

The regular meeting of the Town Council of the Town of Front Royal, Virginia was held on July 11, 2016, 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 Bret W. Hrbek
Councilman Jacob L. Meza
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 moved that Council approve the Regular Council Meeting minutes of June 27, 2016 as presented.

Vote: Yes – Connolly, Egger, Hrbek, Meza, 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

Alford Carter III, of 230 N. 8th Street, thanked the Front Royal Police Department and Town Council for the selection of the new patrol officer recently. He noted that he was proud as a citizen and a member of the NAACP. He read a letter that the NAACP had sent out regarding the police shootings in Dallas, Texas:

On behalf of the Warren-Page County Branch of the NAACP, I would like to extend my heartfelt support to you and the members of your agencies in the wake of the horrific and unfortunate events involving the death of members of the law enforcement community in Dallas, Texas. We, as an NAACP branch, honor and respect you for all that you do to protect and keep the citizens of Warren and Page County safe. We stand with you and send our deepest sympathies and condolences.

Mr. Carter added that the NAACP had planned a law summit with Warren County and Front Royal, and he noted that it was not a black/white issue. He opined that it was a few deranged people that were taking it upon themselves to do such actions. Mr. Carter stated that we should look upon one another as equals and the community mourns with the law enforcement community. He noted that he could not sleep and he noted that this is not what the community is about. Mr. Carter stated that they had children to raise and they must communicate with one another. He introduced Claude Travis, the new Law & Order Representative for the NAACP, noting that he was very impressed with the law enforcement in the community.

Bruce Rappaport, of 300 W. Main Street, noted that when he was in kindergarten years ago he learned a new cliché: the squeaky wheel gets the worm. He was embarrassed when he shared it with his family, though after the laughter his mother explained that it was the wheel that received the grease. He noted that Massie Street has gone one way and those few people have received what they asked for and now West Main Street has become a race track. He noted that the Police Department does a commendable job though they cannot be everywhere and something must be done to calm the traffic along Main Street.

Mr. Rappaport suggested speed tables in order to slow down traffic, rather than a speed bump. He noted that speed tables need to be placed between North Street and Massie Street and another between Cherry Street and Massie Street. Mr. Rappaport explained that speeders may harm a large family that lives along the street and he was concerned for their safety.

Town Manager Steve Burke noted that:

- He would like to express my appreciation to our Police Department and our Water & Sewer Maintenance Division for their response to this weekend's water break on Commerce Avenue. Our Police Department quickly limited access to the area off the water break to protect our citizens. Our Water & Sewer crews were then able quickly locate the water break. By the end of Sunday, our crews had restored water service in the area and had placed temporary patch on the roadway so that it would be open for weekday traffic.
- The Town has installed one-way signage for Massie Street. Please be aware of this change in traffic pattern as you travel through this neighborhood.
- Yard waste needs to be placed in a can, bagged in an unsealed bag, or bound with twine in bundles less than 5 feet in length and less than 50 lbs. If you have large limbs, please contact the Department of Environmental Services at (540) 635-7819 to arrange for the chipper to be scheduled to visit your residence.
- The Gazebo flick for Thursday July 14th is Despicable Me sponsored by City National Bank. Next Thursday, July 21st will be Monsters Inc. sponsored by CBM Mortgage.
- The Front Royal Volunteer Fire Department will begin their annual Carnival at the Crosby Road Carnival Lot. The parade will be Wednesday July 20th at 6:00 pm from Downtown to Carnival lot. Their Fireworks display will be Thursday July 21st.

Energy Services Department Director, Joseph Waltz, gave the quarterly report to Council, noting that the Town hosted the Blue Ridge Environmental Governor's School. He stated that he was evaluating a PPA project and he would bring forward that information for Council's review. Mr. Waltz stated that the Town's solar project would go forward to the Planning Commission for their review, and he noted that the Department of Environmental Quality had submitted some comments on the project as well. Mr. Waltz stated that a solar panel weighs about 50 pounds and they have about a 15-acre site and it will be a large display once they were all in place.

Mr. Waltz stated that the cost of service and rate study was moving forward and the rate design for cost recovery was being looked over as well. He noted that discussion on these items with

Council is scheduled for late August/early September. Mr. Waltz stated that the Department's Leach Run Parkway installation was complete on one side and 50% installed on the other side.

Councilman Hrbek asked about the Westminster sidewalk. Mr. Burke noted that they were awaiting the environmental study from VDOT and he did not believe the installation of the sidewalk should not delay any matter relating to schools.

Mr. Hrbek asked about the old Town Hall plaque. Mr. Burke stated that he would be meeting with Mrs. McDonald of the EDA and he would speak with her about the delay.

Councilman Meza noted that Commerce Avenue crews worked on the recent repair quickly and he suggested that some signs could be put in place for the asphalt area in the interim. Mr. Burke stated that temporary asphalt was put in place and they could put a BUMP sign in place while awaiting permanent asphalt.

Mayor Darr stated that the extreme heat has taxed the electric system due to air conditioning use. He reminded everyone to watch over children and animals during the heat.

Mayor Darr announced that the Annual Firemen's Carnival begins soon and the relish is apparently quite tasty this year.

Mayor Darr noted that he had the pleasure of recognizing a Town of Front Royal employee who retired his position as a Sergeant of Police on July 1, 2016.

Kevin E. Foltz began his employment with the Town of Front Royal as a Police Officer on June 23, 1993. He was promoted to an investigator on February 22, 2006 and later that year to a Corporal. On October 1, 2008 Kevin transferred to our Criminal Investigations Division. He achieved our Master Police Officer position February 20, 2013. After 20 years of service Kevin's final position was a promotion to Sergeant, which occurred on June 18, 2014. In his final position, as Sergeant, he led and taught future generations of Police Officers.

The Town of Front Royal Police force are employees who are true public servants. They work to protect and keep our citizens and community safe and free from harm.

The Mayor, Council and Fellow Employees would like to express our sincere appreciation for your contributions to the growth and success of our community during your service with the Town of Front Royal Police Department. We wish you a long and happy retirement.

Mayor Darr also recognized the Promotion for Sgt. Travis E. Cave from MPO to Sergeant; and recognized Officer Bradley D. Pennington and Captain Jason A. Ryman.

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

CONSENT AGENDA

- A. COUNCIL APPROVAL – Bid for General Engineering Services – *Energy Services Dept*
- B. COUNCIL APPROVAL – Bid for Power Supply Consulting Services – *Energy Services Dept*
- C. COUNCIL APPROVAL – Liaison Committee Meeting Agenda Items
- D. COUNCIL APPROVAL – Budget Amendment to Accept Monies from Federal Aid
- E. COUNCIL APPROVAL – Budget Amendment to Accept Monies from Anti-Litter Council

Councilman Tewalt moved, seconded by Councilman Hrbek that Council adopt the Consent Agenda as presented.

Vote: Yes – Connolly, Egger, Hrbek, Meza, 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 Pertaining to Membership in Regional Criminal Justice Academy – Police Department

Summary: Council is requested to approve a Resolution that authorizes the Police Chief to take all necessary steps to withdraw from membership in the Rappahannock Regional Criminal Justice Academy and establish membership in the new Skyline Regional Criminal Justice Academy, effective June 30, 2017.

Councilman Hrbek moved, seconded by Councilman Connolly that Council approve a Resolution that authorizes the Chief of Police to take all necessary steps to withdraw membership in the Rappahannock Regional Criminal Justice Academy and establish membership in the new Skyline Regional Criminal Justice Academy, as presented.

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

RESOLUTION – CRIMINAL JUSTICE ACADEMY

AUTHORIZING THE CHIEF OF THE TOWN OF FRONT ROYAL POLICE DEPARTMENT TO TAKE ALL NECESSARY STEPS TO WITHDRAW FROM MEMBERSHIP IN THE RAPPAHANNOCK REGIONAL CRIMINAL JUSTICE ACADEMY AND TO ESTABLISH MEMBERSHIP IN THE SKYLINE REGIONAL CRIMINAL JUSTICE ACADEMY

WHEREAS, the Town of Front Royal has been a training member of the Rappahannock Regional Criminal Justice Academy since 1998 or thereafter; and,

WHEREAS, the Town of Front Royal has enjoyed an excellent relationship with the other localities participating in the Academy, and has received thorough and effective training for its law enforcement/communications officers at the Academy; and,

WHEREAS, an analysis of the current training needs by the Front Royal Police Department has revealed that participation in the Skyline Regional Criminal Justice Academy would provide a Department of Criminal Justice Services curriculum and result in cost savings; and,

WHEREAS, the Chief of the Front Royal Police Department has determined that it is in the best interest of the Front Royal Police Department and the Town of Front Royal to withdraw from membership in the Rappahannock Regional Criminal Justice Academy and establish membership in the Skyline Regional Criminal Justice Academy; and,

WHEREAS, Section 15.2-1747(D) of the Code of Virginia, 1950, as amended, provides that a governmental unit may withdraw from an academy created under this Section or § 15.2-1300 only by two-thirds vote of the Board of Directors of the Academy. The governing body of the governmental unit seeking to withdraw from the Academy shall signify its desire by resolution or ordinance. The Board of Directors shall consider requests to withdraw in October 2016, and in October of every fifth year thereafter. No requests to withdraw shall be considered at any other time, unless agreed to unanimously. Any withdrawal approved by the Board of Directors shall be effective on June 30 of the following year; and,

WHEREAS, at the regular May 12, 2016 meeting of the Criminal Justice Service Board unanimous agreement was given to allow the withdrawal of the Front Royal Police Department from Rappahannock Regional Criminal Justice Academy membership and allow membership in Skyline Regional Criminal Justice Academy, effective June 30, 2017; and,

NOW THEREFORE BE IT RESOLVED by the Town of Front Royal that it hereby expresses its desire for the Town to withdraw from the Rappahannock Regional Criminal Justice Academy and to establish membership in the Skyline Regional Criminal Justice Academy for criminal justice purposes; and,

BE IT FURTHER RESOLVED, the Chief of the Front Royal Police Department be, and is hereby, directed to take all actions necessary to effect the withdrawal from the membership of the Rappahannock Regional Criminal Justice Academy and to establish membership in the Skyline Regional Criminal Justice Academy for criminal justice purposes; and,

BE IT FURTHER RESOLVED that a copy of this resolution shall be sent to the Director of the Rappahannock Regional Criminal Justice Academy and the Director of the Virginia Department of Criminal Justice Services.

COUNCIL APPROVAL – Installation of Video Cameras at the Town Gazebo and Resolution Regarding Policy for Fixed Video Equipment in Public Areas

Summary: At their December 17, 2016 Regular Meeting Council voted to remove all video cameras from the Gazebo located at Main and Chester Streets. After a public hearing was held on June 27, 2016 to receive comments and concerns from the public pertaining to the installation of cameras at the Town Gazebo located at Chester Street and Main Street, Council is now requested to consider re-installing the video cameras at the Gazebo and approve a Resolution regarding Policy for Town Fixed Video Equipment in Public Areas, as presented.

Councilman Connolly moved, seconded by Vice Mayor Tharpe that Council direct staff to install video cameras at the Gazebo that will be accessible by the Police Department to investigate incidents and by IT Staff for maintenance. He further moved that Council direct Staff to install signage informing the public that video cameras are in use in the area; and continued to further move that Council approve the Resolution Regarding Policy of Town Fixed Video Equipment in Public Areas as presented.

Councilman Egger moved that Council remove the resolution from the agenda until further discussion at a worksession.

**Mayor Darr noted that a second needed to be in order for discussion.
Motion failed for lack of a second.**

Councilman Hrbek moved, seconded by Councilman Egger, to postpone until the July 25th meeting.

Councilman Meza stated that he would support postponing the matter at this time. Councilman Connolly stated that people have come forward for months on the motion and how Council handled the item at the last meeting was disingenuous. He noted that he was ready to move forward and he saw no reason to remove the item at this point.

Councilman Meza noted that it had been delayed significantly and Council needed to discuss the resolution in full and he was excited about the resolution and the cameras and it speaks volumes to the concerns of the citizens. He stated that he would like the matter to move forward with common sense.

Councilman Hrbek stated that it would be dangerous without a policy established and having the cameras installed without the policy would not be wise. He noted that having the policy in the Town Code eventually was important as well.

Councilman Egger stated that resolutions are generally discussed in worksession in order to tweak matters where needed. She noted that Council needed to put everything in line before moving forward with a major decision.

Councilman Connolly asked if the draft was forwarded to Council on July 5th. Mr. Burke stated that Mr. Meza responded with a few questions. Mr. Connolly stated that while it may be customary to go through with worksession with resolutions, he noted that changes can be made to the resolution tonight; Council does not need to wait until the worksession for concerns.

Councilman Egger stated that she has not made up her mind regarding the resolution at this time. She noted that she may be in favor of the resolution while still be against the installation of the cameras.

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

Mayor Darr noted that though the resolution could use slight adjustment he was in agreement with most of the text as written.

(By Roll Call; On Motion to Postpone)

To answer Mr. Connolly's question, Mr. Burke noted it was to be codified at a later time, but at this time it was only policy.

Councilman Hrbek stated that he would support matters going forward in the Code, such as limiting the cameras the gazebo area/public areas. He noted that should something happen on the Happy Creek Trail, for example, the Town could then install cameras in the area. Mr. Hrbek stated that currently the Town has a great Staff and a Police Department, though should the policy be violated by future Staff, he questioned the result. Mr. Burke noted that disciplinary action would be left up to the Town Manager, including the possibility to terminate. Mr. Napier added that it would also be a violation of the Employee Handbook and possibly specific criminal penalties if misused.

Councilman Hrbek stated that he was opposed to placing signs up stating that people were being recorded.

Councilman Egger asked if video footage that belongs to the Town was subject to FOIA. Mr. Napier stated that if it was part of a criminal investigation it would not be released for example. She asked if no crime is committed and the footage exists, could it then be released. Mr. Burke noted that the Police Department is looking into blotting out all faces in photographs not related to incidents and he would suspect that faces could be blotted out for this footage as well. Mr. Napier stated that most likely the Privacy Protection Act would protect the footage and he would look into that matter.

Councilman Egger stated that in the last year very few incidents happen at the Town Gazebo and fewer arrests happen at the Gazebo. She noted that the ACLU brought up other questions that Council had not addressed, such as, "What problems was the community trying to address?" She added that the Police Department had also not given times when the cameras had been helpful in the assistance of crime.

Councilman Connolly noted that the Town was aware of the cost of the cameras and the feed would go to a DVR system that would be unmonitored. He stated that it would only retain about 3-5 days of data. He stated that he did think it was a protection of the Town's downtown park area. Mr. Connolly stated that the Town's Gazebo area is highly invested in area and it should be protected. He noted that it was about an \$810,000 investment at least and it was an effective deterrent of at least vandalism, obviously. He stated that the Town has financially invested heavily.

Councilman Egger stated that the incidents of vandalism were not helped by the cameras. She added that Council was not given the cost of the cameras and installation, and the cameras were not effective.

Councilman Tewalt moved, seconded Councilman Connolly, to call for the question.

Vote: Yes – Connolly, Tewalt and Tharpe
No – Egger, Hrbek and Meza
Abstain – N/A
Absent – N/A
(By Roll Call; MOTION FAILS, Requires 2/3 majority)

Councilman Hrbek asked if Council needed to authorize the expenditures. Mr. Burke noted that Staff would be installing the old cameras with the simple resolution, though they could pay for higher resolution cameras if so desired.

Councilman Hrbek noted that Americans go down the what-if road should the Town Manager or the Police Chief be different people, adding that he appreciated the spirited debate here this evening.

Councilman Egger moved, seconded by Councilman Hrbek, that Council revisit the camera installation in one year, and have the matter sunset on July 1, 2017.

Councilman Meza noted that a sunset would be appropriate for this item and he would support the motion.

Vote: Yes – Egger, Hrbek and Meza
No – Connolly, Tewalt and Tharpe
Abstain – N/A
Absent – N/A
No – Mayor Darr to break the tie
(By Roll Call; MOTION FAILS for Sunset Clause)

Councilman Egger moved, seconded by Councilman Hrbek, that the resolution be adjusted to state that items ONE and TWO noted that it requires the positive vote of Town Council for installation of video equipment.

Councilman Meza noted that it would be difficult to get behind the motion and it was micro managing the Town Manager and the cameras were protecting the Town Employees.

Councilman Egger removed her motion; Councilman Hrbek removed his second.

Councilman Egger moved, seconded by Councilman Hrbek, that the resolution state that item TWO requires the positive vote of Town Council to install the video equipment in the Town's public areas.

Vote: Yes – Connolly, Egger, Hrbek and Meza
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)

Councilman Egger moved, seconded by Councilman Connolly, to remove the wording in the resolution to install the signage noting that cameras are in use.

Councilman Connolly noted that the signs were part of making the cameras effective. In added that in essence, it was stating: “You’re on camera, behave yourself.” He stated that the cameras use should not be hidden from the public.

Councilman Egger stated that it was not welcoming as a tourist and it seems to convey that the place is filled with crime.

Councilman Meza questioned whether the signage need to be there to remain in compliance with State and Federal Law. Mr. Burke noted that he would defer to Mr. Napier regarding the laws. Mr. Burke added that there does not seem to be any specific requirement though most localities seem to post signs. Mr. Napier added that he was not aware of any specific laws.

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

Councilman Egger stated that she would like language in the resolution to include that a warrant or an ongoing open criminal investigation should be required before the video is used. Mr. Burke noted requests would be legitimate from the Police Department. Councilman Meza noted that items five and seven in the resolution do seem to conflict with one another.

Councilman Egger moved, seconded by Councilman Hrbek, that number FIVE in the resolution should be amended to stated that it would require an open criminal investigation, and the other text should be stricken.

Mr. Burke explained that items 5 and 7 were there to cover different issues, though he agreed that the text was similar as Councilman Egger noted.

Councilman Meza noted that the warrant would never be necessary according to Councilman Egger’s wording, as an open criminal investigation, criminal complaint or incident would proceed a warrant.

Vote: Yes – Egger and Hrbek
No – Connolly, Meza, 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 for open criminal investigation)

Councilman Connolly moved, seconded by Vice Mayor Tharpe, that no Town employee or other person, without a court order, shall be permitted to view, continuously watch, search, copy disseminate, or otherwise use the Town's video or photographic recordings, without 1) specific legitimate purpose directly related to the legitimate investigation by a law enforcement agency of a reported criminal incident, and 2) express prior permission from the Town Manager (number #7).

Vote: Yes – Connolly, Egger, Hrbek, Meza, 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 #7)

Councilman Egger asked if the recordings would be subject to FOIA releases. Mr. Burke noted that Mr. Napier could check tomorrow on said issue.

Councilman Hrbek suggested that the two items be split into two as he would feel more comfortable voting on the items that way.

Councilman Egger stated that no one had articulated the problem attempting to be fixed with the camera installation, and without a problem no solution is necessary. She noted that a solution is responding to some legitimate concerns, though there is not legitimate concern at the Gazebo.

Councilman Meza stated that citizens should be thanked for calling out Council for not having a policy and he thanked Mr. Burke and Staff for bringing the matter forward. He noted that many concerns and questions were answered and appropriate checks and balances were now in place for the cameras with the written policy.

Vote: Yes – Connolly, Meza, 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)
(By Roll Call; On Original Motion As Amended)

There being no further business, the Mayor declared the meeting adjourned at 8:43p.m.

APPROVED:

Jennifer E. Berry
Clerk of Council