

COUNCIL MEETING MINUTES

August 11, 2014

The regular meeting of the Town Council of the Town of Front Royal, Virginia was held on August 11, 2014, 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 June 9, 2014 as presented.*

Councilman Sayre requested edits for the record from the July 28<sup>th</sup> meeting minutes, shown below:

**Item #1:** Councilman Sayre stated ~~that he would not want to upset Mike O’Dell,~~ adding that Mr. O’Dell and his family were huge radio “people”. He added that the radio provided a large service to the community.

**Item #2:** Councilman Sayre noted that the SBDC was about \$20,000 which is under budget for the Town. He stated that this type of program is happening all across America and it had caused him concern when the Town quit budgeting for the EDA. ~~He noted that he hoped that the Town does not have issue with creating our own Building Inspector program.~~ He added that he was not saying that he wanted a Town Building Inspector, just that the Committee could look into that possibility.

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**

Joe Duggan, 102 W. First Street, commended the Town Council for their work with Habitat for Humanity and Item #11 on the agenda this evening. He noted that he was pleased to hear of the agreement with the Town and Habitat and wished to express his thanks for Council considering such an idea to work with the project.

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

Town Manager Steve Burke:

- Updated Council on the fish kill due to the car wash discharge near Commerce Avenue into a storm sewer drain;
- Thanked Chief Shiflett, Brad Pennington and the Police Department for their work on making National Night Out such a success for the community;
- Noted that the Drive Sober Campaign was beginning soon and the Police Department would have extra patrols out in the community;
- Reminded citizens that Town's DES Office would be working along Stonewall and Lee Streets for valve replacements and to be advised of water shut offs at times; and
- Announced that on August 25<sup>th</sup> school begins, and he reminded everyone to be aware of increased children in the area and the school bus traffic.

Councilman Tewalt asked about the trail refuse cans. Mr. Burke stated that he walked the trail with Vice Mayor Parker and the refuse containers have been installed at the end of each trail entrance at this time. He added that the erosion repair will be conducted soon and the grand opening will be scheduled for September.

Councilman Sayre noted that the Happy Creek was safe following the fish kill incident recently. Mr. Burke noted that it was, adding that it never affected the Town's drinking water.

Councilman Hrbek noted that in the Warren County Report he is quoted in the article referring to the Economic Committee recommendations as saying that they will compliment and help with the Plazas, and to clarify, Mr. Hrbek stated that he was referring to Gateway Plaza and Royal Plaza in the Town limits.

Councilman Hrbek noted that Cory Michael did a great job presenting the Mayor's Economic Committee recommendations to the Town Council. He asked if Mr. Michael could be considered as the lead for that effort, or at least be considered to occasionally give updates to Council. Mayor Darr noted that they would be looking into how that Committee would continue to take shape in the coming weeks.

Mayor Darr thanked the Police Department and all of their volunteers for the excellent planning and work on National Night Out. He noted that it was very well attended and the event was nicely organized and great for the community. Mayor Darr stated that he and Councilman Funk attended Riverfest over the weekend and it was a very nice event for all as well.

Mayor Darr stated that the new Regional Jail was well designed and made and will serve the community for many years

Mayor Darr noted that there have been many articles in the paper and reminders to the community about children and families on bicycles this time of the year. He asked the citizens to keep their safety in mind as they traversed the roadways.

Mayor Darr announced that this Wednesday, the Town of Front Royal would be sponsoring the Front Royal Cardinals game and he invited the public to attend.

Mrs. Breeden, the Town’s Finance Director, stated that the Town Finance office had many activities taking place, with several RFP’s going out, and the auditors on site soon. She noted that they were also looking into mailing their monthly bills and biannual taxes differently in order to determine ways to save on postage in the Finance Department. Mrs. Breeden explained that the budget process will begin in October and the Council Retreat will be planned as well. She noted that the meter readers continue to install and bring online their radio reads and the accuracy has been terrific.

Councilman Sayre asked about online real estate bills. Mrs. Breeden noted that they are looking into that option.

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

**CONSENT AGENDA ITEMS**

- A. COUNCIL APPROVAL – Bid for Storm Drain Pipe on Commonwealth Drive
- B. COUNCIL APPROVAL – Bid for Waterline Upgrade along Manassas Ave & Braxton Road

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

**PUBLIC HEARING – An Ordinance Amending a Franchise Ordinance to Allow Rappahannock Electric Cooperative (REC) to Construct and Install Certain New Facilities** *(1<sup>st</sup> Reading)*

**Summary:** Council is requested to affirm on its first reading an Ordinance amending a Franchise Ordinance passed January 12, 2009 granting to the Potomac Edison Company, d/b/a Allegheny Power, certain rights and privileges and imposing certain obligations regarding the use of the streets and public places of the Town. If approved, the ordinance amendment will allow Rappahannock Electric Cooperative (REC) to construct and install certain new facilities for a 34.5kV distribution line from Kendrick Lane to a location west of the intersection of Criser Road and Mount View Street within in the Town.

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

*Councilman Sayre moved, seconded by Councilman Tharpe, that Council affirm on its first reading an Ordinance to amend a Franchise Ordinance passed January 12, 2009 that will allow Rappahannock Electric Cooperative (REC) to construct and install certain new facilities for a 34.5kV distribution line from Kendrick Lane to a location west of the intersection of Criser Road and Mount View Street within in the Town.*

Vote: Yes – Funk, Hrbek, Parker, Sayre, Tharpe and Tewalt  
 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 – An Ordinance to Repeal Town Code Section 110-17 Pertaining to Fortunetelling or Practicing Magic Art** *(1<sup>st</sup> Reading)*

**Summary:** Council is requested to affirm on its first reading an Ordinance to repeal Section 110-17 of the Town Code pertaining to Fortunetelling or Practicing Magic Art.

Mayor Darr opened the public hearing.

John Fusto, of 1112 Happy Ridge Drive, noted that theft by deception is illegal and that is why it is on the books to begin with. He presented hand outs noting that some police departments consider fortune telling as a scam. He noted that he did extensive research on the issue and many had lost millions on fortune telling scams. Mr. Fusto stated that there is a book on Amazon about becoming a professional con artist, and fortune telling is referenced in said book. He added that organized crime families use fortune telling as a way to gather money as well.

John Lunberg, of 203 Peachtree Court, stated that he had served in the military for years and then moved to this community a few years ago. He noted that he would like to suggest an amendment to the ordinance, as it was an economic matter (giving paid commercial advice) and pertained to unlicensed practioners giving advice. He stated that the Town should not allow unlicensed counsel to their citizens. Mr. Lunberg noted that fortune telling is protected speech by the first amendment and local governments can impose reasonable fees for this type of matter. He noted that it was unlawful for any company to receive compensation for pretending to tell fortunes or practice magic arts, though the Section 110-17 is not primarily about beliefs but about public economic activity. He requested that Council not repeal the ordinance, but rather amend it instead.

Elizabeth Poel, of 945 S. Marshall Street, asked that they keep the ordinance as there was no need to amend the section for a minority of people. She stated that no one is suggesting that they should not practice religion and Council should leave well enough alone. She noted that the current license fee is only \$400 and with inflation it should be closer to \$2,980. Ms. Poel stated that the owner of Brooklyn's Marketplace was part of the Center for Workforce Development and the site of the tarot readings and had applied for a license to open a thrift store. She stated that profits from these stores often fund an activity or charity though a large effort that the Center supports is devoted to helping LGBT youth, which concerns her.

Ms. Poel noted that she does not advocate harm against homosexuals. She stated that most parents do not wish to have pagan practitioners or homosexual's access to their children and there was a strong connection between paganism and homosexuality and her belief that the real issue was homosexual practices spreading in the community. She asked that the Council use common sense and strengthen the Code and raise the fees.

Sandra O'Gorman, of 203 Lee Street, expressed her concern with recent articles written by a local newspaper. Regarding the change in the Code section, she noted that many in the country

were compromising their principles in the name of tolerance and constitutional fair play, though she opined that the constitution was a one way street. Ms. O’Gorman stated that some that promote evil are offensive and shrewd and use convincing arguments by using constitutional terms. She advised that Christians fall for these arguments at times and then laws change, though the promoters are still unhappy. She gave the example of witches attempting to make a living and those that may argue that they need to make a living doing what witches do. She expressed concern that tarot reading was just one small facet of what witches actually do. Ms. O’Gorman noted that the homosexuals use witchcraft as their chosen vehicle for their kinky lifestyles and label it a religion. She advised that a fair portion of teachers and supervisors in the public schools were witches and cannot lose their jobs as they promote their religion and indoctrinate children with their cults and their homosexuality.

Ms. O’Gorman stated that witchcraft is a silly and illogical pseudo-religion and is has plagued mankind for a great length of time. She noted that it has also taught some dangerous ideas especially to children, some of which have caused deaths, as so many believe in reincarnation and commit suicide in order to “get out”. She spoke of many young women speaking to her directly about being reincarnated as Cleopatra. She suggested Council visit YouTube for more information and added that whatever contradicts God’s law is not law at all.

Jane Elliot, of Woodward Court, noted her feelings on the role of a news journalist and spoke of her concerns with the recent articles of a local newspaper. She added that she would be calling for a boycott of the paper for those that advertise in that paper.

Eleanor Kelly, 2503 Shenandoah Shores Road, noted that she taught in Manhattan for many years and came here in 1993 and found it to be a wonderful place to live. Ms. Kelly acknowledged the work of Council’s predecessors and encouraged the current Town Council to keep the Code in place, and not repeal it. She added that this type of activity was not what we would want future generations to be exposed to. Ms. Kelly stated that Front Royal had to work very hard to improve their reputation and she requested that Council stand firm to keep the Code on the books.

Gene McGuirk, of Chestnut Hill Drive, noted that the issue was about magic arts and practicing tarot cards are used for divination or fortune telling. He stated that there is precedence going back to Roman Law. He continued, stating that New York State has laws against it, as do New Zealand and Saudi Arabia. Mr. McGuirk quoted Bible verses about idol worshippers and asked Council to consider these issues.

Michelle Kosloski, of 200 N. Royal Avenue, stated that she had grown up with a pretty rough life and had dabbled in the occult. She noted that it would lead anyone to build themselves on false power and encouraged Council to vote against the change.

Claudia Post, of 84 Paw Paw Drive, stated that she was a traditional practicing Roman Catholic who had also participated in readings. She noted that it was not anyones place to restrict the freedoms of others.

John Remby, of 84 Paw Drive, noted that Council should repeal the law as it violated the freedom of religion amendment and the Virginia Statute of Religious Freedoms. He stated that it deprived tarot card readers from upholding their religious freedom. Mr. Remby noted that he is Catholic, and Catholics can make their arguments, though he opined that these were

ridiculous arguments. He asked Council to not be concerned with emotional outbursts – just the law.

Rubylee Bryant, of 135 Ridge Road, noted that she supports the community of Front Royal and was raised in the Catholic community and has also lived in Washington, DC and Los Angeles, though she is currently retired. She stated that the matter is very discriminatory as it is written currently. Ms. Bryant stated that the meeting began with a salute to the flag, including the words “liberty and justice for ALL” and that is what they are asking, nothing more, nothing less. She noted that no one is being forced to have their fortunes read and no one is being forced to put money in the plate at the Catholic church either. She asked Council to not stand in judgment, adding that we are all Americans.

Anthony D’Andrea, of 328 Oak Ridge Court, stated that this issue pertains to God and the practices of many are not Godly and for the Town to maintain practices that are with the Anti-Christ are not acceptable. He urged Council to consider these matters when voting this evening on the code section.

Thomas Centrella, of 1632 Rivermont Drive, asked Council if this was to be their legacy. He noted that having psychic shops on the corner is a marker of other shady activities and respectful businesses will not want to be around. He noted that it does not go against anyone’s freedom of religion. Mr. Centrella stated that if it’s about reading tarot out of the goodness of their heart, then they can read tarot for free.

Joe Patton, of 352 Blue Ridge Avenue, Apt. A, noted that this is regulation of economic activity and Council should keep this ordinance in place.

Robert Hickson, of 3065 Fairground Road, stated that he came here in 1980 and was a retired Special Forces Officer. He noted that Thomas Jefferson set limits on public activity and the safety of our youth was attentive on moral matters related to our citizens. Mr. Hickson stated that Mr. Jefferson had profound insight into how matters affected the moral character of the citizenry. He asked that Council set limits and give this matter the attention it deserved. Mr. Hickson stated that today society sees children tempted and he asked that Council not undermine the trust of the young.

Scott Loyd, of Happy Ridge Drive, stated that he was a practicing attorney and he opined that tarot card reading is not a religion. He noted that Council should be mindful that priests do not receive the money given to the church, but the *church* receives the money.

Lynette Nicholis, of Golden Pond Circle, stated that she felt compelled to speak. She noted that she was raised Catholic and found nothing for her under her religion, as things were not a blissful state for her growing up within her religion. Ms. Nicholis stated that this evening has been total judgment and no one was focusing on those that wished to focus on practicing their spirituality. She noted that they just wanted to be defined as a church, as they do the same activities and help our community. She asked that people educate themselves instead of condemning others.

Keyla Spicer, of 288 Meadow Drive, noted that having the word “gypsies” in the Town Code was offensive and wrong. She stated that in 2014, the word was not acceptable. She stated that in this day and age, they do not have wandering bandwagons or carts, nor do they stand and

pass out plates. She noted that they use a sliding scale for payment to get things done and they do not beg. She stated that they work for what they obtain and provide services in order to make do. Ms. Spicer stated the question was what is the difference between vending and a business. She noted that this is a one sided discussion and many do not understand the topic and should not be speaking on the matter

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

*Councilman Hrbeke moved, seconded by Vice Mayor Parker, that Council affirm on its first reading an Ordinance to repeal Section 110-17 of the Town Code pertaining to Fortunetelling or Practicing Magic Art.*

Mr. Napier noted that it is not a random matter and it was brought to a head because it was a very old Town ordinance that apparently had never been enforced, nor was he even aware that it was on the books. He gave a general overview of the law and noted that nearly every court had overturned bans or regulations of fortune telling repeatedly in various States and localities in the Commonwealth. Mr. Napier stated that it came before the Fourth Circuit Court of Appeals without identical ordinances in Chesterfield County. He explained that the Fourth Circuit Court of appeals has followed a very clear line of cases and every court that has considered the issue, in the United States has followed as well, and he proceeded to give more information to Council and those present.

Mr. Napier noted:

Bans and regulations of fortunetelling, tarot card readings, and spiritual counseling have almost uniformly been overturned by the courts at every level and in every jurisdiction in which they have been heard in the past 30 years or so. These cases have come to similar conclusions in both state and federal courts in Virginia (including a 2013 case involving a Chesterfield County ordinance heard on appeal by the US Fourth Circuit Court of Appeals), Maryland, Wisconsin, Tennessee, Florida, California, and Louisiana. These regulations have been found to violate the First Amendment right to free speech and free expression.

License fee and tax requirements have also been struck down as being *de facto* bans on free speech and free expression as not being the least restrictive method of regulating these activities, where the regulations are claimed to protect the public from fraud or false claims.

Further, attempts to regulate these activities under the guise of stating that it is a regulation of professional speech has in some cases been stricken by the courts because there is no objective standard to measure or regulate professional, spiritual or religious advice.

The clear trend by the courts is to treat such activities as any other free speech activity, and that if a fraud is proved to be perpetrated on anyone by the activity, to use the existing fraud laws on the books to prosecute the fraud. Laws which attempt to prevent in advance the exercise of free speech are almost always deemed unconstitutional unless the speech poses some objectivity unique and special harm (for instance, yelling "Fire!" in a crowded theatre).

Mr. Napier detailed the 2013 Chesterfield County case, noting that their two ordinances which were almost identical to Front Royal's, noting that the tarot card reading was a permissible first amendment exercise free speech and free expression. He added that the County of Chesterfield could impose a license tax for the readings at a reasonable amount.

Mr. Napier opined that Town Council's hands are tied on the matter, as it is a permissible activity allowed under the United States Constitution and the Town cannot ban the activity. He added that Code Section 110-17 was unconstitutional as written.

Mr. Napier noted that a member of Council contacted the American Center for Law & Justice for their opinion and the Center noted that the tarot card readers and fortunetellers are under the same regulations that other businesses in the community would be regulated by. He added that the Center pointed out that they may have a first amendment claim to the extent that they are subjected to increased regulation, greater burdens or an out-right ban.

Councilman Sayre asked if the law had been enforced. Mr. Napier noted that it had not. Mr. Sayre asked if it could remain on the books and it would do no harm. Mr. Napier stated that he would not enforce the law.

Councilman Hrbek asked those present to move past the court issues, noting that he was outraged by the entire conversation. He stated that there were at least three points in the law that were insulting and racial. Mr. Hrbek stated that to make the assumption that fortunetelling was pretending, and the wording "so called magic arts" was wrong. He noted as Christians, we may not agree with their practice, though to write it in the law, that this is what the State says is fact is disturbing to him, and it should be disturbing to all Americans. Councilman Hrbek noted that some people in the community are asking Council to impose their moral viewpoint on the rest of the citizenry. He noted that this evening people spoke of who should be a journalist, we've been instructed on who is faithful, even *who* is running a scam. Councilman Hrbek noted that there are Christian scams as well, with some so-called Christians that have killed and then gone to church the next morning afterwards. He opined that though some worship the earth and others may not agree with that viewpoint, it is not for us to judge.

Councilman Hrbek noted that the Christian belief can be viewed as senseless by some; as we believe in a God of Man that was born of a virgin woman and came back to life three days later. He stated that he was faithful to his beliefs and his church and he believes that others have a right to believe as they choose. Mr. Hrbek noted that he stands for the flag and the Constitution of this country as well. He added that he faithfully has attended his church for many, many years and he feels that others deserve the same rights to practice their faith as they choose, and it does not make him any less Christian just because he stands up to support their right to worship.

Councilman Tewalt noted that in order to amend an ordinance you must repeal the one on the books currently. He stated that the words chosen may not please everyone, but it must be amended to please the court system as well.

Councilman Sayre stated that there would be a second reading. He noted that he was Catholic, though he was not raised in Catholicism, and many make different decisions. He expressed concern for the safety of the public and the poor and uneducated who may be preyed upon. Mr. Sayre noted that there were some confused with the wording of pagans a heathens, and he had

always read that those words were offensive, though now he understood that many were not offended by those words. Councilman Sayre stated that the Town could require background checks. He added that some members Council do not want to have zoning and licenses on the matter, though it was permissible. He noted that witches and warlocks were in our community.

*Councilman Sayre moved, seconded by Councilman Tharpe, to amend the ordinance on the books without change as a matter of public safety.*

Mayor Darr and Councilman Hrbek noted that his amendment seemed to be out of order. Mayor Darr stated that it was directly against the motion before Council, as it changed it completely. Mr. Parker stated that Mr. Sayre could appeal to the Council. Mr. Sayre asked Mr. Napier for an opinion. Mr. Napier noted that motions had to be in the affirmative.

Vote: Yes – Funk, Sayre and Tharpe  
No – Hrbek, Parker and Tewalt  
Abstain – N/A  
Absent – N/A  
No – Darr (to break the tie)  
(By Roll Call; Motion to Amend – FAILED)

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

Mayor Darr noted that it should not remain on the books. He added that he agrees with Mr. Napier’s comments and those relating to Chesterfield County.

Yes – Darr (to break the tie)  
(By Roll Call; Motion Carried)

**COUNCIL APPROVAL – Contract for Services for Lord Fairfax Small Business Development Center (SBDC)**

**Summary:** The Economic Committee has recommended as part of their Strategic Plan for Business Development in the Town for the Town to contract with the Lord Fairfax Small Business Development Center to provide expert assistance to the Town in developing the Town’s Business Development Program and to provide training to local business owners and operators to enhance their business operations. As a government agency, the Town can contract with the SBDC for said services.

*Vice Mayo Parker moved, seconded by Councilman Sayre, that Council award a contract to the Lord Fairfax Small Business Development Center in an amount not to exceed \$20,000, exclusive of travel housing expenses, to provide business development assistance to the Town and provide training to Town business owners and operators. I further move the Town Council authorize the Town Manager to execute a Contract for Services with the Lord Fairfax Small Business Development Center with the services described in the Proposal for Services*

Councilman Funk noted that he would support the measure only if it went through the EDA. He stated that not going through the EDA would be a mistake and therefore he would be voting against the measure this evening.

Vice Mayor Parker stated that it would be about 32 hours per month and he hoped it would be coordinated with the Economic Development Committee, the Chamber, and the EDA whenever possible.

Vote: Yes – Hrbek, Parker, Sayre, Tewalt and Tharpe  
No – Funk  
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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**COUNCIL APPROVAL – Waiver of Planning Permit Fees and Develop an Agreement to Place a Lien on Property for Water and Sewer Connection Fees – Warren County Habitat for Humanity**

**Summary:** The Warren County Habitat for Humanity has requested a waiver of Planning Permit fees as well as a waiver for the water and sewer connection fees for a lot located on Cannon Street. During discussion with Habitat for Humanity representatives at the August 4<sup>th</sup> Work Session, it was agreed that the Town, Habitat for Humanity, and the Property Owner would execute an agreement to place a lien on the property on Cannon Street for the water and sewer connection fees. Council is requested to commit to the agreement to allow Habitat for Humanity to obtain the necessary Zoning and Building Permits, and Council will execute the agreement.

Mayor Darr read the following recusal into record:  
My wife and I were the owners of the property, Lot 8, Cannon Street, Tax Map No 20 A 131, in the Town of Front Royal, who sold it to Habitat for Humanity, this property is the subject of this request in Item 11 for waiver of Planning Permit fees as well as a waiver for the water and sewer connections fees to the dwelling house on this lot. While I have been advised by the Town Attorney that I do not have a legal conflict of interest under the Virginia State and Local government Conflict of Interest Act, and while I do not believe that if I voted on this matter my vote would in any way be influenced by the fact that my wife and I were the former owners of this lot, I do not want it in any way to appear that my vote could be affected or influenced by my having formerly been an owner of this lot. For that reason, I am not participating in the discussion or vote of this matter, and I am turning over the chair of this agenda item to the Vice Mayor for all proceedings relative to the discussion and vote of this item.

*Councilman Funk moved, seconded by Councilman Tharpe, that finding that Habitat for Humanity is a charitable institution providing services to residents of the Town of Front Royal, he moved that Town Council donate in the form of a waiver the Planning & Zoning permit fees for the Habitat for Humanity project on Cannon Street. He further moved that Town Council agrees to accept a commitment for a valid lien **with no***

***interest** against the real property in favor of the Town executed by Habitat for Humanity and the Property Owner securing the payment of water connection fee of \$4,340 and sewer connection fee of \$9,750 to the Town in lieu of receiving payment for such fees at the time of construction.*

Councilman Funk stated that to be clear and based on their discussion at the worksession, the wording in the motion reflected no interest.

Councilman Sayre clarified the amounts and noted that when the current property owner sells the property the amounts would be payable to the Town. Mr. Napier stated was correct.

Councilman Tharpe clarified the reasoning behind the no interest wording.

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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**COUNCIL RE-APPOINTMENT – Planning Commission**

**Summary: Council is requested to re-appoint a member to the Front Royal Planning Commission to fill a 4-year term, said term to expire August 31, 2018.**

*Councilman Sayre moved, seconded by Councilman Tharpe, to re-appoint Douglas L. Jones to the Front Royal Planning Commission to a 4-year term, said term to expire August 31, 2018.*

Vice Mayor Parker commended Mr. Jones and the entire Planning Commission for their work with the Town and the Planning Department, adding that these individuals, along with Town Planning Staff, do not get near the proper credit that they are due for their efforts to the citizenry and the Town. Councilman Funk expressed his agreement with Mr. Parker.

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)

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**COUNCIL APPROVAL – Acceptance of Bid for Catlett Mountain Landfill Storm Water Conveyance System and Exposed Waste Removal Project Jointly Funded with County of Warren**

**Summary: Council has received a request from the County of Warren seeking to approve a bid in the total amount of \$177,100.00 from Lantz Construction Company (LCW) for the Storm Water Conveyance System and Exposed Waste Removal Project for Catlett Mountain Landfill. Consulting engineer, Pennoni Associates, Inc. has reviewed the bid**

**documents and recommends award of a contract to Lantz Construction. The County has agreed to fund the Town’s share of the project through the property value of the 2.57 acre parcel transferred to the County in September 2005 for the construction of their Park Maintenance Building.**

**Budget/Funding: The County of Warren will deduct the Town’s 50% share of the cost from the property value of the 2.57 acre parcel transferred to the County in September 2005 for the construction of their Park Maintenance Building.**

*Vice Mayor Parker moved, seconded by Councilman Funk, that Council accept the bid from Lantz Construction Company, LLC for improvements at the Catlett Mountain Landfill and jointly award the contract with the County of Warren in an amount not to exceed \$177,100. The Town’s contribution towards funding this project will be deducted from the property value of the 2.57 acre parcel transferred to the County for their Park Maintenance Building.*

Council Tewalt asked that should Council approve of this, could this be the last time the Council would continue to spend money on this item and are the plans approved by the DEQ. Mr. Burke noted that this should be the last of the run-off issues from the site. Councilman Sayre asked for some assurances that it would not come up again. Mayor Darr noted that it was capped, destroyed, then re-capped and hopefully it should be contained at this time. He reminded Council that the project has been done in phases.

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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Councilman Tewalt asked about Section 110-17 and his statements relating to reviewing the matter again at an upcoming worksession that is agreeable to all State and Federal laws. Councilman Sayre expressed his agreement, noting that had the matter been done together then the Council could have avoided some of the tension in the community. Mr. Burke noted that the Council will be reviewing Chapter 98, though they are not bringing back 110-17. Councilman Tewalt expressed his agreement with that process.

There being no further business, the Mayor declared the meeting adjourned at 8:55 p.m.

APPROVED:

\_\_\_\_\_  
Jennifer E. Berry  
Clerk of Council