

The regular meeting of the Town Council of the Town of Front Royal, Virginia was held on August 25, 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 August 11, 2014 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

Lynette Nicholas, of 102 Golden Pond Circle of Stephens City, stated that this law was from ages ago, has no application to anything in this day and age, and baffles her. She noted that she had been using tarot cards for years and has respect for earth based religions. Ms. Nicholas stated that the word “fortunetelling” is obsolete. She added that the law is irrelevant and unconstitutional.

Sherl Johnson, of 116 Happy Ridge Drive and Pastor at Discipleship Community Church, expressed concern with divorce, poverty and drug trafficking in the community, noting that the area needed much prayer. Pastor Johnson stated that people should begin to seek God. Pastor Johnson shared many Bible verses with Council explaining that they are examples of how to live in God’s eyes. He asked Council to consider that they could lose their political career based on their vote tonight, however; he noted that Council should not fear that loss. Pastor Johnson asked Council to be obedient to God’s Word or face eternal judgment for their choices.

Caden Speziale, of 140 Wells Drive, and owner of the shop Gathered, read the following into the record: I opened my shop last spring as a way to help cultivate the diverse artistic talent in and around Front Royal; to support the local economy; and to give locals and visitors a unique choice for gifts. I love our community, and I love supporting it. But if I had been met with the same kind of groundless derogation as stated in code 110-17 upon starting my business, I probably would have felt instantly defeated and closed my shop doors. But my gratitude goes out to everyone fighting to repeal this code. It takes a lot of courage to stand up for what you feel is right, and to promote tolerance-- especially in the face of opposition. As a Main Street business owner, I would personally welcome any business that brings cultural diversity to our town.

Diversity cultivates both strength and stability within a community, and can only help promote tourism. From an economic perspective, it's in our town's best interest to repeal this code. The more varied businesses we have here, the more vast and diverse the tourists will be.

It's clear there's a major concern that repealing the code will result in Front Royal having a bad reputation...But if this ban stays in place, in any manner, our town will absolutely have a bad reputation: one of being closed-minded and upholding antiquated ethics. Using racial slurs in town codes, and refusing to allow businesses because of specific spiritual leanings, or a misunderstanding thereof, will present our town as foolish and biased. It is my opinion that neither spiritual beliefs nor sexual orientation should EVER be taken into account when deciding on the allowance of a business operation. There is therefore no reason to charge a steeper licensing fee for someone wishing to perform Tarot or fortune telling as a business. Nor is there justification to fine or imprison someone wishing to receive compensation for this type of business. To do so would be nothing less than prejudiced. Front Royal already permits people to buy and sell items of religious and spiritual nature... and rightly so. A Tarot reading, from a business standpoint, is no different. Thanks so much for providing this forum, and for the opportunity to contribute my thoughts on this issue. I ask that you please approach your final decision fairly, and with kindness and tolerance in mind.

Jim Rogers, of 371 W. 10th Street, and a representative of Dynamic Life Church, stated that they were a Bible believing church. He noted that they opposed the repeal as the Bible explicitly condemns fortunetelling, witch craft and tarot card reading, as it was an affront to God and an abomination. Mr. Rogers noted that he was for fairness and free speech and though there are times when it is not applicable, especially when it is against God and when it is not within acceptable religions. He stated that they did not want Council to have citizens subjected to inappropriate and dangerous information, and he asked Council to reconsider their vote in fairness to God. Mr. Rogers stated that these laws are based on God and from a previous Council that had the wisdom to put them in place.

Deidre Sparger, of 108 Luray Avenue, stated that she supported the repeal of the Code Section. She asked Council to base their decisions on the facts, and she asked Council to not use zoning or license fees to discriminate against others. Ms. Sparger expressed concerns with those on Council that suggested that tarot readings should be restricted near schools or daycares, as the readings have not been shown to be threats. She noted that she was a resident of the area near Main Street and a mother of two and she asked Council to not allow a strident minority to sway their judgment.

Arlene Ballou, of 113 E. Main Street, noted that she was the Executive Director of the Workforce Development Center, and there had been many falsehoods and disparaging comments made in recent weeks. She stated that the Center she represents creates employment in underserved communities for homeless, veterans, young mothers and fathers, those formerly incarcerated and the LGBT community – basically – those in need. Ms. Ballou stated that they have assisted over 1,100 individuals and families and they have dispersed over \$500,000 of basic needs assistance from DC to West Virginia. She noted that they were training in high growth industries to help people succeed instead of living on starvation wages, and they had placed over 70 people in employment. She added that they had over 17 small businesses operating in the incubator on Main Street and their organization does not ask religion, sexual preference, or a person's political affiliation – and that was not Council's job either. Ms. Ballou noted that she had yet to appear before Council as the ordinance has nothing to do with her organization or the tarot card reading.

She explained that they had a tarot card reader one day at the location, and the ordinance issue is up to Council; which she commends Council for.

Melissa Sylvan, of 958 Pine Ridge Drive, noted that the ordinance was unconstitutional, discriminatory, and a racist law as well. She stated that she had gypsy heritage, Romania, and using the word gypsy is a racial slur. She asked if it was illegal for her to even walk down Main Street. She further asked if her very existence violated the law.

Irma Powell, 93 Paw Paw, presented a symbol of her Lord Jesus Christ. She noted that there were many issues discussed, though freedom of speech and religion are not the issue. She noted that Town Attorney Napier gave many details noting that because the court ruled a certain way that the States must follow through, though she opined that it was actually Council's role to legislate those rights. Ms. Powell noted that Wal-Mart has the right to sell goods though it was in the best interest to deny their right to set up Wal-Mart within Town, so they are placed across the bridges, outside of the Town limits. She stated that it is Council's position to decide if they should give their permission to grant the tarot card readers presence in this community.

Krystal Poras, of 144 Highland Way, submitted a petition and the following statement into the record: Although I am not legally a resident of Front Royal, I very much consider myself part of the community. As many may know, Chester Gap sits on the county line and is a small mountain community with no commercial enterprises. Therefore, almost all of my shopping is done in the Town of Front Royal and that contributes to the local economy.

The subject at hand has certainly drawn my attention. I had not planned on attending, but after viewing the last town meeting I felt I must. I am shocked at how Constitutional rights are being sacrificed to please others with opposing views.

I am aware of the fact it looks like the ban will be repealed. However, it will be replaced with a professional licensing fee that will now be enforced. My objection is not so much to the fee itself, but to the discriminatory manner in which it is being applied.

For those who are not familiar with the legal definition of discrimination, I will educate you.

"Discrimination refers to the treatment or consideration of, or making a distinction in favor of or against, a person or thing based on the group, class, or category to which that person or thing belongs rather than on individual merit. Discrimination can be the effect of some law or established practice that confers privileges on a certain class or denies privileges to a certain class because of race, age, sex, nationality, religion, or handicap. Federal law, including Title VII of the Civil Rights Act, prohibits employment discrimination based on any one of those characteristics."

Since the current existing highest licensing fee is \$175 for professionals such as doctors, lawyers, and accountants, it is clearly discriminatory in nature to demand a fee of \$300 for those classified as "fortunetellers." It is very clear that the goal of this higher fee is to discourage such businesses and prevent them from operating in Front Royal. If the Council members continue to approve such an obviously discriminatory fee structure, it will only draw this fight out and will eventually lead to a legal battle within the court system.

This is the United States, which was founded on the Constitution. It is hard for me to believe that the town Attorney has overlooked this. Any time you pick one group over another, it is discrimination. I am sure the ACLU wouldn't mind getting involved with such matters, especially since many of us are ordained ministers.

Trying to prohibit an ordained minister from accepting donations is a clear violation of religious freedom. Cornell University's legal definition of Religious Freedom is attached, if you need reminding. If you choose to try and prevent such donations, then the same laws should apply to every existing church within this jurisdiction.

As many of you know, a petition was started shortly after the last meeting concluded. As of today we have gathered 424 signatures along with 164 comments. I am including a copy for your review. I encourage you to look it over. Many of the signatures are from the Town of Front Royal and the surrounding areas.

Although our numbers might not be accurately represented at this meeting, you should know that we stand in great numbers. We have more support than not. It is 2014 and intolerance and hate is not permitted in today's society.

As background, I want you to know that I am a Christian, was raised as a Southern Baptist, and went to Catholic School. I am a mother, a wife, a PTA member, and an intuitive reader. I do not practice Satanism nor am I gay, although under the Constitution these actions are clearly allowed. Satanism is also viewed and recognized as a legal Church. Although I am no fan of "Satanism," Nor do I have Any Criminal record and I have a * 5 on my drivers license. I do not use drugs or even engage in the consumption of alcohol. I am not going to impose my views on someone else and restrict their freedom of choice, which I am clearly legally prohibited from doing in any case. It's simple. If you don't like what someone else does, then don't do it. Don't try to make everyone the same. We're not. We all have different beliefs and preferences and tolerance for those different beliefs and preferences is the very foundation of our nation.

I will also state that being a "psychic" may not make sense to some. I can't explain to you exactly how this ability works, but I can assure you that it does exist. However, if you do not want a reading, a class, or a service do not schedule one. It's that simple. As a "psychic," I help people, all kinds of people, and this has been the most honorable, spiritual work I could have ever imagined doing. I am also ordained, but I prefer not to go by Reverend. To tell me my work is that of the devil is foolish and ignorant as all of my clients would agree. I never force anyone to come to me. As a matter of fact, I generally let them find me and do little to no advertising. I have many repeat clients, so I must be doing something right.

I would strongly encourage this council to conduct further research before making any decision upon this matter that could lead to further divisions within our community, additional adverse publicity through continued media coverage, and, possibly, a bitter court battle.

Christ has taught me not to define myself as being “Christian” but to “Be Like Christ.” He has also taught me “Thou shalt not judge as ye will be judge and to love thy enemy.” Although I do not hate any one, I do offer blessings of Love and Light to permeate your hearts and souls. May each of you be blessed with Love.

Rev. Esmeralda Barnes, of 525 K E. Market Street #234, Leesburg, submitted the following into the record: On August 11, 2014, Mr. Sayre and others introduced a word into this debate that I feel requires expert testimony. I am that expert. My witness today comes courtesy of these hateful and salacious references to predation—and all the false witnesses accusing us of “preying” on the poor and vulnerable. For the next 40 seconds, forget that I am a seminary-trained minister or a writer. In 1986, I was not. Then I was a Fairfax County foster child. In four of my six foster homes, my legal guardians stole county funds from me. Already broken by so much, I simply kept quiet and worked nearly full-time as a high school junior and senior. In my third home, I was raped for nine months. That child pedophile would have killed me that summer, save for an act of great divine intervention. The years ahead would bring more acts of life-threatening violence. I have been prey. I have known far too many real predators.

Like millions around the world, I KNOW how it feels, victimization. I know what it does, all of its destructive consequences. I can attest to the high cost of treatment and recovery that sometimes just fails. I am now minister to a range of victims who have higher rates of everything from chronic illness to suicide, science too well-known to even cite. As a child victim who grew up to be both witness and minister to this unspeakable suffering, I have to ask. Do you feel favored by your God when you use that word to protect your political backside, while you disingenuously purport to defend public safety? Whose safety is this that you protect? You don’t know the victims about whom you speak.

My work aside, as a bisexual human of great faith, I was stunned as I walked into unmitigated, rolling hate speech—falsely accusing my spiritual family and therefore, me, of predation. The scientific evidence? It ain’t from NIH. It was ALL bigoted, irrational and totally bizarre leaps of idiocy linking predation to pagan spirituality. This, in the name of... Jesus, the Prince of Peace? I bet He would have turned over a few chairs that night, EVEN as he likely would have agreed with Rev. Dr. Martin Luther King, who said: “Hate cannot drive out hate. Only love can do that.” Love IS our response. Know this. Love does NOT AT ALL require that we allow in any way, any violation, let alone your ridiculous showboating at the expense of victims of predation. Sir, if any one of you possessed either facts or basic human decency and compassion, none of you would have thrown THAT loaded grenade of an indictment at innocent, duly ordained legal clergy—many of whom serve these very victims! We walk in spiritual and earthly integrity, WITH legally protected “sincerely held beliefs.”

As an elected official, we hold you to a standard HIGHER than that to which we hold YOUR constituents. But “Though shall NOT bear false witness” is a solid universal ethic. With hubris that night and later, you threw verbal excrement at our ancestors, our holy houses and, to my ear, all people of alternative faiths--people you can’t be bothered to understand.

Apparently, you also cannot be bothered to read your own public record, to employ the education we have gone to great lengths to offer this council, in both spoken and written testimony. Given that, it is inexcusable for you or anyone—with no just cause or reasonable evidence at all—to target and indict US with predatory behavior and then go on to attempt to DENY the legal licenses courts across this country have lawfully granted us. Speaking for myself, I am legal clergy

in Maryland, Virginia, the District, New York and beyond.

By earthly, ethical and spiritual law, I demand an immediate apology—from you, Mr. Sayre and ANYONE who spoke in false tongues that night and after that night. Frankly, Mr. Sayre deserves legal sanction, from this council and beyond. All victims, dead or alive, simply deserve better than to have their wounds speciously invoked for dirty political gain. Predation is a heinous crime. Take my word for it. More heinous is being a victim of it and listening to innocent people being falsely accused of it. Is THIS council of educated men really going to allow ANY form of this perversion, this perversion of common reason and fact—be it now or in the future? Will you revive the spirit of these ordinances in crafty re-writes that STILL channel ethically erroneous and illegal civil rights violations? Will you illegally act to assert the superiority of some legal clergy over other...legal clergy? Is this supposed to be your legacy— slaughtering the constitution, taking our EQUAL and religious rights away WHILE offering blanket approval to other ministers of so-called Christian religions who have committed PROVEN, well-evidenced crimes? These predators too often have enjoyed the morally bankrupt amnesty of church governing bodies. Tangled web from which you'd be wise to walk.

Since my first appearance here, two attorneys have sent me important, relevant messages. One is a DA and the other works for the feds in civil rights. Here is the gist, in my own words: Religious groups across this country have won favorable federal court rulings recognizing them as protected religions upon meeting a simple legal bar called “sincerely held beliefs.” These beliefs need only be parallel or be comparable to the conviction and commitment of those held by so-called traditional religions. In cases spanning the nation, here are five legal victors who defeated attempts to violate their religious rights:

- *World Church of the Creator, now known as the “Creativity Movement:” white supremacist RELIGION.
- *Wicca or witchcraft: an umbrella religion honoring the earth and the divine in all people and things.
- *Kemetism, an ancient Egyptian religion.
- *Santeria, an Afro-Caribbean religion with Catholic influence.
- *Church of Satan: an atheistic religion established in 1966 by Rev. Anton Szandor Levey.

In letter, in spirit and in ALL future iterations, permanently repeal code 110-17 and ALL of its unholy, un-American and illegal offshoots. To do otherwise would be to declare a legal holy war on peaceful devotees of already recognized alternative religions. Freedom rings as Rev. Dr. King prayed it would when we are ALL free and when there is no more injustice anywhere to threaten justice everywhere.

The very seed of injustice rests at your feet well beyond today. As elected officials, it beckons you to make a choice. You can crush injustice to its core, let true freedom rise into the light of a new day...or you can engage in more ignorant, costly political pandering and let freedom die a slow death as the invasive roots of hatred choke the AMERICA right out of your community. No. Yes to JUSTICE. Yes to PEACE. Yes to FREEDOM. Amen and blessed be.

Gerard McWhinney, of 321 Wells Drive and of Mountain Mystic Trading Company, stated that they are gift shop with many offerings to the community. He noted that one item they have sold for many years is tarot cards. He stated that it began as a game. He noted that it can be used many ways, and they are not magic or evil, and there is nothing to be afraid. Mr. McWhinney stated that

he has seen many changes in the community through the years, and he has also offered space at times for tarot readings, yoga, reiki, etc., and they are always with very kind, gentle, compassionate people.

Thomas Conkey, of 1401 N. Royal Avenue, read from Thomas Jefferson, noting: “Well aware that...that Almighty God hath created the mind free, and manifested his supreme will that free it shall remain by making it altogether insusceptible of restraint; that all attempts to influence it by temporal punishments, or burdens, or by civil incapacitations, tend only to beget habits of hypocrisy and meanness, and are a departure from the plan of the holy author of our religion, who being lord both of body and mind, yet chose not to propagate it by coercions on either, as was in his Almighty power to do so...” Mr. Conkey stated that it was from the Virginia Act Establishing Religious Freedom and was enacted into law at which time it disestablished the country from the Church of England. He noted that it was a secular Council, and there is a separation of church and State. He stressed that one religion should not bear their belief onto others. Mr. Conkey stated that Mr. Sayre has tried to impose his religion and view point on people as long as he can remember and now this Town is a laughing stock because this issue has become a laughing matter. He added that two members of Council are attorneys, and the court system has determined that this law is unconstitutional, so he – Mr. Conkey – is baffled how any attorney could vote to uphold a law that has been deemed unconstitutional by the court system.

Scott Lloyd, of 1149 Happy Ridge Drive, stated that he is employed as an attorney where a good portion of his work is involved in constitutional law matters. He noted that the court had not spoken on this matter actually in his opinion in Virginia. He opined that tarot card reading was similar to receiving legal advice, adding that it was perfectly legal for him to provide tarot card readings even though he has never even seen a tarot card; he opined that providing such services when he had no training or knowledge of how to do so would be predatory and he would hope that both sides would wish for some type of standards. Mr. Lloyd explained that tarot card reading was providing a fee for service and it was perfectly acceptable for localities to regulate those services. He stated that perhaps for public safety matters Council would want to regulate those matters and require individuals to be licensed.

~~Stu Nolan, of 234 Carleys Way, noted that he could not state a full constitutional analysis in three minutes, and he opined that there had been much misrepresentation this evening about what the law actually stated. Mr. Nolan opined that the law actually states that fortunetelling is not outlawed, but rather outlaws the practice for money, which is entirely different. He submitted a written statement to Council to review regarding the law. Mr. Nolan stated that should Council wish to attract those wishing to raise their families in a wholesome environment, as well as strong, economic growth, as well as doctors, lawyers, and other professionals, then Council should avoid smaller shops associated with red light districts. He noted that it is within Council's obligation to set the standard for the types of businesses and families that the community would like see prosper in Front Royal.~~

*At the meeting of **September 8, 2014** Council amended the minutes to include the following from Stu Nolan, of 234 Carleys Way:*

**STATEMENT ON FORTUNETELLING JURISPRUDENCE
TO BE ENTERED INTO THE MINUTES OF THE TOWN COUNCIL MEETING
TO : MAYOR AND TOWN COUNCIL
BY : STUART W. NOLAN, JR., ESQ.**

DATE : AUGUST 25, 2014

This relates to the recent controversy surrounding proposed steps to promote the introduction of fortunetelling and similar commercial ventures into the cultural, economic, and political life of Front Royal. As a preliminary matter, towns surrounding Front Royal as a general rule collect a significantly more burdensome license fee from prospective fortunetelling businesses than does Front Royal under the current Code. In this context, eliminating any confusion regarding whether it is legal to operate such a business in Front Royal will effectively make Front Royal as an “enterprise zone” for the sorts of businesses most local residents would prefer we not attract. I want to raise families in a wholesome environment, not a red-light district. And I want to attract high employment industry and infrastructure, as well as high wage, white collar jobs to the community so that the economy can grow. An economic plan for creating a prosperous business climate most decidedly does **not** begin with attracting snake oil salesmen. Moreover, the recent controversy over proposed changes in the Town Code evidences considerable political opposition to easing regulations of fortunetelling. There appears to be no significant political support demanding that the Town attract more fortunetelling businesses.

However, the foregoing considerations are primarily cultural, economic, and political. The primary thrust of these comments is to be legal. Specifically, I address any notion that the hands of the Town Council may be tied due to the operation of First Amendment jurisprudence in this area. I am an attorney with a business located in Front Royal. I raise my family in this community and spend our money here. I wish to ensure that policies adopted by the Town are informed by an accurate understanding of applicable constitutional jurisprudence. Reports in the press have suggested that the Town Council has been advised that its “hands are tied” by free exercise (of religion) and free speech case law. This is not so. Confusion on this topic appears to have originated with a law student’s comment, published recently in Mississippi Law Journal, which somewhat cleverly advocated for a specific direction in application of First Amendment principles in the fortunetelling business. I have at least fifteen years experience representing hundreds of clients with religious missions and/or that are active in the media. I am familiar enough with applicable constitutional jurisprudence to state with high confidence that the law journal comment in question does not reflect dispositive law in this country, much less in the Fourth Circuit or in Virginia. The law journal comment conflates various types of First Amendment cases and advocates for the application of certain free exercise “1” and free speech principles in the context of commercial or professional speech. The law journal comment also discusses a recent trend among lower courts in more liberal regions of the country that is sympathetic to moving in that direction.

However, ***neither the Supreme Court nor the Fourth Circuit Court of Appeals has shown any indication that they are prepared to apply a rigorous “strict scrutiny” test to commercial or professional speech cases.*** To the contrary, the Supreme Court continues to afford less constitutional protection to commercial speech, and the recent Fourth Circuit case involving fortunetelling **actually upheld the regulation in question.** The remainder of this statement will briefly summarize, and try to eliminate confusion regarding, the relevant Supreme Court and Fourth

Circuit cases, and then we also propose a framework for updating the existing ordinances dealing with fortunetelling in a manner that should satisfy those concerned with religious and free expression rights, as well as those concerned with the direction of the Town's cultural and economic development.

U.S v Alvarez. The Alvarez case did not concern commercial speech at all. It involved a man who had lied about having received the Congressional Medal of Honor. The Court expressly noted that the case involved pure speech, as distinguished from other categories entitled to less protection. The court recognized that some First Amendment protection can exist with respect to false speech, but it did not, for example, invalidate protections against fraud, or call into question numerous regulations designed to protect consumers.

Moore-King v County of Chesterfield. The Moore-King case did involve the business of fortunetelling. The court expressly ruled out the applicability of free exercise (religious) principles because it decided that Moore-King was guided more by a philosophy or "way of life" than by a religion. In any event, both ways of life and religions can be regulated if the regulations are "generally applicable" and not aimed at a particular religion. The Court was not convinced that commercial speech was the best category for fortunetelling and proposed instead that professional speech was the better fit, but it did not substantially alter the analysis or the outcome. In this case, subjecting the prospective business to a background check (no licenses for convicted felons), collecting a licensing fee, or imposing strict zoning restrictions were all valid tools the government could use to protect consumers. Moreover, the *Moore-King* Court's discussion of the *Alvarez* case, and the idea that courts may be increasingly disposed to recognize a right to dishonest speech, were "*dicta*". The Court did not hold that the business would have been protected even if its predictions had been deemed deceptive. Rather, the Court held that a lower court should have let the matter go to a jury to determine whether the fortuneteller's business was inherently deceptive. This is by no means a sign that the Fourth Circuit, much less the Supreme Court, is ready to throw out well established case law that allows generally applicable regulations on fortunetelling businesses.

_2" The jurisprudence in this area makes clear that regulations need not be the least restricted means available, nor must they be narrowly tailored to address a compelling government interest. Rather, they must be ***substantially related*** to furthering ***important government interests***. This is called "intermediate scrutiny" and is not a difficult threshold to satisfy. In conclusion, if you want to build a robust economy and maintain a wholesome cultural environment for families, not to mention soothe politically any feathers that have been ruffled by this debate, you need only remember the wisdom of any woodsmen. You don't need to be the fastest person running from a bear. You just need to be faster than the slowest person running from the bear. If surrounding jurisdictions that do not ban fortunetelling are charging \$1,000 for a business license, Front Royal should be charging more. Moreover, assessing licensing fees are not the only way, and perhaps not even the best way, to protect consumers from persons in the business of selling predictions about the future. Mandatory disclaimers, customer satisfaction guarantees, and required deposits into escrow of money that will insure fines or

refunds get paid, are tools analogous to requirements placed on the tobacco sales, medical professionals, financial investors, and financial institutions.

Accordingly, to the extent our efforts are welcome, I stand ready to assist the Town Attorney in crafting a better ordinance that emphasizes consumer protection in a manner that would not be vulnerable to litigation. Attached hereto is a draft Ordinance revising the two existing ordinances, and I propose this as a starting point that should satisfy all concerned.

Cheryl Langlais, of 311 Virginia Avenue, noted that she enjoyed seeing Councilman Sayre uncomfortable. She stated that she was a massage therapist and she was a nationally certified professional and she was licensed to perform massage and she was appalled, discouraged and dismayed at Councilman Sayre's behavior. Ms. Langlais stated that Mr. Sayre publicly commented on the news that it was wrong for individuals to predict the future; though she noted that Catholics have been attempting to predict her future for many years. Ms. Langlais asked Council to step forward and do the right thing regarding the matter.

Charles Redleman, of 1412 Anderson Street, asked Council to consider what the majority will of the community was, and asked Council to proceed with the majority vote for the Town. He noted that they should be looking for a consensus in the community and he encouraged them to look through the community for what was factual. Mr. Redleman stated that all people could not be pleased all the time, and he asked Council to consider generations past and look at why the matter was placed on the books to begin with, rather than just doubting the previous judgments of others.

Steven Schwalb, of 664 Brandy Road, stated that he was a Veteran who fought in defense of the country's constitution. He noted that Council pledged earlier this evening to provide liberty and justice; and he asked how this was liberty and justice. He noted that he was not a Christian in this community, he was Jew, and there is a lot of bigotry in this community. Mr. Schwalb noted that he would defend the constitution whether he was in uniform or not, and should Council uphold this ordinance they would turn him into a tarot card reader, though he did not even believe in tarot. He added that what some Councilmen had stated was un-American and was embarrassing this Town, as well as made it a laughing stock. He asked Council to repeal the law and get rid of the old law and be as American as everyone else.

Sandra O'Gorman, of 201 E. Main Street, noted that her store as well as another was vandalized last night with spray painted messages Jesus Loves Everybody, etc. She stated that Jesus does not love what everyone does, including fortunetelling or witchcraft, or defacing other people's property. She noted that while the perpetrator is unknown, it is clear to her that the inspiration came from a local newspaper after various news articles. Ms. O'Gorman opined that those that label themselves Christian but support witchcraft are delusional, and she challenged them to lookup Bible and witchcraft. She noted that those that are involved in such matters have lost souls, and what appears to be benevolent tolerance is the kiss of death. She added that she prays for the conversions of Council's souls every day, adding that evil does not coexist with good.

Leonard Sherp, of 214 E. Stonewall Drive, stated that Front Royal made the news because we are a laughing stock. He noted that the Town of Front Royal does not make the news for doing

the right thing. He asked Council to repeal this ridiculous law and make the news for doing the right thing for once.

Rubylee Bryant, of 135 Ridge Drive, stated that other Americans pick and choose the parts of the constitution they wish to uphold. She questioned if people are bathed in the blood or washed in the water, whether they are praying on one knee or two. She stated that everyone did not worship in the same way, though Jesus said to love one another. Ms. Bryant noted that she talked to angels, she saw dead people, and she read tarot cards, and she did not charge people for those services. She added that she also loves her fellow man and woman with peace in her heart.

Manuel Vicente, of 1320 Commonwealth Avenue, noted that there is a large crowd and he asked for a show of hands of those that did not wish to have their children exposed to sorcery and immorality should the Code be changed. He stated that those before Council included the poor, ignorant, bigoted and hateful ones and came from the public school system. Mr. Vicente noted that Council had a choice to either become a part of them or continue to build a Godless utopia. He asked Council how it was possible to make the economy and tourism better at this point.

Gene McGuirk, of Chestnut Hill Drive, stated that at the last Council meeting two weeks earlier, some reacted as though they were being personally attacked. He noted that they were not being attacked, adding that the church, and all Bible believing Christians teach to love God and to love our neighbors ourselves and God says to love our enemies as well. Mr. McGuirk added that they are also taught to apply good judgment to acts and deeds and noted that acts should be condemned, not people. He noted that many documents were distributed by a speaker at the last meeting regarding how fortunetelling is seen as dangerous by some law enforcement agencies, attorneys and others that have been having problems with tarot card readers and other forms of fortunetelling, adding that it was a con game in some jurisdictions. He noted that God sees danger in these peoples souls that practice such activities. Mr. McGuirk stated that Jesus was tempted in the desert, though he turned away from those temptations. He added that it's stated that a man does not profit from losing his soul, to gain the whole world. He noted that Jesus died for each soul and their efforts are to save souls, even if the fortunetellers do not believe.

Thomas Centrella, of 1632 Rivermont Drive, noted that liberty must not be confused with lawlessness. He stated that liberty is freedom to do good and lawlessness is free reign to do evil. He noted that tarot card reading, witchcraft and any other evil practice is contrary to God's law. Mr. Centrella commented that some have accused their group of attempting to push their view onto others, though in his opinion he was simply respecting what God has revealed. He added that those that are promoting this lawlessness are actually attempting to push their views on this community. He explained that the law is fundamentally about what is right and wrong, and we know what is right and wrong because of the laws given to us by God through the Ten Commandments. He noted that our rights are only safe if we acknowledge God's standards. He asked that Council not be ruled by the courts, he explained that fortunetelling is illegal in New York as well.

Sarah Chichester, 219 Church Street, noted that she was Skyline High School student that was a baptized Christian believer, and she did not understand why someone would charge a large fee of \$300, rather than perhaps \$75. Ms. Chichester noted she understood early on the separation of church and State. She added that having ones beliefs should not mix with the law on the books and the fees on the books should be reasonable.

Joshua Carter, of 113 Beeden Lane, stated that he was brought up within the church and believes in a higher power. He noted that it was unconstitutional to have religion and law matters mixing.

Jane Kokes of 16 W. 11th Street, explained that proposed ordinance revisions were submitted with Mr. Nolan's comments noting that he is more than willing to work with the Town Attorney to craft an ordinance without objectionable language. She also pointed out fees in other localities, adding that Front Royal's was the second lowest in the area.

Rev. Kelyla Spicer, of Middletown, noted that her belief systems came from this Town. She noted that she was taught to respect her elders. She noted that tarot card reading was not the point. Rev. Spicer stated that segregating people would cause issues. She offered to assist the Town with their terminology. She noted that there is a difference between fortune tellers and her reading cards once a month at a fair. She asked Councilman Sayre to stay away from her home and her children.

REPORT OF THE MAYOR, COUNCIL & STAFF

Town Manager Steve Burke:

- Updated Council on the bridge work, noted that specific questions should be referred to VDOT;
- Stated that Labor Day closings would be on Monday, September 1st;
- Noted that the school year would begin soon and asked everyone to be mindful of the students traveling throughout the community; and
- Reminded citizens that the Stay Sober or Get Pulled Over Campaign would soon be underway.

Councilman Sayre thanked those that spoke this evening.

Mayor Darr congratulated Councilman Hrbek for his Waggin' for Dragons win regarding the Humane Society fundraiser over the weekend, noting that Mr. Hrbek's team beat the Mayor's team by 32 seconds. He also thanked County for allowing them to use the boat landing and the Golf Course.

Jennifer McDonald, Executive Director of EDA, noted that many positive aspects were happening within the community. She stated that the Leach Run Parkway work continues, as well as the Avtex redevelopment work and seven businesses applied for business licenses in the last two weeks. Mrs. McDonald stated that the Virginia Economic Partnership contacted the EDA recently and asked what was going on with the Town of Front Royal. She explained that the national media attention being brought to the community is not helping the Town.

Doug Stanley, County Administrator of Warren County, submitted the following report to the Town Council:

Reassessment – The County Reassessment process for the 2015 Reassessment began on September 3, 2013. To date approximately 19,894 of the 26,451 parcels have been completed. Work is now being done in the Chester Gap, Howellsville, and Browntown areas as well as the Town of Front Royal. Appraisers will be in that area viewing properties, which may include taking photographs and knocking on doors to verify information. Each vehicle used by Wingate will be marked with magnetic signs that read “Real Estate Assessment – Wingate Appraisal Service”.

FY2014-2015 Budget Book – County staff has completed the FY2014-2015 Budget Book for consideration by the Government Finance Officers Association of the United States and Canada (GFOA). Please give thanks to Finance Director Carolyn Stimmel, her new Office Associate Constance Oden, and Administration Office Associate Shelley Hayes for their efforts in putting the book together. Each year we have been able to make improvements to the award winning document. It contains a significant amount of information about the County and its operations. A link to the document is available on the County’s website at www.warrencountyva.net.

HVAC Maintenance – The MOU between the County and the School Board has been signed. School Board staff is prepared to take over general maintenance of all heating and air conditioning equipment at County facilities effective September 1, 2014. County staff and School Board staff met earlier today to work out the details of the transition.

Community Development

Development Review Committee – The Development Review Committee met on July 23rd. The Committee discussed several projects in the County including: pending applications for short-term tourist rentals, a proposed dog training facility in Kelley Industrial Park, and expansion of the Interchange warehouse. The Committee discussed several projects in the Town including: the rezoning application for the new Middle School, a proposed ice cream stand on 14th Street, the Health and Human Services building, and a fiber optic utility shelter for Century Link. The Committee will meet again on August 27th.

Warren and Clarke Counties Microenterprise Assistance Program – County representatives continue to work with People Inc. and Clarke County on finding small existing or start-up businesses looking for an opportunity to grow. Anyone that is interested should contact People Inc. at (540) 459-9096.

Project Updates

Dominion Project – The project is approximately 93% complete. As of last week 692 employees were on-site. The employee totals should continue to drop about 100 per month until completion of the project.

RSW Regional Jail – The facility is completed and inmates from the three localities were loaded as of June 26th. The RSW Authority Board meets again on August 28th and will be discussing filling the vacant Superintendent position. Warren County has worked out the details with RSW staff to be able to continue the use of inmate labor to augment our workforce. We are currently using 12-15 inmates per day in various capacities.

Leach Run Parkway – Final comments for the plans for the project have been received from VDOT. A final set of plans addressing the comments has been resubmitted to VDOT today. Bidding of the project has been delayed until fall until all easement/right-of-way and environmental permit issues have been resolved. The \$6 million bond through the Virginia Resource Authority to provide the local match for the project has been closed.

Health and Human Services Complex – The Town Planning Commission approved the site plan for the parking lot expansion/improvements at its meeting on August 20th. We

anticipate bidding the project in the next several weeks. Moseley has submitted building plans to the Town and County for review. We hope to be able to finalize the plans and bid the project in September/October.

Warren County Courthouse – The Board will be asked to award the bid for the replacement of the existing flat roof system down to the decking on the old section of the Courthouse at the meeting on September 2nd. The project will involve the installation of a new roof system, insulation, and flashing.

Rockland Park – Site work for the playground and parking area has been completed. Work on the shelter will begin upon completion of the Simpson’s Landing project. The purchase of the new playground equipment was approved by the Board of Supervisors at its meeting on August 19th. VDOT has awarded the contract for the construction of the Recreational Access project to construct the new access road into the site. VDOT has scheduled a pre-construction meeting for August 28th.

Simpson’s Landing Boating Access Project – Staff has started construction of the boat slide. It is anticipated that the project will be completed by October 1st.

Freezeland Road Kiss-n-Ride – The site plan proposal was approved at the Board meeting on August 5th. The plan is to design the improvements by fall of 2014 and grade the site over the winter.

Solid Waste

Catlett Mountain – The Town Council and Board of Supervisors have approved the low bid of \$177,100 from Lantz Construction of Winchester (LCW). The contract has been signed and a preconstruction meeting was held this morning. Construction was started after the meeting. LCW expects to complete the project in 30-45 days.

Transfer Station – County staff has re-bid the potable water system project. The County received two bids and will have a request on the September 2nd agenda to award the contract to connect a new potable well to existing facilities.

Councilman Sayre asked about the Morgan Ford Bridge work. Mr. Stanley stated they are awaiting the MOA and the public hearing to be scheduled, possibly this winter.

Councilman Sayre noted that Council approved more funding for Catlett Mountain Landfill. Mr. Stanley stated that as the Town and the County are 50/50 owners of the site, the costs were shared.

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

CONSENT AGENDA ITEMS

- A. COUNCIL APPROVAL – Bid for Installation of UV Equipment in Water Treatment Plant
- B. COUNCIL APPROVAL – Bid for Tree Trimming Services
- C. COUNCIL APPROVAL – Master Communications Officer Program
- D. COUNCIL APPROVAL – Mobile Device Policy

Councilman Sayre moved, seconded by Vice Mayor Parker 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)

COUNCIL APPROVAL – An Ordinance Amending a Franchise Ordinance to Allow Rappahannock Electric Cooperative (REC) to Construct/Install Certain New Facilities

(2nd Reading)

Summary:

Council is requested to adopt on its second and final 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.

Vice Mayor Parker moved, seconded by Councilman Tewalt, that Council adopt on its second and final 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)

COUNCIL APPROVAL – An Ordinance to Repeal Town Code Section 110-17 Pertaining to Fortunetelling or Practicing Magic Art *(2nd Reading)*

Summary:

Council is requested to adopt on it second and final reading an Ordinance to repeal Section 110-17 of the Town Code pertaining to Fortunetelling or Practicing Magic Art.

Vice Mayor Parker moved, seconded by Councilman Hrbek, that Council adopt on its second and final reading an Ordinance to repeal Section 110-17 of the Town Code pertaining to Fortunetelling or Practicing Magic Art.

Councilman Hrbek read the following into the record:

The issue before us tonight and the subject matter that has been discussed over the past two weeks are not the same. The issue that is in front of us tonight is one of economic activity. Can or should we ban a legal business in Front Royal. We have heard from our own town attorney that we cannot under Fourth Circuit Court rulings. And a

representative from the conservative American Center for Law & Justice essentially concurred.

Free speech is not limited to just speech that we agree with.

Unfortunately for our community this issue has moved past the point of just economics. Vocal members of our town have made this the current epicenter for a faith war and it is one that has not drawn a favorable light onto Front Royal. I have had reports that the NBC News 4 coverage has gone as far as Illinois. What must people around the country think of us? How much harder have we made the EDA, Chamber of Commerce and FRIBA's jobs to attract new businesses?

We have seen the worst of people in this debate. I think the best word I have heard used to describe the last meeting was "chilling." And that's what it was. I fear for our community. I hurt for our town.

This issue should have been cut and dry. We should have repealed this ordinance without incident. I will not judge the people and the times from 60 years ago. I cannot understand their thinking or the context in which this ordinance is written. But I can determine that it is not consistent with what is acceptable today.

The last thing I want to address is one point that was raised at the last meeting that was not given a lot of attention but was, to me, the most frightening question of all. It was worse than absurd accusations that our Warren County teachers are recruiting children to be gay or pagans. It was worse than demanding the State to determine what is a worthy religion or who should be determined a journalist. It was the question of why "take the action to benefit pagans--a small part of the population?"

The entire purpose of government and the rule of law is to protect the rights of the minority--especially the smallest minority of all: the individual.

Rights are derived at the individual level. Natural or God-given rights do not belong to a group. Gay rights, women's rights, black rights, Christian rights are all Man made. Only individual rights are Natural. The right to freely believe or not believe in a deity and practice that belief (as long as one is not violating the natural right of another through force) is one of the most basic rights we have as human beings.

This is why we take the time to debate this topic and move to repeal it. It is because when we violate the rights of one person we take away the right to exist for all people. We don't need the First Amendment to the US Constitution to tell us it is the right thing to do. We don't need the Fourth Circuit. We don't need the Commonwealth of Virginia Constitution to instruct us. We know that allowing a person to make a living or practice their faith is the right thing to do because it is our Natural Right as man.

Councilman Sayre stated that in New York there is a Code Section that deals with fortunetelling and he suggested an amendment.

Councilman Sayre moved, seconded by Councilman Tharpe, that Council strike the words *“company of gypsies or other strolling company or”*; and insert at the end the words *“except that this section does not apply to a person that engages in the afore described conduct as part of a show or exhibition solely for the purpose of entertainment or amusement”* in Section A.

Councilman Sayre noted that when the ordinance issue first came up he asked that both ordinances go to the Planning Commission and he voiced that he still thinks that the matter should be sent to the Planning Commission for review. He voiced support for allowing the process to take place for better understanding.

Vice Mayor Parker stated that he would not support the amendment. He noted that the Town already has a peddlers ordinance and what was being looked at was an obscenely written peddlers ordinance. He added that he would not convolute the law with the amendment, but he would support the repeal in full. Vice Mayor Parker stated that it would still be restrictive if they attempted to rewrite the ordinance and the Town had a grotesquely written law and it has now become a fight. He noted that he was appalled that it has gone this far.

Vice Mayor Parker called for the question.

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

(By Roll Call; On the Amendment)

MOTION FAILED

Vice Mayor Parker called for the question.
Councilman Sayre noted that he wished to remove the word gypsy.

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

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

COUNCIL APPROVAL – Resolution for Independent Water Service at 409 Virginia Ave

Summary: Council is requested to consider approval of a Resolution that would approve a special exception to Town Code Section 134-1 to allow a single water service connection to the Town’s water main to serve two, independent water meters at 409 and 411 Virginia Avenue, as presented.

Vice Mayor Parker moved, seconded by Councilman Tharpe, that Council approve a Resolution that would approve a special exception to Town Code Section 134-1 to allow a single water service connection to the Town’s water main to serve two, independent water meters at 409 and 411 Virginia Avenue, as presented.

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

COUNCIL APPOINTMENT – Planning Commission

Councilman Sayre moved, seconded by Councilman Tharpe, that Council appoint Christopher Morrison to the Front Royal Planning Commission to a 4-year term, said term to expire August 31, 2018.

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)

REFER TO PLANNING COMMISSION – Amendment to Town Code Section 175-106(A)(9)(e) Sandwich Board Signs: Development Standards

Summary: Council is requested to consider referring an amendment to Town Code Section 175-106(A)(9)(e) “Sandwich Board Signs: Development Standards” to the Planning Commission as presented.

Councilman Funk moved, seconded by Councilman Tharpe, that Council refer to the Planning Commission an amendment to Town Code Section 175-106(A)(9)(e) “Sandwich Board Signs: Development Standards” as presented.

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

No – N/A

Abstain – N/A

Absent – N/A

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

There being no further business, the Mayor declared the meeting adjourned at 8:53 p.m.

APPROVED:

Jennifer E. Berry
Clerk of Council