

The regular meeting of the Town Council of the Town of Front Royal, Virginia was held on August 24, 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 August 10, 2015 as presented.

Councilman Egger noted that at the very end there was one notation to correct:

Minutes of August 10th, as corrected:

Councilman Egger wondered why Mr. Funk would agree to the public hearing previously now, but not at this time earlier. She noted that Council owed it to the public to hear what they had to say.

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

REPORT OF THE MAYOR, COUNCIL & STAFF

Town Manager Steve Burke:

- Noted that Town office would be closed on Labor Day and refuse and recycling would be rescheduled as well;
- Announced that the Ghostbusters movie would be played downtown at the Gazebo on the outdoor screen this Thursday, and Back to the Future would be held on the following Thursday evening;
- Stated that the online Business Survey was being conducted and would be accepting results until September 18th; and
- Shared with the public that the Town’s mobile application had been updated and could be downloaded for mobile devices.

Jennifer McDonald, Executive Director of the Economic Development Authority:

- Noted that the Connector Road work continues with discussion pertaining to lighting and landscaping;
- Reported that the EDA continued business work in the Town, including a furniture store on Main Street, two fast food chains, one grocery store and two retail shops;
- Stated that County business prospects continues with ongoing talks with ALDI Grocery Store (who is awaiting their DEQ permit and they will then begin construction) and Marriot as their plans for opening in the Corridor;
- Explained that the Entrepreneur Café contest continues, with a cash prize to be awarded at the end;
- Announced that over \$1.7 million had been loaned to local start-up businesses through the rural Enterprise Loan Program since the program began in 1997; and
- Stated that a Tractor Supply operation may be opened at the former K-Mart site

In response to Council questions, Mrs. McDonald noted that Leach Run Parkway's revised bid was still \$2.5 million over and they await another revised bid. She noted they hope to have a lower amount and timing is all based on the engineer. Mrs. McDonald added that Marriott Hotel had been awaiting local matters to be resolved before moving forward and now they are ready to proceed.

Councilman Egger read the following into the record:

I'd like to start out by saying that I'm extremely disappointed and upset about the actions this Council took at our last meeting. In fact, I've been laying on the beach for the past 2 weeks, and not a day has gone by that I haven't mulled through what was said, what votes were cast, and ultimately what we have done to the taxpayers of Front Royal.

I feel frustrated that time was taken to present this Council with facts--some of them old, some of them new--that were then promptly disregarded and ignored. We owe it to the people of Front Royal to revisit what we did at our last meeting. It was done in haste and without proper care. The overall feeling that I got from Council, including you, Mr. Mayor, was that we should sign on the dotted line NOW, and then if something goes wrong LATER, or we don't like what is happening, we can simply extract ourselves from the MOA. This is similar to if I were to say: "I've been dating this guy, he's really great except that he hits me sometimes. He wants me to sign on the dotted line, and I think it's not a bad idea, since I can always get a divorce if the beatings get really bad..." It's true--I could divorce my theoretical abusive husband, and we can get out of the MOA with the County, but--is that a responsible way to be?!?! And how can we justify, as a Town Government, operating business in such a fashion?

I would like to hear from the Councilmen who voted to approve this MOA, especially Vice Mayor Tharpe, since we didn't hear any of his opinions at the last meeting, on why this is a responsible decision for the Town of Front Royal. I know I'm beating a dead horse, since I brought this up almost a million times at our last meeting, but...once the water is turned on to Crooked Run II we CANNOT back out of that. We are stuck. I wish I had responded to Mr. Funk's suggestion two weeks ago that if the County decides to stop paying us after we've extended water, we could charge the customers double water rates. This is a lamesauce excuse, and I know that Mr. Funk

knows it. Double water rates can in no way make up for the revenue we are losing every day in uncollected meals and lodgings taxes. Plus the fact that meals and lodgings tax goes to our GENERAL FUND, while double water goes to our WATER ENTERPRISE FUND. We are not able to willy-nilly move money around from our enterprise funds. As I understand it, we would be able to utilize only 25% of the money we would collect from double water rates in our general fund.

I would also like to question Mr. Funk about his comment that he voted for this MOA in order to fulfill campaign promises he made. When he was running for office, was he aware of all the same facts he's now been made aware of? I certainly wasn't, when I was running. Is he willing to push through with blinders on, ignoring the situation that is currently in front of us, and create a detrimental situation for Front Royal? Along with his campaign promises, did he give the citizens all the data on the financial impacts that past mistakes by this Council have had on the Town? Did he give the citizens all the data on the financial and overall impacts that his decisions will have on the Town?

We have also failed to realize the burden we are continuing to place on Town restaurants and hotels which are in direct competition with the restaurants and hotels in the corridor. Our meals and lodgings taxes are lower than in the County....are we prepared to lower our taxes so that we create a fair playing field for our Town businesses? Or are we going to continue to approve MOAs with the County, doing anything and everything they ask, while creating a failing business environment here in our own Town?

I still feel that we should have involved the public along the way with a public hearing BEFORE we approved anything from the County. It's true that we have been discussing possible deals with the County for a long time....certainly the entire time I've been on Council. But for the past 6 months that we've been volleying offers back and forth, we have NEVER advertised a public hearing on the matter. If we felt that we were getting close to accepting a deal with the County, we should have at least had a public hearing before doing so. Anything less is lazy and disrespectful to our constituents (at best), and underhanded and malicious (at worst.) A final sticking point for me is what I see as our blatant violation of our own water Code. I read the code as very clear and straightforward. But, since I'm not a lawyer, and our own Town Attorney has stated publicly that the code is ambiguous and could be read more than one way, and Council is clearly not going to come to a consensus on this, I plan to move that we add a #11 to the agenda tonight, Council authorization to ask the Attorney General's opinion on whether or not we are in violation of our own water code. As Councilman Connolly stated at our last meeting, we shouldn't be doing anything that will open the Town up to a potential lawsuit. I'd say violating our own code would be doing just that.

Councilman Hrbek asked if Marriott Hotel had requested water at this point. Mr. Burke stated that he believed they had submitted plans for review, though they did not have a PILOT agreement. Mr. Hrbek asked about the process for the construction of the hotel. Mr. Burke

explained that they would need have proper documentation for ensuring their connection fees were paid and the inspection of their construction.

Councilman Hrbek noted that with a new hotel in the Corridor, each time someone chose to stay in a Corridor hotel instead of in the Hampton Inn or the another Town place in-town limits, then the Town taxpayer is sacrificing \$5 in revenue. He stated that \$5 was the difference in revenue between staying out in the Corridor and staying in Town. Councilman Hrbek asked what the difference would be when the Town would have to reduce their own lodging taxes from 6 cents down to 2 cents in order to make it competitive for the in-town hotels and motels as the Corridor continues to grow. Mr. Hrbek noted that the Marriot will not be the last hotel to go in that area and it has been suggested that Crooked Run II has one, perhaps even two hotels, and that will mean about \$200,000 in reduced revenue. He explained that the \$200,000 removes all of the gains from the MOA which the Council voted on at the last meeting, and he noted that it was a tilted agreement towards the County and against the Town taxpayer.

Councilman Hrbek stated that how the Community Development position is written seems to be a glorified Tourism Director and he questioned whether that was the direction the Town needed to go. He voiced support of gearing the position in the direction of creating connections towards evaluating commercial properties, developing marketing plans and someone who is working hand and hand to redevelop areas of the community to benefit the Town taxpayer, rather than a large tourism focus.

Mayor Darr noted he was pleased to attend a Kiwanis meeting recently with their great members and thankful for the work that their organization performs throughout the community. He announced that nationally the Kiwanis organization is 100 years old and locally the Kiwanis are 70 years old, with September 1st being Kiwanis Day in Front Royal. He thanked them for their hard work and dedication to all in the community.

Mayor Darr noted that he honors and respects all that Councilman Egger said, though he took issue with comparing the Corridor agreement with domestic violence. He noted that he took the issue of domestic violence seriously and did not feel it should be taken lightly or in jest, though he did respect her opinion.

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

Councilman Egger moved, seconded by Councilman Hrbek, to add Item #11, Seeking the Attorney General's Opinion As to Whether the Council is in Violation of Their Own Water Code.

Councilman Funk noted that he appreciates Councilman Egger's comments, though he explained that that when he has been on the losing side of an issue, he has tried to work towards making the best of the situation and been positive when moving forward.

- Vote: Yes – Egger and Hrbek
 - No – Connolly, Funk, Tewalt 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)

CONSENT AGENDA ITEMS

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

Councilman Hrbek asked that Council discuss and vote on the electric vehicle charger separately.

A. COUNCIL APPROVAL – Resolution for Urban Archery Program

~~B. COUNCIL APPROVAL – Donation of Electric Vehicle DC Fast Charger~~

C. COUNCIL APPROVAL – Power of Partnership Alliance Request to Release Funds

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; On Items A&C)

RESOLUTION – AUTHORIZATION TO REQUEST URBAN ARCHERY PROGRAM

WHEREAS, the Town of Front Royal has been conducting a deer management program through the Virginia Department of Game and Inland Fisheries (DGIF) Deer Population Control Program (DPOP); and,

WHEREAS, DGIF has stated that the DPOP program has been successful in reducing the deer population in the Town and that the Town must now transition to the Urban Archery Program to be consistent with current regulations; and,

WHEREAS, the Urban Archery Program will allow the Town to continue a deer population management program and offer the Town the opportunity to establish regulation of archery associated with the program to promote safety in our urban environment.

NOW, THEREFORE BE IT RESOLVED by the Mayor and Council of the Town of Front Royal, Virginia hereby authorize and direct the Town Manager to submit the proper letter requesting the Town’s participation in the Urban Archery Program and authorize the Town Manager to submit all necessary applications and supporting materials associated with participation in the Urban Archery Program; and,

BE IT FURTHER RESOLVED that the Mayor and Council of the Town of Front Royal, Virginia hereby requests that the staff develop a draft Ordinance Amendment to permit implementation and operation of the Urban Archery Program within the Town limits to include draft regulations : archery prohibited within a set distance from of an occupied building, street, sidewalk, alley, or roadway; hunting on parcel or combination of parcels of at least one (1) acre in size within signed approval of the property owners submitted to the Town; hunting from an elevated position above the ground except for archery practice; there shall be no use of dogs to hunt deer; Urban Archery shall only occur during the hunting season established by the Commonwealth of Virginia; permission shall be obtained to pursue a wounded deer upon the land of neighboring properties; and removal/disposal of deer carcasses shall be the responsibility of the hunter in a prompt manner.

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 – Donation of an Electric Vehicle DC Fast Charger

Summary: Council is requested to consider the approval and authorization of the Notice to Proceed with Morteş consulting for the donation of an Electric Vehicle DC Fast Charger to be placed near the Visitors Center located at 414 E. Main Street as presented, that also includes the cost of a four-year enterprise License Fee of \$600.

Councilman Hrbek moved, seconded by Councilman Egger, that Council approve and authorize the Notice to Proceed with Morteş Consulting for the donation of an Electric Vehicle DC Fast Charger to be placed near the Visitors Center located at 414 E. Main Street and the four-year Enterprise License Fee of \$600, as presented.

Councilman Hrbek clarified that the entire cost is basically \$600 and Staff time. He noted that the Town will be charging individuals for the electricity and it is not a free service to give away electricity. Mr. Burke noted that was accurate. Mr. Hrbek noted that the closest publicly available stations were Staunton and Reston. He added that the Town would be listed on a mobile application and it will encourage people to have their car charged and shop downtown while their vehicle is plugged in. Mr. Burke stated that was correct.

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 and Award of Contract for Energy Services Vehicle Storage Building

Summary: Council is requested to consider approval of a budget amendment in the amount of \$93,000 for the construction of a prefabricated building for the Energy Services Department at 1100 Manassas Avenue Extended. Council is further requested to approve a contract with Pioneer Pole Buildings to provide and construct the building along with optional costs for a ridge vent and guttering, not to exceed \$193,846.

Councilman Connolly moved, seconded by, Vice Mayor Tharpe, that Council approved a budget amendment in the amount of \$93,000 for the construction of a prefabricated building for the Energy Services Department at 1100 Manassas Avenue Extended. He further moved that Council approve a contract with Pioneer Pole Buildings to provide and construct the building along with optional costs for a ridge vent and guttering, not to exceed \$193,846.

Councilman Tewalt noted that this is funding brought forward from previous budgets and it was not being removed from any current General Fund. Councilman Funk noted that the Town has

been putting away funding for some time for this expense, not over a one year time period. Mayor Darr noted that was correct.

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 – Comcast Pole Attachment Agreement

Summary: Council is requested to consider approval of a five-year Pole Attachment Agreement with Comcast. The previous pole attachment agreement was terminated June 22, 2013 at the end of the original 10-year term. The new Agreement will expire May 13, 2018.

Councilman Tewalt moved, seconded by Vice Mayor Tharpe that Council approve a five-year Pole Attachment Agreement with Comcast, said term ending May 13, 2018 and authorize the Town Manager to execute this Pole Attachment Agreement on Town Council's behalf.

Councilman Tewalt noted that Mr. Napier has worked very hard and he was thankful it was finally on the agenda for final approval.

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 for Advanced Notice of Road Closure by Norfolk & Southern Corporation

Summary: Council is hereby requested to approve a Resolution that requests Norfolk & Southern Corporation to provide the Town with advanced notice of rail maintenance activity in the Town so that residents can adjust schedules and law enforcement and fire & rescue personnel can plan provisions of emergency services during maintenance work. Council is further requesting that Staff contact Congressman Robert W. Goodlatte asking for a similar request.

Councilman Hrbek moved, seconded by Councilman Connolly that Council approve a Resolution that requests Norfolk & Southern Corporation to provide the Town with advanced notice of rail maintenance activity in the Town so that residents can adjust schedules and law enforcement and fire & rescue personnel can plan provisions of emergency services during maintenance work. He further moved that Council direct staff to contact Congressman Robert W. Goodlatte asking for a similar request.

Councilman Connolly noted that the Town had heard a lot about the struggles that the residents in the area have experienced and it would be beneficial to have some type of notice for the community. Vice Mayor Tharpe asked if the Town could ask if Warren County may wish to participate. Mr. Burke stated that he would do so.

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 - NORFOLK & SOUTHERN RAILROAD ∞

RESOLUTION TO REQUEST

ADVANCED NOTICE OF ROAD CLOSURE

BY NORFOLK & SOUTHERN CORPORATION

WHEREAS, Norfolk & Southern Corporation has recently completed maintenance work at a number of rail crossings in Front Royal; and,

WHEREAS, a number of these crossing provide the only means of access to a number of residents between the Town and their residence; and,

WHEREAS, the Town of Front Royal desires to provide these residents with as much advanced notice of future maintenance work conducted by Norfolk & Southern Corporation at these crossings.

NOW, THEREFORE BE IT RESOLVED by the Mayor and Council of the Town of Front Royal, Virginia hereby request that Norfolk & Southern Corporation provide the Town with advanced notice of rail maintenance activity in the Town so that residents can adjust the schedules and so that law enforcement and fire & rescue personnel can plan for the provision of emergency services during maintenance work; and,

BE IT FURTHER RESOLVED that the Mayor and Council of the Town of Front Royal, Virginia hereby requests Congressman Robert W. Goodlatte provide a similar request to Norfolk & Southern Corporation to stress the need for advance notice to ensure continued public safety service to areas that can be isolated due to this maintenance work.

There being no further business, the Mayor declared the meeting adjourned at 7:33 p.m.

APPROVED:

Jennifer E. Berry
Clerk of Council