

The regular meeting of the Town Council of the Town of Front Royal, Virginia was held on January 26, 2015, 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
Councilman John P. Connolly
Councilman Bébhinn C. Egger
Councilman Daryl L. Funk
Councilman Bret W. Hrbek
Councilman Eugene R. Tewalt
Vice Mayor Hollis L. Tharpe
Town Attorney Douglas W. Napier
Town Manager Steven M. Burke, P.E.
Clerk of Council Jennifer E. Berry, CMC

(The above listed members represent the full body of Council as authorized in the Town Charter.)

Councilman Tewalt moved, seconded by Vice Mayor Tharpe that Council approve the Regular Council Meeting minutes of January 12, 2015 as presented.

Vote: Yes – Connolly, Egger, Funk, Hrbek, 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)

RECEIPT OF PETITIONS OR CORRESPONDENCE FROM THE PUBLIC

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

REPORT OF THE MAYOR, COUNCIL & STAFF

Town Manager Steve Burke:

- Noted that the Business Forum would be held on January 29th at 6 p.m.;
- Stated that the Riverton Substation was fully operating for the citizenry;
- Noted that the Town was preparing for the snow event which may take place this evening; and
- Reminded citizens that the Town was installing the new tree pits at the corner of Chester and Main Street, which was the reason for the tent installed at said location.

Jennifer McDonald, Executive Director, of EDA:

- Noted that the new Stokes Mart was planned to be open in the next month or so with all new inventory;
- Stated that the former Second Chance building was being renovated and they were working on a tenant for the bottom floor;
- Reported that they were working with the current owner of the former Town Hall building;
- Stated that a new bakery business would begin at the old Victoria’s location on Chester Street; and

- Stated that they were working with Boston Market, Michael’s and Trader Joe’s and more in hopes of bringing them to the community.

Mayor Darr stated that he and other Council members attended the Front Royal Fire Department banquet and they were amazed at the number of calls which were run in the community. He thanked the men and women for all they do to provide for the safety of the families of the Town.

Mayor Darr stated that he and Vice Mayor Tharpe were honored to be in attendance at the NAACP Banquet, where Mr. Herman Nelson was the guest speaker He stated that it was a good, informative event.

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

CONSENT AGENDA ITEMS

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

- A. COUNCIL APPROVAL – Residential Sewer Backup Protection Program Application for Catherine Remmers at 339 ½ Kendrick Lane
- B. COUNCIL APPROVAL – Residential Sewer Backup Protection Program Application for Waller Properties LLC at 425 Hill Street
- C. COUNCIL APPROVAL – Resolution Establishing Shop Local Discount Program
- ~~D. COUNCIL APPROVAL TO REFER TO PLANNING COMMISSION – Addition of a Capital Improvement Project (removed for separate discussion and vote)~~

Councilman Hrbek asked that Item D – CIP Addition, be removed for discussion.

Vote: Yes – Connolly, Egger, Funk, Hrbek, 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; Items A, B & C))

COUNCIL APPROVAL TO REFER TO PLANNING COMMISSION – Addition of a Capital Improvement Project

Summary: Council is requested to consider referring to the Planning Commission the addition of South Street Improvements to the CIP (Capital Improvement Projects) by directing Planning and Zoning Staff to develop concepts for beautification, safety, and traffic.

Councilman Hrbek moved, seconded by Councilman Funk, that Council refer to the Planning Commission the addition of South Street Improvements to the CIP (Capital Improvements Projects) by directing Planning and Zoning Staff to develop concepts for beautification, safety and traffic.

Councilman Hrbek asked if this was the only item that Council is adding to the CIP at this time. Mayor Darr noted that was correct. Councilman Hrbek asked if Mr. Burke could explain the process. Mr. Burke stated that if a developer came forward, than a Town can accept proffers only for items if they are listed in the CIP. He noted that the CIP was a document which gives an

indication to developers and those interested in investing in the community of the direction in which the Town intends to work towards.

Council Hrbek clarified that the CIP was not at list of items that the Town was necessarily pursuing, but rather a wish list of items that are possible ideas. Councilman Tewalt added that Council can add to the CIP at any time.

Vote: Yes – Connolly, Egger, Funk, Hrbek, 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)

PUBLIC HEARING – Rezoning Application by County of Warren to Accommodate a Future Public School *(1st Reading)*

Summary: Council is requested to affirm on its first reading a conditional rezoning application submitted by the County of Warren, containing approximately 4.71 acres from the A-1 (Agriculture) District to the R-1 (Residential) District. The rezoning application is subject to a pending annexation of a portion of the property into the Town of Front Royal. The rezoning is intended to accommodate a future public school. [RZ14-02-69 – Tax Map 20A21, Section 2, Parcel 7 and Tax Map 21, Parcel 26; also in conjunction with RZ14-02-070]

Mayor Darr opened the public hearing.

Cathy Bower, of 405 Overlook Drive and current Chairperson of the Warren County School Board, explained that she was supporting the rezoning of the proposed second County middle school site. Mrs. Bower stated that when the Board adopted their Capital Improvement Plan, it included plans to convert the Junior High to a high school, build another 1,200 student high school (Skyline), convert the former high school to a middle school and then construct a second middle school. She noted that due to an economy downturn, and an unfortunate slowdown in student population growth, the need to start construction on the second middle school was pushed back from 2010 until now. Mrs. Bower explained that based on current trends of growth, with the completion of this new school, the County will have adequate capacity to handle the growing needs of student population for the next 20 years. She stated that the County and the School Board feel that the Leach Run Parkway location places the school in an ideal location and will be well suited to serve the community. Mrs. Bower noted that the architect and site engineer have worked with the Town Staff to ensure that the school will fit in the Town’s planning in the area. She added that, along with the Leach Run Parkway construction, the project will have a positive impact on traffic flow and they are currently working to finalize construction plans. Mrs. Bower explained that they are requesting Council’s approval and support as the timing of the project is critical in order to open for the August 2017 school year.

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

Vice Mayor Tharpe moved, seconded by Councilman Funk that Council to affirm on its first reading a conditional rezoning application submitted by the County of Warren, containing approximately 4.71 acres from the A-1 (Agriculture) District to the R-1 (Residential) District to accommodate a future public school.

Councilman Hrbek noted that they received a letter today from Pennoni regarding their concerns about traffic. He stated that the traffic report seems to be based on the existing conditions though we are unsure if the school “lines” will remain the same. Mr. Hrbek expressed concern with knowing if the school conditions would change. He noted that as the school grew, he had concerns with the Town having no recourse regarding expansion of the school. He stated that once it was rezoned, there was no ability for proffers, though Council can discuss potential expansion of the school. Mr. Burke stated that they could discuss potential impact for the change in the school building size. Mr. Hrbek asked about the Town having the future ability to discuss future changes to the school, regarding traffic impact, for example.

Mr. Camp noted that they were certainly working in partnership with Warren County regarding the project. He added that the Town can always approach Warren County to discuss matters, though a time of rezoning is really the time to address impacts for the project. Mr. Camp stated that a major change which required a site plan revision would come forward to the Town, though the Town would lose the ability to accept proffers after the rezoning.

Councilman Hrbek noted that he was certainly not against the school system, though he would like to address the possible expansion concerns during the first reading of this item. He stated that without that, he was not prepared to vote in the affirmative at this time.

Councilman Tewalt noted that Happy Creek Road is a large concern of his. He stated that he had been informed by the Town Manager that VDOT has some funding available to address the needs of Happy Creek Road. Mr. Tewalt noted that he did not fully agree or disagree with the current report, and he could not vote for the matter at this time, until the Town is aware of where the remainder of the funding would come from, in order to tend to the Happy Creek Road.

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

PUBLIC HEARING – Rezoning Application by Economic Development Authority (EDA) to Accommodate a Future Public School (1st Reading)

Summary: Council is requested to affirm on its first reading a conditional rezoning application submitted by the Industrial Development Authority of the Town of Front Royal and the County of Warren, also referred to as the Economic Development Authority (EDA), containing approximately 19.31 acres from the R-S (Suburban Residential) District and A-1 (Agriculture) District to the R-1 (Residential) District. The rezoning application is subject to a pending annexation of a portion of the property into the Town of

Front Royal. The rezoning is intended to accommodate a future public school. [RZ14-02-70 – Tax Map 20A21, Section 2, Parcel 4D, 5, 6, and 12; also in conjunction with RZ14-02-069]

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

Vice Mayor Tharpe moved, seconded by Councilman Connolly that Council affirm on its first reading a conditional rezoning application submitted by the Industrial Development Authority of the Town of Front Royal and the County of Warren, also referred to as the Economic Development Authority (EDA), containing approximately 19.31 acres from the R-S (Suburban Residential) District and A-1 (Agriculture) District to the R-1 (Residential) District, intended to accommodate a future public school.

Councilman Hrbek reiterated his earlier comments about the road concerns.

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

PUBLIC HEARING – Amend 2014-2015 Budget to Include Bond and Grant Proceeds for the Waste Water Treatment Plan Expansion Project (1st Reading)

Summary: Council is requested to affirm on its first reading an amendment to the 2014-2015 Budget to include interest free Bond and Grant proceeds from the Virginia Water Facilities Revolving fund in the amount of \$11,667,489.00 Grant proceeds and \$39,377,600.00 Bond proceeds (\$51,045,089.00 total) received for the Waste Water Treatment Plan Expansion Project, which proceeds are the result of the December 17, 2014 closing for the funding project.

Councilman Tewalt moved, seconded by Councilman Connolly that Council affirm on its first reading an amendment to the 2014-2015 Budget to include interest free Bond and Grant proceeds from the Virginia Water Facilities Revolving fund in the amount of \$11,667,489.00 Grant proceeds and \$39,377,600.00 Bond proceeds (\$51,045,089.00 total) received for the Waste Water Treatment Plan Expansion Project.

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

COUNCIL APPROVAL – Resolution to Compromise on Corridor Pilot Issues

Summary: The Town of Front Royal extended municipal water and sewer service into the Route 522 Corridor Area of Warren County in the 1980's to facilitate commercial and industrial development. The

Town and County recognized that the commercial development in the Corridor would negatively impact the vitality of the Town's commercial development; therefore, entering in the "Rt 522 Corridor Agreement". The Commonwealth of Virginia permitted the collection of Payment In-Lieu of Taxes (PILOT) fees as identified in utility contracts with Corridor customers. Due to a Warren County Circuit Court ruling the contracts insufficiently described the collection of Meals and Lodging Taxes as part of PILOT fees; therefore, Council suspended the collection of Meals and Lodging Taxes on March 8, 2010. In an effort to recover the lost revenue to achieve a sustainable revenue source from future development in the Corridor. Council is requested to approve a Resolution to Compromise on Corridor PILOT Issues, as presented.

Vice Mayor Tharpe moved, seconded by Councilman Connolly that Council approve a Resolution to Compromise on Corridor PILOT Issues, as presented.

Councilman Hrbek moved, seconded by Councilman Tewalt, to amend the resolution to eliminate item number #10 as listed.

Councilman Hrbek noted that it states that the "Town will not pursue legal filings" and he opined that perhaps Front Royal should not remove tools from their tool box. He stated that it takes citizens to vote to pursue annexation, and to place that condition in the resolution was not a matter he could support. Councilman Egger asked if it applied to any location that the Town would annex.

Mr. Napier clarified that it was for any annexation; and noted that yes – it would terminate the MOA. Councilman Funk noted that the amendment proposed would strike number #10 from the resolution. Councilman Hrbek noted that was correct.

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

Councilman Hrbek moved, seconded by Councilman Connolly, to amend the resolution to remove the words "the County will not pursue any consolidation legal filings".

Councilman Funk asked the reasoning for the amendment. Mr. Hrbek noted that they were unable to do so. Mr. Napier stated that he would need to research the matter.

Councilman Hrbek withdrew his MOTION to amend.

*Councilman Hrbek moved, seconded by Councilman Tewalt, to amend the #10 wording to "the Town will not pursue any annexation legal filings **for 5 years within the Route 522 Corridor Area.**"*

Councilman Egger stated that she was less likely to support this motion. She noted that if the Town added such wording regarding five years, it may be misunderstood and it could ruffle some feathers.

Councilman Tewalt stated that Council just voted to strike down the annexation portion, and now they were considering a five year limitation on the matter. He noted his concern would be that if the Town would consider any portion of annexation then the Town would be taking the MOA as nullified. Mr. Tewalt stated that he would need an answer on that issue, as to whether it would consider a friendly boundary adjustment as an annexation, as theoretically they are the same thing.

Councilman Hrbek noted that the current amendment would define the area to just the Corridor area. He added that should the Town give up funding from the MOA, then it would be okay, as they would be receiving funds from their regular tax revenue, which should alleviate Mr. Tewalt's concerns.

Councilman Funk noted that should this amendment not pass, he would certainly support a possible amendment to limit this to areas where the Town is already providing water and sewer under this proposed agreement, but not for five years.

Mr. Burke noted that the resolution is simply to initiate discussion and does not provide final requirements for the MOU. He stated that any type of discussion or changes to how the MOU could be terminated could be negotiated with the County once the discussion begins.

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

Councilman Hrbek moved, seconded by Councilman Egger, that Council moved to amend Number 10 in the resolution to state: For the duration of the MOA the Town will not pursue any annexation legal filings within the 522 Corridor Agreement Boundaries.

Councilman Connolly noted that it curtails the intent of the original agreement, which would prevent annexation in the areas where the Town is already providing services.

Councilman Hrbek explained that the Town Attorney noted that if the Town chose to go in various directions of the Town a bit further, they would nullify this agreement.

Councilman Connolly noted that he failed to see how it would help the matter, adding that he did not deny that there was a problem with the current wording.

Councilman Hrbek stated that if it as passed as written, then they have defined the boundaries permanently of Front Royal and the Town would be unable to grow – and then the Town would die.

Councilman Egger stated she agrees that the focus is on the Corridor and it would not be in the Town’s best interest to box ourselves in. She noted that she has no intent to annex anything in the near future, though currently the document does seem to go beyond the scope of what the Town needs to deal with.

Councilman Connolly noted that the intent was to allow the Town to move beyond the Route 522 Corridor, and provide a framework for the Town to work for the County and other areas, and to allow for expansion for the future. He stated that by limiting it to just the 522 Corridor, it limits the Town and this will cause problems in the future.

Councilman Hrbek noted that the entire document was about the Corridor and does not pertain to Crooked Run II or other areas regarding DuPont or Toray, but rather the meals and lodging portion, not the BPOL matters. Mr. Hrbek stated that the Town must have the opportunity to grow.

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

Councilman Hrbek stated that the Town has one main tool for growth and the Corridor area is hurting the in-Town businesses and the in-Town shopping centers, and Council is then forced to raise taxes to maintain infrastructure. He stated that he supports Items #1-9 in the resolution, though the limitations in Item #10 break it for him. Mr. Hrbek thanked Mayor Darr for his work on the resolution to the County.

FINAL VOTE with Item #10 AMENDED:

Vote: Yes – Connolly, Egger, Funk, Tewalt and Tharpe
No – Hrbek
Abstain – N/A
Absent – N/A
(Mayor Darr did not vote as there was no tie to require his vote)
(By Roll Call; MOTION CARRIED to APPROVE Resolution)

There being no further business, the Mayor declared the meeting adjourned at 7:51 p.m.

APPROVED:

Jennifer E. Berry
Clerk of Council