meetings Act. I’d like to make a motion that the Mayor and Council meet in closed session to consult with counsel to obtain legal advice relative to possible amendments to the town’s zoning ordinance as authorized by General Provisions Article Section 3-305(b)(7) of the Open Meetings Act.”

Council Member Burke seconded the motion.

Mayor Hendricks stated that notice to hold a closed session during this meeting was posted on the town’s website, at the Town Hall, and at the post office.

Mayor Hendricks then asked if there was discussion on the motion. There being none, the Town Clerk called the roll to vote on the motion.

Council Member Bradsher Aye

Council Member Burke Aye

Mayor Hendricks Aye

Council Member Koval Aye

Council Member Pellegrino Aye

Mayor Hendricks asked if there were any objections. There being none, he explained the plan to return to open meeting at the end of the closed session.

The meeting recessed at 8:36 p.m.

Resumption of Open Session

Mayor Hendricks called to order the resumption of the open session at 9:20 p.m. The meeting was held using video conferencing. Council Members Charles Bradsher, Tom Burke, Amy Koval, and Christina Pellegrino were present. Also present were Town Clerk Mary Burke, Assistant Clerk Joy Jackson, and Victoria Shearer of Eccleston and Wolf. There were approximately 18 residents and guests present.

Council Decision on Whether to Close the Record of the Public Hearing on the Draft Moratorium Ordinance

Mayor Hendricks stated he feels it would be helpful to have more testimony in relation to some of the purposes of the ordinance that were not addressed in the public hearing thus far and the extent of the impact the ordinance may have across town. He sees advantages to keeping the record open to get more information for the Town Council to consider.

Council Member Burke said he would like to hear more testimony and have more on the need for the moratorium discussed before he is prepared to vote on the ordinance.

Council Member Koval said it would be good to keep the record open because she thinks there are issues that could be clarified and made better for the town.

Council Member Pellegrino stated she agrees and that this impacts the entire town and every commercial zoned property. She said a number of issues have come up in the last few years and the larger picture needs to be considered and how it affects the town has a whole.

Council Member Bradsher stated he is for having the record open longer to get more testimony and more information.

Council Member Pellegrino made a motion to keep the record on the public hearing open and schedule a new public hearing on the draft moratorium ordinance for January 16, 2024. Council Member Bradsher seconded the motion. ***Unanimously approved.***

Consideration of the Draft Moratorium Ordinance if the Public Hearing Record Has Been Closed

Mayor Hendricks said the record has not been closed so this item will not be considered at this meeting.

Residents Forum

Jill Ruspi, 7111 Brink Road, asked what discussion or ideas the town has considered about the rest of the ARPA funds.

Mayor Hendricks said that he and the Treasurer have completed a spreadsheet with all expenditures to date and that this is a topic that will be addressed at meetings and work sessions in the new year. Council Member Koval shared the funds need to be allocated and contracts signed by December 31, 2024.

Lu Romano, 21320 Birdie Lane, asked what exactly the mayor is hoping to get from residents and business owners in the town by keeping the record open on the moratorium.

Mayor Hendricks said he would like to see more information about the impact of the moratorium across the whole town and not focused on any individual property or project.  A moratorium is a broad action that affects a lot of people and gives opportunities for consideration of a lot of different possibilities.  The question is, do we have a broad range of concerns that would merit a moratorium affecting all commercial development in Laytonsville?  We need to know whether there is a real interest or sense of need for a comprehensive review of commercial zoning matters before we embark on such a step.

Steve Galante, 248 Barberry Lane, asked what specific steps will be taken to get more input on the proposed moratorium and if there is no additional feedback would it be the intention to close the record or postpone it again.

Mayor Hendricks said the Town Council will have to make it clear that we are somewhat at a loss for an understanding of the community’s view of the broader concerns and let it resonate that what has happened thus far hasn’t sufficed to give us the readiness to proceed.  Mayor Hendricks said, in his opinion, a decision should be made, and it should not be extended beyond January 16, 2024.

Lu Romano, 21320 Birdie Lane, asked if any and all existing projects can move forward or not prior to the January 16th meeting.

Mayor Hendricks said his understanding is that in the absence of the approval of the moratorium, the rules that have been in effect until now, remain in effect.

James Ruspi, 7111 Brink Road, suggested that Mayor Hendricks contact Brookeville for a potential resource on code enforcement as he was contacted by one of their commissioners when he was mayor.

Mayor Hendricks thanked Mr. Ruspi for the information and said he would be following up.

Mayor Hendricks invited everyone to extend any oral testimony given previously on the moratorium ordinance with additional written testimony that might be helpful in addressing the broader issues of the impact of the ordinance on the town’s commercial development.

Council Member Pellegrino made a motion to adjourn at 9:48 p.m. Council Member Bradsher seconded the motion. ***Unanimously approved.***

Respectfully submitted,

Joy Jackson

Assistant Clerk   
December 12, 2023