

The regular meeting of the Town Council of the Town of Front Royal, Virginia was held on July 13, 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
Town Attorney Douglas W. Napier
Town Manager Steven M. Burke, P.E.
Clerk of Council Jennifer E. Berry, CMC

ABSENT: Vice Mayor Hollis L. Tharpe

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

Councilman Tewalt moved, seconded by Councilman Egger that Council approve the Regular Council Meeting minutes of June 22, 2015 as presented.

Vote: Yes – Connolly, Egger, Funk, Hrbek and Tewalt
No – N/A
Abstain – N/A
Absent – Tharpe
(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:

- Reminded citizens that on Wednesday the Fireman's parade will begin in town with street closures throughout the community;
- Stated that the following day the fireworks will take place as well;
- Noted that the Planning Department had provided a code violations brochure for residential use and it was available on the Town's website;
- Announced that the Gazebo Gatherings would continue on Main Street each week; and
- Shared that the Gazebo 80's Flicks Film Series would begin on August 6th and continue for several weeks on Thursday evenings downtown.

Councilman Tewalt noted that he had asked about having the Happy Creek Trail matter on this agenda for Council discussion. Mr. Burke stated that it would actually be on the next worksession agenda for full review by members of Council.

Councilman Hrbek read the following disclosure into the record:

This declaration is made pursuant to Virginia Code Sections 2.2-3112. A. 2. and 2.2- 3115. H.

The Virginia State and Local Government Conflict of Interests Act states that the following is a transaction in which I, as a Member of Town Council, may participate because I am a member of a business, profession, occupation or group of three or more persons the members of which are affected by the transaction, so long as I comply with the disclosure requirements of subsection H of Virginia Code Section [2.2-3115](#). Therefore, I made the following disclosure:

1. The transaction involved is the connector road to be built on the Royal Phoenix site, which is the former Avtex site. I am in discussions with other individuals to purchase a building to be constructed on that site. The property would need to be re-zoned in order for the construction to take place and the connector road to be built on the Royal Phoenix site would be of benefit to this property
2. My personal interest is that I a member of a group of three or more persons which are affected by this transaction.
3. This group I am a member of are in talks to consider purchasing a site, re-zone it, and build a building on it, and the building and my group's interests may be affected by the connector road to be constructed on the Royal Phoenix site.
4. I affirmatively state that, notwithstanding my personal interest, and the effect it might have on the aforementioned group, I am able to participate in the transaction fairly, objectively, and in the public interest.
5. I shall make my declaration orally to be recorded in written minutes of the Town Council and file a signed written declaration with the Clerk of the Town Council.

Mayor Darr thanked Jeremy Camp and the Planning Commission regarding the Community Block Development Grant (CBDG) for their recent meeting and he hoped that the option could be added to the Town's tool box.

Mayor Darr announced that the Fireman's Parade would be held Wednesday night and he invited the community to come and support the event.

Mayor Darr noted that many were aware of the large fire at the VFW building over the weekend. He thanked the Front Royal, Warren County and Frederick County firefighters who assisted, noting that the fire was large and he thanked those area departments that worked together on the blaze. Mayor Darr also thanked that Town's Electric Department and the Town's Police Department members who participated in the efforts. He noted that it truly takes a large group during such a time and he recognized everyone involved that gave so much.

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

CONSENT AGENDA ITEMS -- NONE

**PUBLIC HEARING – Ordinance to Amend Town Code Chapter 142-20
Pertaining to Town Banner Poles** *(1st Reading)*

Summary: Council is requested to affirm on its first reading an Ordinance to Amend Town Code Chapter 142-20 pertaining to Town banner poles. If approved, an increase in metal grommets and wind flaps will be required in banners that are hung on the Town's banner poles located on N. Royal Avenue and John Marshall Highway and would be effective upon passage, as presented.

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

Councilman Tewalt moved, seconded by Councilman Egger, that Council affirm on its first reading an Ordinance to Amend Town Code Chapter 142-20 pertaining to Town banner poles, as presented and effective upon passage.

Mayor Darr asked about organizations using banners that have been used previously. Mr. Burke noted that if the permit has been issued at this point, they would be able to use them for the current year, though they would need to come into compliance for next year.

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

PUBLIC HEARING – Ordinance to Amend Town Code Sections 98-3 and 98-15 Pertaining to Minimum BPOL (1st Reading)

Summary: Council is requested to affirm on its first reading an Ordinance to amend Town Code Sections 98-3 and 98-15 pertaining to minimum Business Professional Occupational License (BPOL) Fee and Failure to Obtain a Proper License. If approved, a minimum fee of \$10.00 will be established for those obtaining a BPOL. The minimum fee would not apply to those businesses who qualify for an exemption. The amendment would also add the wording “to obtain or” so that the Town Code addresses not only exhibiting a business license but also obtaining one. Upon adoption this ordinance would be effective upon passage.

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

Councilman Egger moved, seconded by Councilman Tewalt that Council affirm on its first reading an Ordinance to amend Town Code Sections 98-3 and 98-15 pertaining to minimum Business Professional Occupational License (BPOL) Fee and Failure to Obtain a Proper License, as presented and effective upon passage.

Councilman Hrbek asked about the definition of those who are exempted. Mr. Burke noted that those designated by the IRS as 501C organizations were exempt.

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

PUBLIC HEARING – Ordinance and Resolution to Approve and Execute a Power Sales Contract with AMP along with Interconnection Agreement and Solar Project Lease Agreement (1st Reading)

Summary: Council is requested to affirm on its first reading an Ordinance/Resolution to Approve and Execute a Power Sales Contract with American Municipal Power, Inc. (AMP), as well as, an Interconnection Agreement with AMP and a Solar Project Lease Agreement with AMP for the Solar Phase II Project at 3,000 kilowatts, as presented. Council is also requested to consider granting the Solar Project Lease Agreement with AMP for a term of five years, renewal for additional five year terms. Since AMP will be constructing structures and other work on Town real property, it would be deemed “construction” under the Public Procurement Act, and thus subject to the Act’s provisions; however, competitive sealed bidding and competitive negotiation are not fiscally advantageous to the public because the Town purchases electric utility services through AMP, an association that was formed and is maintained for the purpose of promoting the interest and welfare of and developing close relationships with similar public bodies. Council is further requested to authorize the Town Manager to sign all necessary documents.

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

Councilman Connolly moved, seconded by Councilman Funk that Council affirm on its first reading an Ordinance/Resolution to Approve and Execute a Power Sales Contract with American Municipal Power, Inc. (AMP) for the Solar Phase II Project at 3,000 kilowatts as presented, as well as, an Interconnection Agreement. He further moved that Council approve a Solar Project Lease Agreement for a term of five years, renewal for additional five year terms and that the constructing of structures on Town real property by AMP would not adhere to the Public Procurement Act since competitive sealed bidding and competitive negotiation are not fiscally advantageous to the public because the Town purchases electric utility services through AMP, an association that was formed and is maintained for the purpose of promoting the interest and welfare of and developing close relationships with similar public bodies. He further moved that Council authorize the Town Manager to sign all necessary documents.

Councilman Hrbek congratulated the Staff for their work on the project. He noted that the Town had been trying to work on a solar field for some time and he thanked Mr. Waltz and added that he was excited that the Town would now have solar in their portfolio.

Councilman Egger echoed Mr. Hrbek’s comments, and thanked the Staff for their work; as did Councilman Tewalt.

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

PUBLIC HEARING – Ordinance to Amend and Re-enact Town Code Section 75-51 through 75-57 “Front Royal Enterprise Zone” (1st Reading)

Summary: Council is requested to affirm on its first reading an Ordinance to Amend and Reenact Town Code Section 75-51 through 75-57 “Front Royal Enterprise Zone”. If approved, an application will be submitted to the Virginia

Governor's Office for consideration. All incentives are only available upon approval of the application.

Mayor Darr opened the public hearing.

Craig Laird, of 203 E. Main Street, noted that he was the president of FRIBA and their mission was to support businesses and the possible displacement of said businesses. He stated that the proposed incentives may not create new jobs but rather displace current businesses. Mr. Laird explained that perhaps when the benefits go away, the jobs may go away as well. He added that most FRIBA members were under ten employees and most of the proposed enterprise zone companies would be for those with 25 jobs or more, so the Town was essentially offering incentives that were not warranted. He explained that the Town was being unfair to provide businesses with incentives to those larger companies and not the mom and pop businesses, as those larger businesses displace the smaller businesses. Mr. Laird questioned if the local economy and the smaller businesses would be harmed rather than helped by this proposal. He did ask that the Connector Road be built or the downtown would be cut off rather than connected to the other retail areas.

Mayor Darr closed the public hearing.

Councilman Connolly moved, seconded by Councilman Funk that Council affirm on its first reading an Ordinance to Amend and Re-enact Town Code Section 75-51 through 75-57 "Front Royal Enterprise Zone", effective upon passage.

Councilman Egger noted that when Council discussed the Enterprise Zone matter, the concerns that Mr. Laird broached were reviewed by Council. She asked about revised language in the ordinance that would provide protection for the Town, adding that Mr. Napier did gather some additional language regarding this matter earlier in the day. She questioned if the Town was in good hands, noting that she was hesitant to vote for the ordinance as presented.

Councilman Tewalt asked if the Town recently passed an Enterprise Zone item for the downtown area. Mr. Burke noted that they passed Tourism Zones recently. Mr. Tewalt asked if that information could be given to Mr. Laird to determine if that could alleviate his concerns.

Councilman Hrbek echoed Mr. Tewalt's comments, adding that the Mr. Laird's concerns are valid. He stated that additional incentives could be created for the downtown area, though the Enterprise Zone ordinance was a specific purpose for larger corporations, though not necessarily retail perhaps. Councilman Hrbek added that he completely agrees with Mr. Laird regarding the Connector Road in order to have the Main Street connection sooner rather than later in order to have it be an actual extension of the downtown area. He stressed that the Town could finance the road themselves

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

Mayor Darr noted that the next worksession needs to have specific discussion on this item for all questions to be reviewed.

COUNCIL APPROVAL – Resolution for the Declaration of a Front Royal Enterprise Zone

Summary: Council is requested to approve a Resolution declaring a Front Royal Enterprise Zone in the Town of Front Royal, as presented.

Councilman Tewalt moved, seconded by Councilman Connolly that Council approve a Resolution declaring a Front Royal Enterprise Zone in the Town of Front Royal, as presented.

Councilman Egger asked about this being a portion of the application for the State. Mr. Burke noted that was correct.

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

⌘ RESOLUTION – ENTERPRISE ZONE ROYAL PHOENIX ⌘

WHEREAS, the Virginia Enterprise Zone Grant Act, Va. Code § 59.1-538 *et seq.*, authorizes the governing body of any town to make a written application for the declaration of an enterprise zone in a designated area within the town limits; and

WHEREAS, local governments submitting applications for enterprise zone designation shall propose local incentives that address the economic conditions within their locality and that will help stimulate real property improvements and new job creation. Such local incentives include, but are not limited to: (i) reduction of permit fees; (ii) reduction of user fees; (iii) reduction of business, professional and occupational license tax; (iv) partial exemption from taxation of substantially rehabilitated real estate pursuant to current Va. Code § 58.1-3221; and (v) adoption of a local enterprise zone development taxation program pursuant to current Article 4.2 (§ 58.1-3245.6 *et seq.*) of Chapter 32 of Title 58.1 of the Code of Virginia. The extent and duration of such incentives shall conform to the requirements of the Constitution of Virginia and the Constitution of the United States. In making application for designation as an enterprise zone, the application may also contain proposals for regulatory flexibility, including but not limited to: (a) special zoning districts, (b) permit process reform, (c) exemptions from local ordinances, and (d) other public incentives proposed in the locality's application which shall be binding upon the locality upon designation of the enterprise zone. Additionally, a locality may establish eligibility criteria for local incentives

that differ from the criteria required to qualify for the incentives provided in the current Chapter 49, Title 59.1, of the Code of Virginia.

WHEREAS, in addition, qualified business firms and qualified zone investors may be eligible to receive enterprise zone incentive grants provided for in current Chapter 49, Title 59.1, of the Code of Virginia to the extent that they apply for and are approved for grant allocations through the Virginia Department of Housing and Community Development.

WHEREAS, the Town of Front Royal, Virginia, desires to apply to the Virginia Department of Housing and Community Development for the creation and declaration of an enterprise zone within the corporate limits of the Town of Front Royal.

NOW, THEREFORE, BE IT RESOLVED by the Town Council of the Town of Front Royal, Virginia, that the Town of Front Royal, a municipal corporation and body politic, shall make written application to the said Virginia Department of Housing and Community Development for the declaration of an enterprise zone within the corporate limits of the Town of Front Royal, to be designated as the Front Royal Enterprise Zone. The location of the Front Royal Enterprise Zone is more particularly set forth on the map titled "FRONT ROYAL ENTERPRISE ZONE, PROPOSED BOUNDARIES", attached hereto and made a part of this Resolution.

BE IT FURTHER RESOLVED that the said Front Royal Town Council specifically authorizes the Town Manager of the Town of Front Royal to submit any and all or additional information needed to apply for enterprise zone designation, and to submit and meet any other program, administrative or reporting requirements that may pertain thereto.

This Resolution shall be effective immediately upon enactment.

COUNCIL AUTHORIZATION TO ADVERTISE FOR PUBLIC HEARING to Receive Public Input on the Vacation of Town Right-of-Way

Summary: Council is requested to authorize staff to advertise for a public hearing to receive comments and concerns from the public regarding a possible vacation of a 6,346 square foot portion of South Fork Drive public right-of-way located at the intersection with Kesler Road in the North Magisterial District of the Town. Council is also requested to consider approval of a Resolution for the possible sale of said property by means of Town bids to a private owner, pursuant to Town Code Section 1-22.A.

Mr. Napier pointed out the clerical error in the resolution, noting that the first line should be July 27th rather than the 13th.

Councilman Tewalt moved, seconded by Councilman Egger, that Council authorize staff to advertise for a public hearing to receive comments and concerns from the public regarding a possible vacation of a 6,346 square foot portion of South Fork Drive public right-of way located at the intersection with Kesler Road in the North Magisterial District of the Town. He further move that Council approve a Resolution for the sale of said property by means of Town bids to a private owner, pursuant to Town Code Section 1-22.A.

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

⌘ **RESOLUTION - South Fork Drive Public Right-of-Way** ⌘
SALE OF TOWN PROPERTY

WHEREAS, at its regular meeting held on July 13, 2015, the Town Council of the Town of Front Royal, Virginia (“Town Council”) received comments and concerns from the public that the public may have as to the possible vacation of a 6,346 sq. ft. portion of South Fork Drive public right of way (the Property), at its intersection with Kesler Road, located in North River Magisterial District, Town of Front Royal, Warren County, Virginia, per plat dated 10/10/14, prepared by Joseph G. Brogan, Sr., Land surveyor, recorded in the Warren County Circuit Court Clerk’s Office in Slide 154 C, and to consider the possible sale of said Property by means of the receipt by the Town of bids for the sale thereof to a private owner, pursuant to Town Code Section 1-22. A. and the Town’s written Vacation of Streets/Alleys policy; and

WHEREAS, at the conclusion of which public hearing at the Town Council determined that the Town has no foreseeable use for said Property and its vacation and sale to a private owner would not inconvenience the public.

NOW, THEREFORE, BE IT HEREBY RESOLVED by the Town Council of the Town of Front Royal, Virginia, in accordance with Section 1-22 of the Code of the Town of Front Royal, as follows:

The Town Council may authorize the acceptance, or rejection, of the best bid offered by members of the public during a regular meeting, with a date to be determined later.

Publication of this bid will be advertised on the Town website, www.frontroyalva.com, and in the Public Notices section of the Northern Virginia Daily.

COUNCIL APPROVAL – Budget Amendment and Acceptance of Bid for an Electric System Coordination and Ten-Year Systems Study

Summary: Council is requested to approve a budget amendment in the amount of \$45,000 and a bid from Southeastern Consulting Engineers, Inc. in the amount of \$45,000 for an Electric System Coordination and Ten-Year System Study. The study will cover a SynerGEE Electric Model, a System Coordination Study and a Ten-year Load Analysis.

Budget/Funding: Funding 9401-R43002 - professional services
This project was funded with FY15 funds with a start date to begin in FY16

Councilman Tewalt moved, seconded by Councilman Egger, that Council approve a budget amendment in the amount of \$45,000 and a bid from Southeastern Consulting Engineers, Inc. in the amount of \$45,000 for an Electric System Coordination and Ten-Year System Study. (The study will cover a SynerGEE Electric Model, a System Coordination Study and a Ten-year Load Analysis.)

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

COUNCIL APPROVAL – Budget Amendment and Acceptance of Bid for Renovation Construction Services to the Energy Services Department’s Warehouse Building

Summary: Council is requested to approve a budget amendment in the amount of \$348,000 to accept a bid from LCW, Lantz Construction Winchester in the amount of \$348,000 (renovation construction - \$345,000 and network drops - \$3,000) to the Department of Energy Services’ warehouse building located at 1100 Manassas Avenue Extended that will accommodate office and warehouse space once completed.

Budget/Funding: Total project \$348,000
Budget amendment for \$226,000 FY15 funds - 9401-R47009
Funding for project 9401-R47009 226,000.00 Buildings and Structures

Councilman Egger moved, seconded by Councilman Connolly, that Council approve a budget amendment in the amount of \$348,000 to accept a bid from LCW, Lantz Construction Winchester in the amount of \$348,000 to the Department of Energy Services’ warehouse building located at 1100 Manassas Avenue Extended that will accommodate office and warehouse space once completed.

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

COUNCIL APPROVAL – Main Street Canopy Lighting Project

Summary: Council is requested to approve a bid from Dan Hotek, President/Structural Engineer of Engineering Techniques in an amount not to exceed \$6,000 for engineering services related to the Main Street Canopy Lighting Project.

Budget/Funding: Canopy lights 9401-3002 [professional services]
The Town will seek reimbursements from merchants on Main Street when it has been determined the project will move forward.

Councilman Egger moved, seconded by Councilman Connolly, that Council approve the bid from Dan Hotek, President/Structural Engineer of Engineering Techniques in an amount not to exceed \$6,000 for engineering services related to the Main Street Canopy Lighting Project.

Councilman Tewalt asked if this project would have donated funds at some point. Mr. Burke noted that Main Street businesses would be asked for donations, though at this time there was funding in the budget for the project.

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

There being no further business, the Mayor declared the meeting adjourned at 7:31 p.m.

APPROVED:

Jennifer E. Berry
Clerk of Council