

Ordinance: FRYE COURT SERVICE DISTRICT

MOTION: *Heene*

SECOND: *Bradley*

WHEREAS, the approved plat and construction plans for a subdivision known as "Lovettsville Manor", comprising 14 duplex dwelling units, called for service to be provided by a temporary sewage pumping station, to be privately owned and operated until the properties could be connected to the Town sewerage facilities by alternate means; and

WHEREAS, an agreement dated July 25, 1991, entered between the developer of ten remaining lots within Lovettsville Manor and the Lovettsville Town Council provided that the Town would assume the responsibility for inspection, maintenance and repair of the pumping station until its replacement at the expense of the property owners, to be funded from certain escrow accounts to be established under the agreement; and

WHEREAS, the funding intended for maintenance of the pumping station has been fully expended, no alternatives for the pumping station are planned or available in the foreseeable future, and it is essential that a fair and dependable method of securing a source of funds for necessary inspection, maintenance, repairs and replacements be established; and

WHEREAS, Va. Code sections 15.2-2400 through 15.2-2403 authorize the establishment of service districts, *inter alia*, to provide additional, more complete or more timely services of government, including maintenance of sewerage facilities, than are desired in the locality or localities as a whole; and

WHEREAS, the Town Council conducted a public hearing on the proposed creation of a service district, to be known as the "Frye Court Service District", on *April 24*, 2003, following notice duly advertised in *Leesburg Today* on *April 4*, 2003, *April 11*, 2003 and *April 18*, 2003.

WHEREAS, the Lovettsville Town Council deems it appropriate to establish a service district, to be known as the "Frye Court Service District", comprised of the lots in Lovettsville Manor, for the purpose of ensuring that the maintenance needs of the Lovettsville Manor pumping station are met and funded, thus securing the health, safety and welfare of the Frye Court residents, and the residents of the Town generally, against the effects of failure of this private system.

NOW, THEREFORE, BE IT ORDAINED by the Lovettsville Town Council that there is hereby created the Frye Court Service District, as set forth hereafter:

Section 1. The boundaries of the Frye Court Service District shall consist of those fourteen lots comprising Lovettsville Manor, identified on the County property maps and having the common street addresses, as the following:

Street Address:	Tax Map #:	PIN #:
1 Frye Court	//9A411///1/	334-45-7516-000
3 Frye Court	//9A411///2/	334-45-7214-000
5 Frye Court	//9A411///3/	334-45-6812-000
7 Frye Court	//9A411///4/	334-45-6509-000
9 Frye Court	//9A411///5/	334-45-6207-000
11 Frye Court	//9A411///6/	334-45-5804-000
13 Frye Court	//9A411///7/	334-45-5502-000
15 Frye Court	//9A411///8/	334-35-5299-000
17 Frye Court	//9A411///9/	334-35-4997-000
19 Frye Court	//9A411///10/	334-35-4594-000
21 Frye Court	//9A411///11/	334-35-3784-000
23 Frye Court	//9A411///12/	334-35-3184-000
25 Frye Court	//9A411///13/	334-35-2887-000
27 Frye Court	//9A411///14/	334-35-2691-000

Section 2. Purpose. The purpose of the Frye Court Service District is to provide a mechanism for funding the inspection, maintenance, repair and replacement needs of the temporary sewage pumping station serving the properties within the district (the “Pumping Station”) until such time as they may be served by alternate facilities, to be approved by the Lovettsville Town Council.

Section 3. Plan. (a) The Town Council shall annually prepare a budget of projected needs and expenses for the Frye Court Service District and shall assess the real property within the district their pro rata share of such expenses. Such assessments shall constitute a tax upon the property and may be collected as other taxes upon realty may be collected. The proceeds from such annual tax shall be segregated as to enable the same to be expended in the district in which raised.

(b) The Town shall make periodic inspections of the Pumping Station until such time as the adjoining property is developed and the Pumping Station is dismantled and sanitary sewer service is provided to the Property by alternative means satisfactory to the Town and Lot Owners. Nothing herein shall require the Town to fund, in whole or in part, from service district funds or otherwise, the cost of any replacement facilities or alternative means enabling the dismantling of the Pumping Station or the cost of dismantling the Pumping Station.

(c) The Town shall be responsible for any maintenance or repair to the Pumping Station, which the Town deems necessary, to be funded from monies collected from the annual assessment of the real property comprising the service district, identified in section 1 above.

(d) The Town shall be reimbursed for the cost of inspection, maintenance, repair and replacement to the Pumping Station, to include charges for electrical service to the Pumping Station and the reasonable costs of administering the business of the Frye Court Service District, including supplies and postage. The books and records of the Frye Court Service District shall be available for inspection and copying as provided by the Virginia Freedom of Information Act, Va. Code sections 15.2-3700 et seq.

Section 4. Additional Powers. Upon adoption of this ordinance and creation of the Frye Court Service District, the District and the Town Council, as its governing body, shall have, and may exercise, all of the powers and authority conferred by Virginia Code section 15.2-2403, as the same may be amended from time to time.

Section 5. Benefits. By providing an identified, dependable source of funding for the Pumping Station and permitting the inspection, maintenance, repair and replacement needs to be addressed on an ongoing basis, establishment of the Frye Court Service District will secure the health, safety and welfare of the Frye Court residents, and the residents of the Town generally, against the effects of failure of this private system.

Adopted the 24th day of April, 2003.

VOTE:

Ayes: All Present
Nays:
Abstentions:
Absent for Vote: none

CERTIFIED:


ELAINE WALKER, MAYOR

TEMPORARY PUMP STATION AGREEMENT

LOVETTSVILLE MANOR SUBDIVISION

THIS AGREEMENT, made and entered into this 25th day of July, 1991, by and between WEBB A. KOSCHENE and CATHERINE A. CHIANESE, husband and wife and CARL D. COLLIS and CONSTANCE P. COLLIS, husband and wife (hereinafter collectively referred to as the "Developer") and the TOWN OF LOVETTSVILLE, a municipal corporation of Virginia, (hereinafter referred to as the "Town").

W I T N E S S E T H :

WHEREAS, the Town has approved the plat, plans and profiles for the subdivision known as Lovettsville Manor of which 10 lots are owned by the Developer (the "Property") as specified on a plat prepared by Rodgers Brothers & Associates, dated April 22, 1988 (the "Plat") attached hereto as Exhibit B; and

WHEREAS, the Plat requires the construction of a pumping station (the "Pumping Station") on the Property and notes that the pumping station shall be privately maintained; and

NOW, THEREFORE, in consideration of the premises and mutual promises and agreements of the parties wherein contained, the parties agree as follows:

1. The Developer will construct the Pumping Station in accordance with the approved Construction Plans and Specifications prepared by Rodgers Bros. and Associates, Inc. dated April 18, 1988 as revised through April 17, 1989 by Bowers and Associates, P.C.

2. The Town shall make periodic inspections of the Pumping Station until such time as the adjoining property is developed and the Pumping Station is dismantled.

3. The Town shall be responsible for any maintenance or repair to the Pumping Station, which the Town deems necessary.

4. The Town shall be reimbursed for the cost of inspection, minor maintenance and/or repair to the Pumping Station, in an amount not to exceed Twenty-Five Dollars (\$25.00) per hour, plus actual expenses, from an escrow account which has been established at Farmers & Merchants National Bank of Hamilton (the "Escrow Account"). Said reimbursement will be billed to the Developer, its successors & assigns on a quarterly basis. The parties hereby acknowledge that the Escrow Account presently has a balance of \$4,000.00, plus accrued interest. The Escrow Account shall be maintained and controlled by the Developer, their successors and assigns.

5. The Developer shall make a contribution of Five Hundred Dollars (\$500.00) to the Escrow Account at the time of settlement on each of the remaining ten (10) lots in the Property.

6. Any person or entity which acquires ownership of a lot in the Property, whether by purchase, assignment, devise foreclosure or other manner shall be defined herein as a "Lot Owner" and shall have the duties and obligations of a Lot Owner herein.

7. In the event the Pumping Station requires repairs in excess of the amount in the Escrow Account, the Town agrees to bill the Developer or each individual Lot Owner for each Lot Owner's pro rata share of said repairs. Each Lot Owner agrees that any unpaid share of such expenses shall become a lien on the property of each Lot Owner in favor of the Town.

8. This Agreement shall remain in full force and effect until such time as the adjoining property is developed and the Pumping Station is dismantled and shall be referenced in the Deed of Conveyance to each Lot in the Property a covenant running with the land. The language to be contained in each Deed of Conveyance is attached hereto as Exhibit A.

9. Upon expiration of this Agreement, any monies remaining in the Escrow Account shall be reimbursed to the Developer and/or the Lot Owners on a pro rata basis for their contributions.

10. All covenants contained herein shall run with the land and shall inure to the benefit of, and be binding upon, the heirs, executors, administrators, successors, and assigns of the parties hereto.

IN WITNESS WHEREOF, the parties hereto have set their hands on the day and year first above written.

DEVELOPER:

Webb A. Koschene
Webb A. Koschene

Catherine A. Chianese
Catherine A. Chianese

Carl D. Collis
Carl D. Collis

Constance P. Collis
Constance P. Collis

APPROVED AS TO FORM:

Rachel Moore Jewell
Town Attorney

TOWN OF LOVETTSVILLE

Elaine Walker
By: Elaine Walker, Mayor

COMMONWEALTH OF VIRGINIA
COUNTY OF FAIRFAX, to-wit:

Acknowledged to before me, a Notary Public in and for the aforesaid Commonwealth and County, by Webb A. Koschene, Catherine A. Chianese, Carl D. Collis and Constance P. Collis, this 10th day of July, 1991.

Cathy Strayhorn
Notary Public

My Commission Expires: 1/18/92

COMMONWEALTH OF VIRGINIA
County of Loudoun, to-wit:

Acknowledged to before me, a Notary Public in and for the aforesaid Commonwealth and County, by Elaine Walker, Mayor of the Town of Lovettsville, this 25th day of July, 1991.

Kathleen Jewell
Notary Public

My Commission Expires: 10/31/95

EXHIBIT A

As evidenced by acceptance and recordation of this deed, the Grantee hereby agrees for himself, his heirs and assigns, to pay its pro rata share of the costs of maintenance and repair of the pumping station as shown on the plat prepared by Rodgers Brothers & Associates dated April 22, 1988, in accordance with the Temporary Pump Station Agreement with the Town of Lovettsville, dated JULY 25th, 1991, and further agrees that any unpaid share of such expenses shall become a lien on the Property hereby conveyed in favor of the Town of Lovettsville.
