

The regular meeting of the Town Council of the Town of Front Royal, Virginia was held on April 9, 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 Sealock moved that Council approve the Regular Council Meeting minutes of March 26, 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

JW Bill Kerns, of 140 West 11th Street, noted that he has been delivering babies in Front Royal since 1978 and he voiced that Valley Health should be pressed to collaborate in order to address the OB issues facing local women. Dr. Kerns noted that the community should insist that Valley Health identify and address obstetrical and neonatal care issues that will occur with the closing of the OB unit at Warren Memorial. He stated that he attended a meeting with Valley Health and those in attendance asked Valley Health why they are not building a state of the art birthing center; he responded that Valley health noted that it “was too difficult”. Dr. Kerns stated that Valley health does quite well financially and the birthing unit would pay for itself, and the number of deliveries has grown. He noted that there are safe birthing units with less than 300 deliveries annually, and he added that Warren County had 389 births last year, because he counted them in the delivery book at the hospital. He stated that all barriers to OB care need to be identified and addressed, not just emergency transfers, adding that recent studies reflected the growing effects of the closing of rural birthing units: premature births, and women had fewer prenatal visits to identify complications in pregnancy. Dr. Kerns expressed great concern with Valley Health’s mute response and lack of acknowledgment to many issues and noted that it should concern us all. He asked that the Town Council press Valley Health to partner with collaborators to provide safe OB resources in Front Royal.

Noble Morton, of 407 Criser Road #203, noted that all should care about the lack of services for women and babies, he added that new schools and homes are being built and we are now saying that some are going to die on the way to hospital if we do not care. He stated that the

new hospital is saying "there is no room in the inn" and they do not have a caring spirit for the mothers and children. We are called to do great things and we must provide for the children by caring for these children because they deserve the very best care.

Krista Adnitch, 9017 Stonewall Jackson Highway, noted that she is a nurse and Valley Health employee and she is choosing to place her career on the line for her family. She explained that she is the mother of seven, and five of those children were born at Warren Memorial. Mrs. Adnitch stated that that emergency doctors cannot know everything; and obstetrics are absolutely necessary for local women in labor. She stated that there can be very serious conditions that happen with women and their births. Mrs. Adnitch noted that there will be over 63 births just for pre-eclampsia alone in Warren County and the level of care will drop if they are served by an emergency room doctor only.

Mike Salins, of 95 Murrays Drive, noted that the closing of the birthing center will cost him more money, and having a local birth at Warren Memorial will cost significantly lower than births in Winchester. Mr. Salins stated that this will cause a great strain on local emergency services.

Melanie Salins, of 95 Murray Drive, read the following into the record: "Bad men need nothing more to compass their ends, than that good men should look on and do nothing." We can sit back and watch or we can stand up for what's right. After all that I have learned over the past 2 months, I am not going to sit back and watch this without speaking up. And YOU, as our elected officials should NOT be willing to sit back and watch it either! I have repeatedly heard "what can we do?" or "our hands are tied", but there is plenty that can be done, and I'm here today to say "hear our public outcry, and help us in these specific ways".

I recognize that what Valley Health is doing is perfectly legal. They can legally abandon women and children, and specifically endanger the most vulnerable women who have the least resources. They can legally avoid paying taxes while placing additional strain upon tax payers. They can legally create a monopoly on birth and continue to drive up prices. They can even legally declare themselves a non-profit while putting millions in off shore accounts. But we can stand up and say that while these actions may be legal, they are NOT moral. We can shame them for their behavior, and make them wear the scarlet letter of their sins against our community. What I am asking you to do as elected officials, is use your voice and publicly reprimand them.

First, we need you to demand answers from Valley Health regarding transport. The birth unit is closing in just a couple of weeks. They still do not have concrete protocols in place for handling transports. We need each one of you to reach out to anyone and everyone involved with transport, and get answers in writing. If they don't answer, then reach out again, and again, until we have the answers we need. Then, make those answers public so your constituents know exactly what to expect.

Next, we need you to address Valley Health's COPN application. We need each one of you to reach out to the state, and explain how Valley Health has misrepresented our community's needs. And then, We need you to reach out to the higher up levels of government to demand changes in these COPN laws in Virginia. COPN is the process that creates medical monopolies and drives up everyone's healthcare costs. It's time Virginia changes these outdated laws.

Finally, we need you to take all of this into consideration when negotiating Valley Health's PILOT. (For those who don't know, this stands for "Payment in lieu of taxes".) If Valley Health is going to place their profits ahead of our women's safety, then they should not be given any leniency in what they payout to our community. Cath Labs are a huge money maker. If Valley Health prefers to profit off of our town, then we need you to ensure our town also profits off of the business they are doing

here. Thank you. And I hope to hear each and every one of your voices in the papers over the next weeks, speaking out on this topic.

Kate Kerns, of 134 Lost Acres Lane, noted that she met with Valley Health and she is aware that Valley Health knows the risk that they are placing on women and infants by making this change. She noted that Valley Health is well aware of the risk and they have shown no intention of working with the community. She stated that they are willing to sacrifice the health of the most vulnerable. Ms. Kerns quoted sources regarding chronic stress, anxiety, depression, obesity, cognitive difficulty, and more that become issues with changing the care of expectant mothers. She added that if these expectant mothers needed immediate care for their reproductive care, they are told to travel another 30-60 minutes for services. Ms. Kerns opined that Valley Health's lack of care for the community will affect the Town for generations to come.

Michelle Matthiae, of Birth Local, noted that the meeting is about rezoning and Birth Local understands the Council is bound legally to do what the law requires, though Valley Health is doing what is best for their business. She added that Valley Health is not doing what is best for the women and children of the community. She stated that Council must do what is best for the community, and even though the new hospital is wonderful, it is overshadowed by the disregard for the women and children they are choosing not to serve. Ms. Matthiae noted that the closure of rural birthing units is happening across the country and there are so many dangers and consequences for the mothers, babies, and the community. She stated there are related healthcare costs, family issues, and other negative effects to all involved.

Jeff Feit, of 641 Temason Avenue, Winchester, noted that OB complications are rare and in 350-400 births, doctors usually will not see the same specific complication for a long time. He noted that having the births at a centralized locations allows doctors to consistently handle the same complications and become familiar with issues that arise. Mr. Feit noted that the public has passionately stated their concerns and they have been heard. He stated that Page and Shenandoah Counties no longer have birthing centers and the mortality rates in those counties remain the same.

Michael Turner, of 56 Morrison Lane, noted that he was speaking against the rezoning of Valley Health. He opined that without a labor and delivery unit at the new hospital, the women and children are in danger. Mr. Turner voiced that no other hospital facility can compete with Valley Health and their monopoly on the healthcare system in our area. Mr. Turner stated that there was a moral duty of healthcare that falls exclusively to Valley Health, and Valley Health has a basic duty to provide a labor and delivery unit for a basic level of care. He added that this is a public health matter and elected officials are not to rubber stamp issues, adding that the lives of women and children are in danger.

Keith Menefee, of 120 A E. Main Street, of Downhome Comfort Bakery, noted that Main Street is in a revitalization at the moment and there is life going on and he wanted to invite Council to Saturday, April 14th, grand re-opening to everyone and Mayor and Town Council, and it is time to be proud of what is going on downtown and throughout the community.

Bruce Rappaport, of 300 W. Main Street, noted that Elizabeth Sherman delivered him at Warren Memorial years ago. He stated that Front Royal is deserving of a birthing center. Mr. Rappaport voiced his concern regarding loss of revenue in the Corridor and ongoing issues with

the meals tax changes between the Town and County. Mr. Rappaport noted that the Town and County have discussed possible annexations in the Corridor as well, which concerns him.

Gene McGuirk, of 252 Chestnut Hill Drive, noted that one concern was that there was only one birth per day at the current Warren Memorial Hospital, though apparently there were 389 births and the population is growing in the community. He stated that Valley Health is a non-profit and the safety of mothers and babies should be the main concern of the organization, and other departments should more than make up any financial shortfalls if financially it is not feasible. He commented that the women's center was a life giving and saving center and he asked Council to only approve the rezoning measure with the women's center in place.

Mark Merrill, CEO of Valley Health Systems, noted that he recognized the passion of the speakers present. He stated that he does not take the lives of the community lightly and Valley Health does not make profits over people a priority. Mr. Merrill stated that OB services can be obtained nearby at the area's only Level 2 Trauma unit, Winchester Medical Center. He added that many protocols have been put in place in order to maintain care during the transition. Mr. Merrill stated that Valley Health is here for the regional community, and they have priorities, including maintaining the Level 2 Trauma unit and dealing with a growing opioid crisis, which is very expensive. He added that currently 38% of women are choosing somewhere else to deliver their babies other than Warren Memorial.

Jeanne Anderson, of 7 Tee Court, Linden, noted that Valley Health's presented picture is foolishness. She stated that the community portion that is 65 and older needs care but so do mothers and babies and the hospital's choice is clearly just a financial decision to place profits before patients. Ms. Anderson stated that Council's hands are not tied and she presented an outline for a petition. She urged Valley Health to work with the community adding that it was Council's duty to serve the people.

Floyd Heater, of 289 Meadow Drive, Edinburg, and Valley Health employee, stated that transportation issues have been addressed for mothers who may come to Warren Memorial in labor. He stressed the importance of prenatal care, noting that prenatal care will continue to be offered all the way through the pregnancy and it is only the delivery that will not be in Front Royal. Mr. Heater stated that it is worth reiterating that population growth has been reviewed and the \$100 million investment into the community has been investigated wisely. He noted that the population growth in the community of those aged 18-44 is only 6%, while those over 45 is going to grow about 44% and the demand for services for those individuals will soar. He noted that 38% currently leave Warren County to deliver their babies outside of Warren County and those aspects all factor into the decision.

Bret Hrbek, of 335 Locust Dale Road, asked that Council deny the application for rezoning. He stated that Warren Memorial Hospital is incredibly important and when his family had asked for another doctor, they were referred to a Winchester doctor, though they wished for a Front Royal doctor. Mr. Hrbek noted that the birthing experience and care for newborns at Warren Memorial Hospital is an incredible journey and one's birth certificate location matters; to say "I was born and raised in Front Royal" matters. He stated that Valley Health has a great opportunity to place a state of the art center in Front Royal and then doctors would be attracted to the area. He noted that the economic development for the community is affected when we are losing a vital part of what attracts people to the community – basic healthcare for women and children. Mr. Hrbek stated that the community is building new roads, homes and schools

for new families and we are losing our Front Royal identity by sending birthing mothers and families to Winchester.

Town Manager, Joseph Waltz, noted that the Town crews will continue to flush fire hydrants in the community and yard waste was also taking place on weeks without a holiday for those wishing to put out grass clippings.

The Town's Finance Director, BJ Wilson, noted that new vehicle decals will be mailed out with the personal property taxes. He stated the new location for decals. He announced the electric rate Power Cost Adjustment for congestion charges, stating that for residents it will be about \$4.35 for those with about 1,000kW. Mr. Wilson noted that about 45 new business licenses have been issued this year and there was about a 50% increase for utility payments online. He stated that citizens can sign up for automatic payment deduction for utility payments, just enroll and a voided check is needed at the Town Office. Mayor Tharpe thanked BJ Wilson for everything he does for the Town and the Finance Department.

Mayor Tharpe and Councilman Connolly announced that the winners of the Town scholarships were Rusha Patel and Amy Thomas, sharing from their scholarship applications noting their strong support of Front Royal.

Councilman Connolly asked for a resolution in support of obstetrical services at Warren Memorial Hospital at the next worksession. He noted that the Town is working hard to attract career minded individuals at the Tech center, which would bring in hundreds of jobs and new families. Mr. Connolly stated that a decision to go backwards or look at the Town's efforts to grow the community is problematic.

Councilman Meza noted that he would be recusing himself during the Rezoning Application for Valley Health due to his employment with Valley Health, he referenced his previous disclosure filed at the meeting of March 5, 2018.

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

CONSENT AGENDA ITEMS – (ROLL CALL VOTE REQUIRED)

- A. COUNCIL APPROVAL – Proclamation for “*Arbor Day*”
- B. COUNCIL APPROVAL – Proclamation for “*Building Safety Month*”
- C. COUNCIL APPROVAL – Proclamation for “*Youth Week*”
- D. COUNCIL APPROVAL – Bid for Thermoplastic Pavement Marking Material/Installation
- E. COUNCIL APPROVAL – Bid for Slurry Seal
- F. COUNCIL APPROVAL – Bid for Emergency Generator for Town Hall

Vice Mayor Tewalt moved seconded, by Councilman Morrison that Council approve the consent agenda 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)

COUNCIL APPROVAL: Rezoning Application for Valley Health - Hospital (2nd Reading)

Summary: Council is requested to adopt on its second and final reading a Rezoning Application submitted by Valley Engineering, on behalf of Valley Health, for the conditional rezoning of approximately 147 acres for the future site of a hospital, medical office and accessory uses. The property is presently zoned both R-S (Suburban Residential) District and A-1 (Agricultural and Open Space Preservation) District. The application proposes to change all of the Applicant's property to the MCD (Mixed-Use Campus Development District). The submission includes a concept plan with two phases of development. The first phase includes a replacement hospital and medical office building, access improvements, mechanical yard, maintenance building, heliport, and associated site improvements. The second phase includes completion of the hospital loop road, a phase 2 medical office building, and associated site improvements. Access to the site is proposed via Oden Street (secondary access) and an entrance off of Leach Run Parkway (primary access). A buffer and large tracks of forested areas are designated for conservation. The proffers address signalization of the primary and secondary entrances, a future vehicular access connection with the property of HEPTAD LLC, conformance with the concept plan, and a northbound right-turn lane with taper located on Leach Run Parkway at the primary entrance. The proffers also address the zoning of two small tracts of land that are part of a trade agreement with Warren County at the entrance of Oden Street and Leach Run Parkway.

Councilman Connolly moved, seconded by Councilman Sealock, that Council adopt on its second and final reading a Rezoning Application submitted by Valley Engineering, on behalf of Valley Health, for the conditional rezoning of approximately 147 acres from R-S (Suburban Residential) District and A-1 (Agricultural and Open Space Preservation) District to MCD (Mixed-Use Campus Development District) for future hospital, medical office and accessory uses as shown in concept plan and proffers, as presented.

Vice Mayor Tewalt noted that the Town needs a birthing center at the local hospital; he added that his children were born at Warren Memorial. He stated that he has a problem because Valley Health is not considering that businesses are going to move to Northern Virginia without a local birthing center. Mr. Tewalt stated that without a women's center in a locality of this size the Town would suffer. He noted that the Council is bound to vote on the matter in a certain way. Vice Mayor Tewalt stated that he has spoken with Mr. Merrill and others with Valley Health who had noted that perhaps Valley Health would consider adding a birthing center in the future. He also expressed his agreement with Mr. Connolly.

Vice Mayor Tewalt moved, seconded by Councilman Connolly that Council postpone the rezoning vote for Valley Health proposed new hospital until the resolution is addressed.

Vote: Yes – Connolly, Gillispie, Morrison, Sealock and Tewalt

No – N/A

Abstain – Meza

Absent – N/A

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

(By Roll Call; on Motion to Postpone)

COUNCIL APPROVAL: Fiscal Year 2018 - 2019 Tax Rates *(2nd Reading)*

Summary: Council is requested to adopt on its second and final reading setting the Fiscal Year 2018-2019 real property tax rate to either remain the same at \$0.135 per \$100 assessed value or to increase the real estate tax rate from the current year's rate to a rate between 9/10 to 1/10 of \$0.01; the personal property tax rate to remain the same at \$0.64 per \$100 assessed value; and the personal property tax relief rate to remain the same at 60% of value on the first \$20,000 of assessed value for qualifying vehicles with an assessed value greater than \$1,000; and a personal property tax relief rate of 100% for qualifying vehicles with an assessed value of \$1,000 or less, pursuant to Virginia Code §58.1-3524. Council is further requested to adopt on its second and final reading an ordinance to amend Front Royal Town Code Section 75.44.C. accordingly.

At their March 26, 2018 Council Meeting Council affirmed on its first reading that the Fiscal Year 2018-2019 real estate tax rate remain the same at \$0.135 per \$100 assessed value; the personal property tax rate to remain the same at \$0.64 per \$100 assessed value; and the personal property tax relief rate to remain the same at 60% of value on the first \$20,000 of assessed value for qualifying vehicles with an assessed value greater than \$1,000; and a personal property tax relief rate of 100% for qualifying vehicles with an assessed value of \$1,000 or less, pursuant to Virginia Code §58.1-3524 and affirmed on its first reading an ordinance to amend Front Royal Town Code Section 75.44.C. accordingly.

Councilman Connolly moved, seconded by Councilman Morrison that Council adopt on its second and final reading that the Fiscal Year 2018-2019 real estate tax rate remain the same at \$0.135 per \$100 assessed value; the personal property tax rate to remain the same at \$0.64 per \$100 assessed value; and the personal property tax relief rate to remain the same at 60% of value on the first \$20,000 of assessed value for qualifying vehicles with an assessed value greater than \$1,000; and a personal property tax relief rate of 100% for qualifying vehicles with an assessed value of \$1,000 or less, pursuant to Virginia Code §58.1-3524. He further moved that council adopt on its second and final reading an ordinance to amend Front Royal Town Code Section 75.44.C. accordingly.

- Vote: Yes – Connolly, Gillispie, Morrison, Sealock and Tewalt
- No – Meza
- 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 – Resolution to Approve 2018 Amendment to the 1998-1999 Voluntary Settlement Agreement

Summary: Council is requested to approve a Resolution approving the 2018 Amendment to the 1998-1999 Voluntary Settlement Agreement (VSA) between the Town of Front Royal and the County of Warren regarding the compromise for PILOT Meals and Lodging Taxes

TO APPROVE RESOLUTION FOR AMENDMENT AS REVISED ON APRIL 3, 2018 BY THE COUNTY

Vice Mayor Tewalt moved, seconded by Councilman Connolly that Council approve a Resolution approving the 2018 Amendment to the 1998-1999 Voluntary Settlement Agreement between the Town of Front Royal and

the County of Warren Regarding the compromise for PILOT Meals and Lodging Taxes as revised and approved by the County of Warren Board of Supervisors on April 3, 2018.

Councilman Meza asked for clarification. Mayor Tharpe and Mr. Napier explained that Warren County now has a 5% lodging tax and 3% of the 5% must be for tourism matters. Mr. Napier stated that recently the County and Town joined in part of the Joint Tourism Board in order to allocate funds for jointly identified tourism issues. Councilman Meza asked for information on the advantage of placing the matter out 25 years rather than 15 years or permanent. Councilman Connolly stated that the VSA was permanent, though the moratorium is on annexation and is what is limited on years. He added that previously annexation has been discussed in detail and the arguments were lengthy.

Councilman Sealock stated that repeatedly it has been stated that this agreement continues to protect the Town and he would support it 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)

COUNCIL NOMINATIONS – 2018 VML Policy Committees

Summary: Council is requested to make nominations to the Virginia Municipal League (VML) Policy Committees for 2018. Policy Committee members will serve May through December 2018. Nominations are due to VML by April 18, 2018.

Councilman Sealock moved, seconded by Vice Mayor Tewalt that Council nominate the following to the various Virginia Municipal League (VML) Policy Committees, said terms to expire December 31, 2018.

- 1) Community & Economic Committee – Councilmen Gillispie and Sealock
- 2) Environmental Quality Committee – Town Manager Waltz & Councilman Morrison
- 3) Finance Committee – Finance Director Wilson and Councilman Meza
- 4) General Laws Committee – Town Attorney Napier and Councilman Connolly
- 5) Transportation Committee – Mayor Tharpe and Vice Mayor Tewalt

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 RECOMMENDATION – Board of Zoning Appeals (BZA)

Summary: Council is requested to consider a recommendation to the Judge of the Warren County Circuit Court for appointment to the Front Royal Board of Zoning Appeals (BZA) to fill a five-year term ending May 1, 2020.

Councilman Connolly moved, seconded by Councilman Sealock that Council recommend John E. Hensley to the Judge of the Warren County Circuit Court for appointment to the Front Royal Board of Zoning Appeals (BZA) to fill an un-expired term ending May 1, 2020.

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)

Motions to Go Into Closed Meeting

*Councilman Connolly moved, seconded by Councilman Sealock, that Council convene and go into Closed Meeting for the following purposes: **1)** with respect to discussion and potential implementation of the results of a preliminary draft of Town employee compensation study prepared exclusively for viewing by and discussion with Town Council and certain Town staff in closed meeting with respect to specific Town employees: **(A)** Discussion and consideration of the assignment, appointment, promotion, or performance of specific appointees or employees of the Town, pursuant to Section 2.2-3711. A.1 of the Code of Virginia and **(B)** 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, pursuant to Section 2.2-3711. A. 6. of the Code of Virginia; **AND 2)** The disposition of publicly held real property, specifically, the sale or vacation of Town right of way to the applicant, Aaron Hike, that portion of the unimproved portion of Hillcrest Drive adjoining Tax Map #20A1-3-3A, pursuant to Section 2.2- 3711. A.3., where discussion in an open meeting would adversely affect the bargaining position or negotiating strategy of the public body.*

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 Connolly moved, seconded by Councilman Sealock 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 Act 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 10:25 p.m.

APPROVED:

Jennifer E. Berry
Clerk of Council