

6:30pm – CLOSED MEETING – Planning Commission Interview

Motion to go Into Closed Meeting

Vice Mayor Parker moved, seconded by Councilman Funk, that Council convene and go into Closed Meeting for the purpose of assignment, appointment, promotion, performance, demotion, salaries, disciplining or resignation of specific public officers, appointees, or employees of a public body, specific to interview a candidate for the Planning Commission, pursuant to Section 2.2-3711 A. 1. of the Code of Virginia.

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

Sayre arrived at 6:35 p.m.

Vice Mayor Parker 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)

The regular meeting of the Town Council of the Town of Front Royal, Virginia was held on August 26, 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 August 12, 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

Thomas Conkey, of 1401 N. Royal Avenue, read the following statement into the record:

I've been reading in the paper about the possibility that the Town would annex the Corridor and seeing Messrs. Carter and Traczyk's comments that an annexation would cost the Town and the County millions of dollars. Yet it seems that the Vazanna property off of Happy Creek Road will be brought into the Town. Will that cost us millions of dollars too?

Since I served on this Council, I know that there are two ways to bring property into the Town limits. The first is through a Boundary Adjustment and the second is through Annexation. A Boundary Adjustment is done with the agreement of both the Town and the County at a minimal cost (as is being done with the Vazanna property) where an Annexation is a contentious effort that has to go through the courts and can indeed incur significant cost. Annexation expenses can be avoided by having the County agree to Boundary Adjust the Corridor into the Town. So, if anyone is costing the taxpayers millions, it is the Board of Supervisors and not the Town Council.

So, why should the Corridor be brought into the Town limits in the first place? Any operation, whether it is a private or public enterprise creates divisions that are assigned roles and responsibilities that are specific and specialized. The Town has an Electric Department and a Water Department doesn't run power lines. The County outside the Town limits is generally rural and agricultural. The Town is urban. The Town provides services that are tailored to an urban environment and the County provides their services tailored to an urban environment and the County provides their services tailored to an urban environment. The Town was incorporated in the first place so that it could provide the services needed in an urban environment...that's what it is best at.

The County Planning Department is most experienced with rural issues while the Town Planning Department is most experienced with urban issues. Doesn't it make more sense for an urban planning department to work with the urban issues that go along with high density development such as is in the Corridor? The businesses in the Corridor will benefit from the urban services that the Town offers and that benefit will result in new development bringing in higher property values and more jobs for the community. Both the Town and the County will enjoy the increased tax revenues from the higher property values and increased business revenues.

It costs nothing to talk. It doesn't take an arbitrator, it simply takes two parties that are willing to be open and honest. I challenge the County to lay all their perceived benefits and all their concerns on the table and the town should do the same thing. Both the Town and the County need to understand exactly all the positives and negatives associated with boundary adjusting the Corridor into the Town. Once all the facts are out in the open, it may be that it makes no sense for the Town to take the Corridor. It may be that it is extremely beneficial to the County. We'll never know because the County won't talk about it. What are they afraid of?

So, why won't the County discuss the boundary adjustment? What are they afraid they will lost if the Corridor if brought into the Town? Is this just a power play, or is there some legitimate reason for opposing the Boundary Adjustment?

As a voter and a taxpayer, I feel that I am entitled to answers to these questions. There's not a Supervisor on the Board that was elected without the votes of people living within the Town limits. Shouldn't they be working for us the same way they claim to be working for the citizens outside the Town?

David Means, of 210 W. First Street, thanked Council for saving the Walnut Tree on Academy Drive and he commended Steve Burke and the Town Staff for their work. He noted that the crews should be applauded for their efforts, adding that the tree should be just fine. Mr. Means stated that UFAC was there to advise Council of any tree issue throughout the community and to assist with the upcoming greenway project, adding that there are at least three professional arborists available to help with the project. He noted that they recommended root pruning in order to save the surrounding forest from ripping out tree stumps, for example. Mr. Means stated that they would be more than happy to give assistance whenever possible. Mayor Darr thanked Mr. Means and UFAC for their work on behalf of the Town of Front Royal.

REPORT OF THE MAYOR, COUNCIL & STAFF

Mr. Burke:

- Reported that the cornerstone removal at Town Hall went well and it was removed this year as they transferred to the new building on Main Street;
- Noted that on August 30th at the Ivy Lodge the time capsule from the cornerstone would be opened and he invited all to attend;
- Reminded citizens that school begins on Wednesday and asked that everyone take special care for the safety of the children; and
- Announced that the Business forum would be held on the evening of the 29th and he encouraged all in the community to attend.

Councilman Hrbek asked about any discussion with the County so far regarding connection to the Samuels Library area along Criser Road. Mr. Burke stated that they had spoken with the Federal Parks Department and we will develop a tie in for the site. He noted that they will report back to Council as we have a more definitive answer available.

Councilman Sayre noted that removal of the cornerstone of Town Hall was well attended and he commended Town Staff for getting the word out about the event. He stated that Patrick Farris, of the Warren Heritage Society is encouraging as many people as possible to come out this Friday for the opening of the time capsule.

Jennifer McDonald, Executive Director of the EDA:

- Noted that the DEQ, EPA and the DOJ continued working to further along the Avtex site easements, adding that Rep. Goodlatte's office had been a great support system;
- Stated that they were awaiting direction from Council regarding the Kendrick-Kerfoot Connector Road;
- Noted that the EDA was working with companies at two fast food organizations, a pharmacy, a gas station, a Christian school, and an auto repair shop;
- Commented that Mr. Beahm and Mr. Camp continue their site visits for the Town & County Planning Offices;
- Stated that the Leach Run Parkway contracts are ready for signature and the kick off meeting was held with many VDOT representatives present;

- Noted that the Retail Study was completed for the area and is available on EDA's website;
- Announced that they were applying for a \$600,000 grant for industrial revitalization; and
- She thanked those that attended and participated in the recent summit.

Councilman Tewalt asked what part VDOT would play in the Leach Run Parkway process. Mrs. McDonald stated that they would be well involved; noting that VDOT approves the standards, though they do not provide an inspector. She explained that the recent meeting went well, with the only discussion snag being the design speed. Mrs. McDonald stated that though VDOT indicated that they would prefer a higher speed, they noted that it was up to the local authorities to set the final speed limit.

Councilman Sayre asked about the bridge matter; McDonald noted that EDA supports the Morgan Ford Bridge project.

Mayor Darr asked if the connector road delays related to design. Mrs. McDonald noted that the wording related to "temporary" had been the hold up, though that had been remedied. She stated that they passed the temporary wording snag and it was up to Council at this point as to whether they would like to move forward with the road.

Councilman Sayre read portions of the resolution regarding the Low Water Bridge resolution, including:

"WHEREAS, this bridge has seen a number of recent fatalities including 21-year old Jessica Lynn Barr on March 30, 2010 and 18-year-old Coty James Ferguson and 17-year-old Robert Allen Jeffries, Jr. on August 3, 2013; and, **WHEREAS**, this senseless loss of life can be stopped by the upgrading and replacement of the bridge..."

Councilman Hrbek read the following into the record:

There has a lot said over the past week arguing why the Town of Front Royal should pass a taxi cab ordinance. Primarily the issue regards sex offenders. I have been and continue to oppose this provision--along with the entire proposal--but have asked the town attorney the code definition of registered sex offender. The language in state code is much tighter than I previously believed and I am more comfortable with a possible ban. However I have additional questions to be answered to be 100% on board.

I have also asked Chief Shiflett to research any sex offenses by cab drivers reported to the police department. There has been one incident in recent years--a woman was raped. A horrible event but one that this code would not have prevented. The victim was the driver and the perpetrators were the passengers.

Let's be clear. Our cabs are safe and the issue is a distraction to the broader issue.

I have no privileged information but I would suspect that Yellow Cab of Shenandoah has the highest internal standards and fees of its competitors. So everyone should understand my skepticism--and I would hope share in it--when the largest player in the industry asks to be regulated by the government. It's like Goldman Sachs colluding with Congress to write the Dodd-Frank legislation and Big Pharma and Big Insurance working with the White House to write Obamacare. The Big Boys write legislation to eliminate start ups and smaller businesses.

In Yellow Cab's argument to town council during a previous worksession, regulatory background checks were the last argument for an ordinance. Standardization of operations was clearly the objective of the argument. Banning smoking by drivers, not permitting two fares at a time, physical features of the automobile, business operations were the driving arguments. A ban on sex offenders was an afterthought--a throw away. This is why I call it a manufactured crisis. Once again a prime tactic of big business in creating government regulation to drive out its competition.

Another argument that was made was that this would not increase costs for the regulated companies. This is nonsense. Regulations costs businesses money. When large businesses ask for regulations of things they already do it will not cost them additional operational costs because they already spend the money. Coming into compliance has a cost and that cost will be passed on to the consumer. This is not an argument for anarchy however this will put some taxi cab companies outside the ability for some people to pay or go out of business. So instead of protecting our citizens we are making a service they need unaffordable and eliminating choice.

It has been argued we have a duty to do everything in our power to protect the citizenry. That is a scary idea. Curfews, 5 mph speed limits and traffic cameras at every turn would help protect the public but are unnecessary and undesirable.

State law already established automobile standards, the DMV has driver requirements and sex offender laws protect children. Another layer of law that is costly to business will not be effective if the current code is not. An educated public is the answer to the issue.

Councilman Sayre asked Mr. Napier about the matters related to the tow truck drivers and if he could share with the public what he learned. Mr. Napier stated that in 2012 the general assembly amended the Code to prohibit sex offenders from being tow truck drivers; adding that it was the item that the taxi cabs were modeled after. Councilman Sayre asked if it seemed to be because the women and children were riders at times with drivers of tow trucks. Mr. Napier stated that it was the assumption that Staff came to, yes.

Councilman Sayre asked if he had an opportunity to have his dispatcher's look into the taxi cab matter. Chief Shiflett noted that he did and he believed that Councilman Hrbek answered that question. Mr. Sayre asked if he would actually need the names of the cab drivers; Chief Shiflett stated that they would. Councilman noted that apparently nothing would arise without the actual names.

Vice Mayor Parker read the following into the record:

In order to secure and promote the peace, good order, comfort, convenience, morals, trade, commerce and industry of the Town, and of the County...Powerful words taken directly from the Routes 522/340 North Corridor Agreement. That same agreement seeks to restrict and eliminate competition between and among such localities. So if we recognize this agreement to be in force and valid then why is it that some of these guiding principles are being ignored?

In the Warren County Attorney's Report dated August 6, 2013 it states the County Attorney researched "Requirements to petition to annul a town charter." Whereas Front Royal is the only Town within Warren County to hold a Town Charter, I feel it is safe to surmise that the research was to annul the Town of Front Royal's Charter.

It is quite obvious from the wording that this was not research on consolidation between the two entities, but rather exploration of an option to destroy the town. So

much for peace and good order and I guess a different way to interpret “restrict and eliminate completion between and among”. I do not take issue with Mr. Mitchell for doing this research, as he is an employee of the Board of Supervisors and was obviously asked to do so...the question becomes who and why?

To the citizens of Front Royal, it is up to draw your own conclusions as to these actions, and if you are asked to sign such a petition do keep in mind from where did it originate and what it is being asked of you.

In regards to the Routes 522/340 North Corridor Agreement, in recent months the Town has repeatedly requested the County to discuss the corridor, and repeatedly we have been told either no, or wait until our studies come back or some other combination of the two. In the past several years, the Town and County have set up a committee to discuss the issue, meetings between the Mayor and Chairman, and even brought in State Legislators all too limited or no avail.

These years of discussions have brought some progress wherein the County has agreed to take on additional service expenses once paid for by the citizens of Warren County inside the Towns corporate limits, alas we have come to a stalemate. There does exist ideas amongst our Community Leaders including but not limited to: revenue sharing, boundary adjustments, giving up the right to become a city and numerous more, however unless we can have formal discussions we cannot resolve our conflicts.

We recognize that the County needs the tax revenues it has been allowed through the expansion of Water and Sewer Service in the North Corridor. Let's be honest the County has accumulated a massive amount of debt, through its various projects since the inception of the agreement. Recognizing the need for many of these expenditures, the Town has no intention of denying the County the ability to tax and pay for these needed facilities and services.

However the Town has lost part of its tax base in the course of this agreement and every day that discussions are put off the amount of that loss continues to grow. The Town is now faced with an approximately \$7 million expense to run additional water lines outside the town limits to the North Corridor, and while a portion of that expense will be paid by Dominion Power, approximately \$4 million will be left to be paid by the People of Front Royal and the Customers of it's water system.

Perhaps the first question in regards to the agreement is will the County help to pay for these improvements as it initially did when the water system was extended into the county? This question and all of the others cannot be answered if we do not talk about the agreement.

We see that the County has voted to agree to bring an additional 600 acres into the Town's corporate limits, however this is intended predominantly as residential and just as the county needs a viable commercial tax base to support the county, so the town does also. So yet another question is why this but not that?

If we have a good working agreement then why is it that the County chose to compete for provisions of sewerage and water in the 522/340 service area in there cooperation in the Regional Jail; clearly a breach of the agreement.

It is time that the Community Leaders put aside our differences, and discuss do we still have a valid agreement, is it mutually beneficial, is it being followed, do we wish to modify it? Not for either governments benefit but to promote the interests of the community as a whole. Therefore I would like to ask for a formal resolution by this Council to request once more for the Town and County to continue discussions of

the North Corridor Agreement with or without facilitators. No waiting for studies, not focusing on lost revenue, but the entire agreement. Nothing should be off the table.

All ideas are to be welcomed and discussed for the mutual benefit not of any government but for this community, the people of Front Royal and Warren County. If a resolution is passed by this body and then rejected or delayed by the Board of Supervisors I believe the people of Front Royal have no recourse but to consider our agreement void and in an effort to protect our assets and investments proceed with legal action and formally file a petition of Annexation with the Circuit Court.

Mayor Darr thanked the members of Council that attended the cornerstone removal recently at Town Hall. He noted that it was a great community event for all.

Mayor Darr noted that he was pleased to announce that the Town had received the GFOA Award notification, which was the 27th year for excellence in financial reporting. He commended the Town Manager and the Finance Department for their continued work.

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

Vice Mayor Parker moved, seconded by Councilman Tewalt, to remove Item #8 – Planning Software from the agenda at the request of the County.

Councilman Tharpe asked if it was at the request of the County; Mayor Darr noted that it was.

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 – HOME Program Cooperative Agreement Renewal
- B. COUNCIL APPROVAL – Resolution to Reschedule Council Meeting
- C. COUNCIL APPROVAL – Resolution to Expedite Low Water Bridge Replacement
- D. COUNCIL APPROVAL – Bid – Forklift for Wastewater Treatment Plant

Councilman Sayre moved, seconded by Councilman Funk, that Council approve the Consent Agenda revision of Item B.

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

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

⌘ RESOLUTION – Reschedule Meeting ⌘
To Reschedule Town Council Meeting

WHEREAS, Town Code Section 4-1(A) calls for the Town Council to hold its regular meetings on the second and fourth Mondays of every month; and

WHEREAS, the second Monday of the month is October 14, 2013 which is Columbus Day, a Town Holiday and Town Code Section 4-1(B) states that in the event a regular meeting shall fall on a date designated as a Town holiday, then the regular Council meeting shall be held on the following day (Tuesday) at 7:00 p.m.; and,

WHEREAS, the Regular Council Meeting had been rescheduled to Tuesday, October 15, 2013; and,

WHEREAS, Town Code Section 4-1(C) allows the Town Council to conduct meetings on an alternative meeting date if there are circumstances beyond the Town's control, on the following Monday in the Town Administrative Offices;

WHEREAS, the 2013 Virginia Municipal League Annual (VML) Conference is scheduled to be held October 13 – 15, 2013, falling on the second Monday of the month and the Tuesday following; and

WHEREAS, it is the Town Council's practice is to attend the Annual VML Conference; and

NOW, THEREFORE, IT BE RESOLVED by the Town Council of the Town of Front Royal that the regular meeting of the Town Council scheduled to be held on Tuesday, October 15, 2013 shall be re-scheduled to October 21, 2013 at 7:00 p.m. in the Front Royal Administration Building 2nd Floor Conference Room located at 102 E. Main Street.

⌘ RESOLUTION – Morgan Ford Bridge ⌘
Requesting that the Morgan Ford Bridge Replacement Be Expedited

WHEREAS, the Morgan Ford Low Water Bridge, located in the County of Warren, across the Shenandoah River was constructed in 1925 and has ably served the community for 88 years; and,

WHEREAS, the bridge is severely deficient and has been rated by the Virginia Department of Transportation's (VDOT) bridge inspectors as having an overall condition of "poor" due to severe scale and deterioration throughout the concrete slab, spalling to upstream deck edge exposing rebar, spalling and honeycomb on underside of concrete slab exposing the bottom mat of steel, severe scale exposing aggregate scattered throughout pier walls and footings, and other associated structural deficiencies; and

WHEREAS, the Shenandoah River frequently floods over the Morgan Ford Low Water Bridge and forces its closure 6-8 weeks per year which cause residents to take a long and costly detour route; and

WHEREAS, the Morgan Ford Low Water Bridge is an important crossing and an important part of the area's transportation network. Residents of Town of Front Royal as well as the County of Warren use this connection to access shopping opportunities and commute to work; and,

WHEREAS, VDOT has given the structure a sufficiency rating of 2.0 out of a possible 100 which ranks it as one of the three lowest rated bridge structures in the entire Commonwealth of Virginia; and,

WHEREAS, the bridge provides an important transportation link to provide adequate emergency service coverage to the area; and;

WHEREAS, a new bridge will provide opportunities to utilize more efficient bus routes in the area by allowing buses to cross bridges; and,

WHEREAS, VDOT has worked with Warren County, area residents and stakeholders to address and mitigate legitimate concerns relative to the location and design of the replacement bridge; and,

WHEREAS, this bridge has seen a number of recent fatalities including 21-year old Jessica Lynn Barr on March 30, 2010 and 18-year-old Coty James Ferguson and 17-year-old Robert Allen Jeffries, Jr. on August 3, 2013; and,

WHEREAS, this senseless loss of life can be stopped by the upgrading and replacement of the bridge and its approaches; and,

WHEREAS, the project has been a top transportation priority for the County of Warren for the past decade, is included in the County of Warren’s adopted Secondary Six-Year Plan and 2013 Comprehensive Plan and is fully funded; and,

WHEREAS, the Board of Supervisors of Warren County approved a Resolution on August 20, 2013 requesting that the Morgan Ford Bridge replacement be expedited; and,

NOW, THEREFORE, IT BE RESOLVED that the Mayor and Members of the Town Council hereby also request that VDOT expedite the final review and approval of plans for the replacement of the Morgan Ford Low Water Bridge so that it can be replaced as soon as possible.

CLOSED MEETING – Investment of Public Funds

Summary: Council is requested to convene and go into Closed Meeting for the purpose of discussion or consideration of the investment of public funds where competition or bargaining is involved where, if made public initially, the financial interest of the government unit would be adversely affected, pursuant to Section 2.2-3711.A.6. 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 or consideration of the investment of public funds where competition or bargaining is involved, where, if made public initially, the financial interest of the governmental unit would be adversely affected, pursuant to Section 2.2-3711. A. 6. 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)

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, Tewalt, Tharpe and Sayre
No – N/A
Abstain – N/A
Absent – N/A

(By Roll Call)

There being no further business, the Mayor declared the meeting adjourned at 8:59 p.m.

APPROVED:

Jennifer E. Berry
Clerk of Council