

The regular meeting of the Town Council of the Town of Front Royal, Virginia was held on February 11, 2013, in the Warren County Government Center’s Board Meeting Room. Mayor Darr led Council and those attending in the Pledge of Allegiance to the flag and a Moment of Silence. The roll was called at 7:00 p.m.

**PRESENT:** Mayor Timothy W. Darr  
Vice Mayor N. Shae Parker  
Councilman Daryl L. Funk  
Councilman Bret W. Hrbek  
Councilman Thomas H. Sayre  
Councilman Eugene R. Tewalt  
Councilman Hollis L. Tharpe  
Town Manager Steven M. Burke, P.E.  
Town Attorney Douglas W. Napier  
Clerk of Council Jennifer E. Berry, CMC

(The above listed members represent the full body of Council as authorized in the Town Charter.)

*Vice Mayor Parker moved, seconded by Councilman Tewalt, that Council approve the Regular Council Meeting minutes of January 28, 2013 as presented.*

Vote: Yes – Funk, Hrbek, Parker, Tewalt, Tharpe and Sayre  
No – N/A  
Abstain – N/A  
Absent – N/A  
(Mayor Darr did not vote as there was no tie to require his vote)

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**RECEIPT OF PETITIONS OR CORRESPONDENCE FROM THE PUBLIC**

Tim Ratigan, of 241 Church Street, read the following comments into the record:

I heard today there is a big sale of baloney in Richmond today especially coming out of the office of Delegate Gilbert as he requested the Front Royal charter bill to be moved back to committee. These are responses to his statements regarding his actions.

The Town Council of Front Royal should be disappointed in the delegate changing the bill that the Town submitted to the state assembly without input of the changes to the community.

The original bill sent to the delegate would have saved the tax payers money and made the election more convenient for the citizens. Delegate Gilbert must have forgotten that it was the Towns decision to move the election to November.

The election component was to move the local election from May to Nov in the even years. Delegate Webert rewrote this part to reflect his own agenda by changing the election to odd years. This was vetted and debated by the town Council between even and odd years and voted by a majority to go with even years and submitted to the delegate. The rhetoric was not on the local side of this situation but was a failure of the delegate to support the request

from the locality and not from the political agenda of the delegate or delegates representing our community.

The bill was altered by the delegate without the input or approval of the local government that had approved ( 5 to 1) vote to send the bill to the assembly.

I agree with the statement that the delegate colleagues are to protect the liberties and in the conduct of public elections but disagree that the delegates by their actions did not live up to their responsibility to represent requests of our local community.

There were number of reasons that the town officials were upset because of many promises and changes to the submitted bill without input of the local officials.

Delegate Gilbert is concerned about disenfranchising the thousands of democrats and republicans on the local level but he should be concerned about the citizens of this community being very upset with the conduct and lack of ethics shown by some of the members of the House of Delegates that are supposed to support the requests of the people they represent. His statement about disenfranchising thousands of democrats and republicans reveals to the community his unwillingness to support a non-partisan charter change voted on by a non-partisan Town Council. We are citizens of the town of Front Royal first and Republicans and Democrats and Independents second.

The intimation that there were only a few elected officials that supported the charter changes for their own selfish interest is not the truth. The resolution was passed by a 5 to 1 vote by the Town Council with only 1 no vote from the Councilman that works out of the same office as Delegate Gilbert.

Now Delegate Gilbert failed to mention one very important change that was made in the charter change request. The Town wanted to maintain in the town charter that the local election would remain non-partisan. It was changed by Delegate Weibert to say that a party could run a candidate under an establish party which was not supported by the Town resolution. Funny that Delegate Gilbert forgot to mention anything about that change.

### **REPORT OF THE MAYOR, COUNCIL & STAFF**

Mr. Burke:

- Reported that the Finance Department would be closed this Friday to facilitate their move to the Administration Building on Main Street. He gave options for those that would like to make their payments on that date;
- Noted that Monday, February 18<sup>th</sup> Town offices would be closed for the observance of President's Day and he stated the appropriate rescheduled times for refuse and recycling collection;
- Stated that Saturday drive thru hours would begin at the new Administration building in March from 9-12 to further the customer service to the Town's citizenry;

- Reminded that the Administration Open House would be held on March 18<sup>th</sup>.

Mayor Darr asked about any concessions being made with Finance being closed on Friday for the move and Monday's holiday for those that may have a late payment. Mr. Burke stated that the other payment options would be available for receipt of payments at any time during those four days.

Vice Mayor Parker requested that the upcoming worksession have a discussion for moving the Town elections by ordinance; and also a second discussion pertaining to being named a designated locality by the US Office of Personnel Management.

Councilman Hrbek requested an upcoming worksession contain discussion relating to directing Staff to perform a cost benefit analysis of having the Town's own Building Inspector. He noted that he has received phone calls about the suggestion and he would like the pros and cons examined.

**AS REVISED:** Councilman Sayre stated that he would ask shortly for an item to be added to the agenda, and requested that Messrs. Napier & Burke place the item on the next regular agenda if the item does fail for inclusion at this time. *\*\*Added after meeting of February 25, 2013*

Councilman Sayre noted that he met with Warren County and some RSW Regional representatives and viewed some of the jail's activity sites. He stated that he and Councilman Tharpe had met at the McKay Spring site on Sunday and backtracked from that site to the jail's discharge location. Councilman Sayre read the following into the record:

When the Town is completed, the upgrade to our Wastewater Treatment Plant, the Town will meet or exceed discharge requirements for the Chesapeake Bay Act. At the same time, the package plant at the jail will continue to need purchase credits from Shenandoah County because their effluent discharge at the headwaters of McKay Springs will not meet these requirements.

They have indicated that the discharge will not affect our water at McKay Springs, however; due to the fact that they are purchasing credits from a neighboring county that will be increasing the amounts of phosphorous and nitrogen that the Town would have to remove as part of treatment for our drinking water, because of the dry point discharge that will effectively come into the Spring with little dissolution.

Councilman Sayre noted that the main concern that he held was the added nitrogen and phosphorous to the area and the people affected by the area and those downstream.

Mayor Darr noted that he was pleased this evening to present copies of the Charter as adopted by the Virginia General Assembly that incorporated the Town of Front Royal on November 15<sup>th</sup>, 1788 printed and framed. He noted that the Town will donate two prints to the Warren County Public Schools that will be placed on display at Warren County and Skyline High Schools. Mayor Darr stated that accepting them for Warren County Public Schools is Superintendent Pamela McInnis and Kathy Bowers. Ms. McInnis invited the Town Council and Mayor Darr to visit the schools to view the placement of the Charters.

Mayor Darr asked if there were any proposals for additions or deletions to the agenda.

*Councilman Sayre moved, seconded by Councilman Tharpe, that Council add Item #13: Begin the Process to Amend the Code to allow the RSW Regional Jail to utilize Rain Water Disposal.*

Councilman Tewalt noted that he was unsure of what the process for the LEEDS program entails and he would not be comfortable moving it forward at this time. Councilman Sayre asked that the program be discussed in detail at the next worksession by Mr. Stanley if possible at the next worksession.

*Councilman Tharpe withdrew his second to add it to the agenda.  
Councilman moved to second to add it the agenda.*

Vote: Yes – Funk, Sayre and Tharpe  
No – Tewalt, Hrbek, Parker  
Abstain – N/A  
Absent – N/A  
(Mayor Darr did not vote as there was no tie to require his vote)  
(Motion Failed)

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**CONSENT AGENDA ITEMS**

- A. COUNCIL APPROVAL: Donation of Safety Vests
- B. COUNCIL APPROVAL: Purchase of Water Meters

*Vice Mayor Parker moved, seconded by Councilman Funk, that Council approve the Consent Agenda as presented.*

Vote: Yes – Funk, Hrbek, Parker, Tewalt, Tharpe and Sayre  
No – N/A  
Abstain – N/A  
Absent – N/A  
(Mayor Darr did not vote as there was no tie to require his vote)  
(By Roll Call)

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**PUBLIC HEARING – An Ordinance to Amend Town Code Pertaining to Fence Height and Safety (1<sup>st</sup> Reading)**

**Summary:** Council is requested to affirm on its first reading an amendment to Front Royal Town Code Section 175-102 “Fences”. This amendment would allow fences within commercial districts to be (8) feet in height, provided that the height increase is needed for safety or screening and subject to review and approval by the Planning Director. Also, language is proposed that would restrict fences with protruding nails or other materials that create a dangerous condition.

Mayor Darr opened the public hearing. As no one came forward to speak, the public hearing was closed.

*Councilman Tewalt moved, seconded by Councilman Funk that Council affirm on its first reading an amendment to Front Royal Town Code to Section 175-102 “Fences”, as presented.*

Vote: Yes – Funk, Hrbek, Parker, Tewalt and Tharpe  
 No – Sayre  
 Abstain – N/A  
 Absent – N/A  
 (Mayor Darr did not vote as there was no tie to require his vote)  
 (By Roll Call)

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**PUBLIC HEARING – An Ordinance to Amend Town Code Pertaining to Sign Refacing Exemption (1<sup>st</sup> Reading)**

**Summary:** Council is requested to affirm on its first reading an amendment to Front Royal Town Code Section 175-106 “Signs”. The proposed changes would allow existing signs to be re-faced without a sign permit, except when located within the Historic Overlay District. The proposed changes also include the removal of the one-time re-facing rule for nonconforming signs.

Mayor Darr opened the public hearing.

Bill Barnett, of Bentonville, noted that it was a very business friendly ordinance and he applauded the Planning Staff and the Planning Commission’s efforts. He stated that it made things much easier and it showed a more open for business atmosphere coming from the Town, which he appreciated.

As no one else came forward to speak, the public hearing was closed.

*Councilman Tewalt moved, seconded by Councilman Hrbek, that Council affirm on its first reading an amendment to Front Royal Town Code Section 175-106 “Signs”, as presented.*

Councilman Tewalt noted that he spoke to many people and he applauded the Planning Commission for their work on the sign matter. He stated that he hoped it would make things more business friendly in dealing with the commercial businesses.

Vote: Yes – Funk, Hrbek, Parker, Sayre, Tewalt and Tharpe  
 No – N/A  
 Abstain – N/A  
 Absent – N/A  
 (Mayor Darr did not vote as there was no tie to require his vote)  
 (By Roll Call)

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**COUNCIL APPROVAL – Capital Improvements Program (CIP) Fiscal Years 2013-2017**

*Vice Mayor Parker moved, seconded by Councilman Tewalt, that Council adopt the Capital Improvements Program (CIP) for Fiscal Years 2013 – 2017, as presented.*

Councilman Tewalt noted that the program was mandated and though it was not cut in stone, it can be adjusted and amended at any time. He encouraged Council to add items and suggest matters to better the Town and items to consider for proffers

Vote: Yes – Funk, Hrbek, Parker, Tewalt, Tharpe and Sayre  
 No – N/A

Abstain – N/A

Absent – N/A

(Mayor Darr did not vote as there was no tie to require his vote)

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**COUNCIL AUTHORIZATION TO ADVERTISE FOR PUBLIC HEARING –  
Setting of Real Estate, Personal Property and Personal Property Tax Relief (PPTRA)  
Tax Rates**

**Summary:** Council is requested to authorize staff to advertise a public hearing for the setting of real estate and personal property tax rate at the current rate (\$.11 per \$100 assessed value for real estate and \$.64 per \$100 assessed value for personal property) and adjust the Personal Property Tax Relief (PPTRA) tax Rate from 70% to 67% per qualifying vehicle for FY 2013-2014.

*Councilman Hrbek moved, seconded by Vice Mayor Parker, that Council authorize Staff to advertise a public hearing for Monday, March 11, 2013, for the setting of real estate, personal property at the current rate and personal property tax relief (PPTRA) from 70% to 67% per qualifying vehicle for FY 2013-2014.*

*Councilman Thorpe moved, seconded by Councilman Tewalt, to amend to advertise at 13 cents at for the real estate tax rate.*

Councilman Tewalt noted that for a number of years the Town has faced this ongoing problem. He voiced that he is not in favor of higher taxes, though he is in favor of raising the amount for advertising for the higher rate, just in case the Town cannot adjust the rate at the last minute. Mr. Tewalt stated that should the Town not adjust the rate at this time, then they cannot protect themselves at the following meeting to raise it higher should the need come up.

Councilman Hrbek asked when the Town needed to pass the rate. Mrs. Breeden noted that the by second meeting in March they needed to pass the rate. She stated that they need to provide it to the County no later than April 1<sup>st</sup> and the Town Manager presents the budget to Council by the 1<sup>st</sup> as well.

Councilman Hrbek stated that he was opposed to amendment and he had no intention to raise taxes, as matters were tight economically for residents. He noted that he was not in the mood to raise taxes and he would not be favor to even give the public the impression that was Council's intention.

Councilman Sayre noted that this is the time within the economy to tighten our belt, and if possible to even decrease the rates.

Councilman Tewalt stated that he was not interested in raising taxes either, but the time to allow the advertising of the possible increase was this meeting and he would like to allow Council the opportunity, should the need arise in the future. He added that he would like the opportunity to raise them if they were pressed and pushed to that point, only.

Councilman Funk noted he agreed with Councilmen Hrbek and Sayre. He added that he would like to move the budget process up if at all possible in the future. Mr. Funk added that everyone

in Front Royal has had to tighten their budgets and if need be he was willing to come at any time, day or night, for a special meeting.

Vice Mayor Parker noted that we may need a penny, and he would be able to support raising it one penny for 12 cents, but not 13 cents.

*Councilman Tharpe stated that he would rescind the motion for 13 cents.*

*Councilman Tharpe moved, seconded by Councilman Tewalt, to amend to advertise at 12 cents for the real estate tax rate.*

Vote: Yes –Parker, Tewalt and Tharpe  
No – Funk, Hrbek and Sayre  
No – N/A  
Abstain – N/A  
Mayor Darr voted YES to break the TIE  
(On the Amendment to Advertise to 12 Cents; By Roll Call)  
(MOTION CARRIED TO ADVERTISE at 12 CENTS)

Vote: Yes – Hrbek, Parker, Tewalt and Tharpe  
No – Funk and Sayre  
Abstain – N/A  
Absent – N/A  
(Mayor Darr did not vote as there was no tie to require his vote)  
(By Roll Call; On Original Motion as Amended)

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**COUNCIL AUTHORIZATION – Mayor to Meet with Board of Supervisors Chairman**

**Summary: Council is requested to authorize the Mayor to meet with the Warren County Board of Supervisors Chairman to negotiate a resolution of lost revenue in the Route 522 North Corridor with negotiations to be completed in ninety (90) days.**

*Councilman Tharpe moved, seconded by Councilman Tewalt, that Council authorize the Mayor to meet with the Warren County Board of Supervisors Chairman to negotiate a resolution of lost revenue in the Route 522 North Corridor with negotiations to be completed in ninety (90) days.*

Councilman Hrbek noted that he was pleased that there was a timeline listed on the motion, though he would be voting against the matter as there was only one way to solve the corridor issue at this point.

Councilman Sayre stated that we have attempted to negotiate the matter, though it was unlikely at this point negotiations between the Chairman and the Mayor would be beneficial. He stated his concern that the Board of Supervisors actually had no incentive to budge.

Councilman Funk stated that he supported the resolution, adding that the Town does not have unlimited energy for the matter and the Town needs more friends and that entails give and take.

Councilman Hrbek stated that the Town had attempted to negotiate for a great deal of time and it was time to draw a line in the sand. He noted that the businesses in the Corridor are the ones

that are consistently feeling the burden. Mr. Hrbek added that for the past eight years the ongoing discussion has been unproductive and it was the Town’s job to protect the infrastructure and the citizens we represent.

Councilman Sayre noted that there was a Corridor Committee that met for about two years was unsuccessful unfortunately. He opined that the Town would need the help from the General Assembly and the restaurants were not going to do a pass through unless matters were rock solid in Richmond.

Vice Mayor Parker voiced hope for an agreement. He noted that for many years negotiations had been mulled over. He stated that the lawsuit took some funding, and it brought the matter to a head though the bigger picture was about being business friendly and the heavy load that has been placed on the businesses in that Corridor. Mr. Parker stated that there was a term that of seven years that the Town would not annex, and the Town has been more than gracious. He opined that it would not be exorbitant to adjust matters at this time, as communities grow and boundaries shift throughout the Commonwealth. Mr. Parker stated that in Culpeper they meet every five years to adjust boundaries for the benefit of the community and the people they represent, adding that they were not the only locality that does so.

*Councilman Sayre moved, seconded by Councilman Tewalt, to amend the motion to read: “...negotiate the loss of revenue **and/or friendly boundary adjustment** in the Route 522 North Corridor...”*

Councilman Funk noted that he would not be able to support the amendment.

Vote: Yes – Hrbek, Parker, Tewalt and Sayre  
No – Funk and Tharpe  
Abstain – N/A  
Absent – N/A  
(Mayor Darr did not vote as there was no tie to require his vote)  
(By Roll Call; On Motion to Amend)

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*Councilman Hrbek moved, seconded by Vice Mayor Parker, to strike the words: **lost revenue and/or** within the motion.*

Councilman Tharpe stated that Council was handcuffing Mayor Darr and he would be unable to support the motion as presented.

Councilman Hrbek noted that it was not about the revenue, but rather about fairness and about being treated equally. He added that the Town had the moral high ground on the matter and the friendly boundary adjustment was the right thing to resolve the issue.

Vote: Yes – Hrbek and Parker  
No – Funk, Sayre, Tewalt and Tharpe  
Abstain – N/A  
Absent – N/A  
(Mayor Darr did not vote as there was no tie to require his vote)  
(By Roll Call; On Motion to Amend)  
(MOTION FAILED)

Vote: Yes – Funk, Hrbek, Parker, Tewalt, Tharpe and Sayre

No – N/A

Abstain – N/A

Absent – N/A

(Mayor Darr did not vote as there was no tie to require his vote)

(By Roll Call; On Final Motion As Amended)

*That Council authorize the Mayor to meet with the Warren County Board of Supervisors Chairman to negotiate a resolution of lost revenue and/ or a friendly boundary adjustment in the Route 522 North Corridor with negotiations to be completed in ninety (90) days.*

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There being no further business, the Mayor declared the meeting adjourned at 8:00 p.m.

APPROVED:

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Jennifer E. Berry  
Clerk of Council