



TOWN COUNCIL WORK SESSION

Monday, April 1, 2013 @ 7:00pm

Front Royal Administration Building Conference Room

Town/Staff Related Issues:

1. Waiver of Zoning Permit Application Fee for Front Royal Little League – *Town Manager*
2. Waiver of Zoning Permit Application Fee for James McCloskey – *Town Manager*
3. Invoice from Sheriff's Office for Costs of Housing Town Inmates – *Town Attorney*
4. Budget Overview (Proposed Budget will be Distributed Monday Night) – *Town Manager/Director of Finance*

Council/Mayor Related Issues:

5. VML Committee Nominations
6. Council Discussion/Goals *(time permitting)*
7. CLOSED MEETING – 1) Disposition of Publicly Held Property specific to Town Hall and Finance Buildings, 2) Consultation with Legal Counsel specific to Annexation and 3) Consultation with Legal Counsel specific to Legal Matters

Motion to Go Into Closed Meeting

I move that Council convene and go into Closed Meeting for the purpose of 1) discussion or consideration of the acquisition of real property for a public purpose or the disposition of publicly held real property, where discussion in an Open Meeting would adversely affect the bargaining position or negotiating strategy of the public body, pursuant to Section 2.2-3711. A. 3. of the Code of Virginia and 2) consultation with legal counsel employed or retained by a public body regarding specific legal matters requiring the provision of legal advice by such counsel, specifically, Annexation, pursuant to Section 2.2-3711. A. 7. of the Code of Virginia and 3) consultation with legal counsel employed or retained by a public body regarding specific legal matters requiring the provision of legal advice by such counsel, pursuant to Section 2.2-3711. A. 7. of the Code of Virginia.

Motion to Certify Closed Meeting at its Conclusion *[At the conclusion of the Closed Meeting, immediately re-convene in open meeting and take a roll call vote on the following:]*

I move 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.

Town of Front Royal, Virginia Work Session Agenda Form

Date: April 1, 2013

Agenda Item: Permit Fee Waiver – Front Royal Little League

Summary: The Town has received a request from the Front Royal Little League to waive the Town's permit fee associated with the installation of new batting cages at their field.

Council Discussion: Council is requested to consider a donation of \$100.00 towards the Zoning Permit fee associated with the installation of batting cages at the Front Royal Little League ball field.

Staff Evaluation: The Front Royal Little League is replacing their batting cages due to storm damage. The proposed facilities are larger than the previous cages, which require both a Zoning Permit from the Town and a Building Permit from Warren County. Warren County has agreed to waive the fee for the Building Permit.

Budget/Funding: Funding for the donation would be made from General Fund reserves. The Director of Finance will be available for fiscal questions.

Legal Evaluation: The Town Attorney will be available for legal questions.

Staff Recommendations: Staff recommends Town Council consider a donation of \$100.00 to the Front Royal Little League for the Zoning Permit associated with the construction of new batting cages.

Town Manager Recommendation: The Town Manager recommends Town Council consider a donation of \$100.00 to the Front Royal Little League for the Zoning Permit associated with the construction of new batting cages.

Council Recommendation:

☐ Additional Work Session ☐ Regular Meeting ☐ No Action
Consensus Poll on Action: ____ (Aye) ____ (Nay)

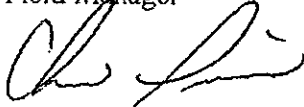
Front Royal Town Manager or whom it may concern,

The board of Front Royal Little League would like to know if you can please waive the hundred dollar fee for the zoning permit application that we need to pull in order to put in new batting cages for the children of our community. We would be very grateful consider Front Royal Little League is a non- profit organization. Thank you for your time and consideration of this time sensitive matter.

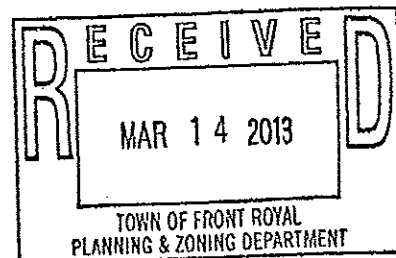
Sincerely,

Front Royal Little League

Field Manager



Chris Simunons



Town of Front Royal, Virginia Work Session Agenda Form

Date: April 1, 2013

Agenda Item: Permit Fee Waiver -- Library Eagle Scout Project

Summary: The Town has received a request from the director of the Samuels Library to waive the Zoning Permit fee associated with the construction of a wooden bridge by an Eagle Scout candidate on the Library property.

Council Discussion: Council is requested to consider a donation of \$100.00 towards the Zoning Permit fee associated with the construction of a wooden bridge at the Samuels Library by James McCloskey, who is pursuing his Eagle Scout designation.

Staff Evaluation: James McCloskey is proposing to construct a wooden bridge across a drainage area at the Samuels Library as part of achieving his Eagle Scout designation.

Budget/Funding: Funding for the donation would be made from General Fund reserves. The Director of Finance will be available for fiscal questions.

Legal Evaluation: The Town Attorney will be available for legal questions.

Staff Recommendations: Staff recommends Town Council consider a donation of \$100.00 to the Samuels Library or James McCloskey to construct a wooden bridge at the Samuels Library as part of the process to achieve Eagle Scout designation.

Town Manager Recommendation: The Town Manager recommends Town Council consider a donation of \$100.00 to the Samuels Library or James McCloskey to construct a wooden bridge at the Samuels Library as part of the process to achieve Eagle Scout designation.

Council Recommendation:

☐ Additional Work Session ☐ Regular Meeting ☐ No Action
Consensus Poll on Action: ____ (Aye) ____ (Nay)

Town Manager

Steven Burke

Dear Mr. Burke,

The reason I am writing to you and Town Council is to get permission to waive a \$100.00 building fee for a young man by the name of James McCloskey, who is trying to earn an Eagle Scout badge.

James designed a wooden bridge to go on the left side of the library, over the wet lands area at Samuels Library. This area is next door to the Ressie Jeffries School. After James builds this bridge, the Master Gardeners plan to plant wet land vegetation to help stop the erosion of soil in that area. Both James and the Master Gardeners plan to beautify this area that is now red clay and very sparse plantings.

He has been working on getting permission for this project for almost two years now. It was required to get permission from Samuels Library Board, the Town, the County and the Warren County School system along with Zoning to make sure it is handicap accessible. He has gotten permission from all of these groups now.

He only needs to pass one last hurdle, and that is, the \$100.00 fee required by the Town? Can you get this fee waived? He is a young man without cash yet, he has already designed the bridge and gotten all the materials and Boy Scout help needed to build this bridge this spring.

Thanks for considering this request.

Sincerely,

Nicki McGuire Lynch

Library Director of Samuels Library

Town of Front Royal, Virginia Work Session Agenda Form

Date: April 1, 2013

Agenda Item: COUNCIL CONSIDERATION/APPROVAL/DISSAPPROVAL - Invoice from Warren County Sheriff's Office dated March 12, 2013, attached, for costs of housing Town of Front Royal Inmates in Warren County Jail

Summary: The Warren County Sheriff's Office is requesting payment from the Town of \$260.00 for housing 26 inmates for 26 inmate days in Warren County Jail for months of January and February, 2013.

Council Discussion: Town Council should decide the position it wishes to take regarding payment to the Warren County Sheriff's Office of the cost of housing Town inmates in Warren County Jail in light of Va. Code § 53.1-91, and Opinion of the Attorney General 81-82 Va. AG 333 (1982) and Opinion of the Attorney General 82-83 Va. AG 160.

Staff Evaluation: The Town Attorney's evaluation is contained in his attached Memorandum dated May 21, 2012, to Steven M. Burke, Town Manager, and Richard Furr, then-Police Chief, which, agreeing with the above Attorney General's Opinions, the most recent authority interpreting Va. Code § 53.1-91, concludes that statute specifically exempts towns, such as the Town of Front Royal, from being liable for the costs of housing its prisoners in the jail of the County in which the Town is located, i.e., the Warren County Jail. In this regard, the Town Attorney respectfully disagrees with an opinion dated May 16, 2012, attached, from the Warren County Attorney, Blair D. Mitchell, Esq. to Daniel T. McEathron, Sheriff of Warren County.

Budget/Funding: Bill from Sheriff's Office is for \$260.00.

Legal Evaluation: Given that the Attorney General's interpretation of Va. Code § 53.1-91 appears reasonable and does not seem to have been judicially challenged in over 30 years, it is the Town's Attorney's opinion that the Town is not legally liable to pay the costs of housing its prisoners in the County Jail, since the Warren County Sheriff's Office is just as much the Sheriff for the Town of Front Royal as he is for the rest of the County, and the Town citizens pay County taxes to help fund the County Jail, just as do all other County taxpayers.

Staff Recommendations: Legal staff recommends the Town not pay the Sheriff's Office bill of March 12, 2013.

Town Manager Recommendation:

Council Recommendation:

☐ Additional Work Session ☐ Regular Meeting ☐ No Action

Consensus Poll on Action: ____ (Aye) ____ (Nay)



MEMORANDUM

TO: MAYOR AND TOWN COUNCIL MEMBERS

CC: STEVEN M. BURKE, TOWN MANAGER
RICHARD FURR, CHIEF OF POLICE

FROM: DOUGLAS W. NAPIER, TOWN ATTORNEY

DATE: MAY 21, 2012

RE: COSTS OF INCARCERATION OF TOWN PRISONERS

After the weekly department head staff meeting today, Mr. Burke voiced some concern that the wording of Va. Code § 53.1-91, upon which I based my opinion that Warren County may not permissibly charge the Town of Front Royal for the cost of incarcerating the Town's prisoners, was somewhat vague, and wanted to know how confident I was that that statute supported my opinion.

Since I had not earlier attached a copy of the basis of the research I had done to support that opinion, and since Mr. Burke found Va. Code § 53.1-91 to him to be somewhat ambiguous as to its meaning, I thought it prudent that I explain in more detail the basis for my opinion.

Va. Code § 53.1-91 states:

“ Each sheriff or jail superintendent shall collect from the counties, cities and towns of the Commonwealth, other than the county, city or region for which he is elected or appointed, and from any other state or country for which any prisoner is held in such jail, the reasonable costs of guarding, feeding, clothing, caring for and furnishing medicine and medical attention for prisoners held for such county, city, town, state or country, to be determined by agreement with the governmental unit involved, or, in the absence of such agreement, as shall be determined by the governing body of his county, city or regional jail.

“The term "reasonable costs," as used in this section, means an amount not to exceed actual costs, including depreciation, less such amounts as may be paid by the Commonwealth pursuant to §§ 15.2-1609.8 and 53.1-85. (Code 1950, § 53-182; 1982, c. 636; 1983, c. 358; 1991, c. 383.)” *[Note: the information at the end of the second paragraph in parentheses is a shorthand summary of the legislative history of this statute; the same, or essentially same, statute prior to the Code of Virginia's re-codification from Title 53 to Title 53.1, was §53-182, as referenced near the beginning of the parenthesized portion.]*

In researching the meaning of this statute, I found an Attorney General's Opinion, which, because it is not lengthy, I copy in its entirety (note: this Attorney General's Opinion interprets Va. Code § 53-182, the predecessor to the current Va. Code § 53.1-91; the body of this Attorney General's Opinion recites verbatim the wording of Va. Code § 53-182, which appears to be substantially the same as Va. Code § 53.1-91).

Opinion of the Attorney General 81-82 Va. AG 333, 333-334 (1982):

"The Honorable Glenn M. Weatherholtz
"Sheriff of Rockingham County

"March 1, 1982

"You have asked whether, pursuant to § 53-182 of the Code of Virginia (1950), as amended, it is permissible to bill towns and cities within Rockingham County for prisoners' per diem costs within your jail.

"Section 53-182 reads as follows:

"Each sheriff or sergeant shall collect from the counties, cities and towns of the Commonwealth, other than the county or city for which he is elected or appointed, and from any other state or country for which any prisoner is held in such jail, the reasonable costs, to be determined by agreement with the governmental unit involved, or, in the absence of such agreement, as shall be determined by the governing body of his county or city, of feeding, clothing, caring for, and furnishing medicine and medical attention for, prisoners held for such county, city, town, state or country."

"This section specifically exempts prisoners from "the city or county for which [he is] elected or appointed" You are elected for all of Rockingham County, including the towns, and the City of Harrisonburg. [Page 334]

"It is, therefore, my opinion that you may not bill the incorporated towns within Rockingham County or the City of Harrisonburg for the per diem cost of maintaining prisoners in the Rockingham County Jail pursuant to § 53-182."

Va. Code § 53-182 was re-codified into Va. Code § 53.1-91 in 1982. There is one AG's Opinion, and one Federal court decision, but no other court decisions, dealing with Va. Code § 53.1-91, since the re-codification. The Attorney General's Opinion is Opinion of the Attorney General 82-83 Va. AG 160, 160, the relevant part of which re-affirms the meaning of Va. Code § 53.1-91:

"You have asked three questions regarding the responsibility for prisoners arrested in the City of Galax and committed to the jails in Carroll County or Grayson County. The City of Galax has only a 24-hour lockup facility; hence, a felon arrested in the city is delivered to the jail in Carroll or Grayson County, depending upon which portion of the city the offense was committed.

"...The City of Galax is unique among cities. The land area previously comprised the Town of Galax and portions of the counties of Carroll and Grayson prior to the transition into a city. Upon becoming a city of second class, the charter provided that the county sheriff, Commonwealth's attorney and circuit court clerk shall continue to exercise and have the same rights and privileges, perform the same duties, and have the same jurisdiction in that part of the area lying within the city, which was a part of and lying in Carroll County or Grayson County, before the time of the transition of the town into a city, as they had in such area of the town before such municipality became a city.

“...In an Opinion found in the 1981-1982 Report of the Attorney General at 333, 81-82 Va. AG 333, this Office ruled that sheriffs may not collect per diem costs pursuant to former § 53-182 (currently § 53.1-91)¹ from the county or city *for which he is elected*.² (Emphasis added.) As you have previously indicated, the citizens of Galax vote for their respective county sheriff, depending upon the location of their residence within Galax. Thus, I am of the opinion that the sheriffs of Carroll and Grayson Counties do not have authority to collect a per diem cost from Galax as indicated in the prior Opinion. ...”

Thus, the Attorney General is of the opinion that the re-codification of Va. Code § 53-182 into Va. Code § 53.1-91 does not change the meaning of the statute.

The federal case, *May v. Newhart*, 822 F. Supp. 1233, 1235 (E.D. Va. 1993), is not as relevant, except that in a tangential way, it helps explain Va. Code § 53.1-91. The most relevant portions of that case decision are where the court stated:

“In Virginia each city and county is required to erect and maintain a local jail. Va. Code Ann. § 53.1-71 (1991).... The sheriff must also collect reasonable costs, as determined by the city, for maintaining other county or state prisoners. Va. Code Ann. § 53.1-91 (1991). He must promptly pay the fees collected into the general treasury of the city. Va. Code Ann. § 53.1-92 (1991).”

Text in effect from and after the effective date of Acts 1991, c. 383

Title 53.1 Prisons and Other Methods of Correction

Chap. 3 Local Correctional Facilities, §§ 53.1-68 — 53.1-133.9

Art. 3 Funding Local Correctional Facilities and Programs, §§ 53.1-80 — 53.1-95.1

§ 53.1-91. Pay for prisoners from other counties, cities or towns. — Each sheriff or jail superintendent shall collect from the counties, cities and towns of the Commonwealth, other than the county, city or region for which he is elected or appointed, and from any other state or country for which any prisoner is held in such jail, the reasonable costs of guarding, feeding, clothing, caring for and furnishing medicine and medical attention for prisoners held for such county, city, town, state or country, to be determined by agreement with the governmental unit involved, or, in the absence of such agreement, as shall be determined by the governing body of his county, city or regional jail.

The term "reasonable costs," as used in this section, means an amount not to exceed actual costs, including depreciation, less such amounts as may be paid by the Commonwealth pursuant to §§ 15.2-1609.8 and 53.1-85. (Code 1950, § 53-182; 1982, c. 636; 1983, c. 358; 1991, c. 383.)

History



WARREN COUNTY SHERIFF'S OFFICE

200 Skyline Vista Drive, Front Royal, VA 22630

Phone: (540) 635-4128 • Fax: (540) 636-4950

Daniel T. McEathron, Sheriff



March 12, 2013

Ms. Lois Miner
Front Royal Police Department
24 West Main Street
Front Royal, VA 22630

Dear Lois:

For the months of January and February 2013 the Town of Front Royal had a total of 26 inmates and 26 inmate days at the Warren County Jail. Please see the attached list for details.

January Inmate Days: 12 X \$10/Day	\$120.00
February Inmate Days: 14 X \$10/Day	<u>140.00</u>
Total Due	\$260.00

Please make your check payable to the Warren County Sheriff's Office. If you have questions or need additional information, please contact Leslie Williams or Captain Barr at 635-3100.

Sincerely,


Linda J. Rosser

Town of Front Royal, Virginia Work Session Agenda Form

Date: April 1, 2013

Agenda Item: 2013 VML Policy Committee Nominations

Summary: Attached is the nomination form and policy committee process for the 2013 Virginia Municipal League Policy (VML) Committees. The nomination form is due to VML April 22, 2013; therefore, Council will vote on the nominations at the April 8, 2013 Council meeting. All terms are for May 2013 – December 2013 and no individual may serve on more than one committee. Below are the Policy Committee members voted by Council at the April 9, 2012 and July 9, 2012 Council meetings and whose terms expired December 2012:**

Community & Economic Development Committee – Vice Mayor Parker & Councilman Sayre
Environmental Quality Committee – Town Manager Steven Burke
Finance Committee – Councilman Funk and Finance Director Kim Gilkey-Breeden
General Laws Committee – Town Attorney Doug Napier
Transportation Committee – Councilman Hrbek and Councilman Tharpe

****Due to the May Election in 2012, Councilman Funk and Councilman Hrbek were nominated to replace former Councilman Conkey (*Finance Committee*) and former Vice Mayor Holloway (Transportation Committee)**

Agenda Item:

Summary:

Council Discussion:

Staff Evaluation: N/A

Budget/Funding: N/A

Legal Evaluation: N/A

Staff Recommendations: N/A

Town Manager Recommendation: N/A

Council Recommendation:

☐ Additional Work Session ☐ Regular Meeting ☐ No Action
 Consensus Poll on Action: ____ (Aye) ____ (Nay)





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HOPEWELL CITY MANAGER

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R. MICHAEL AMYX

MAGAZINE

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March 22, 2013

To: Key Officials of Full-Member Local Governments;
Council and Board Clerks of Full-Member Local Governments

From: R. Michael Amyx, Executive Director

R. Michael Amyx

Subject: 2013 VML Policy Committee Nominations

The Virginia Municipal League is accepting nominations for its 2013 policy committees. A description of the policy committee process is attached, along with a nomination form. **Please complete the enclosed form and return it to VML by Monday, April 22.** If your community has an election in May, please return this form by the requested date even if you must revise it later.

Please observe the following guidelines when making your policy nominations:

- Only full-member local governments may participate.
- You may nominate two individuals to a committee; if two are nominated, at least one nominee must be a governing body member.
- Only members of a council or board of supervisors and appointed officials (i.e., employees of the local government) are eligible to serve.
- Individual may serve on only one committee.
- The chief administrative officer or mayor/board chairman must sign the nomination form.
- Please return nomination forms by April 22.

We will forward information about policy committee meeting times and rooms as soon as they are confirmed. Policy committee recommendations that emerge from the July meeting will be forwarded to the Legislative Committee for consideration at its September meeting.

Please call/e-mail Janet Areson (804/523-8522, jareson@vml.org) if you have any questions about the appointment process.

VML 2013 Policy Committee Nominations

Please return this form by April 22 to Joni Terry at VML, P.O. Box 12164, Richmond, VA 23241;
Fax 804/343-3758; email: jterry@vml.org

Community & Economic Development

Name & Title: _____

Name & Title: _____

Environmental Quality

Name & Title: _____

Name & Title: _____

Finance

Name & Title: _____

Name & Title: _____

General Laws

Name & Title: _____

Name & Title: _____

Human Development & Education

Name & Title: _____

Name & Title: _____

Transportation

Name & Title: _____

Name & Title: _____

Signed: _____ Locality: _____
(Mayor/Chair, or Manager/Administrator)

VML's Legislative and Policy Committee Process

Each year the Virginia Municipal League develops two separate documents -- a legislative program and a compilation of policy statements -- through a process that involves the Legislative Committee and six separate policy committees. The Legislative Committee is responsible for developing the legislative program, but it may also rely on input from the policy committees to do so. The policy committees develop broad policy statements, in addition to submitting specific legislative recommendations for consideration by the Legislative Committee.

Legislative Committee

What is the role of the Legislative Committee?

The Legislative Committee is responsible for considering and reporting on existing or proposed state and federal legislation or regulations, and urging the enactment or amendment of, or opposition to, such legislation or regulations.

How is the Legislative Committee appointed?

VML's Constitution spells out the composition of the Legislative Committee. The committee consists of 24 people holding elective or appointed positions, all appointed by VML's President. Of the 24 members, 12 must be representatives of cities and urban counties with populations in excess of 35,000, 6 must be representatives of cities and urban counties with populations of 35,000 or less, and 6 must represent towns.

What is included in VML's Legislative Program?

The legislative program adopted by the Legislative Committee reflects specific legislative objectives that VML hopes to achieve during the upcoming legislative session. It is subject to the approval of VML's membership at the annual conference.

What is the relationship between the legislative committee and VML's policy committees?

The Legislative Committee meets prior to the policy committees to identify issues that it would like the committees to consider for potential inclusion in the league's legislative program. It meets again after the policy committees have met to consider their recommendations.

Policy Committees

What is the role of the policy committees?

Policy committees receive briefings on select statewide issues, consider possible changes to the policy statement, and develop legislative recommendations for the Legislative Committee to consider.

How are policy committees appointed?

Policy committee membership consists of elected and appointed officials of full-member local governments. Nomination information is sent in the spring to each locality, and each local government determines which of its officials will be nominated for each of the six policy committees. Each local government may nominate up to two people per policy committee, at least one of whom must be an elected official.

What are the benefits of serving on a policy committee?

VML policy committees offer members an opportunity to learn about current and emerging statewide issues that affect local governments, to develop through policy statements the broad philosophical framework that guides the league, and to network with local officials with similar policy interests.

How many policy committees are there?

There are six policy committees: community and economic development, environmental quality, finance, general laws, human development and education, and transportation.

What issues does each policy committee cover?

- **Community & Economic Development:** Authority, administration, and funding of local governments to manage a full range of community and economic development issues, including business development and retention, international competitiveness, infrastructure development and investment, planning, land use and zoning, blight, enterprise zones, housing, workforce development and historic preservation.
- **Environmental Quality:** Natural resources and the authority of local governments to manage the environment, including water resources and quality, solid and hazardous waste management, air quality and the Chesapeake Bay.
- **Finance:** Powers, organization and administration of local government financing, including taxing authority, debt financing, state aid to local governments and federal policies affecting local finance issues.
- **General Laws:** Powers, duties, responsibilities, organization and administration of local governments, including state-local and inter-local relations, conflicts-of-interest, freedom-of-information, information management and personnel, telecommunications, utilities and law enforcement, jails and courts issues.
- **Human Development and Education:** Management and funding of social services, education, health, behavioral health, juvenile justice, recreation, rehabilitation and programs for the aging.
- **Transportation:** Development, maintenance, and funding of a comprehensive land, sea and air transportation system for the Commonwealth, and federal, state and local roles in the provision and regulation of transportation.

What is a policy statement?

Each policy committee develops a policy statement that covers issues in its respective area. The policy statement expresses the agreement of VML's membership on matters of interest to local governments. The statement generally addresses broad, long-term, philosophical positions. The VML membership approves the policy statements at its annual meeting.

How do policy statements differ from VML's legislative program?

Policy statements are general in nature. They reflect local governments' positions on a range of issues. The Legislative Program is more specific and immediate. It is limited to legislative positions that VML expects to lobby on during the upcoming legislative session.