

The regular meeting of the Town Council of the Town of Front Royal, Virginia was held on January 22, 2018, in the Warren County Government Center’s Board Meeting Room. Mayor Tharpe 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 Hollis L. Tharpe
Councilman John P. Connolly
Councilman Gary L. Gillispie
Councilman Jacob L. Meza
Councilman Christopher S. Morrison
Councilman William A. Sealock
Vice Mayor Eugene R. Tewalt
Town Attorney Douglas W. Napier
Town Manager Joseph E. Waltz
Clerk of Council Jennifer E. Berry, CMC

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

Vice Mayor Tewalt moved, seconded by Councilman Meza, moved that Council approve the Regular Council Meeting minutes of January 22, 2018 as presented.

Vote: Yes – Connolly, Gillispie, Meza, Morrison, Sealock and Tewalt
No – N/A
Abstain – N/A
Absent – N/A

(Mayor Tharpe did not vote as there was no tie to require his vote)
(By Roll Call)

RECEIPT OF PETITIONS OR CORRESPONDENCE FROM THE PUBLIC

Jennifer Roberts, of 47 Roberts Lane, Apt. 8, noted that she had three suggestions for Town Council, that she had brought forward to Council previously. She noted that a traffic light is needed at John Marshall Highway at Royal Lane as she has noticed that the taxi drivers sit for quite some time waiting to turn. Ms. Roberts added that the area is very heavily traveled area.

Ms. Roberts suggested that an emergency shelter should be provided for homeless in the community immediately to assist those in need. She further stated that the walking trail that begins near the UPS area on John Marshall Highway that goes to the Leach Run Parkway area needs to be extended.

Town Manager, Joseph Waltz, noted that the Town was no longer under voluntary water conservation. He thanked the community for their efforts during this time. He noted that there was about four weeks of work left along the Criser Road Trail project and the matter was going along nicely.

Councilman Sealock stated that the ongoing crosswalk program would provide needed improvements to the community soon. He noted that Staff would have safety delineators installed and this would provide protection for those within the crosswalk.

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

Councilman Sealock moved, seconded by Vice Mayor Tewalt, that Council pass the adoption of the resolution opposing HB 1258 and SB 405 supported by Wireless Communications Industry regarding the elimination of most local control over the installation of new wireless communications and the replacement of current technology, to the agenda.

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

CONSENT AGENDA - NONE

COUNCIL APPROVAL – Resolution Amendment for Policy re: Voluntary Assessment for Local Improvements

Summary: Council is requested to amend the 2004 Resolution pertaining to the “Policy for Assessment for the Installation of Local Improvements” to share one half of the total cost per square foot of walkway improved and one half of the total cost per linear foot of curb and gutter improved with the landowner as presented and effective upon approval of the resolution.

Councilman Connolly moved, seconded by Vice Mayor Tewalt that Council approve the revision of the 2004 Resolution pertaining to the “Policy for Assessment for the Installation of Local Improvements” to share one half of the total cost per square foot of walkway improved and one half of the total cost per linear foot of curb and gutter improved, as presented and effective upon passage.

**RESOLUTION
POLICY FOR VOLUNTARY ASSESSMENTS FOR THE
INSTALLATION OF LOCAL IMPROVEMENTS**

WHEREAS, on September 13, 2004, the Town Council adopted a revised "Policy for Assessment for the Installation of Local Improvements" setting the rates for voluntary participation at \$3.00 per foot of walkway improvements and \$12.00 per lineal foot of curb and gutter improvements; and,

WHEREAS, the Council wishes to amend this Policy to share one half of the total cost per square foot of walkway improved and one half of the total cost per linear foot of curb and gutter improved with the landowner.

NOW THEREFORE BE IT RESOLVED by the Town of Front Royal, Virginia that the policy contained in the September 13, 2004 Resolution is rescinded effective January 22, 2018 and that the following Policy be approved in its place and be amended as follows:

**“POLICY FOR ASSESSMENT FOR THE
INSTALLATION OF LOCAL IMPROVEMENTS”**

WHEREAS, the Town of Front Royal wishes to provide a process whereby landowners and property owners may enter into agreement with the Town for voluntary assessments to install or construct curbs, gutters and/or sidewalks in areas abutting public streets maintained by the Town; and

WHEREAS, the Town encourages the installation or construction of curbs, gutters and/or sidewalks finding it to benefit the citizens of the Town through improved pedestrian access, improved storm water drainage, and prolonged street life; and

WHEREAS, the voluntary installation or construction of curbs, gutters and/or sidewalks has become more prevalent; and

WHEREAS, the Town Council desires consistency and uniformity in the exercise of the Council's assessment authority; and,

NOW THEREFORE BE IT RESOLVED by the Town Council of the Town of Front Royal, Virginia, that the following policy is adopted pertaining to the voluntary assessment for the installation or construction of certain local improvements: sidewalks, curbs & gutters, by agreement which may be amended or modified from time to time to better serve the needs of the Town of Front Royal. The Town Council having made the above findings, it is ordered that: curbs, gutters and/or sidewalks abutting public streets maintained by the Town be installed or constructed where the abutting landowner/property owner has agreed to voluntary assessment for such improvement at the amount and terms set forth herein, Chapter 48 of the Town Code, §15.2-104 and §15.2-2404 of Title 15.2 Chapter 24 of the Code of Virginia, and such further administrative provisions as the Town Manager may deem necessary to implement the policy expressed therein.

The Town Manager may refuse the request of any landowner to install or construct any particular improvement or agree to an assessment by agreement and refer the matter to Town Council for decision if he determines that the particular installation or construction is not an appropriate use of Town funds or is contrary to the infrastructure needs of the Town.

1. Landowners wishing to voluntarily agree to assessment for the installation or construction of curbs, gutters and sidewalks abutting their property along public streets maintained by the Town, may enter into a written agreement, prepared by the Town Attorney, with the Town of Front Royal for said installation or construction. Any voluntary agreement for the installation of a local improvement shall be subject to any terms of Chapter 48 of the Code of the Town of Front Royal applicable to voluntary agreements. As a part of any agreement, the landowner must pay for the installation or construction of the following improvements at the rate and terms as set out below, where applicable:

A. For the installation, construction, improvement, replacement, use or enlargement of sidewalks or other walkways by agreement between the Town of Front Royal and the landowner, the assessment to landowners shall not exceed ~~(\$3.00)~~ **one half of the total cost** per square foot of walkway improved.

B. For the installation, construction, improvement, replacement, use or enlargement of curbs

& gutters by agreement between the Town and the property owner, the assessment to landowners shall not exceed ~~(\$12.00)~~ **one half of the total cost** per linear foot of curb and gutter improved.

II. Landowners may pay for the improvements as follows:

A. The landowner pays the entire amount of voluntary assessment for the improvement, as set out above, at the time when the application is approved, and the agreement ratified and no lien on the abutting property shall be recorded.

B. The landowner may enter into an agreement, secured by a lien on the abutting property, with the Town allowing for payment in nine (9) equal installments over a period of eight (8) years. The first installment shall be due after substantial completion of the improvement, which date of completion shall be determined by the Director of Public Works having oversight of the improvement, to which he shall certify in writing to the Director of Finance who shall then bill the landowner forthwith. The first installment payment will be due and payable thirty (30) days after the billing date. A lien will be recorded in the land records of the Warren County Courthouse against the affected property immediately after the agreement is ratified. Interest will be charged on the unpaid balance at the rate of a one-year U.S. Treasury Bill from the time the improvement is substantially completed. An administrative fee of \$25.00 will be charged to all landowners applying for improvements by installment payments which shall be paid at the time the application is approved and the agreement ratified, which fee shall be credited to the cost of any amount assessed against the landowner for the improvement and deducted from the amount of the first installment. The landowner may pay the entire amount of the assessment at any time. If the first installment or any other annual installment is not paid within thirty (30) days after the due date, then the entire unpaid balance shall be declared due and payable and collected in any manner permitted by law.

The Town Manager shall be responsible for implementing this policy and establishing such further procedures or terms for the administration of this policy as he may find appropriate and not in conflict with Federal or State law, the Town Code, or this policy, now or as amended.

This resolution shall be effective upon passage.

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

COUNCIL APPROVAL – Proclamation “The Great Kindness Challenge Week” for Leslie Fox Keyser Elementary School

Summary: Council has received a request from Leslie Fox Keyser Elementary School seeking approval of a proclamation proclaiming January 22 – 26, 2018 as “The Great Kindness Challenge Week” in the Town of Front Royal, as presented.

Vice Mayor Tewalt moved, seconded by Councilman Connolly, that Council approve a proclamation proclaiming January 22 – 26, 2018 as “The Great Kindness Challenge Week” in the Town of Front Royal for Leslie Fox Keyser Elementary School, as presented.

Councilman Connolly thanked Mayor Tharpe, Councilman Sealock and Vice Mayor Tewalt for attending LFK this morning for the program, and for the ongoing work of the principal of LFK as well, who came to speak to the Council last year.

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

COUNCIL APPROVAL – Proclamation “The Great Kindness Challenge Week” for E. Wilson Elementary School

Summary: Council has received a request from E. Wilson Morrison Elementary School seeking approval of a proclamation proclaiming January 22 – 26, 2018 as “The Great Kindness Challenge Week” in the Town of Front Royal, as presented.

Councilman Gillispie moved, seconded by Councilman Meza moved that Council approve a proclamation proclaiming January 22 – 26, 2018 as “The Great Kindness Challenge Week” in the Town of Front Royal for E. Wilson Morrison Elementary School, as presented.

Councilman Sealock noted it was a privilege to see the children excited and giving high fives to Council and also the Chief of Police and other community members present during this morning’s program.

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

COUNCIL APPROVAL: ADOPTION OF RESOLUTION opposing HB 1258 and SB 405 Supported by Wireless Communications Industry which has effect of eliminating most local control over the installation and operation of new wireless communications structures and the replacement of current technology.

Summary: HB1258, introduced by Delegate Kilgore, and SB405, introduced by Senator McDougale, eliminates most local control over the installation and operation of new wireless structures. The legislation removes the ability of local elected officials, residents and businesses to have input into decisions affecting the character of their own communities industry. The legislation is being promoted by the wireless.

Councilman Sealock moved, seconded by Vice Mayor Tewart, that Town Council approve the attached proposed Resolution and direct the Clerk of Town Council to send a copy of this Resolution to the Honorable Delegates and Senators representing the Town of Front Royal; to Delegate Terry Kilgore and Senator Ryan McDougle; to the Governor of the Commonwealth of Virginia; and to the Virginia Municipal League.

Town Attorney Napier gave a summary noting the adverse affects of the matter and encouraged Council's support to eliminate the potential problems to localities, including the Town.

Councilman Meza thanked Mr. Napier for bringing the matter to Council's attention. He asked how the wireless companies could just place devices on the poles and he asked for clarification. Mr. Napier stated that the wireless industry would pick and choose where they place their devices and no franchise fees would be incurred. He noted that localities would have to expedite the requests of the wireless companies with completely unreasonable timeframes. He noted that the flat fees would not cover basic costs and would place an entirely unjust demand on municipalities across the Commonwealth.

Mr. Napier further stated that the Town cannot conduct a reasonable approval process within ten days. He noted that with only ten days, and only limited Town Staff, it is unreasonable to say "yes, place your wireless device on our pole". To answer Mr. Meza's further questions, he stated that they allow the proposed bills allows the placement of their wireless devices on any Town structure, not just utility poles.

Mr. Waltz stated that the last man on the pole pays for upgrades, and \$500 does not even cover basic pole upgrades at times. Councilman Connolly noted that to have a ten day turn around time seems completely imbalanced.

Vote: Yes – Connolly, Gillispie, Meza, Morrison, Sealock and Tewart

No – N/A

Abstain – N/A

Absent – N/A

(Mayor Tharpe did not vote as there was no tie to require his vote)

(By Roll Call)

**RESOLUTION OF TOWN OF FRONT ROYAL
OPPOSING HB 1258 AND SB 405
REGARDING INSTALLATION AND
OPERATION OF WIRELESS STRUCTURES**

WHEREAS, in the 2017 General Assembly Session, localities worked with the telecommunications industry (“the Industry”) to pass SB1282, which was a compromise bill providing a pathway to small cell telecommunications facilities to be located on existing structures, including structures owned by local government; and

WHEREAS, the Virginia Municipal League (VML) and the Virginia Association of Counties (VACO) and the Industry agreed to discuss how to assist underserved areas after the Session; and

WHEREAS, Industry officials did not engage in meaningful discussions with VML and VACO regarding underserved areas and only wanted to discuss a further erosion of local land use authority regarding new structures; and

WHEREAS, 2018 legislation by the Industry (HB1258 and SB405) (Legislation) proposes to eliminate most local control over the installation and operation of new structures and the replacement of current technology; and

WHEREAS, Whereas, this Legislation mandates a ministerial process which eliminates the ability for local officials, residents and businesses to have meaningful input into decisions affecting the character of their own communities; and

WHEREAS, this Legislation represents a shift in authority, moving decision-making authority from the local community and local elected officials, to for-profit corporations that install wireless equipment; and

WHEREAS, wireless equipment installations can have significant adverse health, safety, economic, and aesthetic impacts on the local communities, but Industry companies have frequently shown little, if any, interest in taking into account these concerns that potentially conflict with their profit margins.

NOW, THEREFORE, BE IT RESOLVED, by the Mayor and the Town Council of the Town of Front Royal, Virginia, that they, on behalf of the Town of Front Royal, Virginia, a Municipal Corporation and a body politic, and its citizens and inhabitants, approve this Resolution.

BE IT FURTHER RESOLVED by the Mayor and the Town Council of the Town of Front Royal, Virginia, that they, on behalf of the Town of Front Royal, Virginia, a Municipal Corporation and a body politic, and its citizens and inhabitants, that the Clerk of Town Council hereby be directed to send a copy of this Resolution to the Honorable Delegates and Senators representing the Town of Front Royal; to Delegate Terry Kilgore and Senator Ryan McDougle; to the Governor of the Commonwealth of Virginia; and to the Virginia Municipal League.

CLOSED MEETING – Disposition of Publicly Held Property

Motion to Go Into Closed Meeting

Councilman Sealock moved, seconded by Councilman Connolly that Town Council go into closed meeting for the purpose of discussion or consideration of the disposition of publicly held real property, specifically two Town alleys which are public rights of way, located between Ay View Drive to the west, and South Royal Avenue to the east and south, where discussion in an open meeting would adversely affect the bargaining position or negotiating strategy of the public body, pursuant to Virginia Code Section 2.2- 3711. A.3.

- Vote: Yes – Connolly, Gillispie, Meza, Morrison, Sealock and Tewalt
 - No – N/A
 - Abstain – N/A
 - Absent – N/A
- (Mayor Tharpe did not vote as there was no tie to require his vote)

(By Roll Call)

Motion to Certify Closed Meeting at its Conclusion

Councilman Sealock moved, seconded by Vice Mayor Tewalt 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, Gillispie, Meza, Morrison, Sealock, Tewalt and Tharpe
No – N/A
Abstain – N/A
Absent – N/A

(By Roll Call)

There being no further business, the Mayor declared the meeting adjourned at 7:44 p.m.

APPROVED:

Jennifer E. Berry
Clerk of Council