

COUNCIL MEETING MINUTES

August 27, 2018

The regular meeting of the Town Council of the Town of Front Royal, Virginia was held on August 27, 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.

Councilman Connolly moved, seconded by Vice Mayor Tewalt, that Town Council appoint and recognize Tina Presley as Clerk of the Front Royal Town Council pro tempore for the meeting of Front Royal Town Council on August 27, 2018 and for such additional and further meetings and times that are a continuation of the August 27, 2018 meeting at her services such as Clerk pro tempore may be needed.

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)

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 pro tempore, Tina Presley

ABSENT: Clerk of Council Jennifer E. Berry, MMC

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

Vice Mayor Tewalt moved, seconded by Councilman Sealock to approve the Regular Council Meeting minutes of August 13, 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

William Huck, of C&C Frozen Treats, asked that Council do what is correct and assist with dereliction buildings. He noted that it was a health issue and a business issue. He noted that the

leaders of the community needed to move forward with all that can be done to help end the issues with the derelict buildings.

Jennifer Roberts, of 47 Royal Lane, noted that she was following up with her issues with the taxi cab matters. She expressed concern that the proposed ordinance was voted down and she encouraged Council to pass an ordinance to protect the community. Ms. Roberts stated that an ice rink would be welcome in the town and should be provided in the area.

David Means, 210 W. First Street, noted that he agrees with Vice Mayor Tewalt regarding the Luray Avenue curb and gutter item on the agenda, adding that he has concerns regarding the engineering that was completed for this site. Mr. Means noted that he is a former inspector for erosion and sediment control for VDOT. He stated that Mr. Tewalt had valid points with relation to the regulations mentioned, noting that there were reasons such regulations were in place. Mr. Means explained that as a member of the Urban Forestry Advisory Commission, that was also part of their work – to advise on erosion and sediment control.

Town Manager, Joseph Waltz noted that the business offices would be closed for Labor Day, September 3rd and the trash and recycling would be rescheduled per the holiday calendar.

Police Chief Magalis introduced Master Police Officer Klingerman and his K-9 Officer “Bosco”. Chief Magalis noted that Bosco was trained to locate narcotics and was 17 months old. He stated that in the first month alone the team has located narcotics on give occasions.

Brandon Davis, of the Northern Shenandoah Valley Regional Commission, he stated that the NSVRC is operated by the localities in the Shenandoah Valley. He noted that the recent effort is dealing with the total maximum daily load clean-up effort for the Chesapeake Bay. He noted that so many organizations and government agencies are working to restore local waterways and the Chesapeake Bay. Mr. Davis explained how the daily load was established in relation to pollutants and how waterways still have limits to remain acceptable. He reported that the best management practices are being looked into and in 2012 the communities in the Shenandoah Valley came together as required by the EPA, analyzed data and chose areas where improvements could be made to meet the waterway goals. Mr. Davis explained that localities with treatment plants, such as Front Royal, have invested millions of dollars to assist in the cleanup efforts and now other ways are being identified to move forward with clean up efforts. He added that the reports coming in are encouraging and the grasses in the Bay, for example, show improvement, as are the blue crabs.

Councilman Morrison asked about an app for the commuter bus into Washington, DC, as well as allowing riders to purchase tickets before the day of their ride. Mr. Davis noted that he anticipates zero revenue through the program, but rather they receive a grant to subsidize the program.

Vice Mayor Tewalt noted that the new Wastewater Plant at the Town cost over \$50 million, and removal items from the stream would be assisted greatly with this upgrade.

Councilman Morrison noted that it was important that members of the community to write Council and continue to not lose hope for issues they were passionate about.

Mayor Tharpe recognized James “Jimmy” S. Beatty, retiring employee of the Town who spent over 45 years serving the Town of Front Royal.

Mayor Tharpe recognized Lorraine Hultquist, former member of UFAC, and thanked her for her many years of service to the Town.

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

Councilman Connolly moved, seconded by Vice Mayor Tewalt, that Council add a CLOSED MEETING, Consultation with Legal Counsel 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 ITEMS – (NONE)

COUNCIL APPROVAL – Add Ordinance 110-34 “Unlawful Crossing of Public Streets” to Town Code – Jaywalking Ordinance (2nd Reading)

Summary: Council is requested to adopt on its second and final reading an Ordinance to amend Town Code by adding Section 110-34, whereby as a matter of public safety to pedestrians and motorists, it shall be lawful for pedestrians to cross public streets, whenever possible, only at intersections, marked crosswalks or at official pedestrian crossing signals; or as directed by a law-enforcement officer also referred to as jaywalking. Council has suggested revising (E) of the proposed ordinance to specify the violations of the ordinance more clearly.

Councilman Connolly moved, seconded by Councilman Sealock, that Council adopt on it second and final reading an Ordinance to amend Town Code by adding Section 110-34 “Unlawful Crossing of Public Streets”, as presented.

Councilman Connolly asked about the adjustment discussed at worksession pertaining to making the matter a citation rather than a serious violation. Mr. Napier noted that it was reflected in the ordinance shown, and would not generally be a criminal matter. Councilman Sealock asked if the ordinance addressed repeat offenders. Mr. Napier noted that the judge can take in consideration previous instances and enforce the matter more in depth.

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)

AN ORDINANCE TO AMEND AND ENACT FRONT ROYAL TOWN CODE BY

ADDING CHAPTER 110-34 PERTAINING TO UNLAWFUL CROSSING OF PUBLIC STREETS ALSO REFERRED TO AS JAYWALKING

WHEREAS, the Town of Front Royal has seen an increase in pedestrian accidents including those that have resulted in a fatality; and,

WHEREAS, a matter of public safety to pedestrians and motorists the Town of Front Royal is enacting an ordinance that it would enforce jaywalking; and,

NOW THEREFORE, BE IT ENACTED, by the Town Council of the Town of Front Royal, Virginia, that Chapter 110 of the Front Royal Town Code is hereby amended and enacted as follows:

110-34 UNLAWFUL CROSSING OF PUBLIC STREETS

A. "Streets" means the entire width between the boundary lines of every way or place open to the use of the public for purposes of motor vehicular travel in the Town, including the public highways and roadways.

B. "Crosswalk" means that part of a public street at an intersection included within the connections of the lateral lines of the sidewalks on opposite sides of the public street measured from the curbs or, in the absence of curbs, from the edges of the traversable public street; or any portion of a public street at an intersection or elsewhere distinctly indicated for pedestrian crossing by lines or other markings on the surface.

C. As a matter of public safety to pedestrians and motorists, pedestrians lawfully shall cross public streets, wherever possible, only at intersections, marked crosswalks, or at official pedestrian crossing signals; or as directed by a law enforcement officer.

D. When crossing public streets, it shall be unlawful for pedestrians to carelessly or maliciously interfere with the orderly passage of vehicles.

~~E. Violations of this ordinance shall be punished by as a Class 4 Misdemeanor.~~

E. (1) Violations of this ordinance which are inadvertent or not likely to result in serious bodily harm to a pedestrian may be charged on a Town of Front Royal summons and shall be charged punished as a traffic infraction and shall be punished by a fine not to exceed one hundred dollars (\$100.00); (2) Violations of this ordinance which are intentional and likely to result in serious bodily harm to a pedestrian or motorist may be charged on a Commonwealth summons or Commonwealth warrant and shall be punished as a Class 4 Misdemeanor.

This ordinance shall become effective upon passage.

COUNCIL APPROVAL – Amend Ordinance 12-5 to “Police Department Fees – Additional Assessment for Electronic Summons in Criminal and Traffic Cases”

(2nd Reading)

Summary: Council is requested to adopt on its second and final reading an Ordinance to amend Town Code by adding “Police Department Fees – Additional Assessment for Electronic Summons in Criminal and Traffic Cases” to Chapter 12-5 (*currently reserved*), the sum of \$5.00 as part of the costs in each criminal or traffic case in the District or Circuit Courts of Warren County, Virginia, in which the defendant is charged with and convicted of a violation of any statute or ordinance that arose within the Town of Front Royal, as presented. The assessment shall be used by the Police Department

solely to fund software, hardware, and associated equipment costs for the implementation and maintenance of an electronic summons system.

Councilman Gillispie moved, seconded by Councilman Sealock that Council adopt on its second and final reading an Ordinance to amend Town Code by adding "Police Department Fees – Additional Assessment for Electronic Summons in Criminal and Traffic Cases" to Chapter 12-5, 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)

**AN ORDINANCE TO AMEND AND ENACT FRONT ROYAL TOWN CODE
CHAPTER 12-5 PERTAINING TO POLICE DEPARTMENT FEES**

WHEREAS, a new Virginia statute was enacted (§17.1-279.1) that provides that any local government may assess an additional sum not in excess of \$5.00 as part of the costs in each criminal or traffic case in which the defendant is charged with a violation in the locality; and,

WHEREAS, the Front Royala Police Department wishes to collect an additional \$5.00 as allowed by law, to be used solely to fund software, hardware, and associated equipment costs for the implementation and maintenance of an electronic summons system; and,

NOW THEREFORE, BE IT ENACTED, by the Town Council of the Town of Front Royal, Virginia, that Chapter 12 of the Front Royal Town Code is hereby amended and enacted as follows:

12-5 POLICE DEPARTMENT FEES

Effective July 1, 2018, and thereafter, there is hereby imposed, in addition to any other fees prescribed by law, the sum of five dollars (\$5.00) as part of the costs in each criminal or traffic case in the District or Circuit Courts of Warren County, Virginia, in which the defendant is charged with and convicted of a violation of any statute or ordinance, the violation of which arose within the Town of Front Royal, Virginia. The clerk of court in which the action is filed shall collect the assessment and remit it to the Town of Front Royal, Virginia Finance Director. The Town Finance Director, subject to appropriation by Town Council, shall disburse such funds in accordance with Virginia Code § 17.1-279.1. The assessment shall be used the Front Royal Police Department solely to fund software, hardware, and associated equipment costs for the implementation and maintenance of an electronic summons system.

This ordinance shall become effective July 1, 2018

**COUNCIL APPROVAL – Budget Amendment for Additional Revenue from
Collection of Assessment for Electronic Summons in Criminal and Traffic Cases**

to Town Code

Summary: Due to the approval of an ordinance to add additional assessments for electronic summons in criminal and traffic case to the Town Code, Council is requested to approve a budget amendment to add \$4,000 to the FY19 budget related to these additional fees.

Budget/Funding: 1000-3140102 General Fund Revenue – Fines E-Summons - \$4,000
1204-47051 Information Technology – Electronic Summons - \$4,000

Vice Mayor Tewalt moved, seconded by Councilman Connolly that Council approve a Budget Amendment in the amount of \$4,000 to accept the additional assessments for electronic summons in criminal and traffic cases.

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 – Waiver of Curb and Gutter at 419/423 Luray Avenue – Susan Wines

Summary: Council has received a request from Susan Wines to waive curb and gutter at 419/423 Luray Avenue. Ms. Wines owns both lots on Luray Avenue with a single-family house under construction on each lot. Curb and gutter is required per Town Code 148-850.C. The Town Engineer can waive the requirement when there are no more than two dwellings and when curb and gutter is not present within 200 feet of the property. Curb and gutter are located across the street and is within 200 feet of the property; therefore, curb and gutter can only be waived by Town Council.

Councilman Gillispie moved, seconded by Councilman Connolly that Council approve the waiver of curb and gutter at 419 & 423 Luray Avenue as requested for a period of five (5) years following the completion of construction with respect to each one of the homes on each lot, or upon the offer of sale of each home to another party, other than the current owners; he further moved, that the current owners execute a written contract and recordable form suitable to the Town Attorney suitable to the terms hereof to the Town with respect to each lot and home as a condition of this waiver, otherwise this waiver could be null and void.

Vice Mayor Tewalt noted that he was not in favor of the waiver as it was not following the Town ordinance. He added that even with the proposed motion, if it is not recorded at the courthouse, it has no bearing on the matter. Mr. Tewalt stressed that it include a lien against the properties as well to require payment for the curb and gutter.

Vice Mayor Tewalt moved, seconded by Councilman Sealock, to amend the motion to include the filing of a lien at the courthouse (rather than a “recordable contract”) on both lots for the installation of the curb & gutter.

Vote: Yes –Morrison, Sealock, and Tewalt
No – Connolly, Gillispie, and Meza,
Abstain – N/A
Absent – N/A
Yes – Mayor Tharpe, to break the tie

(By Roll Call; On the Amendment to include the Lien)

Council and the Town Attorney discussed the matter briefly, surmising that a recorded contract would in essence be “a lien” on the property.

Vote: Yes – Connolly, Gillispie, and Meza
No – Morrison, Sealock, and Tewalt
Abstain – N/A
Absent – N/A
Yes – Mayor Tharpe, to break the tie
(By Roll Call; on Motion As Amended to now include the Lien)

COUNCIL APPOINTMENT – Urban Forestry Advisory Commission (UFAC)

Summary: Council is requested to appoint a member to the Urban Forestry Advisory Committee to an unexpired term ending December 20, 2018 due to a resignation.

Councilman Connolly moved, seconded by Vice Mayor Tewalt to appoint Linda Taylor to the Urban Forestry Advisory Committee (UFAC) to an unexpired term ending December 20, 2018.

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)

CLOSED MEETING – Consultation with Legal Counsel

Motion to Go into Closed Meeting

Councilman Connolly moved, seconded by Vice Mayor Tewalt that Council convene and go into Closed Meeting for the purpose of consultation with legal counsel employed or retained by a public body regarding specific legal matters, specifically, legal mechanisms relating to handling debt service related to prior and current budget years, requiring the provision of legal advice by such counsel, pursuant to Section 2.2-3711. A. 8. of the Code of Virginia.

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

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

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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 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 8:06 p.m.

APPROVED:

Jennifer E. Berry
Clerk of Council