

The regular meeting of the Town Council of the Town of Front Royal, Virginia was held on February 25, 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. Mayor Darr expressed his condolences to the family of Walter M. Duncan who passed the previous day. He noted that Mr. Duncan served as the Town Manager from 1963 until 1985 and a Councilman from 1986 until 2000 and was a local Town icon; he asked that those in attendance keep the family of Mr. Duncan in their thoughts in prayers. 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 February 11, 2013 as presented and the Special Meeting Minutes as of February 4 as amended.

Councilman Sayre requested that the minutes of February 11, 2013 include his request pertaining to the LEEDS Program referencing the jail site rainwater at the 9 minute and 32 second mark in the meeting recording:

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 (this, the 2-11-13 agenda) regular agenda if the item does fail for inclusion at this time. **Added at meeting of February 25, 2013

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)

RECEIPT OF PETITIONS OR CORRESPONDENCE FROM THE PUBLIC

Richard Hoover, of the Lord Fairfax Soil and Water Conservation District (The District), noted that farmers typically use best management practices in their efforts around water. He stated that Governor McDonnell announced new initiatives this past December and The District had been working with groups around the area and had assisted with Front Royal area improvements, including those which affect the Southfork of the Shenandoah River. Mr. Hoover added that they have protected over 15,000 linear feet of stream and have worked to keep 100’s of cattle out of local streams. He stated that they had worked recently on protecting 240 acres of land from damage and towards reducing sedimentation by over 47 tons annually.

He noted that they continue their ongoing efforts to prevent 20 tons of manure from entering surface water in the area, and he was pleased to offer any information that he could, to inform Council of what his group does. Mr. Hoover added that The District would do all they could to assist local farmers adhere to the best management practices in order to keep cattle out of rivers and streams in order to keep the cattle healthier and the water cleaner.

Timothy Ratigan, of 241 Church Street, noted that Walter Duncan assisted his family in 1970's when they entered the Town and he had never forgotten his generosity and kindness to this day. Mr. Ratigan stated that Mr. Duncan's love for this community had never gone unnoticed and he truly was a one of a kind Front Royal citizen who would be dearly missed.

REPORT OF THE MAYOR, COUNCIL & STAFF

Mr. Burke:

- Expressed condolences to the family of Walter M. Duncan;
- Noted that the ribbon cutting for the Town's Administration Building would be Monday, March 18th at 6:30 p.m.;
- Stated that the 225th Anniversary banners were received; and
- Wished Code Enforcement Officer, Richard Kurzenknabe, well as he leaves employment with the Town.

Councilman Hrbek extended his condolences to the Duncan family and noted that Mr. Duncan had assisted him greatly with immeasurable advice over the years.

Councilman Hrbek read the following into the record:

As I was thinking back on the last candidate's forum, the major priority of all the candidates was the development of a program to attract new businesses and industries to our town that would create jobs and pay living wages. I know that this still remains a priority for the newly seated and current members of the Council. I believe that Front Royal has the "bones" to build a strong local economy but we have a lot work to do to be competitive in the future.

There are many obstacles to exercising our potential but none greater than ourselves. I believe in my heart of hearts that if we set our minds to a positive vision and project for the community it can and will be successful. When we look back at some of the big opportunities that Front Royal and Warren County had a chance to capitalize on, it was our own decisions that prevented them for materializing. We, as a town, must begin to change from the old ways of "doing business as usual" and begin to think differently to expand, grow and adjust to the new economic realities.

Over the last six months, the Kratos team has been meeting and talking with the executive director of the EDA, its Board and the members of the Town Council about the development of a plan to redevelop and rejuvenate the economic base of the community. The goal is to collaboratively work together in the development of a long term Vision and Business Plan that will move to an end of the dependency on State subsidies, bring private capital to rebuild the local infrastructure and create the new jobs and living wages that our community needs. This would be based on the creation of a Front Royal Redevelopment Authority and using Private/Public Partnerships without placing the burden of cost on the backs of our citizens and would create new revenue sources for the town.

Tonight, I formally request we move to the next step in this process and ask that we add to the agenda of our next regular meeting a resolution stating that the Town of Front Royal will develop a Non-binding Letter of Intent with Kratos Infrastructure. I will work with the town attorney on the resolution to meet our internal deadline requirements.

The passing of the LOI will allow the town to move forward in collaboration with the Kratos team and its strategic partners in helping the town develop the following components for the Town's Strategic Business Plan:

- 1.) The Town Vision
2. Long Term Strategic Business Plan development will include:
 - a) Creation of 3 Redevelopment zones that focus on Health& Wellness, Tourism and Renewable Industrial
 - b) Estimated cost of the each of the projects components making up the Long Term Business plan
 - c.) Staged construction schedule
 - d.) Financial options

Before anyone laughs at this notion, this is not pie in the sky stuff. This is all available to us now if we are willing to challenge the normal process of economic development. We can do this all with minimal risk to the town's finances and with private money that is looking for safe investments.

How? For that I want to quote from the testimony of Mayor Eugene Grant of Seat Pleasant, Maryland before the Environmental Matters Committee of the Maryland House of Delegates:

"The business plan had to be the driver and we all participated in its design for the long term with appropriate risk mitigation and flexibility for the City to participate in future cash flows in a true public private partnership. We are excited about this opportunity to attract, retain and build a US\$73 million plus infrastructure project in a community of our size. [As an aside, according to the 2010 Census Seat Pleasant's population is 4,542; Front Royal's population is 14,440 or over 200% larger than Seat Pleasant]. Outlined below is a snapshot of how our Public-Private Partnership works.

"Where's the money coming from to pay the debt service?"

"The business plan incorporates the ability for full payback of the debt service without any cash flow participation, TIF or tax abatement. Our only risk is in any gaps between project cash flow and debt service, but this is dealt with from the outset through a reserve fund to deal with any possible cash flow shortfalls for upwards of 30 years depending on the time it takes to stabilize the project/business plan.

"How does Seat Pleasant warrant \$73 million of credit capacity?"

"We don't. That is why we went with a business plan approach with Kratos and funding via private capital with a long-term payback. This allows us flexibility in invigorating our local economy and building on a business model that fulfills the city's needs. It could be viewed as an Industrial Revenue Bond; in that it must have sufficient cash flow to service the debt within specified formulaic margins.

"Who would fund such a business plan?"

"The long-term funding is based on institutional capital which matches long-term

liabilities with long-term assets. (Note: this means that institutional investors like pension funds and life companies need a place to park funds since they have a liability on the funds they collect for the long-term.)

"What are we doing different than other municipalities?"

Most local governments rely on a Comprehensive plan to guide their direction of their community into the future. In the changing markets and environment, we have expanded our vision and scope in developing a long-term strategic business plan for our City, which will incorporate our Comprehensive Plan, that enables our city to attract long-term private capital in rebuilding the community's infrastructure."

Considering we are beginning the Comprehensive Plan review process and evaluating a Vision Plan, this is the ideal time to move in the direction of this strategic partnership. It goes hand in hand.

Further I would suggest that we wait for this process to progress further before deciding on the development of the Community Resource Officer and the consideration of the responses we received from our Vision Plan RFP. I believe this strategic partnership will greatly shape those two areas as well.

This process allows for ample time to debate, discuss and answer questions about this potential partnership which I endorse and propose. I hope my colleagues will support this effort to formally endorse the next steps with Kratos and their strategic partners and be willing to explore the partnership to make Front Royal into the destination in the Shenandoah Valley for visitors and to put Front Royal on the map for wellness and for research and development in sustainable energy.

I look forward to your support on this matter and further discussion and education. I realize this was rather long so, thank you Mr. Mayor for the time.

Mayor Darr expressed his condolences to the family of Walter Duncan. He noted that he was a Town icon, a great historian and cheerleader for the Town. Mayor Darr stated that Mr. Duncan was a dedicated supporter of the Town that embraced the opportunity to contribute to Front Royal whenever possible.

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

Vice Mayor Parker moved, seconded by Councilman Tewalt, that Council ADD AN ITEM TO THE AGENDA TO AUTHORIZE THE TOWN ATTORNEY to sign a letter prepared by the Warren County Attorney dated February 25, 2013, regarding a joint extension of time for filing of responses with the Commission on Local Government in the matter of the Front Royal Limited Partnership Annexation application.

Mayor Darr noted that it would be placed on the Consent Agenda as Item 7E.

- 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)

Councilman Sayre noted that the LEEDS program would be rainwater entering into containers, used for laundry and would save the facility about \$6-8,000. He stated that he had been for the program from the beginning and one of the benefits would be saving the river. Councilman Sayre noted that the Shenandoah River had lost over 50% of its flow and this would help protect the river.

Councilman Sayre moved, Councilman Tharpe seconded, that Council ADD TO THE AGENDA AN ITEM TO direct Staff to begin the process of amending the Code of Front Royal to allow the Rappahannock Shenandoah Warren Regional Jail to utilize its local central rain collection and distribution system only in connection with the purpose of flushing toilets, its HVAC cooling systems, and/or its laundry facilities provided that the system is approved by the Town Manager or designee as being in conformance with the Leadership Energy and Environmental Design LEED Initiative, Town procedures and ordinances, relating to water and sanitary sewer facilities and other applicable laws and regulations.

Councilman Tewalt noted that he needed more information on the matter, adding that he was not willing to move forward until he had more details about the process in full. He stated that he would not be willing to have the matter on the regular agenda until he had full details on the LEEDS program at a meeting.

Vice Mayor Parker noted that Mr. Sayre requested the matter on a worksession, and then Mr. Sayre was not present for said meeting. Mr. Parker added that at the worksession the jail representatives noted that they were not even open to exploring the option as defined by Mr. Sayre. Vice Mayor Parker stated that the LEEDS program has many ways to be certified, noting that using rainwater is not the only way to become LEEDS certified. Mr. Parker noted that he understands the need to save the environment, though the Town also needs to look at the overall business model for the Town and what is good and not good for the Town's water and sewer system.

Vice Mayor Parker noted stated that he was willing to re-examine the process, though he was unsure how it could be a viable solution for the controversy that the Town was currently involved. He stated that the regional jail matter has proven that the business corridor was not business friendly, as even their numbers did not mesh well enough to connect to the Town's water and sewer system. Mr. Parker added that if they were truly interested in saving dollars, then they would have boundary adjusted the new regional jails prime parcel of property, which could have been used for economic development in Warren County.

Vice Mayor Parker stated that he was interested in being more environmentally friendly with their utilities, however; at this point, it is an irrelevant discussion, as noted by the regional jail's representatives.

Mayor Darr noted that he met recently with Doug Stanley, Chairman of the Regional Jail, and Mr. Stanley stated that they would be meeting soon to determine if they would like to discuss the LEEDS program and perhaps other issues with the Town Council.

Councilman Sayre noted that regional jail actually is for economic development. He stated that while having a jail is not the most pleasant thing, people deserve to have humane situations. He added that there would be many that visit the community, especially on Sundays, and they

would spend money at the restaurants, shops, and hotels in the area, as well as place gas in their vehicles.

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

CONSENT AGENDA ITEMS

- A. COUNCIL APPROVAL – Proclamation – “Northern Shenandoah Valley disability Awareness Week 2013” – Access Independence
- B. COUNCIL APPROVAL – Proclamation – “Paint the Town Purple Day” – Relay for Life
- C. COUNCIL APPROVAL – Proclamation/Endorsement for “Youth Art Month” Blue Ridge Arts Council on behalf of Warren County Public Schools
- D. COUNCIL APPROVAL – Grant from Front Royal/Warren County Anti-Litter Council
- E. COUNCIL APPROVAL – FRLP – ANNEXATION – Extension Letter to be Signed by the Town Attorney Re: Front Royal Limited Partnership Application/Commission on Local Government/Warren County

Vice Mayor Parker moved, seconded by Councilman Sayre, 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)

COUNCIL APPROVAL – An Ordinance to Amend Town Code Pertaining to Fence Height and Safety (2nd Reading)

Summary: Council is requested to adopt on its second and final 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.

Vice Mayor Parker moved, seconded by Councilman Tharpe that Council adopt on its second and final reading an amendment to Front Royal Town Code 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)

ORDINANCE: §175-102 Fences

TOWN OF FRONT ROYAL MUNICIPAL CODE, Chapter 175, ZONING

175-102 FENCES

A. No fragile, readily flammable material, such as paper, cloth or canvas, shall constitute a part of any fence, nor shall any such material be employed as an adjunct or supplement to any fence.

B. Fences on corner lots shall meet the requirements of Section 175-101.

C. Fences in residential districts shall not exceed the height of four (4) feet in the required front yard or six (6) feet in the side or rear yard as measured from the top most point thereof to the ground or surface, along the center line of the fence.

D. Within commercial zoning districts, Fences located within the front yard shall not exceed the height of six (6) feet as measured from the top most point thereof to the ground or surface, along the center line of the fence, ~~in a commercial district~~. Fences located within commercial zoning districts may be eight (8) feet in height when located within a side or rear yard. The Planning Director may authorize fences in the front yard to be up to eight (8) feet in height when the additional height is determined to be necessary for safety or screening purposes of permitted uses. Appropriate landscape screening may be required for approval of additional fence height in the front yard.

E. Fences surrounding industrial sites, public playgrounds, institutions or schools may not exceed a height of fourteen (14) feet.

F. No fence shall be constructed or altered to include protruding nails, or other materials, that would create a dangerous condition.

COUNCIL APPROVAL – An Ordinance to Amend Town Code Pertaining to Sign ReFacing Exemption (2nd Reading)

Summary: Council is requested to adopt on its second and final 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 non-conforming signs.

Councilman Tewalt moved, seconded by Vice Mayor Parker that Council adopt on its second and final reading an amendment to Front Royal Town Code to Section 175-106 “Signs,” as presented.

- 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)

☞ ORDINANCE: §175-106 Sign Refacing ☞
Sign ReFacing - Chapter 175, ZONING

Section 175-106.A.4. (Special Definitions)

4. Special Definitions: For the purposes of these sign regulations, unless the context otherwise requires, the following terms shall have the meanings established below:

[Keep existing definitions as-is, and add the following]

RE-FACE – The act of creating a new sign message by replacing or refurbishing the non-structural components or surface of an existing lawful sign, without creating a new nonconformity to the requirements of this chapter.

Section 175-106.A.5. (Prohibited Signs)

5. Prohibited Signs: The following signs are expressly prohibited unless specifically stated otherwise

[Keep subsections a. – n. as-is, and add the following]

o. Offensive Signs, including signs that include obscene, indecent or profane language.

Section 175-106.A.6. (Exempt Signs)

6. Exempt Signs: Sign permits shall not be required for the following signs; however, all other applicable regulations of this ordinance shall apply.

[Keep a. – r. as-is, and add the following]

s. The re-facing of a sign, as defined, except when located within the Historic Overlay District or Entrance Corridor.

Section 175-106.A.11. (Nonconforming Signs)

11. Nonconforming Signs:

Nonconforming Sign, generally: Any sign which was lawfully in existence at the time of the effective date of this Ordinance, which does not conform to the provisions herein, ~~and any sign which is accessory to a nonconforming use,~~ shall be deemed a nonconforming sign and may remain except as qualified in Section 175-106A.11.b., herein. No non-conforming sign shall be enlarged, extended or structurally reconstructed in any manner, unless it is in conformance with these sign regulations. However, a nonstructural sign face may be changed ~~on a one-time basis~~ to a new sign face. ~~Any subsequent change to the sign face shall require that the sign conform to the requirements of this section.~~ Should a sign owner possess other nonconforming sign(s) of or totaling an equivalent size on the property, the owner may elect to permanently remove such sign(s) in exchange for sign face change to another nonconforming sign. In such case, removal shall be made within 14 days of permit approval, and the new sign face change shall not count against the one-time change allowed in this section.

Removal of Nonconforming Signs: Nonconforming signs may remain, provided that they are kept in good repair, except for the following:

[1] Damage or Destruction of Nonconforming Sign: A nonconforming sign which is destroyed or damaged to the extent exceeding fifty percent (50%) of its appraised value shall not be altered, replaced or reinstalled unless it is in conformance with these sign regulations. If the damage or destruction is fifty percent (50%) or less of the appraised value, the sign may be restored within two (2) years of the destruction but shall not be enlarged in any manner. The present day replacement cost of an

identical new sign, as determined by a sign contractor or manufacturer, shall be considered the appraised value.

[2] Damage or Destruction of Use: A non- conforming sign shall be removed if the structure or use to which it is accessory is destroyed or demolished to the extent exceeding fifty percent (50%) of the principal structure's appraised value.

There being no further business, the Mayor declared the meeting adjourned at 7:37 p.m.

APPROVED:

Jennifer E. Berry
Clerk of Council