

The regular meeting of the Town Council of the Town of Front Royal, Virginia was held on September 28, 2020, in the Warren County Government Center. The Pledge of Allegiance was led by Boy Scouts Troop 4. The Moment of Silence was 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)

APPROVAL OF MINUTES

Councilman Cockrell moved, seconded by Councilman Meza to approve the Special, Regular and Work Session Council Meeting Minutes of September 8, 14 and 21, 2020, as presented

Vote: Yes – Unanimous -----NO ROLL CALL

RECEIPT OF PETITIONS AND/OR CORRESPONDENCE FROM THE PUBLIC

Gary Kushner, 1106 Fetchett Road, voiced his dissatisfaction of the most recently held press conference when criticisms and insults of the EDA and Warren County Board of Supervisors were stated.

David Downes, 14 Chester Street, voiced his observation that the only two councilmembers seeking reelection asked for the Resolution demanding justice for citizens. He suggested that the Mayor just call Marsha Garst and/or Michael Parker instead of passing a resolution which he opined was a waste of time.

William Huck, 409 E Main Street, advised Council that the merchants on Main Street are planning to move forward with Halloween activities since Hometown Halloween has been cancelled.

REPORTS

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

Interim Town Manager Tederick introduced Northern Shenandoah Valley Regional Commission Executive Director Brandon Davis to Council. He gave his report on GO VIRGINIA Program. Councilman Gillispie asked for an update on the recycling efforts mentioned in another meeting.

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Mr. Tederick introduced Trish from Strategic Solution by Trish. She gave a presentation on Tourism numbers including the activity on social media. Councilman Thompson confirmed that the Influencer event would be outside the Town as well as in Town. Mr. Tederick recognized Elena Patrice with Social Status Inc for her continued assistance on this project.

Mr. Tederick presented the Pride in Performance = Excellence Stars of the Month Awards to Officer Andrew Haywood for June and Kayla Thomas for July.

b. Requests and inquiries of Council members

Councilman Meza thanked the Boy Scouts for their attendance tonight and congratulated the Stars of the Month. He thanked the Chief for his officers that presented FREE Slurpee Certificates to children in his neighborhood. Mr. Meza confirmed that the recently held press conference was only open to the press to ask questions not the public. He also took the opportunity to clarify other statements made by Mr. Kushner earlier.

c. Report of the Mayor – Mayor Tewalt noted that Boy Scouts Troop 4 was sponsored by the Front Royal Rotary and expressed his appreciation to them for attending the meeting tonight.

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

COUNCIL APPROVAL OF CONSENT AGENDA ITEMS –

Vacation for Town Rights-of-Way Policy Revisions - Council approved the revisions of the Vacation and Town Rights-of-Way Policy as presented.

Proclamation for Public Power Week - Council approved a Proclamation proclaiming October 4 – 10, 2020 as Public Power Week in the Town of Front Royal to recognize the Town's Department of Energy Services' contributions to the community and to educate customer-owners, policy makers and employees on the benefits of public power, as presented.

Third Quarter Write-Off for Bad Debt - Council approved the removal of 5 years or older of outstanding accounts receivable (bad debts) on the Town's ledger for the third quarter of 2020 totaling \$16,739.57, which is comprised of 55 utility accounts. All possible recourse of attempting to collect these amounts has been completed and the accounts have no activity for at least 5 years.

Sole Source Purchase of Portable Message Board - Council approved a trailer mounted portable message sign board from Traffic Safety Supplies Inc., in the amount of \$15,950.00 for the Public Works Water Sewer Maintenance Department.

Bid for Light Poles - Council approved a bid in the amount of \$35,556.00 from Anixter, Inc. for the delivery of (24) Shakespeare decorative light poles for immediate use and to add to Energy Services inventory.

Move Location of October 19 Regular Meeting - Council approved moving the location of their regular meeting to the Government Center instead of the Town Hall on October 19, 2020.

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COVID-19 Emergency Ordinance Amendment - Council approved amending the COVID-19 Emergency Ordinance paragraph #6 to *“for a period until Town Council takes action otherwise”* and removing *“not exceeding six months”*.

FY21 Budget Amendment DMV Speed/Alcohol Enforcement Matching Grant - Council approved a FY21 Budget Amendment in the amount of \$18,900.00 to receive funds for the Virginia Highway Safety Grant.

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

Vote: Yes – Unanimous -----NO ROLL CALL

PUBLIC HEARING – Ordinance Amendment to Chapter 138 (2nd Reading)

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

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

There was no discussion.

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

No – N/A

Abstain – N/A

Absent – N/A

COUNCIL APPROVAL – FY21 Budget Amendment, Interfund Budget Transfer and Bid

Clerk of Council Presley read the summary: Council is requested to approve a FY21 Interfund Budget Transfer in the amount of \$113,280.00 to allocate funds from the General Fund Reserve Funds to the Electric Fund and to approve the purchase of a SCADA system upgrade from Survalent Technology Inc in the amount of \$113,280.00.

~~*Councilman Cockrell moved seconded by Councilman Meza approve a FY21 Interfund Budget Transfer in the amount of \$113,280.00 to allocate anticipated CARES funds from the General Fund to the Electric Fund and to approve the purchase of SCADA system upgrade from Survalent Technology Inc in the amount of \$113,280.00.*~~

Councilman Thompson read the following statement:

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The cover page for this item states general fund COVID-19 expense per the attached memo we are to be reimbursed with funds from the CARES Act. We are unable to do so because according to the US Department of the Treasury's website the expenditure would not qualify. Per the website the CARES Act requires the payments to come from the coronavirus relief fund and only to be used to cover expenses that are 1) necessary incurred due to the current public health emergency with respect to the coronavirus 2) were not accounted for in the budget most recently approved March 27th 2020, which is the date of the enactment. SCADA can be found on pages 52 and 53 of our FY20-21 Budget. Further per Mr. Ferrell, the CARES Act Committee will not approve the above-mentioned item and we will not get reimbursed. For this I will vote no for the proposed amendment and I have a link to the Treasury website if anyone needs it.

Mr. Tederick advised that the CARES Act Committee at the County level was asking for additional information for the SCADA system. He advised that after talking with Mr. Ferrell [Emergency Coordinator for Warren County], law enforcement hours can be used as an expenditure so the Town would be using that instead of SCADA. New information came out Friday and over the weekend.

Councilman Gillispie advised that there was a revised motion placed before Council at the beginning of the meeting for this item.

Councilman Cockrell withdrew the motion seconded by Councilman Meza.

Councilman Cockrell moved seconded by Councilman Holloway that Council approve a FY21 Interfund Budget Transfer in the amount of \$113,280.00 to allocate funds from the General Fund Reserve Funds to the Electric Fund and to approve the purchase of a SCADA system upgrade from Survalent Technology Inc in the amount of \$113, 280.00.

Mr. Tederick noted that he has spoken to Rick Ferrell and with his guidance the Town can spend the funds in various ways.

Councilman Cockrell asked that Finance Director Wilson explain to the public what the SCADA System is used for.

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

COUNCIL APPROVAL – Resolution Seeking Justice for Citizens of Front Royal as a Result of the EDA Scandal

Clerk of Council Presley read the summary and resolution: Councilmen Cockrell and Holloway request that Council consider a resolution seeking justice for citizens of Front Royal as a result of the EDA scandal, as drafted.

**RESOLUTION
DEMANDING JUSTICE FOR THE CITIZENS OF THE TOWN OF FRONT ROYAL
RELATED TO THE EMBEZZLEMENT OF FUNDS FROM THE FRONT ROYAL/WARREN
COUNTY ECONOMIC DEVELOPMENT AUTHORITY**



WHEREAS, on March 26, 2019 the Front Royal/Warren County Economic Development Authority, hereafter ("EDA") filed a civil suit alleging the embezzlement of over eighteen million dollars by its former Executive Director Jennifer McDonald, hereafter McDonald and other persons and entities; and,

WHEREAS, the Warren County Circuit Court on March 27, 2019, convened a Special Grand Jury to investigate and based upon probable cause to issue True Bills of Indictment against individuals who may have committed claims related to the embezzlement of said funds from the EDA; and,

WHEREAS, during the following year, the Special Grand Jury obtained over one million documents related to the various alleged embezzlement schemes and returned over seventy-five True Bills of Indictment against McDonald and others; and,

WHEREAS, the Special Prosecutor, Michael Parker, who was designated by Marsha Garst, Harrisonburg/Rockingham County Commonwealth Attorney, to prosecute these matters, moved to dismiss all of the True Bills returned by the Special Grand Jury based upon his professed inability to provide discovery to the defendants and his lack of preparation to competently prosecute the over seventy-five True Bills, previously issued against McDonald and other defendants; and,

WHEREAS, Chief Judge Bruce Albertson who regularly sits in Harrisonburg granted Parker's motion to dismiss said indictments nolle prosequi which permits Parker to seek reinstatement of the charges at a later date; and,

WHEREAS, over nine months has passed since Parker was appointed to work with the Special Grand Jury and prosecute these matters, giving him ample time to review the various indictments and the documentation supporting these indictments and to decide whether sufficient evidence exists to seek conviction of McDonald and the other defendants for the alleged criminal activity contained within these seventy-five True Bills previously issued by the Special Grand Jury; and,

WHEREAS, justice for the citizens of Front Royal in these matters has thus far been justice denied as a result of Parker's dismissal said indictments; and,

WHEREAS, many Town citizens have lost faith in the local criminal justice system as a result of Parker's seeming reluctance to prosecute the alleged criminal activity; and,

WHEREAS, The Front Royal Town Council is determined to ensure that the citizens of Front Royal receive justice in this matter, including but not limited to, the criminal prosecution of all crimes and the payment of restitution to reimburse our citizens for the alleged eighteen million dollars embezzled from the EDA; and,

BE IT RESOLVED, The Front Royal Town Council in order to attempt to restore the trust of our citizens in our local criminal justice system demands that within 60 days of the adoption of this resolution, Marshal Garst, Commonwealth Attorney for Harrisonburg/Rockingham County direct her surrogate Michael Parker, Esquire to request that Harrisonburg Circuit Judge Clark Ritchie reconvene the Special Grand Jury to consider reissuing any of the former True Bills of Indictment which she and her surrogate have determined are worthy of criminal prosecution and to expeditiously proceed to trial on these matters and seek restriction from those convicted as a result of the funds embezzled from the EDA and by extension from the citizens of Warren County; and,

BE IT FURTHER RESOLVED, if Michael Parker, Esquire chooses not to reissue True Bills of Indictment, in the alternative to publicly explain to the citizens of Front Royal and Warren County why no state prosecution has been sought related to these matters and how they propose to ensure the citizens of Front Royal are guaranteed a just result.

The Clerk of Council is directed to forward this resolution to the Board of Directors of the Front Royal Warren County Economic Development Authority and the Warren County Board of Supervisors requesting that they adopt a similar resolution on behalf of Town and County residents demanding justice on behalf of our mutual constituents.



Councilman Gillispie moved seconded by Councilman Holloway that Council approve a resolution seeking justice for citizens of Front Royal as a result of the EDA scandal, as drafted.

Councilman Cockrell read the following statement:

My Comments on the Resolution Demanding Justice for our Citizens Related to the EDA Scandal

As I have been going door to door seeking input from the town citizens, hundreds of town citizens have asked me why those who embezzled money from the EDA have not been brought to justice. It is obviously first and foremost on their minds.

With the recent announcement that the former Executive Director of the EDA has filed bankruptcy, effectively preventing the EDA in its civil lawsuit from recovering any money from her personally, the criminal prosecution of her and others responsible for the embezzlement is the only way that our citizens can be paid back. This would be in the form of criminal restitution for the millions of dollars that we are all paying now and will have to pay in the future to keep the EDA afloat.

Several months ago, the special prosecutor dismissed over seventy-five indictments against the former executive director and others promising that he would ensure that those who committed crimes would be brought to justice. The town citizens, and I suspect county citizens as well, want that to occur sooner rather than later. They deserve swift action by the special prosecutor on an explanation as to why no one is currently being prosecuted for these crimes. This resolution seeks an answer for the citizens of Front Royal. The citizens of Front Royal and Warren County are victims of these crimes and by extension members of the Town Council, the Board of Supervisors, and the EDA Board past and present, are victims as well. The resolution requests that the Board of Supervisors and the EDA Board adopt a similar resolution requesting action by the special prosecutor.

This request is based upon my many conversations with citizens on their front porch, walking down the street, or just this past weekend at my class reunion. I believe the community wants us to work together to bring the criminals to justice first and then leave for another day how any monies recovered should be distributed as a result of these crimes.

With the recent bankruptcy filing, which may be followed by others, our focus must move, in my opinion, from the civil lawsuits to seeking criminal restitution in any criminal indictments brought by the special prosecutor, or in cases brought by the US Attorney's Office if the special prosecutor has turned the investigation over to the F.B.I. One way or the other, our citizens deserve an explanation.

Finally, I am hopeful that the recent settlement of the principal debt for the Front Royal Police Department and the adoption of this resolution by all three bodies, the Town Council, the Board of Supervisors, and the EDA Board, will serve to foster a more cooperative relationship going forward between all of us. The resolution acknowledges that we are all victims and must, as a community, focus on bringing those responsible for the wrong-doing to justice.

Councilman Thompson read the following statement:

To prepare myself for this meeting and to make an educated vote on this matter I reviewed several new articles, etc. A few things, there are over one million documents related to the matter that the prosecuting attorney has to go through. Mr. Parker said in an email to the Northern Virginia Daily "I assure you that I am not pleased about this and I also assure you that this is not the end. However while it is my duty to bring justice to the guilty it is also my duty to be just and ethical in my conduct to everybody that includes people who have been accused but have not yet been found guilty. At the current time I am unable to satisfy certain basic obligations I have to the defendant to which have existed since before I was appointed to the case. I cannot ethically keep the status quo. In fact, if I try to keep the case active I'd run the risk of a judge at some point dismissing them with prejudice so that I could not bring them back." Unfortunately, I was unable to reach Mr. Parker today to ask if there was any updates. I am not sure if my Council have contacted him for additional information before demanding certain actions. It is my opinion it is better to wait and have it done the right way versus rushing it and have the entire thing dismissed with no chance of bringing it back. Further the Virginia State Police have stated that as of today they are still investigating this matter as well.

This is a legal issue and I prefer to leave it to lawyers and political issues to the politicians. It is for the reasons stated that I will vote no on this item tonight.

Councilman Holloway stated that the citizens demand justice and deserve justice and the resolution tonight is a step in the right direction.

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

CLOSED MEETING

Councilman Meza moved second by Councilman Cockrell that Council go into closed motion for the following purposes:

- (1) With respect to the Town Manager's position, the discussion, consideration, or interviews of prospective candidates for employment; assignment, appointment, promotion, performance, salaries, or resignation of specific public officers, appointees, or employees of the public body, pursuant to Section 2.2-3711. A. 1. of the Code of Virginia.
- (2) With respect to the Town's lawsuit against the EDA, consultation with legal counsel and briefings by staff members or consultants pertaining to actual or probable litigation, where such consultation or briefing in Open Meeting would adversely affect the negotiating or litigating posture of the public body; "probable litigation" meaning litigation that has been specifically threatened or on which the public body or its legal counsel has a reasonable basis to believe will be commenced by or against a known party; pursuant to Section 2.2-3711. A. 7. of the Code of Virginia.
- (3) Regarding a Town public alley, the disposition of publicly held real property where discussion in an open meeting would adversely affect the bargaining position or negotiating strategy of Town Council, pursuant to Section 2.2-3711.A.3.

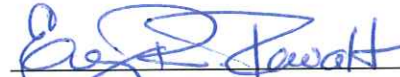
Vote: Yes – Unanimous -----NO ROLL CALL

Councilman Thompson moved seconded by Councilman Holloway 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.

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

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APPROVED:


Eugene R. Tewalt, Mayor

ATTEST


Tina L. Presley Clerk of Council

Councilman Dillispi moved, seconded by Councilman Holloway approved the Regular Council Meeting minutes of September 28, 2020 on October 19, 2020.