

The regular meeting of the Town Council of the Town of Front Royal, Virginia was held on July 27, 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 Councilman Egger that Council approve the Regular Council Meeting minutes of July 13, 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

Thomas H. Sayre, of 835 Shenandoah Shores Road, noted that Item #10 on tonight's agenda was regarding the upcoming Solar Project and he referred to the Town's interest in a previous solar proposal in 2010 which he voted in favor of, and the item was approved. Mr. Sayre noted that the contract many years earlier was terminated between AMP and Standard Solar, though he hoped that the Town approves this project owned by AMP and he wished them great success.

REPORT OF THE MAYOR, COUNCIL & STAFF

Martha Shickle noted that they were attending training and information sessions in preparation for the six year improvement program and implementation of funding. She stated that they would soon receive applications for the six year program and next Tuesday there would be another workshop. Ms. Shickle noted that their transportation coordinator is continuing his work with many activities throughout the region. She stated that they are in the middle of grant season and submitted a grant recently for funding FEMA approvals on continued projects. Ms. Shickle explained that they would soon submit a grant for housing and community development work for outdoor recreation and tourism efforts. She commented that their HOME project for affordable housing and transitional housing efforts are ongoing, with \$125,000 targeted for the Warren County area through the Blue Ridge Housing Network here in Front Royal.

Town Manager Steve Burke:

- Reminded citizens that Shenandoah Shores work is planned by Norfolk Southern Railroad and the road will be closed most of the day (8 hours possibly) on Wednesday and garbage collection has been rescheduled;
- Stated that the Business Forum would be held on Thursday, July 30th and he encouraged the community business owners and representatives to attend;
- Noted that National Night Out would be held on Tuesday, August 4th; and
- Shared that the Gazebo 80's Flicks Film Series would begin on August 6th sponsored by Joseph F. Silek and continue for several weeks on Thursday evening's downtown.

Councilman Egger noted that private citizens cleared brush from Happy Creek Trail over the weekend and she thanked those residents and business owners for their efforts. She stated that the trail looks wonderful and she voiced her faith in the Town crews for the work to come to keep the area looking great. Ms. Egger noted that the trails were a great addition to the community and she encouraged the citizens to get out and take advantage of the great asset offered to the public. Councilman Hrbek noted that he jogged the trail recently and it really looks fantastic.

Councilman Hrbek stated that #16 on the agenda, a Closed Session matter related to Warren County's response pertaining to the Corridor. Mr. Hrbek noted that he was not willing to reply to their offer. He added that in the Town Council had decided, in the spring, that if the County did not accept the Town's offer than the Town had planned to lift the PILOT moratorium regarding meals and lodging and he preferred that the Council follow through with that proposal. Councilman Hrbek stated that he will not vote to go into Closed Session and he will not participate in the Closed Session this evening

Councilman Funk noted that Councilman Hrbek's comments were troubling. He stated that he (Mr. Funk) always participated in other closed sessions brought forward by Mr. Hrbek, adding that he felt that Council's ability to speak to their legal counsel in closed session was important.

Councilman Egger noted that the County's offer has not really changed, other than it becoming more detrimental to the Town. She added that the Town owed it to the citizens to discuss the matter and to talk about it in the open, not in closed session.

Councilman Tewalt echoed the trail comments of both Councilmen Hrbek and Egger, adding that he was very pleased with the trail

Councilman Connolly stated that one provision for meeting in closed session was to address wording and discuss this with legal counsel pertaining to the MOA. He added that it would be inappropriate to deny Town Council the right to that discussion with the Town Attorney.

Councilman Hrbek stated that he did not need legal Counsel on the issue, adding that it was clear what Warren County would like and he would like public debate on the matter. He noted that he would prefer to have public discussion on the issue to give the citizens all the information. He stated that he has the right to not participate in the closed session.

Mayor Darr welcomed Grace Place Christian Store to Main Street, encouraged citizens to stop by and visit the new business in the community.

Councilman Egger moved, seconded by Councilman Hrbek, that Council move #16-CLOSED MEETING, to OPEN, rather than CLOSED SESSION.

Councilman Egger opined that the MOA has been discussed in the press, and she was finished talking about the topic in closed session. She noted that the matter needs open discussion, as the public deserves the information.

Councilman Funk stated that he hoped that Councilman Hrbek would vote against placing the item into open session in order to allow his fellow councilmen the opportunity to receive legal counsel on the matter.

Vote: Yes – Egger, Hrbek and Tharpe
No – Connolly, Funk and Tewalt
Abstain – N/A
Absent – N/A
(By Roll Call; MOTION FAILED as Majority Vote Needed)

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

CONSENT AGENDA ITEMS

- A. COUNCIL APPROVAL – Proclamation – “Kiwanis Club of Front Royal Day”
- B. COUNCIL APPROVAL – Proclamation – “National Night Out 2015”
- C. COUNCIL APPROVAL – Purchase of Police Vehicles
- D. COUNCIL APPROVAL – Budget Amendment for APPA Deed Scholarship Program
- E. COUNCIL APPROVAL – Submission of RTP Grant Application for Criser Road Trail

Councilman Tewalt moved, seconded by Councilman Egger that Council approve the Consent Agenda 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)
(By Roll Call)

~ PROCLAMATION – KIWANIS 100 YEARS ~

WHEREAS, 2015 marks the 100th anniversary of the founding of Kiwanis International, and WHEREAS, Front Royal has benefitted since 1945 from the good works of our own local Kiwanis Club of Front Royal, Inc., whose commitment to enriching the lives of our community’s children and youth and to help the neediest among us is evidenced in the hundreds of thousands of dollars the Club has raised and donated over the past 70 years and the thousands of hours of volunteer service its members have contributed to a host of projects and organizations that includes, but is in no way limited to:

the Kids, Builders Clubs, and Key Clubs in our local schools, where young people learn leadership skills and the value of service; scholarships for college bound graduates of our two high schools; the Samuels Public Library’s Children’s Reading Room, bilingual book collection, and special collections for young readers; reading programs and mentoring programs at area elementary

schools; STEAM educational materials for prekindergarteners; Kids Voting; Boy Scouts, Girl Scouts, Little League and Babe Ruth Baseball Leagues, youth soccer programs, Special Olympics, the Sheriff's Summer Youth Camp, the Northern Virginia 4 -H Education and Conference Center, playground equipment at Northwestern Community Services, E. Wilson Morrison and Leslie Fox Keyser Elementary Schools, and other recreational activities; Community beautification efforts through the Front Royal/Warren County Anti-Litter Council and the Virginia Department of Transportation Adopt-A-Highway clean-up program; C-CAP, the Salvation Army, Blue Ridge Hospice, Blue Ridge Food Bank, Backpack Buddies, St. Luke's Community Clinic, the House of Hope, Blue Ridge Opportunities, Second Chance, Harmony Place, the Phoenix Project, the Warren County Humane Society, Warren County Fire and Rescue Smoke Alarm Program, United Way, the American Red Cross, the Doc Smith Holiday Food Baskets, and other groups that provide vital assistance to the community and its residents; and

WHEREAS, the Kiwanis Club of Front Royal, Inc. has for many years served to bring the entire community together in the spirit of camaraderie through its past sponsorship of the annual Front Royal Field Day, the Front Royal Air Show, the Warren County Horse Show, and Kids' Movie Days, and perhaps most notably through its annual Pancake Breakfast, which has become an event of distinction on the Town's calendar, having served more than 50,000 people some 200,000 pancakes over its 58-year history;

NOW, THEREFORE, LET IT BE RESOLVED that we, the Front Royal Town Council, do hereby proclaim September 1ST2015 as "KIWANIS CLUB OF FRONT ROYAL DAY" in the Town Of Front Royal.

~ NATIONAL NIGHT OUT 2015 ~

WHEREAS, the National Association of Town Watch (NATW) is sponsoring a unique, nationwide crime, drug, and violence prevention program on August 4th, 2015 entitled "National Night Out;" and

WHEREAS, the "32nd Annual National Night Out" provides a unique opportunity for FRONT ROYAL to join forces with thousands of other communities across the country in promoting cooperative, police-community crime prevention efforts; and

WHEREAS, the Town of Front Royal plays a vital role in assisting the Front Royal Police Department through joint crime, drug, and violence prevention efforts in the FRONT ROYAL and is supporting "National Night Out 2015" locally; and

WHEREAS, it is essential that all citizens of FRONT ROYAL be aware of the importance of crime prevention programs and impact that their participation can have on reducing crime, drugs, and violence in FRONT ROYAL; and

WHEREAS, police–community partnerships, neighborhood safety, awareness and cooperation are important themes of the “National Night Out” program;

NOW, THEREFORE I, Mayor Tim Darr, do hereby call upon all citizens of Front Royal to join the Town of Front Royal, the National Association of Town Watch and the Front Royal Police Department in supporting the “32nd Annual National Night Out” on August 4th, 2015.

FURTHER, LET IT BE RESOLVED THAT I, do hereby proclaim Tuesday, August 4th, 2015, as “National Night Out” in FRONT ROYAL, Virginia.

**COUNCIL APPROVAL – Ordinance to Amend Town Code Chapter 142-20
Pertaining to Town Banner Poles (2nd Reading)**

Summary: Council is requested to adopt on its second 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.

Councilman Tewalt moved, seconded by Councilman Connolly that Council to adopt on its second and final reading an Ordinance to Amend Town Code Chapter 142-20 pertaining to Town banner poles, effective upon passage.

Councilman Connolly spoke in favor of the change, noting that it was a matter of common sense and safety. He stated that he would vote for the ordinance change.

- 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)

~ **ORDINANCE - BANNER POLES** ~
**AN ORDINANCE TO AMEND FRONT ROYAL TOWN CODE
CHAPTER 142-20 PERTAINING TO TOWN BANNER POLES**

WHEREAS, the Town has had numerous issues over the past year with banners being damaged due to wind, which has resulted in additional overtime and damage to private property; and,

WHEREAS, Staff has evaluated the situation and recommends changes to the Town Code to protect public safety and property; and,

NOW THEREFORE, BE IT ENACTED, by the Town Council of the Town of Front Royal, Virginia, that 142-20.6. of the Front Royal Town Code is hereby amended as follows:

142-20 TOWN BANNER POLES

The Town has installed banner poles at various locations on arterial roads to inform citizens and visitors of civic events. Reservation of space to display a banner shall be regulated as follows:

1. Applications to display banners shall be submitted to the Town Manager and shall include the following information:
 - a. Name of Requesting Organization
 - b. Contact Name
 - c. Contact Phone Number
 - d. Requested Dates for Display
 - e. Banner Message and Description of Display
2. Applications shall be accepted beginning January 1 for placement that year.

AN ORDINANCE TO AMEND FRONT ROYAL TOWN CODE CHAPTER 142-20 PERTAINING TO TOWN BANNER POLES

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1. Applications to display banners shall be submitted to the Town Manager and shall include the following information:
 - a. Name of Requesting Organization
 - b. Contact Name
 - c. Contact Phone Number
 - d. Requested Dates for Display

e. Banner Message and Description of Display

2. Applications shall be accepted beginning January 1 for placement that year.

6. Banners shall be constructed of heavy-duty canvas, plastic tarpaulin material, or netting. Metal grommets shall be imbedded near each of the four (4) corners and along the top and bottom edges **with two (2) feet intervals**. ~~The top and bottom edges shall have at least six (6) grommets. Wind relief flaps or other wind pressure release options shall be evenly distributed throughout the banner.~~ The banner shall also have windrelief flaps that are six (6) inch diameter half-circles and at least one (1) for every four (4) square foot of total area.

7. In the event that display date request conflict, the Town Manager or designee shall determine resolution of conflict. Display requests determined by the Town Manager or designee can be appealed to Town Council a minimum of forty-five (45) days prior to the requested date for display.

COUNCIL APPROVAL – An Ordinance to Amend Town Code Sections 98-3 and 98-15 Pertaining to Minimum BPOL *(2nd Reading)*

Summary: Council is requested to adopt on its second and final 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.

Councilman Egger moved, seconded by Councilman Connolly that that Council adopt on its second and final 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, effective upon passage.

Councilman Funk asked if this BPOL change was requested by some of the area business owners. Mr. Burke noted that the amendment was brought forward by Town Staff and Mrs. Breeden agreed that it was brought forward by Town Staff. Councilman Funk asked if it would simplify matters for businesses. Mr. Burke noted that it would simplify matters for businesses.

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)

~ **ORDINANCE - BPOL Amendments** ~
**AN ORDINANCE TO AMEND FRONT ROYAL TOWN CODE SECTIONS
98-3 and 98-15 PERTAINING TO MINIMUM (BPOL) BUSINESS**

**PROFESSIONAL OCCUPATIONAL LICENSE FEE AND
FAILURE TO OBTAIN A PROPER LICENSE**

WHEREAS, Chapter 98 “Business Professional Occupational Licensing” of the Front Royal Municipal Town Code currently does not have a minimum licensing fee; and,

WHEREAS, the proposed amendment to 98-3 “License Requirement” would create a minimum fee and the proposed amendment to 98-15 “Keeping and Exhibiting of License” would add wording to address failure to obtain a proper license.

NOW THEREFORE, BE IT ENACTED by the Town Council of the Town of Front Royal, Virginia that Sections 98-3 and 98-15 of the Front Royal Town Code is hereby amended as follows:

98-3 LICENSE REQUIREMENT

Every person shall apply for a license for each business, trade, profession, occupation or calling (collectively hereinafter "a business"), unless otherwise exempted by law, when engaging in a business in the Town of Front Royal if (i) the person has a definite place of business in this jurisdiction; (ii) there is no definite place of business anywhere and the person resides in this jurisdiction; or (iii) there is no definite place of business in this jurisdiction but the person operates amusement machines or is classified as an itinerant merchant, peddler, carnival, circus, contractor subject to Virginia Code Section 58.1-3715, or public service corporation. A separate license shall be required for each definite place of business and for each business. A person engaged in two or more businesses or professions carried on at the same place of business may elect to obtain one license for all such businesses and professions if all of the following criteria are satisfied: (i) each business or profession is subject to licensure at the location and has satisfied any requirements imposed by state law or other provisions of the ordinances of the Town of Front Royal; (ii) all of the businesses or professions are subject to the same tax rate, or, if subject to different tax rates, the licensee agrees to be taxed on all businesses and professions at the highest rate; and (iii) the taxpayer agrees to supply such information as the assessor may require concerning the nature of the several businesses and their gross receipts.

Every person and business entity engaged in any business in the Town of Front Royal shall obtain a license from the Town of Front Royal Department of Finance before the commencement of such business, the minimum fee for which shall be ten dollars (\$10.00), unless exempt from licensing. Each year thereafter, such persons and entities shall pay an annual minimum license fee of ten dollars (\$10.00). In no instance shall this minimum fee create a refund.

98-15 KEEPING AND EXHIBITING OF LICENSE

Every person or business required to obtain a license shall keep the license in a place where it may be exhibited immediately upon demand of any representative of the Town. No license measured by volume of business shall be required to be publicly displayed. Failure to obtain or to exhibit the license upon demand of a Town representative or failing to display properly any license tag required under this chapter or Chapter 37 of

the Code of Virginia, 1950, as amended, shall be guilty of a misdemeanor and, upon conviction thereof, be punished as provided in Chapter 1, Article II, Penalties, of this Code.

COUNCIL APPROVAL – Ordinance and Resolution to Approve and Execute a Power Sales Contract with AMP along with Interconnection Agreement and Solar Project Lease Agreement (2nd Reading)

Summary: Council is requested to adopt on its second and final 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.

Councilman Tewalt moved, seconded by Councilman Connolly that Council adopt on its second and final 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 continued to further move that Council authorize the Town Manager to sign all necessary documents.

Councilman Hrbek noted that he was glad to see Mr. Graham, former Town Manager, and current Director of Energy Resources, Mr. Waltz, at the meeting. Mr. Hrbek stated that he was pleased that the solar field was going to be located in the Town, and he was also glad to see solar incorporated into the Town’s portfolio after all the struggles in the early years regarding solar. He noted that this was very exciting for the Town.

Councilman Tewalt thanked Mr. Waltz and his Staff for all the work on the solar project. He noted that much was said on the former project years ago, and not all of it was truthful. He thanked Mr. Waltz again for all of his work.

Vice Mayor Tharpe also thanked Mr. Waltz for his ongoing work on developing solar for the Town of Front Royal. He noted that this was a great project for the Town. Mr. Tharpe asked if this would replace some of the Town’s peaking power; Mr. Waltz noted that was correct.

Vote: Yes – Connolly, Egger, Hrbek, Funk, 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 – An Ordinance to Amend and Re-enact Town Code Section 75-51 through 75-57 “Front Royal Enterprise Zone” (2nd Reading)

Summary: The Enterprise Zone Ordinance, Town Code Sections 75-51 to 75-57, affirmed at its first reading on July 13, 2015, be rescinded at this time, for the following reasons: 1) Town Council has been advised that the adoption of an Enterprise Zone Resolution to be submitted to the Governor was time critical, and has been duly adopted by Town Council, whereas adoption of an Enterprise Zone Ordinance is not time critical; and 2) more work and time is would be beneficial to Town Council to consider adequately the factors in an Enterprise Zone Ordinance that would be of benefit to the Town and its future. The rescinding of the Enterprise Zone Ordinance at this time shall be without prejudice to Town Council to reconsider adoption of an Enterprise Zone Ordinance at a later date.

Councilman Egger moved, seconded by Councilman Tewalt that the Enterprise Zone Ordinance, Town Code Sections 75-51 to 75-57, affirmed at its first reading on July 13, 2015, be rescinded at this time, for the following reasons: 1) Town Council has been advised that the adoption of an Enterprise Zone Resolution to be submitted to the Governor was time critical, and has been duly adopted by Town Council, whereas adoption of an Enterprise Zone Ordinance is not time critical; and 2) more work and time is would be beneficial to Town Council to consider adequately the factors in an Enterprise Zone Ordinance that would be of benefit to the Town and its future. She further moved that this rescinding of the Enterprise Zone Ordinance at this time be without prejudice to Town Council.

Councilman Connolly noted that the process began with an application to the State, whereas now Council needs clarification on what they fully intend.

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)

~ ORDINANCE – ENTERPRISE ZONE ROYAL PHOENIX ~

ORDINANCE TO AMEND AND RE-ENACT TOWN CODE 75-51 THROUGH 75-57 “FRONT ROYAL ENTERPRISE ZONE”

WHEREAS, the Superfund Site known as the Avtex Property has been delisted by the Environmental Protection Agency (EPA); and,

WHEREAS, the Economic Development Authority (EDA) has been marketing the property for redevelopment as commercial and light industrial property; and,

WHEREAS, the Town of Front Royal is committed to the full redevelopment of this property and desires to assist the EDA to secure sound, long-term business to the site; and,

NOW, THEREFORE BE IT RESOLVED by the Mayor and Town Council of the Town of Front Royal, Virginia, that Town Code Sections 75-51 through 75-57 are hereby amended and reenacted as follows:

FRONT ROYAL ENTERPRISE ZONE 75-51 FRONT ROYAL ENTERPRISE ZONE - STATEMENT OF PURPOSE The Virginia Enterprise Zone Grant Act, Section 59.1-538, et seq, of the Code of Virginia, as amended, authorizes the Town of Front Royal to make written application to the Department of Housing and Community Development for the declaration of an area within the corporate limits as an enterprise zone. It is the purpose of the Enterprise Zone Act, and of this Article, to stimulate business and industrial growth within the area so designated as the Front Royal Enterprise Zone by means of state income tax credits, state sales tax exemptions and local incentives more particularly set forth herein.

75-52 FRONT ROYAL ENTERPRISE ZONE – BOUNDARIES

The boundaries of the Front Royal Enterprise Zone are as set forth on that map titled “Front Royal Enterprise Zone, Proposed Boundaries” and includes those properties shown on the Map within the Royal Phoenix business park site (former Avtex site), the Old Virginia Industrial Park, Royal Village commercial and residential properties, and Viscose City properties. It is the purpose of this Article to help stimulate real property improvements and new job creation by, among other things, one or more of the following: the reduction of permit fees; the reduction of user fees; the reduction of business, professional and occupational license tax; partial exemption from taxation of substantially rehabilitated real estate pursuant to Va. Code § 58.1-3221; adoption of a local enterprise zone development taxation program pursuant to Article 4.2 of Chapter 32 of Title 58.1

75-53 FRONT ROYAL ENTERPRISE ZONE - DEFINITIONS

As used in this Article, the following definitions shall apply:

BUSINESS FIRM - Any business entity authorized to do business in the Commonwealth of Virginia, including those entities subject to the state income tax on net corporate rate income (Section 58.1-400 et seq.), a public service company subject to a franchise or license tax on gross receipts, a bank, mutual savings bank, savings and loan association, and partnerships and sole proprietorship. A "business firm" includes partnerships and small business corporations electing to be taxed under Subchapter S of the Federal Internal Revenue Code, and which are not subject to state income taxes as partnerships or corporations, and includes limited liability companies, the taxable income of which is passed through to and taxed on individual partners and shareholders. However, a "business firm" does not include organizations which are exempt from state income tax on all income except unrelated business taxable income as defined in the Federal Internal Revenue Code, 26 U.S.C. § 512, nor does it include homeowners' associations as defined in the Federal Internal Revenue Code, 26 U.S.C. § 528.

ENTERPRISE ZONE – The Front Royal Enterprise Zone, an area declared or to be applied for declaration by the Governor of the Commonwealth of Virginia to be eligible for the benefits accruing under the Virginia Enterprise Zone Act, Va. Code § 59.1-539, et. seq.

EQUIVALENT EMPLOYMENT OR JOB - Forty (40) hours per week of an hourly week (or the salaried equivalent). A single "equivalent job" may be represented by one (1) employed individual, or by multiple employed individuals whose aggregate hours of employment (or salaried equivalent) equal forty (40) hours per week.

EXISTING BUSINESS - Any business firm operating or located within the Enterprise Zone on [DATE], or within the corporate limits of the Town of Front Royal prior to its location within the Enterprise Zone. A business which retains the same ownership and which was operating or located within the Enterprise Zone on [DATE], or within the corporate limits of the Town of Front Royal prior to location within the Enterprise Zone shall not be defined as a new business, even if the name or entity (corporate or otherwise) has changed.

NEW BUSINESS - A business firm operating within the Enterprise Zone after [DATE], having had no prior business located within the corporate limits of the Town of Front Royal.

TOWN - The Town of Front Royal, Virginia.

75-54 FRONT ROYAL ENTERPRISE ZONE - QUALIFICATION FOR BENEFITS

In order to qualify for any local incentives under this Article, a business firm must be a new business located within the boundaries of the Enterprise Zone, and not an existing business, and must provide the following (and thereby, upon the accomplishment of 1. and 2. below, hereinafter become a “Qualified Business” for purposes of this Article):

1. Said new business firm must provide and hire in said business at least twenty-five (25) fulltime equivalent jobs. Said employment shall represent new jobs, not positions previously established within the town's corporate limits.
2. Said new business firm must invest a minimum of five hundred thousand dollars (\$500,000.00) in the rehabilitation, renovation, new construction or other building or site improvements in said new business in the Enterprise Zone.

75-55 FRONT ROYAL ENTERPRISE ZONE - LOCAL ENTERPRISE ZONE INCENTIVES

A. Rebate Credit of business and occupational license fees and exemptions from machinery and tools taxes, as applicable: Qualified Business firms shall be entitled to a rebate credit of Town business and occupational license fees, and a partial exemption from the Town machinery and tools taxes if applicable, for a five (5) year period while the Qualified Business firm is located within the Enterprise Zone, provided the Qualifying Business applies for such rebate credit or exemption as applicable within the first three (3) years of such Qualifying Business firm's operation as a new business firm showing compliance with the qualifying requirements of this Article. During the first year following application approval, the Qualifying Business firm shall be entitled to an eighty percent (80%) credit of its business and occupational license fees. During the second year, the Qualifying Business firm shall be entitled to a sixty percent (60%) credit. During the third year, the Qualifying Business firm shall be entitled to a forty percent (40%) credit. During the fourth year, the Qualifying Business firm shall be entitled to a twenty percent (20%) credit. During the fifth year, the Qualifying Business firm shall be entitled to a twenty percent (20%) credit.

B. Water and sewer connection charges (tap fee) and building permit fees incentives. Qualified Business firms located within the Enterprise Zone shall be entitled to a reduction of fifty percent (50%) of all municipal water and sewer connection charges (tap fees) and a reduction of fifty percent (50%) reduction of building permit fees if applicable applied for during the first five (5) years that the Qualified Business firm is located within the Enterprise Zone, provided the Qualifying Business firm applies for such reductions as applicable within the first five (5) years the Qualifying Business Firm is located in the Enterprise Zone.

C. Water and sewer line extension benefits. Qualified Business firms located within the Enterprise Zone shall be entitled without assessment or cost to water and sewer line extensions to the property line of the business firm during the entire time that said Qualified Business firm is located within the Enterprise Zone, so long as the Enterprise Zone remains in effect. The property line shall refer only to a lot or parcel recorded in the land records on or before [DATE]. The Town shall retain discretion as to the location of all water and sewer line extensions, and the number and size of all line extensions provided hereby.

D. Rehabilitated real estate tax exemption. Qualified Business firms located within the Enterprise Zone shall receive a rehabilitated real estate tax exemption on the increase in assessed property value resulting from rehabilitation of commercial and industrial real estate and facilities, if applicable, which qualify under the provisions of Va. Code § 58.1-3220, as amended. The rehabilitated real estate tax exemption shall be extended for a five (5) year period, upon application showing compliance with the qualifying requirements, on the following basis:

1. An eighty percent (80%) exemption the first year.
 2. A sixty percent (60%) exemption the second year.
 3. A forty percent (40%) exemption the third year.
 4. A twenty percent (20%) exemption the fourth year.
 5. A twenty percent (20%) exemption the fifth year.
- E. All license fees, building permit fees and water and sewer tap fees shall initially be paid in full by the Qualified Business firm. The Qualified Business firm shall then apply for an exemption or rebate credit hereunder, and, upon approval of the application, the Qualified Business firm will receive a credit on its prepaid fees or taxes.

75-56 FRONT ROYAL ENTERPRISE ZONE - APPLICATION

Any new business firm seeking to receive local Enterprise Zone incentives shall make application to the Enterprise Zone Administrator on forms provided by the Front Royal/Warren County Industrial Development Authority, dba the Economic Development Authority ("EDA"). The Enterprise Zone Administrator may require the new business firm to provide documentation establishing that said new business firm has met the requirements for the receipt of local Enterprise Zone incentives. Failure to provide requested documentation shall result in a denial of the new business firm's application for local incentives. Upon approval of any new

business firm application for local Enterprise Zone incentives, the Enterprise Zone Administrator shall submit a written report to the Town Finance Director indicating the name and address of the qualifying business firm and the local Enterprise Zone incentives for which it is qualified. The Enterprise Zone Administrator may require the new business firm to provide additional documentation from time to time to assure that said new business firm retains the requisite qualifications for the receipt of local Enterprise Zone incentives. In the event that any new business firm fails to maintain the requisite qualifications for the receipt of local Enterprise Zone incentives, the Enterprise Zone Administrator shall inform the new business firm, in writing, that it is no longer qualified for the receipt of local incentives and shall send a copy of said notice to the Town Finance Director.

75-57 FRONT ROYAL ENTERPRISE ZONE ADMINISTRATOR

The Enterprise Zone Administrator shall be the Executive Director of the Front Royal/Warren County Industrial Development Authority.

This ordinance shall become effective upon passage.

COUNCIL APPROVAL – Revise Resolution for Vacation Right-of-Way

Summary: At the July 13, 2015 Regular Council Meeting, Council approved a Resolution for the possible sale of Town right-of-way by means of Town bids at the public hearing on July 27, 2015 (see attached minutes); however, due to advertising deadlines the public hearing will be held on Monday, August 10, 2015. Council is requested to revise the Resolution to reflect this date.

Councilman Connolly moved, seconded by Vice Mayor Tharpe that Council approve the revision of a Resolution approved by Council at the July 13, 2015 Regular Council Meeting pertaining to the possible sale of Town right-of-way to reflect the correct public hearing date as August 10, 2015.

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)

~ RESOLUTION - SALE OF TOWN PROPERTY ~

WHEREAS, at its regular meeting held on July 13, 2015, **August 10, 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 to Purchase Motorcycle

Summary: Council is requested to approve a budget amendment in the amount of \$25,872.95 and the purchase of a 2015 Victory Commander 1 Police Motorcycle for the Police Department. Council is further requested to approve the trade-in of a 2007 Harley Davidson Motorcycle currently in the Police Department Fleet in the amount of \$6,000.

**Budget/Funding: Motorcycle purchase – Budget amendment Asset Forfeitures
1610-R47005 [Vehicles] \$25,872.95
1610-35101101 [Reserve Funds] \$25,872.95**

Councilman Connolly moved, seconded by Councilman Tewalt that Council approve a budget amendment in the amount of \$25,872.95 and the purchase of a 2015 Victory Commander 1 Police Motorcycle for the Police Department. He further moved that Council is further approve the trade-in of a 2007 Harley Davidson Motorcycle currently in the Police Department's Fleet in the amount of \$6,000.

Councilman Connolly noted that the Town's current bike falls over on the rider and this is a needed vehicle upgrade and he was in favor of the proposal 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)
(By Roll Call)

COUNCIL APPROVAL – Budget Amendment for Salary Increase for Clerk of Council

Summary: Council is requested to approve a budget amendment for a salary increase in the amount of \$500.00 annually for the Clerk of Council effective July 1, 2015.

**Budget/Funding: Salary increase for Clerk – Budget amendment
1102-1003 [Part time salaries] \$500.00
1000-35101101 [Fund Balance] \$500.00**

Councilman Egger moved, seconded by Councilman Funk that Council approve a salary increase in the amount of \$500.00 annually for the Clerk of Council effective July 1, 2015.

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)

COUNCIL APPROVAL – Budget Amendment for Salary Increase for the Town Manager

Summary: Council is requested to approve a salary increase in the amount of \$2,000 annually to the Town Manager effective July 1, 2015.

Budget/Funding: Salary increase for TM – Budget amendment
1201-1001 [Salaries Full time] \$2,000.00
1000-35101101 [fund Balance] \$2,000.00

Councilman Connolly moved, seconded by Councilman Funk, that Council approve a salary increase in the amount of \$2,000.00 annually for the Town Manager effective July 1, 2015.

Councilman Tewalt noted that he would vote against the matter as the Town Manager’s contract was due soon and should be reviewed before any increase.

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

CLOSED MEETING – Investment of Public Funds; Consultation with Legal Counsel; Award of Public Contract

Motion to Go Into Closed Meeting

*Councilman Connolly moved, seconded by Councilman Funk that Council convene and go into Closed Meeting pursuant to Virginia Code Sections 2.2-3711.A. 6., 7., and 29., for the following purposes in connection with a potential proposed voluntary economic growth-sharing agreement or agreement(s) with the Board of Supervisors of Warren County to consider the following: Discussion or consideration of the investment of public funds where competition or bargaining is involved, where, if made public initially, the financial interest of the governmental unit would be adversely affected, **AND**, Consultation with legal counsel employed or retained by a public body regarding specific legal matters requiring the provision of legal advice by such counsel, **AND**, Discussion of the award of a public contract involving the expenditure of public funds, and discussion of the terms or scope of such contract, where discussion in an open session would adversely affect the bargaining position or negotiating strategy of the public body.*

Councilman Funk noted that previously he had been asked about any potential Crooked Run conflict of interest and the opinion of the Town Attorney stated that such a conflict was not present. He stated that he would submit the attorney’s full opinion into the record to the Clerk of Council.

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

Councilman Hrbek was not present in the Closed Session.

Motion to Certify Closed Meeting at its Conclusion

Councilman Connolly moved, seconded by Councilman that Council certify that to the best of each member's knowledge, as recognized by each Council member's affirmative vote, that only such public business matters lawfully exempted from Open Meeting requirements under the Virginia Freedom of Information Action as were identified in the motion by which the Closed Meeting was convened were heard, discussed or considered in the Closed Meeting by Council, and that the vote of each individual member of Council be taken by roll call and recorded and included in the minutes of the meeting of Town Council.

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

(By Roll Call)

There being no further business, the Mayor declared the meeting adjourned at 8:19 p.m.

APPROVED:

Jennifer E. Berry
Clerk of Council