

The regular meeting of the Town Council of the Town of Front Royal, Virginia was held on November 23, 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 Hrbek that Council approve the Regular Council Meeting minutes of November 9, 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)

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**RECEIPT OF PETITIONS OR CORRESPONDENCE FROM THE PUBLIC**

Mike McCool, of 125 W. 8<sup>th</sup> Street, thanked the press for publishing his phone number in the newspaper recently. Mr. McCool noted that this evening Council would be voting on the urban agriculture issue, and added that chickens are not for everyone. He stated that chickens need care and require a lot of knowledge and remain cute for only about two weeks. Mr. McCool stated that chickens are social animals and can not be cooped in. He noted that they require special diets, a proper balanced diet and they scratch and peck often. He added that they also eat grass until there are bare spots and owners must check on their chickens every day.

Mr. McCool noted that chickens require plenty of water and and must not become overheated. He noted that they are a lot more work than dogs and cats. He stated that the have a lot of bird droppings that smell and that ammonia is bad for the chickens to smell also. Mr. McCool stated that they are prone to parasites, the chickens attract mites, and get sick easily. He asked that Council think over the ordinance.

Jessica Jansen, of 316 Cypress Street, spoke in favor of the urban agriculture ordinance. She stated that having chickens, bees and rabbits are good clean animals and it is a right for individuals to have that opportunity to raise those animals for food. Ms. Jansen noted that for the Town to prevent that would be oppressive; she added that having six hens is minor compared to a golf courses water run off, especially considering fertilizer. Ms. Jansen stated that chickens are not for everyone, just as dogs and cats are not for everyone. She noted that the property value issue was brought up at the last meeting, and she pointed out that other communities that allow urban chickens do not generally have reduced property values – but rather they have the opposite effect

for most. She stated that having 2-3 chickens is not running down the neighborhood and having a minimal amount of animals is not unreasonable.

**REPORT OF THE MAYOR, COUNCIL & STAFF**

Town Manager Steve Burke noted that:

- Town Offices will be closed this Thursday and Friday, November 26 & 27 in observance of Thanksgiving. Garbage collection for those with normal collection on Thursday will be Wednesday, November 25th. Garbage collection for those with normal collection on Friday will be Tuesday, November 24th. There will be no yard waste collection this week. The Town's drive-thru will be closed on Saturday, November 28<sup>th</sup>;
- Town real estate and personal property taxes are due December 5<sup>th</sup>;
- The Town's 2015 Christmas ornament depicting the Visitor Center is available to purchase at the Town's Visitor Center located at 414 East Main Street;
- The Virginia Municipal League continues to accept "If I Were Mayor" essays from 7<sup>th</sup> graders until December 1st. Information about this contest are available on the Town's website, [frontroyalva.com](http://frontroyalva.com);
- The Town is accepting applications from graduating seniors for two scholarship programs. The first is on behalf of American Municipal Power which is offering two \$2000 scholarships to its member communities. The deadline is December 7, 2015. The second is the Town's Scholarship Program which is offering two \$500 scholarships to Town residents pursuing additional education at a university, community college, or trade school following graduation. Information about both scholarship programs is available on the Town's website;
- Leaf collection will continue on Wednesday of week without holidays through January 13<sup>th</sup>. There is no limit to the number of bags or containers of leaves that are placed curbside. Please do not tie or otherwise seal the bags. The Town will not collect leaves raked to the curb;
- The Chamber of Commerce Christmas Parade will begin at 5:00 pm on Saturday, December 5th. The parade route will begin on Luray Avenue, travel on Stonewall Drive to Royal Avenue, turn onto Main Street, continue on Chester Street, and travel down 3rd Street to its end at the Government Center. At the beginning of the parade, the Town will conduct a lighting ceremony for the wreathes and rope lights on Main Street and the Christmas tree at the Gazebo;
- The Town invites our residents to the Gazebo on Saturday, December 19th beginning at noon for the Holiday Musical with performances by the WCMS Band and Chorus and by the AS Rhodes Elementary School Chorus;
- The Town would like to thank Laura Walthall and her art students from Leslie Fox Keyser and AS Rhodes Elementary Schools for decorating the windows at the Administration Building for the holiday season. Please visit Main Street to view their incredible artwork; and
- On behalf of the Town staff, he wished the Town Council and our citizens a Happy Thanksgiving.

Jennifer McDonald, Executive Director of the Economic Development Authority:

- Reported that an application to VDOT would be submitted for industrial funds and they are awaiting a response;
- Stated that they met with two prospects for the McKay Springs property;

- Noted that surveying began on Leach Run Parkway;
- Remarked that the EDA has met with four prospects and are doing some engineering studies for the Afton property; and
- Noted that December 4<sup>th</sup> was the meeting date for the EDA.

To answer Councilman Egger’s question, Mrs. McDonald noted that the individual responsible for the sign for the Police Department on Main Street had forgotten to assemble that product. Mrs. McDonald stated that it would soon be taken care of.

Martha Shickle, Executive Director of the Northern Shenandoah Valley Regional Commission, reported that the Northern Shenandoah Valley Region has been approved by the Department of Agriculture to participate in their Strengthening Communities Together Program, which is a technical assistance program. She explained that the program that helps communities work together to identify assets that can strengthen their economic viability. She noted that Council was invited to the Commission’s holiday event on December 16<sup>th</sup> at the George Washington Hotel. Ms. Shickle added that they would follow up with printed invitations to Council member’s soon for those interested.

Mayor Darr thanked Ms. Shickle for her work at the NSVRC and congratulated her on her move to Richmond.

Councilman Hrbek announced that it is the 99<sup>th</sup> year of the Doc Smith Christmas Baskets project. He noted that in order to register, please do so by phoning his office at 635-8229, as the number registered this year was down significantly.

Mayor Darr thanked the local American Legion Post for the wonderful Veteran’s Day Program, noting that it was such a community event and it was a special day this year.

Mayor Darr wished everyone a Happy Thanksgiving and asked that everyone remain safe, especially if they are traveling.

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

*Councilman Tewalt moved, seconded by Vice Mayor Tharpe that Council add item numbers 15 & 16 to the agenda to consider items to Extend the Loan Period for the EDA and a Resolution of Support for the EDA Loan.*

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)

**CONSENT AGENDA**

- A. COUNCIL APPROVAL: Budget Calendar
- B. COUNCIL APPROVAL: Budget Amendment - DMV Animal Friendly License Plates Funds
- C. COUNCIL APPROVAL: Proclamation – *“Small Business Saturday”*
- D. COUNCIL APPROVAL: Town Manager Contract/Vacation Time

*Councilman Tewalt moved, seconded by Councilman Funk that Council adopt 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)

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**PUBLIC HEARING TO RECEIVE PUBLIC COMMENT – Reduction of Lodging Tax**

**Summary: At the September 21, 2015 Work Session Councilman Hrbek asked for an item to be placed on the September 28, 2015 Regular Agenda pertaining to reducing the Lodging Tax from 6% to 2%. On September 28, 2015 Council Authorized to Advertise for a Public Hearing to Reduce the Lodging Tax; however, the motion was amended to direct Town Staff to advertise for the Public Hearing at the 2<sup>nd</sup> Meeting in November for discussion purposes only. At tonight’s meeting Council is requested to receive comments and concerns from the public pertaining to the reduction of the Town of Front Royal’s Mote Excise Tax from six percent (\$0.06) to two percent (\$0.02) of the total amount paid for motel room rental upon any transient in the Town of Front Royal. (*Town Code 75-34*)**

Mayor Darr opened the public hearing.

Mike McCool, of 125 W, 8<sup>th</sup> Street, noted that he was surprised that this proposal has come up for a public hearing. He noted that in the many years that he has traveled never once has he asked what the tax rate was. He stated that in all the hotels he has stayed in, never did he ask what the tax rate was in the thousands of times that he stayed in a hotel in his travels. Mr. McCool stated that if the rate is lowered, the difference in funding will come out of the pocket of the public. He added that there was no equalization of the Corridor amounts and the hotels in the Corridor do not compare with the ones in the Town limits.

Jason Aikens, of Hampton Inn of Front Royal, thanked Council thanked for their support in the Corridor, noting that the Town and County should realize that corporations do pay attention to the tax rate and level the playing field is in when possible. Mr. Aikens noted that he does have concern with the budget short fall that would be created by this proposal.

Brent Jackson, Holiday Inn in the Corridor, acknowledged that for corporate rates they do in favor of raising the County rates. Mr. Jackson explained that he conducted some research and he could not find one instance of localities that willingly lowering their lodging tax he noted that he was unsure where the budget shortfall would be made up

Matthew Tederick, 21 Edgewood Street, voiced his agreement with Mike McCool, adding that he has never personally asked what the tax was. He noted that he prefers branded hotels that are clean, and the Town does not have name brand hotels in Town, but small independent motels. Mr. Tederick stated that shortfalls in the budget could be addressed with cutting back in spending.

Mr. Tederick added that he does not own a hotel, though a friend of his does. He stated that he has been told that said friend has lobbied for the hotel tax reduction. Mr. Tederick encouraged Council to amend matters before moving forward and perhaps eliminate the BPOL and see how it changes matters in the Town of Front Royal.

Joan Kay, of the Woodward House Bed & Breakfast, noted that she would be in support of making the change to the tax amount in order to make it even, and level the playing field for the Town and County.

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

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**COUNCIL APPROVAL – Ordinance to Amend Town Code Chapters 175 and 66 and Enact 175-110.5 Pertaining to Urban Agriculture (2ND Reading)**

**Summary: Council is requested to adopt on its second and final reading an ordinance to amend Town Code Chapter 175-3 Zoning-Definitions; Chapter 66-12 Dogs and Other Animals-Definitions; 66-13 Dogs and Other Animals-Prohibitions; 66-14 Dogs and Other Animals-Exemptions pertaining to Urban Agriculture; and, to enact 175-110.5 Zoning-Performance Standards for Urban Agriculture. The draft amendments require a zoning permit for the keeping of livestock and management plan that must be endorsed by the Virginia Cooperative Extension Office or other qualified expert, nonprofit organization or government entity. Residents of single-family, duplex and two-family homes could obtain a permit to keep up to six (6) hens, honeybee hives and rabbits. Other residential uses, such as townhouses and apartments would not be allowed to keep animals except if approved by Town Council with a Special Use Permit or proffer. Town Council amended the proposed ordinance amendment on November 9, 2015 by the following motion: Councilman Funk moved, seconded by Councilman Hrbek, that Council strike Section 175-110.5(F) and re-insert Section 66-14(B) “This Article shall not apply to livestock or fowl on any operation farm of one (1) acre in size or more located within the town limits; AND make the highlighted section shown on the ordinance it’s “own” section: “C” Animals authorized as Urban Agriculture under Chapter 175 shall be exempt of the restrictions of this Article.**

*Councilman Egger moved, seconded by Councilman Connolly that Council adopt on its second and final reading an ordinance to amend Town Code Chapter 175-3 Zoning-Definitions; Chapter 66-12 Dogs and Other Animals-Definitions; 66-13 Dogs and Other Animals-Prohibitions; 66-14 Dogs and Other Animals-Exemptions pertaining to Urban Agriculture; and, to enact 175-110.5 Zoning-Performance Standards for Urban Agriculture, with the amendments approved by Town Council on November 9, 2015 and the additional language added by the Director of Planning/Zoning, as presented.*

Councilman Tewalt noted that this would pull down property values in some areas and he had received many phones calls, including one noting that the chickens currently in town are running free most of the time. He stated that chickens and rabbits can be problematic and the Town is spending \$50+ million on the Town’s treatment system for maintenance for EPA regulations and this ordinance will allow pollution against that same issue.

Councilman Connolly explained that the purpose of the government was not to dictate what citizens needed and did not need – but rather allow them freedoms. He noted that this ordinance was a freedom issue and the Council should try the matter for one year.

Councilman Funk noted that he had concerns, and he too spoke with the individual that contacted Mr. Tewalt earlier in the day. He stated that for those individuals that have had chickens to this point, they would now have a chance to come into the point and allow Staff to address needs of those going about the chicken process the wrong way.

Councilman Egger thanked Mr. Camp and the Planning Commission and Staff, adding that this was a positive reason for families to move to the community and it is moving the Town in the right direction.

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

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**COUNCIL APPROVAL – Award of Contract for Cost of Service Rate Study**

**Summary: Council is requested to consider approval of an award in the amount of \$55,850.00 to Burton & Associates for a Cost of Service Analysis Rate Study and Five-year Cash Requirements Projection.**

**Budget/Funding: Department of Energy Services FY16 budget line item 9401-R43002 “Professional Services”. This is funding carried forward from FY15.**

*Councilman Hrbek moved, seconded by Councilman Egger that Council approve an award in the amount of \$55,850.00 to Burton and Associates for a Cost of Service Analysis Rate Study and Five year Cash Requirements Projection.*

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)

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**COUNCIL APPROVAL – Deed of Easement for Aldi, Inc.**

**Summary: Council is requested to approve a Deed of Easement from Aldi, Inc. to the Town for a water and sewer easement and right-of-way acquisition for facilities serving Land Unit 2 in Riverton Commons as presented.**

Councilman Funk recused himself from this item.

*Councilman Tewalt moved, seconded by Councilman Connolly that Council approve a Deed of Easement from Aldi, Inc. to the Town for a water and sewer easement and right-of-way acquisition for facilities serving Land Unit 2 in Riverton Commons as presented.*

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

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**COUNCIL RE-APPOINTMENT –Board of Architectural Review (BAR)**

**Summary: Council is requested to make a re-appointment to the Board of Architectural Review.**

*Councilman Connolly moved, seconded by Vice Mayor Tharpe that Council re-appoint Angela Toler to the Board of Architectural Review (BAR) to a four-year term ending November 13, 2019.*

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)

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**COUNCIL APPOINTMENT – Audit and Finance Committee**

**Summary: The Audit and Finance Committee is composed of the Mayor, two Councilmembers, the Finance Director, the Town Manager and the Town’s Auditor. Council is requested to re-appoint two Councilmembers to the Audit and Finance Committee, said terms ending December 31, 2016.**

*Councilman Connolly moved, seconded by Vice Mayor Tharpe that Council re-appoint Councilman Bret W. Hrbek and Councilman Eugene R. Tewalt to the Audit and Finance Committee along with the Mayor, Town Manager, Finance Director and the Town’s Auditor, said terms to expire December 31, 2016.*

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)

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**COUNCIL ADVERTISE FOR COUNCIL VACANCY**

**Summary: Council is requested to advertise for applications to fill an unexpired term on Town Council due to Councilman Funk being elected as Warren County Circuit Clerk. His said term to begin January 1, 2016.**

*Councilman Egger moved seconded by Councilman Hrbek that Council advertise in the local newspaper(s) for applications from the citizenry for a council member to fill the unexpired term of Councilman Daryl Lee Funk, that would have expired December 31, 2016. She further moved that the advertisement begins December 14, 2015 with a closing date of January 4, 2016 with applicants applying through the Town’s Online Employment Process on the Town’s Website [www.frontroyalva.com](http://www.frontroyalva.com) and further forms of applications.*

Vote: Yes – Connolly, Egger, Hrbek, Tewalt and Tharpe  
No – N/A

Abstain – Funk  
Absent – N/A  
(Mayor Darr did not vote as there was no tie to require his vote)

**COUNCIL APPROVAL - EDA Loan Extension**

**Summary: Council is requested to approve an extension on the loan period for the EDA’s bridge loan from the Town associated with the development of Lot 6 at the Avtex Site. The executed loan documentation allows an extension by mutual agreement of the parties. The EDA has indicated that the closing of their loan has been delayed and should be completed by December 31st.**

*Vice Mayor Tharpe moved, seconded by Councilman Tewalt that Town Council approve an extension of the loan to the EDA until December 31st and authorize the Town Manager and Town Attorney to execute all documents to extend this loan repayment.*

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 - Resolution of Support for EDA Loan**

**Summary: Council is requested to approve a revised Resolution to Approve and Support the EDA loan for \$10,000,000 from First Bank and Trust Company. The Bank has request the Town approve a revised that includes specific language regarding the use of the loan for development of Lot 6 by IT Federal.**

*Vice Mayor Tharpe moved seconded by Councilman Funk that Town Council approve the Resolution to Approve and Support the EDA loan for \$10,000,000 from First Bank and Trust Company for the development of Lot 6 by IT Federal.*

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)

There being no further business, the Mayor declared the meeting adjourned at 7:49 p.m.

APPROVED:

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Jennifer E. Berry  
Clerk of Council