

The regular meeting of the Town Council of the Town of Front Royal, Virginia was held on September 14, 2020, in the Warren County Government Center with the Pledge of Allegiance and Moment of Silence led by Mayor Tewalt.

### **ROLL CALL for MAYOR/TOWN COUNCIL**

#### **PRESENT:**

Mayor Eugene R. Tewalt  
Vice Mayor William A. Sealock  
Councilman Lori A. Cockrell  
Councilman Gary L. Gillispie  
Councilman Chris W. Holloway  
Councilman Jacob L. Meza  
Councilman Letasha T. Thompson  
Town Attorney Douglas W. Napier  
Interim Town Manager Matthew A. Tederick  
Clerk of Council Tina L. Presley

*(The above represent municipal officers of the Town of Front Royal as stated in Town Charter Section 4)*

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### **APPROVAL OF MINUTES**

*Councilman Gillispie moved, seconded by Councilman Holloway to approve the Regular and Work Session Council Meeting Minutes of August 24, 2020, as presented*

Vote: Yes – Councilmen Sealock, Cockrell, Gillispie, Holloway, Meza and Thompson  
No – N/A  
Abstain – N/A  
Absent – N/A

### **ROLL CALL**

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### **RECEIPT OF PETITIONS AND/OR CORRESPONDENCE FROM THE PUBLIC**

Tim Ratigan, 6079 Stonewall Jackson Highway, thanked the Interim Town Manager, Front Royal Police Department and Warren County Sheriff's Office and anyone else who was involved in making the local law enforcement appreciation parade a "huge" success. He voiced his amazement that the Town of Front Royal has the ability to allow for a variety of different events and find a way to accommodate each event so that each one is successful. He thanked Council for their attendance at the parade.

Bruce Rappaport, 300 W. Main Street, reminded Council of a story that happened in his mother's store (Boston Store) years ago referring that to today's "moral obligation" with the police department loan. He reminded Council that the date is coming close to paying the principal and for the Council to begin making the payments.

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Mayor Initial 

**REPORTS****a. Report of special committees or Town Officials and Interim Town Manager**

Interim Town Manager Tederick advised Council of a benefactor known as Frank who is donating signs and banners, designed by local artists, for Main Street. The banners and signs will be installed in the next few weeks.

**b. Requests and inquiries of Council members**

Councilman Thompson thanked Frank for his generous donation. She noted that she and her son attended the Police Appreciation Parade and it was a huge success.

Councilman Cockrell advised that she too attended the parade, noting that it was a success. She also thanked Frank for his generous donation noting that it would be great to have banners downtown. She clarified to Mr. Rapport that the Town did not pay \$10,000, noting that the Town offered it but no one took the offer. Mrs. Cockrell advised that she is getting citizens asking her about electric outages and flickers and questioned staff what was going on. David Jenkins, Director of Energy Services explained how and why outages and flickers occur more often than not. Statistics as of January 1, 2020: 57 power outages (17 animal contact; 15 equipment failure; 11 trees; 9 vehicle accidents [last 2 years only]; 3 transmission provider and 4 unknown). He advised that 2018 had 153 outages and 2019 had 138. He advised that they continually do maintenance and replace squirrel guards. He clarified that one reason the citizens may be noticing it more is that they are home working on computers and that technology has become sensitive.

Councilman Holloway advised that he participated in "Back the Blue" Parade. He thanked Frank for his donation. He read a press release regarding the EDA.

It is well known that the actions of the ex - Executive Director of the Industrial Development Authority of the County of Warren and the Town of Front Royal otherwise referred to as the EDA have caused significant economic and financial harm to the Town of Front Royal, the County of Warren, the EDA and the taxpayers and have resulted in the filing of two lawsuits in the Circuit Court of Warren County. I wanted to take a few minutes of your time to discuss the Town's position on these matters to clear up any misconceptions that may exist due in part to the EDA - either directly or indirectly - making statements that are entirely inaccurate.

During the relevant time period, the Warren County Board of Supervisors oversaw the EDA. It appointed all Board members and provided funding for EDA operations; but it did not actually operate the EDA. By law, the EDA is a separate political entity empowered and, in fact, required by statute to act on its own for the benefit of the residents of the County, the Town and the Commonwealth.

Again, by statute, the EDA is operated by a Board of Directors. The Directors make decisions and take action and are accountable for all actions taken by the EDA. The EDA Board hired an Executive Director, Jennifer McDonald, to act as the primary manager on its behalf; but merely hiring a director and empowering that person does not of course shield the Board of Directors from liability for EDA actions. The EDA gave its ex-Executive Director McDonald unfettered authority to access and use funds earmarked for Town and County development projects and then absolutely failed to oversee her use of these funds. As a result millions of dollars of Town and County funds were stolen, converted or misused.

The EDA is responsible to the Town for the wrongful acts of its Ex Executive Director McDonald. Instead of accepting some responsibility and being accountable to the citizens and working hand in hand with the Town in good faith to rectify the mess created by its employee, the EDA Board has instead taken a regrettable and unseemly path of pointing fingers everywhere but at itself and attempting to avoid the consequences of its massive failure of oversight. It is this failure of the EDA to take any responsibility

for the harm caused by its Ex Executive Director McDonald to the Town and taxpayers that forced the Town to file its lawsuit against the EDA. The Town has made repeated attempts to work with the EDA to troubleshoot and resolve the issues the EDA's negligence created but has largely been either ignored or somehow blamed by the EDA for the EDA's own failings and misdeeds.

Perhaps the best and most pressing example of the EDA's failure to acknowledge responsibility concerns the construction of the Town of Front Royal Police Department Headquarters. The Town does not dispute that it agreed to fund the construction of a new headquarters for the Town Police Department. Nor does the Town dispute that it knew that construction would require the EDA to obtain financing.

The dispute centers on the promises made by the EDA to Town Council that it would obtain financing for the Police Department according to specific and favorable financing terms. Town Council accepted that promise and authorized the EDA to move forward with the project only in accordance with the EDA's promised terms. Before construction began, the ex-Executive Director of the EDA told the Town that the EDA had in fact obtained the authorized financing. As stated by the ex-Executive Director, when asked for an update, "the money is in our accounts."

This turned out to be a lie.

The loan actually obtained by the EDA to build the Police Department is very different from the loan that the EDA promised and that Town Council approved. The loan obtained by the EDA would result in the Town paying millions of dollars more in interest. Accordingly, since this loan was obtained without the authorization or consent of Town Council, the Town has of course refused to make payments on the fraudulent loan and has explored other means of resolving the issue.

The Town operates in the service of the citizens and at their will. Town business is conducted in open, public forums, where taxpayers are allowed to participate and be heard and the actions of the Town are authorized by a proper vote of elected officials. When Town Council empowered the EDA to build the police department, it did so in accordance with this process and, as such, made certain promises and representations to the public about how the Police Department project would be accomplished. The EDA knew that the loan it was obtaining to build the Police Department was materially different from what Town Council had approved. Rather than go through the process of another public hearing, as required by law, the EDA chose to proceed outside of this process and obtained the loan without Town Council approval.

The EDA continues to make statements to reporters that end up in local newspapers that include the notion that the Town is somehow obligated to repay the fraudulent unauthorized loan. We anticipate that the EDA's protestations will become more urgent as October approaches since that is when principal and interest payments under the loan start to become due and payable. However, since the loan was obtained by the EDA in its own name, without Town Council approval or public participation, it is the EDA's sole responsibility to repay.

I want to be clear about this: The Town will not pay any financial obligation incurred by the EDA ostensibly for the benefit of the Town, that was obtained without the approval of Town Council, as required by law. The Town has no obligation, legal, moral or otherwise to repay these unlawful debts, but instead has a duty to the taxpayers of the Town to reject them. Suggesting otherwise undermines the very purpose behind operating a political subdivision in the open and allowing citizens the right to be heard.

In a similar vein, the Town has been paying and will continue to pay any and all debts incurred by the EDA on the Town's behalf that were authorized by Town Council. As such and as repeatedly and consistently told to the County and the EDA, the Town is willing to make payments to the EDA for the Police Department Headquarters that are equal to the payments that Town Council authorized, which include the entire principal debt at the authorized interest rate.

In the interest of good will and the spirit of compromise, the Town even offered, pursuant to a Letter of Intent signed by Town Council which would have ended the lawsuit between the Town and EDA, to pay a portion of the excess interest payments through its funding of the EDA, but this offer was summarily rejected by the County Board of Supervisors without explanation or further comment.

The Town Council of Front Royal has and is working hard to resolve the many financial and economic issues caused by the actions of the Ex-Executive Director of the EDA and her cohorts and will continue to do so with or without the participation of the County or the EDA, if necessary.

Thank you.

c. Report of the Mayor – Mayor Tewalt thanked everyone for coming out tonight

d. Proposals for addition/deletion of items to the Agenda - NONE

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### **CONSENT AGENDA ITEMS –**

**COUNCIL APPROVAL** – FY2021-2022 Budget Calendar

***Council approved the FY2021-2022 Budget Calendar as presented***

**COUNCIL APPROVAL** – New Contract for Business Recovery Consulting Services

***Council approved a new contract to continue business recovery consulting services with Strategic Solutions by Tricia, LLC until the Town is able to procure a long-term contract for destination marketing organization services, beginning October 1, 2020 through December 31, 2020 with an option to modify for a contract amount of \$23,000, not to exceed \$28,750.00.***

**COUNCIL APPROVAL** – Bid for Various Sizes of Transformers

***Council approved bids of \$115,097.90 from Anixter and \$39,698.00 from Stuart C Irby for supplying the Town with various sizes of transformers to be placed in inventory for the Department of Energy Services to use as needed.***

**COUNCIL APPROVAL** – FY21 Budget Transfer for Attrition Position for Police Department

***Council approved the bid for the transformer replacement at the Kendrick Substation to Virginia Transformer Corporation in the amount of \$385,230.00.***

***Councilman Meza moved, seconded by Councilman Holloway that Council approve the Consent Agendas as presented.***

Vote: Yes – Councilmen Sealock, Cockrell, Gillispie, Holloway, Meza and Thompson

No – N/A

Abstain – N/A

Absent – N/A

ROLL CALL

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Mayor Initial 

PUBLIC HEARING – Ordinance Amendment to Chapter 138 (1<sup>st</sup> Reading)

Clerk of Council Presley read the summary: Council is requested to affirm on its first reading an ordinance to amend Front Royal Town Code Chapter 138 Peddlers, Solicitors and Itinerant Merchants to allow the use of vending ~~machines~~ [vehicles] operated on Town Streets to peddle ice cream and other frozen desserts, as presented.

Mayor Tewalt open the public hearing. No one from the public spoke and the public hearing was closed.

***Councilman Thompson moved seconded by Councilman Cockrell that Council affirm on its first reading an ordinance to amend Front Royal Town Code Chapter 138 Peddlers, Solicitors and Itinerant Merchants to allow the use of vending ~~machines~~ [vehicles] operated on Town Streets to peddle ice cream and other frozen desserts, as presented.***

Mr. Tederick advised that “machines” should be vehicles. Council agreed and no one else spoke.

Vote: Yes – Councilmen Sealock, Cockrell, Gillispie, Holloway, Meza and Thompson

No – N/A

Abstain – N/A

Absent – N/A

## ROLL CALL

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COUNCIL APROVAL – FY21 budget amendment for HIDTA Administrative Assistant Position for the Police Department

Clerk of Council Presley read the summary: The Washington/Baltimore High Intensity Drug Trafficking Area LLC is providing the Front Royal Police Department a grant in the amount of \$52,035.00 to pay for an Administrative Assistant salary and fringe benefits. If the funding is cut or HIDTA discontinues the designation, the position will be eliminated. Council is requested to approve a FY21 budget amendment in the amount of \$39,025.00 for the addition of the Administrative Assistant which is 75% of the grant; the remaining \$13,010.00 would be included in the FY22 budget.

***Councilman Thompson moved seconded by Councilman Holloway that Council approve a FY21 budget amendment in the amount of \$39,025.00 for the addition of a High Intensity Drug Trafficking Area (HIDTA) Administrative Assistant that includes salary and fringe benefits, for the Front Royal Police Department which is 75% of the \$52,035.00 of the Washington/Baltimore High Intensity Drug Trafficking Area LLC grant. I further move that the remaining \$13,010.00 be included in the FY22 budget. Council further moved that if the funding is cut or HIDTA discontinues the designation, the position will be eliminated.***

There was no discussion.

Vote: Yes – Councilmen Sealock, Cockrell, Gillispie Holloway, Meza and Thompson

No – N/A

Abstain – N/A

Absent – N/A

## ROLL CALL

Mayor Initial 

COUNCIL APPROVAL – FY21 Budget Transfer for Attrition Position for Police Department

Clerk of Council Presley read the summary: Council is requested to approve a FY21 budget transfer in the amount of \$55,915.00 from General Fund Contingency for an Attrition Position for the Police Department. It is further noted that the position will be reviewed annually, and budget based on recognized needs.

*Councilman Holloway moved seconded by Councilman Thompson that Council approve a FY21 budget transfer in the amount of \$55,915.00 from General Fund Contingency for an Attrition Position for the Police Department. I further move that the position will be reviewed annually and budgeted based on recognized needs for that fiscal year.*

There was no discussion.

Vote: Yes – Councilmen Sealock, Cockrell, Gillispie Holloway, Meza and Thompson

No – N/A

Abstain – N/A

Absent – N/A

ROLL CALL

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## CLOSED MEETING

Councilman Cockrell moved second by Councilman Gillispie that Council go into closed motion

*1. Regarding McKay Springs property, a Town public alley, and a potential business proposing to locate in the Town of Front Royal, and the Town Manager's position, under the following provisions of the Freedom of Information Act:(A)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.;(B)The discussion of the award of a public contract involving the expenditure of public funds, including interviews of bidders or offerors, and discussion of the terms or scope of such contract, 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. 29. of the Code of Virginia. (C) 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. 8. of the Code of Virginia.(D) Discussion, consideration, or interviews of prospective candidates for employment; assignment, appointment, promotion, performance, demotion, salaries, disciplining, or resignation of specific public officers, appointees, or employees of the Town, pursuant to Section 2.2-3711. A. 1. of the Code of Virginia.*

*2. Regarding the proposed CARES Act funding agreement between the County and the Town, and the letter from the Board of Supervisor's legal counsel and the demands placed upon the Town: (A)Discussion of the award of a public contract involving the expenditure of public funds, and discussion of the terms or scope of such contract, where discussion in an Open Meeting would adversely affect the bargaining position or negotiating strategy of*

Mayor Initial 

*Town Council, pursuant to Section 2.2- 3711. A. 29., of the Code of Virginia; and (B) 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. 8. of the Code of Virginia.*

*Councilman Thompson moved seconded by Councilman Meza that the Mayor and Council certify that to the best of each member's knowledge, as recognized by each Mayor and 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 the Mayor and 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 – Councilmen Sealock, Cockrell, Gillispie Holloway, Meza and Thompson

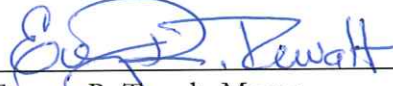
No – N/A

Abstain – N/A

Absent – N/A

ROLL CALL

APPROVED:

  
Eugene R. Dewalt, Mayor

ATTEST:

  
Tina L. Presley Clerk of Council

Councilman Cockrell moved, seconded by Councilman Meza approved the Regular Council Meeting minutes of September 14, 2020 on September 28, 2020.

Mayor Initial \_\_\_\_