

The regular meeting of the Town Council of the Town of Front Royal, Virginia was held on March 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 February 25, 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)

RECEIPT OF PETITIONS OR CORRESPONDENCE FROM THE PUBLIC

Harry Reed, of 1303 Madison Avenue, noted that he had concern with the fast track of Mr. Hrbek’s push of the Kratos project. He stated that he does not see three satisfied people that Kratos has done work for, though the three people in Kratos do have baggage and not much has been disclosed about the project. Mr. Reed noted that the Town Council represents the entire Town, not just a few people in the community, and he opined that he sees cronyism present. He voiced his concern with the influence peddling and the many closed door meetings regarding Kratos, noting that he was in favor of the sunshine laws. Mr. Reed stated that the ideas being proposed were preposterous.

Tim Ratigan, of 241 Church Street, commended Mr. Hrbek for bringing forth an idea that attempts to generate jobs in Front Royal, adding that he still had many questions and had many concerns with a private-public partnership. He stated that he had begun to make phone calls and he was unable to find a link with Agenda 21. Mr. Ratigan voiced support of Council postponing the Kratos item at this time. He encouraged Council to invite Kratos to host a Town Hall style meeting to have members of the concerned public ask questions, in order to have Kratos clearly explain what they are proposing, what they are and what they are not. Mr. Ratigan added that Kratos could explain the potential liabilities, noting that he was not onboard with the project, nor was he against it yet either. He stated that the Town should fully give citizens the opportunity to ask questions on the matter.

Patricia Failmezger, of 636 River Ridge Road, noted that she had a vital interest in the community. She stated that in January she became so annoyed with the empty buildings on Main Street that she contacted Mr. Burke and the Mayor quite passionately voicing her opinion. She noted that when she heard of the Kratos development it seemed like a great opportunity for a good community partnership, adding that the Letter of Intent (LOI) was “just that.” Mrs. Failmezger noted that this was a major deal and it would take several months for the Town and Kratos to sit down and work out what they would like to do in detail, but the LOI was the starting point. She stated that to begin the intentions needed to be stated, not an ironclad agreement. She opined that the Town Council owed it to Front Royal and those that have been working so hard to move the community forward.

Matthew Tederick, of 21 Edgemont Street, noted that he disagreed with Mrs. Failmezger, saying that he did not want Council to move forward with the LOI *for* him. He stated that he did not want any part of his local government involved in such a deal. He referenced Mr. Hrbek’s letter of the Council meeting of February 25th, noting that the minutes stated that a major priority of candidates running for Council had been to develop a program to attract new businesses. Mr. Tederick stated that he felt that the best program to attract new businesses was one with less government, less taxes and less regulation.

Mr. Tederick noted that Mr. Hrbek stated that the Town needed to be competitive in the future and he questioned with whom the Town needed to be competitive with. Mr. Tederick noted that he would hate to be the owner of Gold’s Gym with the Town helping to back a deal to bring in a Wellness Center. He stated that he would hate to be the owner of Joe’s Steakhouse with the Town helping to back a private business deal.

Mr. Tederick commented that Mr. Hrbek’s letter stated that decisions had been made regarding the Town and County that prevented certain matters from materializing. Mr. Tederick stated that Mr. Hrbek had been against Chik-Fil-A, Kohl’s and JcPenney from location in the Corridor area. He stated that over the last six months the Executive Director of the EDA had been meeting with Kratos and some members of the Town Council and he asked for information about what members of Town Council had met with Kratos, noting that he would make a formal FOIA request if need be for the communication with Council and Kratos, adding that he was not pleased with the way this deal has transpired. Mr. Tederick stated that extensive research should have been done before a LOI was crafted, and the cart was definitely placed before the horse regarding Kratos. He expressed his agreement for a Town Hall style meeting in order to divulge complete information on the project.

Herb Melrath, of 152 Richmond Road, noted that for some time the new Community Development position had been discussed. He stated that the LOI was an attempt to move the Town forward at this juncture and the public-private partnership should be seen as an opportunity for advancement, regardless of who receives credit. Mr. Melrath noted that the Town needed tourism and economic development.

Linda Allen, of 416 Salem Avenue, stated that if she were to advocate for the Virginia Main Street Community in Front Royal, then everyone would understand that to mean citizen and merchant input into creating a business plan and that it was a good thing to do in order to guide development. Ms. Allen noted that should it work, the property values would increase, the merchants would make more money and the government would collect more revenue.

Ms. Allen stated that in her work with Downtown Front Royal and Power of Partnership Alliance (POPA) she has seen the work as she described above. She noted that the LOI could be privately or publicly financed, though it was generally a combination of the two. Ms. Allen stated that the idea of a commercial development zone along Main Street has great advantages for our Town. She noted that the idea of a renewable energy zone could solve problems and create energy. Ms. Allen stated that Virginia has been a pioneer in public-private partnerships and transportation. She encouraged Council to have a session of teaching and learning to allow more time to advise the community about the project and asked that Council seriously consider signing the LOI with Kratos.

Manuel Vincente, of 1320 Commonwealth Avenue, stated that he has become aware of the plan for the public-private partnership involving Kratos. He noted that at the time of his (Mr. Vincente's) run for Council, he was aware that Mr. Conkey was involved with the leadership with Kratos. Mr. Vincente stated that he is reminded of Italy in the 1930's on a national/international/type scale and he was uncomfortable with the projects for consideration. He noted that he was interested in caring for his family and he would only assume that all matters were wholesome and transparent, and he asked what the Town may look like in 50 years from now and questioned if Front Royal would be wholesome going forward 50 years. Mr. Vicente noted that the LOI request seems as though matters were being forced.

Christian Failmezger, of 636 River Ridge Road, noted that the question was about money that was not being made, and stores that were not being filled. He stated that many visitors to the community stayed at a local hotel purchased a meal and filled their gas tank, and the LOI would allow a bigger hold on the tourists that visit the community. Mr. Failmezger opined that the community also needed jobs and he also needs locals who are employed visiting his restaurant, not just tourists visiting the area. He added that they needed a better community and a unified design for the children that are entering college and that may return to the community to live.

REPORT OF THE MAYOR, COUNCIL & STAFF

Mr. Burke:

- Reported that they met with the County Fire & Rescue Personnel regarding their donation request and County representatives regarding the fire protection issues with the Town and will report back to Council as progress is made;
- Noted that the sidewalk installation continues on 6th Street;
- Stated that yard waste collection begins on Wednesday, March 13th;
- The Town will hold the Administration Building's Open House and Ribbon Cutting next Monday the 18th; and
- He thanked the street crew for their work during the snow removal efforts and the Department of Energy Services for their work for the power outage restoration as well.

Martha Shickle, Executive Director of the Northern Shenandoah Valley Regional Commission:

- Noted that Regional Hazard Mitigation plan was approved by FEMA;
- Stated that the Storm Water Management Plan work continues for submission for approval next year;
- Reported that annual recycling rate continues to exceed the percentages expected;
- Commented that they would be pleased to help the Town and Warren County with a Park and Ride location if they could in any way;

- Explained that the NSVRC had a selection meeting to launch their regional firms for planning and engineering firms, which had been obtained under the Virginia Procurement Law, and would be available to the Town should Front Royal need to acquire a firm for their use on a project;
- Stated that their most recent newsletter and annual report, in calendar form, had been submitted to Council; and
- Noted that the NSVRC's annual dinner would be June and formal invitations would be on their way to members of the Town.

Kim Gilkey-Breeden, Director of Finance:

- Noted that the Finance Department has received budget amounts from Department Directors and they were being compiled to finalize their requests;
- Stated that Council will receive their budgets by April 1st;
- Reported that the CIP requests are larger than normal;
- Noted that on April 27th the Town will hold their annual surplus auction;
- Commented that Saturday, March 16th the Town Finance Office will have their drive-thru open from the hours of 9 a.m. to 12 noon;
- Stated that they are working on tax bills and they will be mailed by May 5th; and
- Noted that the Finance Office has participated in survey auctions regarding wages, EIA reporting, etc., and they hope to obtain benefit from the feedback they receive.

Councilman Funk asked about withdrawing an item from the agenda. Mr. Napier stated that Robert's Rules noted that if nothing else within the rules of the governing body that stipulate how to remove an item, then it is a 2/3 vote; however, the Town Code states that the Mayor may allow an item to be withdrawn by the person that placed the item on the agenda before an item is acted upon. Mr. Napier noted that it could be withdrawn either way, at the discretion of the Mayor.

Councilman Sayre stated that during his tenure on Council he had always seen additions to the agenda as unanimous and it was his understanding that deletions from the agenda were handled in the same manner.

Mayor Darr noted that he did not recall participating in the deletion of an item from the agenda in such a manner. Councilman Hrbek noted that when an item has been removed from a regular agenda it seems to have just been a unanimous understanding of Council that an item needed to be removed as it was not ready to move forward.

Mayor Darr noted that he was leaning towards the 2/3 vote as it was the standard of Robert's Rules of Order, though he understood the sponsor's choice option as well. He stated that in this case, he would prefer to go with the 2/3 vote, as it really becomes the Council's item once it is placed on the agenda.

Councilman Funk stated that was acceptable to him.

Mayor Darr commended the Staff, street crew, electric crew for their great work during the recent large snow event. He commented that the Town Staff were on top of the snow and did an outstanding job with their work.

Mayor Darr noted that he was pleased to participate in a recent Relay for Life event and it was that time for those events to begin throughout the community. He encouraged the Town to continue their strong support for Relay for Life events around Front Royal.

Councilman Hrbek moved, seconded by Councilman Tewalt, to remove Item #12 – Kratos, from the agenda at this time

Councilman Hrbek noted that Mr. Napier had expressed his discomfort with the language in the document and does not feel it is time for it to move forward at the present time. He added that in order to be consistent with Commonwealth laws for LOI's and to allot Staff appropriate time for preparation, he would support postponing the matter, as we would with any other issue.

Councilman Tewalt stated that the Letter of Intent was out on a limb, opining that it needed to be whittled down to just one paragraph, as four and five pages in length was too long.

Councilman Funk stated that he was fairly new to the process, as a junior Councilman, and he did not have a finance background, though he felt compelled to make some statements on this LOI proposal. He requested permission to use the floor and ask questions of Staff as well.

Mayor Darr noted that he understood Mr. Funk's position; however, the current vote was whether to remove the item at this juncture, not discussion on the LOI itself. He did grant Mr. Funk a time for brief comments from the dais.

Councilman Funk noted that he was opposed to the motion immensely. He stated that the Town had so many priorities before them, and Council would soon be actively reviewing the Capital Improvement Plan, and the Community Resource Officer and there were other key, core issues to handle for the citizenry. Mr. Funk noted that the LOI from Kratos had quickly gone from a closed session matter to moving forward to a formal vote. He expressed concern that the Kratos item would continue to take away from the core issues that the Staff had on their plates.

Councilman Funk noted that the LOI project needed an up or down vote tonight in order to focus on the core functions of the Town's government. He stated that the Town was not in the development business and they were not in the arena to compete with private businesses, borrow money at high interest rates or circumvent referendums. Mr. Funk stated that they were not there to pick winners or losers in competition and it was not the governments role to create markets.

Councilman Funk stated that when he hears of the government thinking outside the box he thinks of bigger government, he thinks of encroachments on civil liberties and the taking away of personal property rights and this potentially tramples on personal freedoms and can increase government spending, which could result in higher taxes rather than any real revenue for the Town of Front Royal.

Vice Mayor Parker noted that this has been an ongoing process for several months and the citizens do need to learn more information on the project. He stated that he was unsure if Kratos right company, adding that everyone should have a say in the matter. Mr. Parker stated that perhaps placing an RFP to gather more information would be preferred.

Vice Mayor Parker stated that he was not locked into the LOI at this point, though he does think that this is the type of idea we need to look at. He noted that if we as the community are not willing to redevelop our community we cannot expect to sit still and expect someone else to come in and redevelop it for us.

Vice Mayor Parker noted that perhaps the matter was pushed a little bit, though he does not think we should walk away from the project entirely, and he suggested that perhaps certain aspects could be taken from the project. He noted that the Town needed to learn more about it and see what portions of the project could be used to make the community better for all.

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

(By Roll Call)

(MOTION FAILED; 2/3 Vote Required; Item Remains on the Agenda)

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

Vice Mayor Parker moved, seconded by Councilman Tharpe, to add Item #16 – RSW Regional Jail Legal Services Funding Authorization to the Agenda.

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)

CONSENT AGENDA ITEMS

~~A. COUNCIL APPROVAL – Local Government Challenge Grant Application from Virginia Commission for the Arts (VCA) for Blue Ridge Arts Council (BRAC) (Removed for separate discussion and vote)~~

B. COUNCIL APPROVAL – Liaison Committee Agenda Items for the Town:

- Front Royal Limited Partnership Discussion
- Hatch Act Designation
- Front Royal Volunteer Fire & Rescue Dept. Funding

C. COUNCIL APPROVAL – Bid – Electrical Materials for Modifications to the Manassas Substation

Councilman Sayre moved, seconded by Councilman Tewalt, that Council approve the Consent Agenda as presented.

Councilman Hrbek asked to discuss and vote separately on Item A – BRAC Grant Request.

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; Items B&C)

COUNCIL APPROVAL – Local Government Challenge Grant Application from Virginia Commission for the Arts (VCA) for Blue Ridge Arts Council (BRAC)

Councilman Sayre moved, seconded by Councilman Tharpe, that Council approve the request from the Blue Ridge Arts Council (BRAC) to approve an application for a Virginia Commission for the Arts (VCA) Local Government Challenge Grant in the amount of \$5,000 for the year 2013-2014 and direct the Town Manager to sign the Grant Application as presented.

Councilman Hrbek noted that he had major concerns with page seven of their proposal, though he understood the great work that BRAC did within the community. He stated that his concern was that it included funding from the Town of Front Royal, Warren County and the Warren County Public School System – he noted that the Town tax payers were funding each of those entities and BRAC was receiving from *each* of said organizations. Mr. Hrbek stated that he has asked repeatedly for data showing that the Gazebo Gatherings brought revenue to the downtown businesses and he has yet to see proof from the merchants that they are seeing an increase. He added that while they were wonderful events, having the Town fund the activities was something he would continually oppose.

Councilman Sayre stated that Kym Crump could not attend this evening unfortunately, though he explained that he attended these events and they were quite popular and Main Street was always very active.

Councilman Hrbek stated that Council could have had a discussion on the economic value of bringing in new businesses and growing job opportunities, which was not viewed as a core function of government, while funding an arts program around the gazebo area is being viewed as a core function of government.

Vice Mayor Parker noted that he would like to clarify the economic benefit of the Blue Ridge Arts Council. He stated that recently Patricia Windrow, a well-known area artist, passed away. He noted that she took a building and renovated it on Main Street, had a gallery and inspired so many others to embrace their artistic abilities. Vice Mayor Parker stated that numerous artists thrived in the downtown area and he saw the economic benefit of funding the arts in the Front Royal community.

Councilman Funk moved that Council postpone the BRAC application until the next regular meeting until Ms. Crump could attend.

Mr. Burke stated that the funding was not up for vote at the time, but merely a question of allowing the application to be submitted at this point. He reminded Council of the April 1st deadline and cautioned them of the concern with delaying the matter.

Mayor Darr noted that Ms. Crump did phone earlier in the day, noting that she was out of town. He stated that it was an annual request and the grant was under a timeframe.

Councilman Funk withdrew his motion to postpone the BRAC application vote.

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

No – Hrbek

Abstain – N/A

Absent – N/A

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

PUBLIC HEARING – Setting of Real Estate, Personal Property and Personal Property Tax Relief Tax Rates for Fiscal Year 2013-2014 (1st Reading)

Summary: Council is requested to affirm on its first reading the real estate tax rate at \$.12 per \$100 assessed value, which represents an increase of \$.01 over the current year's rate; the personal property tax rate at \$.64 per \$100 assessed value, which represents no increase over the current year's rate; and personal property tax relief (PPTRA) from 70% to 67% per qualifying vehicle for Fiscal Year 2013-2014.

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

Councilman Hrbek moved, seconded by Vice Mayor Parker, that that Council affirm on its first reading the real estate tax rate at 11 cents per \$100 assessed value; personal property tax rate at \$.64 per \$100 assessed value; and personal property tax relief (PPTRA) at 67% per qualifying vehicle for Fiscal Year 2013-2014.

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

Vice Mayor Parker noted that Council did have a lengthy discussion to advertise the amount at a certain rate, and during recent times, the Finance Director nor the Town Manager have come forward to say that they believed that the budget would come up short and perhaps the Town should move forward with 12 cents. He noted that should staff come to Council and note that they need to raise taxes then they could certainly do so.

Councilman Tewalt stated that the reports from Department Directors had not been compiled and reviewed fully at this point and he was in favor of leaving the amount at 12 cents. He noted that he had been with the Town for too many years and there were times when other options should be considered. Mr. Tewalt reiterated his desire to keep the other options open.

Councilman Hrbek asked for clarification from the Finance Director. Mrs. Breeden noted that the preliminary budget amounts have a 15% difference between the Department requests and the projected incoming revenue. She noted that amount was all inclusive, and included the highway street funds as well. Mrs. Breeden stated that she was unable at this time to say whether they could balance the budget at this point.

Mrs. Breeden noted that should Council pass the 12 cent tax rate then Staff will propose that in the budget and they will process the bills at 12 cents. She stated that if they do not need the 12 cents, it could go towards Fund Balance or go towards a Capital Improvement Project, if it did not need to go to balance the budget.

Vice Mayor Parker asked what the one cent equates to; Mrs. Breeden noted that one cent in real estate equates to \$101,000 approximately.

Councilman Tewalt withdrew his motion for twelve cents.

Councilman Tharpe withdrew his second.

Councilmen Tewalt and Tharpe noted that they misunderstood what the Town intended to do with the proposed one cent increase. Mrs. Breeden apologized for the inconsistency in the communication regarding the one cent with the advertising. She stated even though the revenues were to remain the same, the requests still came in 15% higher. She noted that the requests are reviewed a second time, and Department Directors examine their line items to see what they can live without.

Mrs. Breeden noted that by Council’s next meeting they will have a better understanding of where the budget will lay out and be able to fully advise Council where matters will fall into place. Mrs. Breeden noted that they hope to explain to Council that the budget would be balanced, though it depends on what Council decides on for the goals of the Town.

Councilman Tharpe asked if Council accepts the 12 cents tonight would it be set for the year. Mrs. Breeden noted that it would not, as there would be a second reading.

Vice Mayor Parker asked if there was a 15% increase across the board, would \$100,000 have a huge impact. Mrs. Breeden stated that there would not be, though it would certainly make an impact.

Councilman Sayre asked if real estate taxes were being collected in the Route 522 Corridor. Mrs. Breeden noted that they were not, just PILOT fees, which were separate from real estate taxes. **Councilman Sayre asked if the Town was collecting the real estate amount, within the PILOT equivalent, if they own the property; Mr. Burke noted that they are if they own the property.**

Councilman Funk noted that if there was an emergency then he would like that information to vote on at said time.

Councilman Hrbek suggested that the Town accelerate their budgeting process by several months to avoid a similar issue in the future with the tax rate.

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)

PUBLIC HEARING – An Ordinance to Amend Town Code Pertaining to Nonconformity – Parking Exception *(1st Reading)*

Summary: Council is requested to affirm on its first reading an ordinance that would provide for a parking exemption for existing commercial and industrial businesses. The exemption found under the proposed 175-127 would allow existing commercial and industrial properties to be reused for permitted uses without the requirement of having to comply with the current parking requirements, subject to specific qualification requirements, and specific site improvements that may be required by the Zoning Administrator to maintain existing facilities. Other minor

changes, primarily to clarify existing requirements are proposed under Sections 175-124 through 175-133.

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

Councilman Tewalt moved, seconded by Councilman Tharpe, that Council affirm on its first reading an ordinance that would provide for a parking exemption for existing commercial and industrial businesses found in Town Code Sections 175-124 through 175-133, as presented.

Councilman Tewalt noted that these pre-existing structures and businesses would be assisted in order to allow them to move forward with their business opening more quickly and less costly.

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)

PUBLIC HEARING – An Ordinance to Amend Town Code Pertaining to Home Occupation *(1st Reading)*

Summary: Council is requested to affirm on its first reading an ordinance that would amend the Town’s home occupation regulations found under Town Code Section 175-108.1. The proposed changes provide for increased clarity of the code requirements, eliminate the specific area restriction of the interior storage and allow for home occupations to have signs if not located in a residential district.

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

Vice Mayor Parker moved, seconded by Councilman Tharpe, that Council affirm on its first reading an ordinance that would amend the Town’s home occupation regulations found under Town Code Section 175-108.1, 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 – Discharge of Rainwater into the Town’s Sewer System from RSW Regional Jail

Summary: Councilman Sayre requested that Council consider approval of discharge of rainwater into the Town’s Sewer System from the Rappahannock-Shenandoah-Warren (RSW) Regional Jail. Approval of discharge of rainwater will require an Ordinance Amendment. If Council desires, direction should be provided to develop the Ordinance Amendment and advertise for public hearing.

Councilman Sayre moved, seconded by Councilman Tharpe that Council postpone this until the next meeting.

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)

COUNCIL APPROVAL - Non-Binding Letter of Intent with Kratos Infrastructure, LLC

Summary: Council is requested to consider approval of a non-binding Letter of Intent (LOI) with Kratos Infrastructure, LLC for the development of the Town of Front Royal Project and all related infrastructure under a Public-Private Partnership through the execution of a Comprehensive Agreement. Staff has submitted a letter to Kratos representative with questions and comments.

Councilman Hrbek moved, seconded by Councilman Tewalt, postpone the Kratos LOI matter until the March 25th Town Council Meeting to allow the Staff to gather more information and the Council to be briefed more fully.

Councilman Hrbek noted that it was his impression that the matter was in compliance with the Code of Virginia, though as of this afternoon he became aware that it was not in full compliance and he asked that Council would allow the proposal to come forward at a time to be voted before killing the entire process.

Councilman Funk requested permission to take the floor to ask questions about the proposal. He asked the amount of money the Town of Front Royal was expected to borrow. Mr. Burke noted that he was unsure. Councilman Hrbek noted the Town was not expected to borrow any money at this time. Mr. Funk stated that Seat Pleasant was a third the Town’s size, and they borrowed \$73 million. Mr. Hrbek corrected the statement, noting that private investors invested the funds, their community did not borrow the funds.

Councilman Funk asked about gaining access to capital that the Town would then borrow with our interest rate. Councilman Hrbek noted that was incorrect. Mr. Funk asked where the money would come from. Mr. Hrbek noted that as soon as they could vote on that, they could discuss the matter. Councilman Funk noted that the Town was unsure of what the actual projects would consist of and the Council had been asked of a Christmas wish list of sorts and we are now being asked to consider jumping into the matter blindly.

Councilman Funk asked who would oversee the visioning component of the project. Councilman Hrbek noted that the Town would be doing the visioning portion most likely. Mr. Burke stated that the portion of the Comprehensive Plan would contain the visioning portion for the Town. Mr. Hrbek stated that the LOI component related to visioning was to start process of the conversation.

Councilman Funk asked what projects about specific projects that would be worked on. Councilman Hrbek noted that the Town would know the projects as they moved forward.

Councilman Funk asked if there would be any transfer of property to Kratos. Councilman Hrbek noted that perhaps there would be.

Councilman Funk asked where the money would be coming from. Councilman Hrbek explained that it would most likely be large institutions looking for safe investments. Mr. Funk asked if the Town would be borrowing the money; Mr. Hrbek stated that they would not be. Mr. Hrbek explained that no one would be borrowing the money, that it would be investors looking for safe investments.

Councilman Sayre asked about who buys the property. Councilman Hrbek noted that the developers would buy the property, and that is how it remains on the tax rolls. He expressed hope that the project could move forward in order to determine what the community would look like in 50 years, and the visioning portion, for example, would allow for such a discovery.

Councilman Sayre asked about who buys the property. Mr. Burke noted that there was currently not a proposal to answer that question.

Councilman Hrbek moved, seconded by Councilman Tewalt, amended the motion to postpone until the Council Meeting of April 22nd.

Vote: Yes – Hrbek, Parker and Tewalt
No – Funk, Sayre and Tharpe
Abstain – N/A
Absent – N/A
No – Mayor Darr
(By Roll Call; on Motion to Amend to Postpone to April 22nd)

Councilman Funk moved, seconded by Councilman Sayre, not to approve the LOI by Kratos.

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)
(Motion Carried, LOI was **NOT** Approved)

COUNCIL APPROVAL – Reclassification of Part-Time Code Enforcement Officer to a Full-Time Deputy Zoning Administrator Position – Planning/Zoning Department

Summary: The Town’s current Code Enforcement Officer recently resigned effective March 12, 2013. Currently this position is classified as part-time even though regular work hours are 39 hours a week. Council is requested to consider the approval of reclassifying the position of part-time Code Enforcement Officer to Full-Time Deputy Zoning Administrator.

Vice Mayor Parker moved, seconded by Councilman Tewalt, that Council approve reclassifying the position of part-time Code Enforcement Officer to Full-Time Deputy Zoning Administrator.

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)

COUNCIL APPROVAL – Reclassification of Full-Time Assistant Operation Manager to Part-Time Operation Manager – Energy Services Department

Summary: The Energy Services Department is requesting the vacant full-time Assistant Operation Manager position be reclassified as a part-time position to allow the Department to utilize this position to assist the Operations Manager in project management, namely two projects currently in progress, Riverton Substation and South Fork Bridge Replacement. Council is requested to consider the approval of reclassifying the vacant position of Assistant Operation Manager to part-time Assistant Operation Manager.

Councilman Tewalt moved, seconded by Councilman Tharpe, that Council approve reclassifying the vacant position of Assistant Operation Manager to part-time Assistant Operation Manager in the Energy Services Department.

Councilman Tharpe noted that it was money well spent and it would assist in covering the Town’s interest in the VDOT contract.

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)

COUNCIL APPROVAL – Employee Handbook

Summary: Council is requested to consider approval of the Town of Front Royal Employee Handbook as presented.

Councilman Tharpe moved, seconded by Councilman Sayre, that Council approve the Town of Front Royal Employee Handbook as presented.

Vice Mayor Parker moved, seconded by Councilman Tewalt that Council amend the Employee Handbook to include Chapter 2 – VIII.E. to state “Town employees shall not initiate a cellular phone call while they are driving a Town vehicle. Employees shall stop the vehicle in a safe location so the communication is conducted while the vehicle is stopped. The use of “hands free” technology is acceptable as long as it does not interfere with the safe operation of the vehicle. Use of a cellular phone by the driver of a Town vehicle can only be deemed appropriate to protect and promote the health, safety, or well-being of the employee, a fellow employee, or a citizen. Employees will follow the laws of the Commonwealth as it relates to the use of cellular devices while driving.”

Councilman Funk asked about the last sentence conflicting with the body of the last sentence. Mr. Burke stated that the language was included the Town can institute rules that go above the laws. Mr. Funk noted that was his point actually. Mr. Napier clarified the language and Councilman Funk offered hands free technology amendments. Mr. Parker and Mr. Burke voiced their intent to keep employees safe with the changes; Mr. Funk agreed.

Councilman Funk’s two friendly amendments to Mr. Parker’s amendments shown in bold/underline:

.....*Council amend the Employee Handbook to include Chapter 2 – VIII.E. to state “Town employees shall not initiate a cellular phone call while they are driving a Town vehicle **unless via handsfree technology.** Employees shall stop the vehicle in a safe location so the communication is conducted while the vehicle is stopped. The use of “hands free” technology is acceptable as long as it does not interfere with the safe operation of the vehicle. Use of a cellular phone by the driver of a Town vehicle can only be deemed appropriate to protect and promote the health, safety, or well-being of the employee, a fellow employee, or a citizen. Employees will follow the laws of the Commonwealth as it relates to the use of cellular devices while driving **subject to the provision of the employee handbook.**”*

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 the Amendments)

Councilman Tewalt asked about where the CDL portions were within the handbook. Mr. Burke pointed out where it was in the packet. Mr. Tharpe suggested Bluetooth devices for those employees that needed the technology.

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)

COUNCIL APPROVAL – RSW Regional Jail Legal Services – Funding Authorization

Summary: The Town has retained the legal services of AquaLaw, PLC to assist in the evaluation of legal options regarding utility service to the RSW Regional Jail. Staff is requesting transfer of funding for these activities and authorization to fund legal expenses.

Vice Mayor Parker moved, seconded by Councilman Hrbek, that Council authorize transfer of \$12,500 from the Water Fund Balance and \$12,500 from the Sewer Fund Balance to fund legal expenses associated with utility service for the RSW Regional Jail. I further move that Council authorize the Town Manager and Town Attorney to retain and utilize the services of Aqualaw, PLC to provide legal services associated with utility service for the RSW Regional Jail.

Councilman Sayre noted that he would be voting against the matter. He stated that the LEEDS program had not been looked on favorably originally and here we are spending more money on the matter.

Councilman Funk stated that he agreed with Mr. Sayre’s spirit of the matter though he would support the motion as we were obligated to pay our debt.

Mr. Burke noted that they have had several teleconferences with Aqualaw and the DEQ appeal would require about \$7,500 in services, within about the next 20 days. He added that should there be a resolution it would be returned to the General Fund.

Councilman Hrbek asked if the Town had been sued by the RSW Regional Jail. Mr. Burke stated that they had not, though with the DEQ appeal, they had received a letter from an Assistant Attorney General noting that all future correspondence regarding the jail specific to the DEQ permit would go to the Attorney General’s Office through our counsel.

Councilman Hrbek asked if the matter was resolved the funds do not need to be expended. He noted that should the Board of Supervisors indicate that they do not wish to have the process continue then the water users of Front Royal could save the money.

Councilman Sayre noted that if the LEEDS program had moved forward then the matter could have been avoided. Vice Mayor Parker stated that if the engineers involved with the design of the LEEDS program had read and familiarized themselves with the Town’s water policy, or if the County of Warren had shared the policy with the engineers, then this matter would not be happening either. Mr. Parker added that the Town speaks often with the County about water issues in the Corridor and none of this information was news to the Board of Supervisors or to the Chairman of the Regional Jail Authority.

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)

CLOSED MEETING – Consultation with Legal Counsel – RSW Regional Jail

Councilman Hrbek moved, seconded by Councilman Tewalt, that Council convene and go into Closed Meeting for the purpose of consultation with legal counsel employed or retained by a public body regarding specific legal matters requiring the provision of legal advice by such counsel, specifically, appealing DEQ’s grant of a wastewater package treatment plant permit, pursuant to Section 2.2-3711. A. 7. of the Code of Virginia.

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 Hrbek moved, seconded by Councilman Tharpe that Council certify that to the best of each member’s knowledge, as recognized by each Council member’s affirmative vote, that only such public business matters lawfully exempted from Open Meeting requirements under the Virginia Freedom of Information Action as were identified in the motion by which the Closed Meeting was convened were heard, discussed or considered in the Closed Meeting by Council, and that the vote of each individual member of Council be taken by roll call and recorded and included in the minutes of the meeting of Town Council.

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

Abstain – N/A

Absent – N/A

(By Roll Call)

COUNCIL APPROVAL – RSW Regional Jail Water & Sewer

Councilman Sayre moved, seconded by Councilman Funk that Council propose that the Town propose for the RSW Regional Jail a water and sewer rate of 1.375 up to first 540,000 gallons of water for a 30 day period; after that it will be two times the water and sewer rate for a period of twenty years; the rate at that point can be renegotiated but the rate cannot be lower than the 1.375 rate as proposed; and also that the Sheriff of Warren County will not charge the Town for inmates housed at the Regional Jail Authority.

Councilman Tewalt asked if this was for water and sewer. Mrs. Breeden noted that it is 1.375 of what the water and sewer rates are at said time, it was the multiplier of whatever the rates were at that time.

Vice Mayor Parker asked if allowed for the reintroduction of rainwater into the Town's system. Mr. Burke noted that it did not. Councilman Sayre stated that it was his understanding was that it did include rainwater at their facility.

Mr. Burke stated that the motion read did not include the rainwater.
Councilmen Sayre and Funk withdrew their motions and began again for clarification.

The Town proposes to resolve this matter by offering the Regional Jail the following utility rate proposal:

*Councilman Sayre moved, seconded by Councilman Funk, that the
The Town proposes to resolve this matter by offering the Regional Jail the following utility rate proposal:*

- The first 540,000 gallons of water per 30 day billing cycle equals 18,000 gallons per day at 1.375 times the in-town water and sewer rates;
- Consumption discharge beyond the 540,000 usage per 30 day billing cycle shall be charged at two times the in-Town water and sewer rates;
- These rates shall remain in effect for a period of twenty years from the date of execution of a formal agreement;
- Following the twenty year period, all consumption of water and sewer by the Regional Jail shall be negotiated and the said rate shall not be lower;
- The Regional Jail shall not charge the Town for housing inmates for the life of the facility;
- Any acceptance of rainwater into the Town's wastewater treatment system will require amendment of the Town Code in order to accommodate the modification of the Town's existing policy in this regard.

Vice Mayor Parke noted that he would not be supporting the matter. He stated that the Regional Jail Authority knew where they were purchasing the property and they knew what the water and sewer rates were, as the Public Safety Building just built by Warren County pays two times water and sewer rates. Mr. Parker noted that the Regional Jail threatened to essentially poison the Town's potential water supply, McKay Spring, with effluent. He opined that they are basically holding the Town hostage on this matter. Mr. Parker noted that the Town had offered

them 1.5 for water and sewer in the Corridor and that was not good enough and now we are offering them another rate. Vice Mayor Parker stated that the Town citizens were not only subsidizing the jail and others outside the Town’s limits, we are also subsidizing Shenandoah and Rappahannock Counties and we have been more than fair in this matter.

Councilman Hrbek noted that he would echo Mr. Parker’s comments relating to subsidizing the various counties and he understood Mr. Parker’s comments fully. He stated that he has not been in favor of the jail and it is what it is at this point. Mr. Hrbek noted that the negotiations have been in good faith and we have made a reasonable offer to meet their own budgetary requirements and he would even be sympathetic to the matter if the Town was not introducing the rainwater ordinance into the matter. Councilman Hrbek stated that there is no other organization that has such a system and the Council is unaware of how this would work with the Town. He stated that he would not vote for the matter.

Vice Mayor Parker noted that the deal before Council for a vote is now a better deal than what the County requested a few years ago. He stated that the Town told them repeatedly “no” about the rainwater and they are now getting the rainwater *and* one of the best rates in the Corridor.

Councilman Sayre moved, seconded by Councilman Tharpe, that Council amend the motion to include the notation to state the connection fee of two times the in Town rate.

Councilman Hrbek noted that it was obvious that was the connection fee amount.

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)
(On Motion to Amend)

The question was called for.

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

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

There being no further business, the Mayor declared the meeting adjourned at 9:51 p.m.

APPROVED:

Jennifer E. Berry
Clerk of Council