

The regular meeting of the Town Council of the Town of Front Royal, Virginia was held on May 13, 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 April 22, 2013 and the Special Meeting minutes of April 29, 2013 as presented.*

Councilman Sayre noted that in the minutes of April 22<sup>nd</sup> it had referenced *one* email; he noted that there were actually about two emails regarding *one* specific topic.

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**

There were no receipts of petitions or correspondence from the public.

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

Mr. Burke:

- Stated that Saturday, May 18<sup>th</sup> would be Main/Chester would be closed for Virginia Wine & Craft Festival, and the Town’s Administration Building’s drive thru would be closed;
- Reminded Council and the public that hydrants would be flushed in the coming days;
- Noted that the Town would be replacing the drop box for after hour payments soon;
- Announced that the Town offices would be closed for Memorial Day, and he noted the revised refuse/recycling arrangements;
- Stated that the Leach Run Parkway proposals are being reviewed and a recommendation would be forthcoming soon; and
- Reminded the citizenry that Town Taxes are due June 5<sup>th</sup>.

The Northern Shenandoah Valley Regional Director, Martha Shickle:

- Noted that the Annual Spring Dinner would be June 20<sup>th</sup> at LFCC;

- Stated that a special workshop would be held with DEQ with regard to the Biosolids Application Process; and
- Reported that they will have a Staff Member regarding the FEMA approved hazard mitigation plan.

Director of Finance Kim Gilkey Breeden:

- Noted that Council received their monthly reports recently;
- Stated that the overall revenue was up about 4% over last year;
- Commented that the 2014 budget did not contain these projected increases;
- Noted that they will be reviewing debt service payments;
- Reported that 2013 fiscal year end work soon begins;
- Noted that the RFP for Financial Software is due back in a few weeks;
- Stated that she would be attending the Virginia GFOA next week;
- Announced that the Finance Department lobby was open until 4:30; though their phone lines were open until 5 p.m.; and
- Noted that the drive thru usage is increasing each month.

Vice Mayor Parker asked about the Town's anniversary plans and whether they could include the Appalachian Trail Community. He noted that he would like to ensure that they are aware of the Town's receptiveness to the Appalachian Trail Community and hikers that come through the area.

Mr. Burke stated that Founders Day includes a Town coordinated event with the Appalachian Trail Community. He noted that Staff could look at other opportunities to work with the AT Community to ensure they are welcomed in the Town of Front Royal.

Councilman Hrbek stated that as the property swap for trail parcel has now occurred, he asked the timeline for the process. Mr. Burke noted that Staff meets tomorrow to determine if all the cost estimates have been covered. He stated that the trail construction is being evaluated for lighting and then Staff would bring that amount to Council for review.

Councilman Tewalt noted that he had already requested that matter move forward onto a worksession. Mr. Burke stated that Energy Services had noted that they would need more time, adding that the \$100,000 would not include the lighting; and more funding would be needed. He added that they would be looking into going with standard acorn lights to minimize maintenance in the area.

In response to Councilman Sayre's questions, Mr. Napier noted that Judge Swersky upheld again that he and Judge Peatross had ruled correctly that the Town of Front Royal previously had been dismissed with prejudice as a party defendant. He added that the plaintiffs were barred from re-filing against the Town, there was nothing new that was attempted to be added to the lawsuit in the plaintiffs' amended complaint anyway, no new allegations made, concerning the Town that in anyway caused the Town to be brought into this case.

Mr. Napier clarified that the judge ruled that there were simply no defamatory statements made against anyone, and that the recent Supreme Court case cited by the plaintiffs as being grounds for overturning his previous ruling against the plaintiffs was neither a statement of new law by the Supreme Court, nor did it apply factually to the SolAVerde case in

any event. He added that the court entered a Final Order, which the plaintiffs did not appeal; and the case is now over.

Vice Mayor Parker noted that Items 10, 11 and 12 on the agenda, regarding donations of fees, perhaps should be reviewed in detail. He stated that there seemed to be general concern to bring these sections of Code with the fees back to worksession and perhaps have the Code include language that non-profits would be exempt, for example.

Mayor Darr noted that the Town had presented the Paint the Town Purple proclamation recently. He encouraged the community to participate in the Relay for Life events throughout Front Royal.

Mayor Darr stated that the Town was awarded the Tree City USA designation for the for 14<sup>th</sup> year at the Arbor Day celebration.

Mayor Darr noted that he and others had received many emails and phone calls regarding the Appalachian Trail Community’s concern with the recent Board of Supervisor’s decision. He noted that he responded to the concerns, noting that decisions regarding Lake Front Royal were under Warren County, not the Town of Front Royal. He stated that he also had the Clerk send them the link to the Warren County website.

Mayor Darr stated that he would not add it to Liaison Meeting agenda, but would bring it up at the meeting to make the Supervisors aware of the correspondence they had received on the matter.

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

*Councilman Funk moved, seconded by Councilman Sayre, that Council remove Item #11 & 12 (Gazebo Gathering & Farmers Market) until a worksession could be held on the items.*

Mr. Burke noted that they would notify each entity that action would be delayed, adding that he does not believe it would set their schedules back any.

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)

**CONSENT AGENDA ITEMS**

- A. COUNCIL APPROVAL – Acceptance of Byrne Justice Assistance Grant – Police Dept
- B. COUNCIL APPROVAL – Liaison Committee Meeting Items
  - 1) Catlett Mountain Landfill
  - 2) Building Inspections Software
  - 3) Leach Run Parkway RFP
  - 4) Channel 16
  - 5) McKay Property Historical Investigation
  - 6) Town/County/EDA Park & Ride Locations

- 7) Rt. 340/522 Corridor
- 8) FRLP Annexation
- 9) Hatch Act Designation
- 10) Front Royal Volunteer Fire & Rescue Department Funding
- 11) Request to use McKay Springs as a Trout Fishery
- 12) WWTP - Septage Receiving (Update Agreement)
- 13) South Fork Bridge Lighting (Develop Agreement)
- 14) Riverton Substation (WC Plan Review Update)

- C. COUNCIL APPROVAL – Bid – Vehicles for Police Department
- D. COUNCIL APPROVAL – Bid - Pickup Truck for DES WWTP
- E. COUNCIL APPROVAL - Bid - Relocation of Electric Facilities for VDOT South Fork Bridge Project
- F. COUNCIL APPROVAL - Bid - Substation Equipment & Building

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

**COUNCIL APPROVAL – Rezoning Application from VFW Post 1860 (2<sup>nd</sup> Reading)**

**Summary: Council is requested to approve on its second and final reading a rezoning application (REZ12-07-68) submitted by Col. Samuel R. Millar, VFW Post 1860, requesting that the Town downzone 10.66 acres from the I-1 District to the A-1 District, including all of Parcel A and a portion of Parcel B. Proffers are submitted that would restrict manufactured housing and tenant housing**

*Councilman Tewalt moved, seconded by Councilman Tharpe, that Council approve on its second and final reading a rezoning application (REZ12-07-68) submitted by Col. Samuel R. Millar, VFW Post 1860, to downzone 10.66 acres from the I-1 District to the A-1 District, including all of Parcel A and a portion of Parcel B, with proffers that would restrict manufactured housing and tenant housing.*

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)

**COUNCIL RECOMMENDATION – Board of Zoning Appeals (BZA)**

**Summary: Council is requested to consider a recommendation to the Judge of the Warren County Circuit Court for appointment to the Front Royal Board of Zoning Appeals (BZA) to fill a five-year term ending May 1, 2018.**

*Vice Mayor Parker moved, seconded by Councilman Funk that Council recommend Stephen McKee to the Judge of the Warren County Circuit Court for appointment to the Front Royal Board of Zoning Appeals (BZA) to fill a five-year term ending May 1, 2018.*

Councilman Sayre stated that many good people had come forward to interview and he thanked them and noted that they would continue to keep their applications on file.

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)

**COUNCIL APPROVAL - Donation of Fireworks Display Permit Fee for Annual Fireman’s Carnival – Front Royal Volunteer Fire & Rescue Department**

**Summary:** Council has received a request from the Front Royal Volunteer Fire & Rescue Department seeking a donation of a \$50.00 Fireworks Display Permit Fee for their Fireworks Display scheduled for Thursday, July 18, 2013 at the Walter M. Duncan Public Works Center and Property Yard. The Special Event Permit for the Carnival is approved by the Town Manager. Per Front Royal Town Code 80-3, a Fireworks Display Permit requires Council approval.

*Councilman Tewalt moved, seconded by Councilman Tharpe, that Council approve a donation of \$50.00 for a Fireworks Display Permit Fee for the Front Royal Volunteer Fire & Rescue Department’s Annual Fireworks Display scheduled for Thursday, July 18, 2013 at the Walter M. Duncan Public Works Center and Property Yard.*

In response to Councilman Hrbek’s questions, Mr. Burke noted that firework certificates were granted in concert with approval from Warren County’s Fire Marshall and the approval of the Town Council.

Councilman Funk noted that it is his understanding it that they have granted this approval in the past. He stated that he would like all fees considered that are similar in this category. Mr. Funk added that he was supportive of the Farmer’s Market and the Blue Ridge Arts Council, though he would like all the fees reviewed during the worksession.

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)

**CLOSED MEETING – 1) Property Acquisition and 2) Consultation with Legal Counsel specific to Annexation**

**Motion to Go Into Closed Meeting**

*Vice Mayor Parker moved, seconded by Councilman Tewalt that Council convene and go into Closed Meeting for the purpose of 1) discussion or consideration of the acquisition of real property for a public purpose or the disposition of publicly held real property, where discussion in an Open Meeting would adversely affect the bargaining position or negotiating strategy of the public body, pursuant to Section 2.2-3711. A. 3. of the Code of Virginia and 2) 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, Annexation, pursuant to Section 2.2-3711. A. 7. of the Code of Virginia*

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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**Motion to Certify Closed Meeting at its Conclusion**

*Vice Mayor Parker moved, seconded by Councilman Tewalt 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, Sayre, Tewalt and Tharpe  
No – N/A  
Abstain – N/A  
Absent – N/A  
(By Roll Call)

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There being no further business, the Mayor declared the meeting adjourned at 8:01 p.m.

APPROVED:

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Jennifer E. Berry  
Clerk of Council