

The regular meeting of the Town Council of the Town of Front Royal, Virginia was held on August 12, 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 July 22, 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**

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

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

Mr. Burke:

- Reported that on August 17<sup>th</sup> the Town will be opening the cornerstone of Town Hall and he invited all to witness the time capsule ceremony. He noted that the Town will be turning the documents over to the Warren Heritage Society for safe handling;
- Stated that nighttime line painting will be taking place throughout Town and cautioned drivers to be on the lookout;
- Noted that regarding the Happy Creek Trail project; the erosion and sediment control work would be happening from Front Street to South Street beginning next Monday; adding that they hope to complete the project at the end of the year; and
- Reminded citizens to take the time to participate in the Envision website to submit comments and ideas about the Town.

Councilman Hrbek asked for an outline of trail dates as described by Mr. Burke in the upcoming Council packet.

Councilman Sayre noted that there were two young people that recently lost their lives at the Morgan Ford bridge. He asked if the Town could help in any way with low water bridge process in order to speed the matter along. Mr. Burke noted that Warren County and VDOT had the bridge project in place for 2016, though perhaps the Town could consider a resolution to advance the project if Council desired that route.

Councilman Hrbek mentioned the recent cartoon that was distributed around town, and thanked those that took the time to participate in the civil process.

Councilman Hrbek suggested that the Town and County step away from high percentage and millions of dollars type comments related to the Corridor, and rather take note of the philosophy of the whole Route 522 Corridor. He noted that 99% of all annexation/boundary line requests are approved, though most are not hostile. Mr. Hrbek added that there had been 201 approved annexations since 1965, though the Town and County both needed to examine what was fair to all concerned. He noted that what is good for Warren County is good for the Town of Front Royal; and what is good for the Town of Front Royal is good for Warren County.

Councilman Hrbek stated that Strasburg and Shenandoah County for example, have a built in definition of when their annexation would be allowed, and the compensation percentage and timeline is all settled. He opined that the detailed layout makes sense for all involved. Mr. Hrbek stated that it seems as though the Town could compensate the County for a set amount of time, and it really is about what is fair. He added that towns and cities are established for higher density and the matter could be resolved by agreeing on a principle about what is important.

Councilman Tewalt asked that the water study printout be included in his packet this week. Mr. Burke noted that it would be sent.

Councilman Funk stated that on July 26<sup>th</sup> he attended Delegate Weibert's round table discussion for the Economic Development Coalition for local business owners to discuss matters relating to the hindrances businesses face. He noted that he also attended VML Finance Committee meeting for upcoming General Assembly Session.

Councilman Sayre noted that the last worksession they held a Closed Session and he had stated that the annexation discussion was to be as transparent as possible in his opinion. He added that he had concerns if closed sessions continue and he would like the Board of Supervisors to meet with the Town in open session with a facilitator to discuss matters in public. Mr. Sayre stated that phone calls and street talk is happening and meeting in a room to publicly discuss the matter would be preferred.

Councilman Sayre stated that the Board of Supervisors has noted that they did not choose to meet in open session. He added that he had also asked that the funds spent on the matter also be as transparent as possible.

Mayor Darr commended the Police Dept for their work on planning and conducting the National Night Out. He noted that it was very well attended and helps to bring awareness to crime prevention and Neighborhood Watch efforts throughout Front Royal.

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

**CONSENT AGENDA ITEMS**

- ~~A. COUNCIL APPROVAL – Bid – Biosolids Disposal Services removed for separate vote and discussion~~
- B. COUNCIL APPROVAL – Bid – Sewer Pipe Lining
- C. COUNCIL APPROVAL – Authorize to Apply for Grant from Federal Seized Assets – Police Dept.
- D. COUNCIL APPROVAL – Job Reclassification in Police Department: from Community Relations Specialist-1002 to Office Assistant-1001

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

Councilman Hrbek asked to remove Item A: Bid – Biosolids Disposal Services for separate discussion and vote.

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-D)

**COUNCIL APPROVAL – Bid – Biosolids Disposal Services**

**Summary: Council has received a request from the Purchasing Agent, seeking approval of a bid from Waste Management of Virginia/Maryland for the amounts listed in the Quotation Tabulation for biosolids disposal services, for a one-year period with the right to reserve the option of two (2) one-year renewals with satisfactory performance.**

*Councilman Hrbek moved, seconded by Vice Mayor Parker, that Council approve a bid from Waste Management of Virginia/Maryland for the amounts listed in the Quotation Tabulation for biosolids disposal services, for a one-year period with the right to reserve the option of two (2) one-year renewals with satisfactory performance.*

Councilman Hrbek asked if these types of materials could be used in the biosolids projects he mentioned a few weeks back. Mr. Burke stated that there could be some potential to use, though they are generally costly. Councilman Hrbek noted that his main point was whether the Town would have their own biowaste that could be used for disposal. Mr. Burke noted that the Town could, adding that using Class A biosolids had a reduced cost for disposal.

Councilman Tewalt asked if it would be part of the treatment plant upgrade process. Mr. Burke described the differences in the types of biosolids. Mr. Tewalt asked if the Town would be getting involved in the bio fuel process. Mr. Burke stated that they would not be in the current contract, though they could look into the costs. Mr. Tewalt noted that it could be something that may be beneficial.

Councilman Sayre asked about a particular quotation listed on the bid sheet. Mr. Burke stated that the specific company without a quote was through direct solicitation and they did not respond to the Town.

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 TO RECEIVE PUBLIC INPUT – Matters Proposed by Front Royal Limited Partnership (“FRLP”)**

**Summary:** Council is requested to receive public input pertaining to 1) a notice of intention by Front Royal Limited Partnership (“FRLP”) to request approximately 604.76 acres currently situated outside the corporate limits of Town be annexed into Town; and, 2) a draft Voluntary Settlement Agreement (“VSA”) in lieu of contested litigation regarding annexation, FRLP, Town and County of Warren would mutually agree on the terms by which the property would be annexed into the Town. *(NOTE: Was advertised in local newspaper on 8/3; 8/8; 8/10)*

Mayor Darr opened the public hearing.

Ramona Bowden, of 604 Windy Knoll Drive, noted that she had been fighting to maintain the rural aspect of the area for many years. She explained that FRLP has not been helpful at all in her opinion and she stated that many issues had changed over the years at various times. Ms. Bowden expressed concern with so many new homes being built in the area, adding that there were other places to build.

Stan Brooks, Jr., of 731 Pomeroy Road, noted that he appreciated the service of Council to the Town. He stated that it was evident that many members of Council do care about the Town of Front Royal and the people. He stated that FRLP matters would be one of the biggest decisions that the Council will make, except for the Corridor decision. He noted that there were issues to be studied and he asked Council to consider that the rezoning to agriculture seems to already have been decided, for example. Mr. Brooks added that the Town may have to annex the 522 Corridor and he questioned how that annexation would affect the FRLP area.

Mr. Brooks stated that the Town has yet to obtain the right of way for the proposed road into Bing Crosby Stadium and it appears that this is being used as leverage. He thanked Council for running and serving the community. He asked that the easements that serve the Millennium Lotus property, and the future interchange also be considered. He also asked that the financial obligations and logistical studies for transportation are fully understood. Mr. Brooks asked about the effect on the housing market in the community and asked Council take such matters into consideration when moving forward.

Mr. Brooks stated that some members of the Board of Supervisors do all they can to trip up the Town of Front Royal. He noted that there was no rush for this matter and he asked that Council please consider all aspects as they move forward.

Dan McCarty, of 344 W. Main Street, asked what was in the project for Front Royal. He stated that residential neighborhoods cost the Town money in services and once a development was in

place it was permanent. Mr. McCarty noted that schools and roads cost money, while commercial buildings bring in money. He added that he was unsure what benefited the Town in this project. He noted that it would not benefit Shenandoah River Estates as they would have to go an extra two and half miles in travel miles, and it will cost more in time and money and delay fire and police response as well. Mr. McCarty added that he was concerned with construction traffic during the time build out time, and once completed there would be 800 families that would want to put a boat in at the river area, which was impossible as it was a private river site. He opined that the construction work will not bring jobs to those in the Front Royal community, as they will bring people in to cover those jobs. Mr. McCarty expressed his concern with the Town of Front Royal and the community as a whole.

Bill Barnett, of 1115 Buck Mountain Road, noted that he represented FRLP and had been involved with the property for many years. He noted that he had served on the board of the EDA in the past and he realized then that the Town had a technology park that was very difficult to access. He stated that it had great infrastructure and had been a large investment by the Town and there was about 150 acres in the technology park. Mr. Barnett stated that Kelley Industrial Park was built out and Stephens Industrial Park had very few parcels available. He noted that the Avtex site would only allow a very narrow range of businesses, so the Happy Creek Industrial Park would be the future of growth for industrial development for Front Royal. Mr. Barnett opined that Mr. McCarty was correct that the Town did not just want houses in the community. He noted that the Happy Creek area would give Front Royal and Warren County a level of growth that they will need, adding that they will need a residential component and roads as well.

*Vice Mayor Parker moved, seconded by Councilman Hrbek, that Council:*

- 1) Approve the request of FRLP that its approximately 604.76 acres of property (the "Property"), currently located in Warren County, Virginia (the "County"), outside the corporate limits of the Town of Front Royal, Virginia (the "Town"), be annexed into the Town, and that upon annexation into the Town, the Property be **temporarily**\* (*See motion clarification below*) classified in the Town's Agriculture and Open Space Preservation District A-1 Zoning District, which shall apply to the Property pending the orderly amendment of the zoning district, in accordance with Section 175-9.1 of the Town of Front Royal Municipal Code.
- 2) Approve the Voluntary Settlement Agreement ("VSA") submitted by FRLP, version "9 VSA Working Version 006050 00005", as the same may be presented for signature by the Mayor in final form appropriate for formal execution with the words "DRAFT" removed, in lieu of contested litigation regarding annexation, whereby FRLP, the Town, and the County have mutually agreed upon the terms by which the Property will be annexed into the Town as contained in said VSA; and as part of this Motion, in accordance with Virginia Code § 15.2-3400, direct the Town Manager and Town Attorney to present this VSA and any other appropriate documentation to the Commission on Local Government (the "Commission") for the Commission to conduct its proceedings in accordance with said statute.

*Councilman Funk suggested a friendly amendment to remove the word TEMPORARILY from the first paragraph of the motion; Messrs. Parker & Hrbek were in agreement with this suggested amendment.*

Councilman Tharpe asked the reason to remove the word temporarily. Councilman Funk noted that he would like the motion to be clear that it would actually be agricultural and would go through the process completely as Council desires.

Councilman Sayre asked if he needed to make a disclosure at this time. Mr. Napier noted that he did not, adding that his property location does not create a conflict. He added that he had provided a written opinion which is on file with the Clerk of Council

Councilman Funk noted that he would like more information about the Marys Shady Lane concerns as the Town moves forward on the matter.

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)  
(On Motion to Amend to remove “temporarily”)

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Councilman Tewalt noted that the Board of Supervisors wanted it be Agricultural and then R1, and he was not in favor of that at all. He stated that he would like the matter to go through the proper channels of the Planning Commission and the Town Council and follow proper guidelines like every other proposal. Mr. Tewalt added that Mr. Brooks is correct; the Town needed to secure the right of way as soon as possible. He noted that a portion of the property that addresses the Marys Shady Lane matter was an issue and that matter needs to be further looked into as well. Councilman Tewalt added that when it is approved the Town needed to look closely to ensure that they were moving slowly and the right of way is secured. He opined that the ensuring all loopholes are closed was of great importance.

In response to Council questions, Mr. Napier stated that the item needed one reading, and Council did not have to take action this evening if they chose not to do so.

In response to Mr. Hrbek’s questions, Mr. Camp stated that it was consistent with the recommendation to annex into the Town. Mr. Hrbek added that the applicant will have to go through the entire planning process just as other applicants do and it can only be brought in as agricultural.

Councilman Hrbek stated that he appreciated everyone speaking, and he heard their concerns about the possibility of rushing the item. He noted that the Town had not been rushing the matter, as the Town had been discussing the details for at least nine months directly with the County and FRLP, not including the time before that with the applicant. He voiced his excitement about the project moving forward, noting that the costs that they will have will be offset for the new treatment plants. Mr. Hrbek stated that one of the key driving forces for economic development is healthy housing stock and the Happy Creek Technology Park location is a wonderful feature. He noted that the East-West Connector Road was included in the revised Comprehensive Plan as well.

Councilman Hrbek noted that this compromise was accommodating the needs of the Town and County, and he appreciates the work of the Town Staff and the Planning Commission, as well as those that came out to speak this evening.

Councilman Sayre asked about a previous rezoning where there may have been problems. He also asked Mr. Camp his title. Mr. Camp indicated that he was the Planning & Zoning Director. Mr. Camp stated that with the previous matter the discussion concerning more units were less than ideal for the Town. Mr. Sayre asked whether the first rezoning could cost the Town more money. Councilman Hrbek and Mayor Darr expressed concern with what they deemed as an unfair line of questioning directed at Mr. Camp.

Councilman Sayre asked if all issues had been resolved with the matter; Mr. Camp noted that they had not been resolved. Mr. Camp stated that the largest matter was to make certain the road was constructed though they were unable to incorporate VDOT's comments and it would be premature to make comments on the road construction.

Councilman Sayre asked if it was true that they do not have the easements prepared. Mr. Camp stated that the project lays out a path for the future road, and it states that the applicant will sell it to the Town. Councilman Sayre asked if the Town knew where the road will go. Mr. Camp noted that the additional units provide a change and they are unsure of how it changes the design.

Councilman Sayre thanked the speakers for coming forward and expressing their opinions. He noted that it has been stated that all of the guidelines were followed, though perhaps they were not all followed. He stated that there were issues about the location of the road that have not been addressed. Mr. Sayre noted that to his recollection, the Marys Shady Lane issue has not been addressed and in his opinion it would not be the proper time to vote on the matter.

Councilman Funk thanked all the speakers and he noted that if they were discussing a rezoning issue, matters may be different. He noted that they were simply setting the number of homes that can be there. He stated that they were merely moving the line on the map.

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; As Amended without “Temporarily”)

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Mayor Darr noted that this motion was to bring the property into the Town as agriculture and the applicant would be back at some point to discuss a rezoning most likely. He stated that it was obvious from the concerns of the speakers and the comments of Council that the Town had their homework cut out for them on the issue. Mayor Darr stated that it was the intent of Council and Staff to do what is best for the interest of citizens of the Town of Front Royal.

Mr. Burke stated that there will be a process with the Commission on Local Government and additional public hearings will be conducted within Front Royal. He noted that there will be other opportunities to speak on the matter before it came into the Town. Mayor Darr encouraged the public that wished to be notified on matters relating to FRLP to leave their phone numbers with the Clerk of Council.

**COUNCIL APPROVAL** – An Ordinance to Amend and Reenact Sections of Chapter 134 of the Town Code pertaining to Amendments of Prohibited Discharge Standards (2<sup>nd</sup> Reading)

**Summary:** Council is requested to adopt on its second and final reading an Ordinance to amend and reenact Sections 134-4.A; 134-4.A.14; and 134-79 of the Front Royal Town Code pertaining to amendments of prohibited discharge standards, so as to allow rainwater from governmental correctional, facilities to be discharged into the Town's sanitary sewerage system. If approved, the Town Code will provide that rainwater from governmental correctional facilities may be discharged into the Town's sanitary sewerage system, provided the rainwater collection, distribution and pretreatment systems of said facilities meet certain defined standards.

*Councilman Tewalt moved, seconded by Councilman Funk, that Council adopt on its second and final reading an Ordinance to amend and reenact Sections 134-4.A; 134-4.A.14; and 134-79 of the Front Royal Town Code pertaining to amendments of prohibited discharge standards, so as to allow rainwater from governmental correctional, facilities to be discharged into the Town's sanitary sewerage system.*

Councilman Hrbek asked that everyone refer to the minutes of the previous meeting to understand in full why he would be abstaining from this vote.

Vice Mayor Parker stated that he would vote against the measure as it was too narrow to allow it for one entity. He noted that the Town was forced to move forward on the measure.

Councilman Sayre asked that if it was too narrow, what the alternative would have been. Councilman Hrbek noted that the alternative would have been exploring the option to have it open municipal wide, though he may not have gone that route in the end, he would have been open to looking into the option. Mr. Hrbek added that Council was being forced to go forward with the one entity option or they would be in breach of contract.

Vice Mayor Parker noted that if they are offering the option it should be offered to all, and he agrees fully with Mr. Hrbek. He added that the agreement is very one sided and makes an exception for one single entity. Mr. Parker stated that the Town was being pushed into it and he would not be voting for it this evening.

Councilman Funk stated that the Town knew what they were getting into when they went forward, and they knew they would need to make an exception for one entity. He noted that our law enforcement does a good job protecting us and this is a necessary institution to enable them to continue doing that. Mr. Funk added that they would also need funds to pay for the fees of Mr. Glass and a number of other items and he would support the ordinance.

Councilman Sayre noted that if they do not approve the matter there will be a plan built out by a treatment plant paid in half by the Virginia State tax payers.

Vote: Yes – Funk, Tewalt, Tharpe and Sayre  
No – Parker  
Abstain – Hrbek  
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 – Eagle Scout Project at Gazebo Area – Devon Biggs**

**Summary:** Devon Biggs, member of Boy Scouts Troop 52, is beginning his Eagle Scout Project that includes building little libraries at several locations throughout Town including the Gazebo Area. Mr. Biggs is requesting that Council consider approval of the placement of a library near the Downtown Main Street Gazebo. Staff suggests that Mr. Biggs coordinate with Staff on the construction of this project.

*Vice Mayor Parker moved, seconded by Councilman Sayre, that Council, approve Devon Biggs’ Eagle Scout Project to place a little library near the Downtown Main Street Gazebo. I further move that Staff coordinate with Devon Biggs on this project.*

Councilman Hrbek noted that he would like to highlight this young man and other young people on Facebook and the Town’s website as much as possible. He added that these were the future leaders of our community. Councilman Sayre noted that Mr. Biggs stated that he first read about the project idea in the Readers Digest.

Mayor Darr commended Devon Biggs for this great community project and the other great people of the Town that make the community a great place to live.

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 APPROVAL – Award of Engineering Design Contract for Leach Run Parkway**

**Summary:** Council is requested to approve the recommendation for award of the Engineering Design Contract to Pennoni Associates, Inc. in an amount not to exceed \$712,000. 00. In addition, Council is requested to authorize the Mayor, Town Manager, and Town Attorney to sign any and all documentation to support this award. Authorization shall include the Memorandum of Agreement between VDOT, Town of Front Royal, County of Warren, and the Front Royal-Warren County Economic Development Authority.

*Vice Mayor Parker moved, seconded by Councilman Tharpe, that Council approve the recommendation for award of the Engineering Design Contract to Pennoni Associates, Inc. in an amount not to exceed \$712,000.00. I further move to authorize the Mayor, Town Manager, and Town Attorney to sign any and all documentation to support this award, including the Memorandum of Agreement (MOA) between Virginia Department of Transportation (VDOT), Town of Front Royal, County of Warren, and the Front Royal-Warren County Economic Development Authority.*

Vice Mayor Parker noted that it has been a long time coming and he was glad to see matters coming to fruition. He asked if this was the correct document. Mr. Burke and Napier noted that it was.

Councilman Funk thanked Staff and Councilman Tewalt for their work on this vital project. Councilman Tharpe also thanked that County Board of Supervisors and the EDA for moving the matter forward quickly.

Councilman Sayre noted that there was a written opinion on file that still holds that he does not need to make a disclosure. Mr. Napier noted that Mr. Sayre was correct.

Councilman Sayre stated that the idea is to have a four lane parkway. Mr. Burke stated that was accurate, and there would also be bike and pedestrian lanes as well.

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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**CLOSED MEETING – Consultation with Legal Counsel**

**Summary: Council is requested to convene and go into Closed Meeting for the purpose of discussion of the award of a public contract involving the expenditure of public funds, including interviews of bidders or offerors, and discussion of the terms or scope of such contract, where discussion in an Open Session would adversely affect the bargaining position or negotiating strategy of the public body, pursuant to Section 2.2- 3711. A. 29. of the Code of Virginia.**

*Vice Mayor Parker moved, seconded by Councilman Tewalt that Council convene and go into Closed Meeting for the purpose of discussion of the award of a public contract involving the expenditure of public funds, including interviews of bidders or offerors, and discussion of the terms or scope of such contract, where discussion in an Open Session would adversely affect the bargaining position or negotiating strategy of the public body, pursuant to Section 2.2- 3711. A. 29. 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)

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*Vice Mayor Parker moved, seconded by Councilman Funk, 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)

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There being no further business, the Mayor declared the meeting adjourned at 8:42 p.m.

APPROVED:

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Jennifer E. Berry  
Clerk of Council