



REGULAR TOWN COUNCIL MEETING

Monday, August 23, 2021 @ 7:00pm in Warren County Government Center

1. MOMENT OF SILENCE
2. PLEDGE OF ALLEGIANCE
3. ROLL CALL
4. APPROVAL OF MINUTES – *I move that Council approve the Work Session Minutes of July 12th, Regular Meeting Minutes of July 26th and Special Meeting Minutes of August 2nd, as presented.*
5. ADDITION/DELETION OF ITEMS
6. RECOGNITIONS/AWARDS/REPORTS– None
7. PUBLIC HEARINGS
 - A. An Ordinance Amendment to Town code Chapter 175 to Ease the Regulations for Bed and Breakfasts (B&B) Uses in Residential Districts *(Lauren Kopishke)*
 - B. Special Use Permit Application Submitted by Philip Vaught, Requesting to Operate a five (5) Bedroom Bed and Breakfast at 124 Luray Avenue *(Lauren Kopishke)*
 - C. An Ordinance Amendment to Town Code Chapter 175 Pertaining to Uses in C-2 Downtown Business District *(Lauren Kopishke)*
 - D. An Ordinance to Amend and Re-Enact Town Code Chapter 156 to Create an Environmental Sustainability Chapter *(Town Manager)*
 - E. An Ordinance Amendment to Town Code Chapter 4 to Pertaining to Placing Items on a Council Agenda. *(Mayor)*
9. CONSENT AGENDA ITEMS
 - A. Bid for Water and Wastewater Treatment Chemicals *(Alisa Scott)*
 - B. Board of Architectural Review (BAR) Appointment
 - C. Award for Planning Professional Service for a Comprehensive Plan Re-write *(Alisa Scott)*
10. BUSINESS ITEMS - None
 - A. Emergency Ordinance to Enact Town Code Chapter 172 – Welfare, Health and Safety, Regulating Hospitals or Other Medical or Health-Related Facilities *(Councilman Lloyd)*
11. PUBLIC COMMENTS **(COMMENTS NOT RELATED TO PUBLIC HEARINGS)**
12. REPORTS
 - a. Report of Town Manager
 - b. Report of Councilmembers
 - c. Report of the Mayor
13. CLOSED MEETING –Consultation with Legal Counsel, Disposition of Publicly Held Property & Personnel



TOWN COUNCIL WORK SESSION MINUTES

Monday, July 12th, 2021 at 7:00 PM

Town Hall Conference Room

The following minutes are a summary of items on the agenda. This meeting may be viewed in its entirety by accessing the video of the same date online via the Town's website at www.frontroyalva.com.

Proposed Revised Special Events Policy and Procedures – Purchasing Manager Alisa Scott, highlighted some new changes to the draft version of the Policies and Procedures for Special Events. She noted that with Council approval, the new Policies and Procedures would go into effect on September 1st, 2021.

Vice Mayor Cockrell recommended adding specific 'framework' for cancellations to receive a refund, such as weather and unforeseen circumstances. She also wondered how event organizers would effectively accomplish notifying the affected downtown business owners and residents. Mrs. Scott stated that there were several ways the Town would assist with notification including 'no parking' signs placed along the street in a timely manner, and a 'listserv' on the Town's website that would allow those who are signed up to be automatically notified.

Councilman McFadden wondered how Staff would determine certain items on the proposed matrix, such as the volume of overnight stays. Mrs. Scott noted that in the beginning it would be an estimation, but staff would then work with JLL and the Destination Marketing Board of Directors on an After-Action Report to determine the real number.

Councilman Meza clarified that scoring low on the matrix would not mean an application was denied, rather classified as a 'Community Gathering.' Mrs. Scott agreed and added that the intent of the Matrix was to help determine whether an event would qualify for street or parking lot closures. She noted that reservations are granted on a first come first serve basis and reiterated that the Town Commons is a 'green space' and is always available for public use. Vice Mayor Cockrell added that even if it was reserved for an event, the new Policies and Procedures would require all events to be open to the public.

Water and Sewer Replacement Program – Finance Director BJ Wilson presented options to Council for their requested Water and Sewer lateral replacement program. The program would assist homeowners with old galvanized and lead pipes with updating and fixing their laterals. He explained they could place tax liens on the properties that use the program, however the contractors would then need to be procured through the town. Another option would be to allow

reimbursable grants, which would allow homeowners to hire their own contractors with work inspected by the town.

Councilman Lloyd wondered if lateral inspection was generally included in regular home inspections when properties change hands. Mayor Holloway explained that most lateral issues are not detectable until they are 'too far gone.' He added his belief that many homeowners are likely aware of potential problems, but do not have the means to repair them.

Councilman Meza expressed his wish to make the program as easy and accessible as possible. He stated his support of the grant option but noted some residents may not be able to front the funds. Mayor Holloway suggested a hybrid approach that would allow for grants up to \$5,000 with anything exceeding that amount to be paid by the homeowner outright or through installation payments, which would then require a tax lien. Council also agreed that if the repair were covered by a resident's homeowners' insurance, the town could issue a grant to cover their deductible.

Ordinance Amendment Proposing Text Amendments to the Regulations of the Zoning Ordinance (Chapter 175) Pertaining to Blighted Structures and Nonconformities – Interim Planning and Community Development explained the proposed ordinance amendments that would allow building owners of blighted buildings with nonconformities to make necessary improvements to their property. Town Manager Steven Hicks noted that all ordinance changes require council approval. He recommended Council allow him to approve these specific changes to expedite the process since they had already been reviewed by the Planning Commission. Councilman Meza agreed and stated that, if possible, Council did not want to wait. Mr. Hicks added that the Town offers an appeal process through the Board of Zoning Appeals that building owners could use if they disagree with his recommendation.

Request to Rezone Approximately 0.74 Acres from I-1 to R-2 on Crosby Road – Council approved the request.

Open Discussion

Town Manager Steven Hicks explained the preliminary plans for a new Sustainability Advisory Committee. He noted that the Committee would be made up of five members, including one member of staff, and one eighteen-year-old high school student. He added that they would be responsible for Urban Forestry as well as all facets of sustainability. Council all agreed.

Councilman Meza expressed his belief that the Town should make the necessary code changes to allow short term rentals. Mr. Hicks stated that Staff would only need guidance from Council on how to proceed.

Councilman Meza asked about the process for installing Dusk to Dawn lights in residents' backyards. He questioned why neighbor approval was not part of the process. Mr. Hicks agreed that the town's current policy was very generous and provided no criteria for installation and that he would have Town Staff review the process and make recommendations.

Mayor Holloway mentioned inoperable vehicles parked along streets within town limits. He wondered if the allowed time before removal could be shortened from ten days to forty-eight hours.

Councilman McFadden cited several questions he had received about the progress of the Afton Inn Project. He went on record to state that the project is currently in the permitting phase and will be moving forward.

Mr. Hicks noted that the Front Royal Volunteer Fireman's Carnival was currently happening. He also mentioned that the Town would be celebrating Employee Appreciation Week beginning July 17th.

Councilman Lloyd expressed his wish to bring a proposed Medical Freedom Ordinance to a vote as soon as possible. Town Attorney Napier confirmed that items can be added to an Agenda for both Work Sessions and Regular Meetings with the support of two councilmen. Mr. Hicks noted that ordinance changes require a public hearing, and public hearings require a twenty-one-day advertisement. Councilman Lloyd mentioned that emergency ordinance changes do not require public hearings and requested the Medical Freedom Ordinance be treated as such and added to the next Regular Meeting Agenda.

Closed Meeting – Investment of Public Funds, Disposition of Publicly Held Property and Consultation with Legal Counsel

Councilman McFadden moved (second was mistakenly overlooked) that Council convene and go into Closed Meeting for the following purposes pursuant to Section 2.2-3711 of the Freedom of Information Act of the Code of Virginia:

- (1) The discussion or consideration of the investment of public funds from a federal program where competition or bargaining is involved, where, if made public initially, the financial interest of the Town would be adversely affected, under Subsection A. 6. of said Act; And further, 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 Town, pursuant to Subsection A. 29 of said Act.*
- (2) Discussion or consideration of the disposition of publicly held real property, specifically (A) new lease of parking spaces on Town property. (B) renewal of existing lease on Town property of parking spaces for an existing business; and (C) the conveyance of the Town's interest in two different pieces property it owns with others outside the Town limits; all where discussion in an open meeting would adversely affect the bargaining position or negotiating strategy of Town Council, all pursuant to Subsection A.3 of said Act*

Vote: Yes – Mayor Holloway, Councilmen Cockrell, Lloyd, McFadden, Meza & Thompson

No – N/A

Abstain – N/A

Absent – Councilman Gillispie

ROLL CALL

Councilman McFadden moved, seconded by Councilman Meza, 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 – Mayor Holloway, Councilmen Cockrell, Lloyd, McFadden, Meza & Thompson

No – N/A

Abstain – N/A

Absent – Councilman Gillispie

ROLL CALL

Council discussed which items from the Work Session they wished to put on their next Regular Meeting Agenda as Consent Items or Business Items.

Mayor adjourned the work session at 10:33 P.M.

PRESENT: Mayor Holloway, Vice Mayor Cockrell, Councilmen Lloyd, McFadden, Meza and Thompson, Town Manager Steven Hicks, Deputy Clerk of Council Mary Ellen Lynn, Finance Director BJ Wilson, Interim Planning and Community Development Director Chris Brock, Purchasing Manager Alisa Scott, Information Technology Director Todd Jones, members of the public and press.

ABSENT: Councilman Gillispie

Approved by Town Council

Date: -----



TOWN COUNCIL REGULAR MEETING MINUTES

July 26, 2021 @ 7:00PM in Warren County Government Center

The following minutes are a summary of items on the agenda. This meeting may be viewed in its entirety by accessing the video of the same date online via the Town's website at www.frontroyalva.com.

Moment of Silence

Pledge of Allegiance was led by Councilman Meza

Mayor Holloway turned the meeting over to Councilman Meza who officially resigned from Town Council.
(His entire resignation can be heard by watching video of the same date)

ROLL CALL PRESENT: Mayor Chris W. Holloway
Vice Mayor Lori A. Cockrell
Councilman Gary L. Gillispie
Councilman E. Scott Lloyd
Councilman Joseph E. McFadden (Remote by Phone)
Councilman Letasha T. Thompson

APPOINTED STAFF PRESENT: Town Manager Steven W. Hicks
Town Attorney Douglas W. Napier
Clerk of Council Tina L. Presley

APPROVAL OF MINUTES – Councilman Gillispie moved, seconded by Vice Mayor Cockrell that Council approve the Regular Meeting minutes of June 28, 2021, as presented.

Vote: Yes – Vice Mayor Cockrell, Councilmen Gillispie, Lloyd, McFadden (remote), and Thompson

No – N/A

Absent – N/A

Abstain – N/A

ROLL CALL

ADDITION/DELETION OF ITEMS FROM THE AGENDA – None

RECOGNITIONS/AWARDS/REPORTS –

Town Manager Hicks recognized the Town's Finance Department for being awarded the Government Finance Officer's Association for the 34th year in a row. Finance Director BJ Wilson thanked his staff for their hard work and dedication, noting it was a team effort.

Executive Director of the Northern Shenandoah Valley Regional Commission Brandon Davis focused on the proposed rail to trail project being initiated from Front Royal to Broadway, Virginia connecting those

communities and economies to a multi-use trail. He advised that he was the chair to assist in developing the trail at a local level as well as collaborating on a report to be sent to the next general assembly session for their decision.

PUBLIC COMMENTS (COMMENTS NOT RELATED TO PUBLIC HEARINGS)

John Lundberg, 203 Peachtree Court, Front Royal, VA, spoke in support of the proposed Medical Freedom Ordinance. He stated that Valley Health's new requirement that all their employees receive a COVID-19 Vaccine *"will create a lasting scar and ill will with both departing and remaining employees, and also a rift within our community."*

Tom McFadden, 1418 Virginia Avenue, Front Royal, VA, stated that he ordinarily would not support a public authority involving themselves in the personnel affairs of a private company, but since Valley Health holds a monopoly in the community, the Town Council should be concerned and ask questions.

Robert Adanitsch, 9017 Stonewall Jackson Highway, Front Royal, VA, stated that Valley Health had already *"done this community over a few times with the lack of a Women's Care Center, and by not paying their fair share in taxes."* He stated that mandating vaccines was just another *"whammy."*

Krista Adanitsch, 9017 Stonewall Jackson Highway, Front Royal, VA, explained that the *"science had not been settled"* on the COVID-19 Vaccine, and that she had yet to see a study to support the claim that it was safe and effective.

Dan Arico, 165 Pinecrest Street, Front Royal, VA, noted that he made the informed decision to receive the COVID-19 vaccination after losing friends and family to COVID-19. He urged Council to pass the proposed Medical Freedom Ordinance, so that Valley Health employees would also be able to make the choice for themselves.

Patience Francis, 810 W 14th Street, Front Royal, VA, mentioned her own vaccine injury after several mandatory vaccines she received when she joined the U.S. Armed Forces. She stated that Valley Health making the COVID-19 Vaccine mandatory was unconstitutional.

Michelle Matthaie, 20 Blue Ridge Avenue, Front Royal, VA, cited facts about two experimental drugs, one given to Gulf War Veterans in the 1990's and one given to pregnant women in the 1960's, that were not FDA approved and ultimately had unknown side effects. She related them to the COVID-19 Vaccine, due to its lack of long-term studies.

Mike Mayer, 108 Pebble Lane, Front Royal, VA, spoke in support of the proposed Medical Freedom Ordinance. He urged citizens to question all mandates at the federal, state, local and even private sector levels.

Melanie Salins, 95 Murrays Drive, Front Royal, VA, pointed out that the package insert included with the COVID-19 Vaccine was blank, preventing people from truly being informed and giving informed consent.

Mike Salins, 95 Murrays Drive, Front Royal, VA, compared the risks of the Takata Air Bag, which was recalled, to the COVID-19 Vaccine. He added that companies should not be allowed to hold employee's livelihoods over their heads.

Carol Christoforatos, Front Royal, VA, expressed her concern about the COVID-19 being mandated by Valley Health. She held up a document that was *“filled with the carnage of all the people that were being injured and killed by the vaccine.”*

Meagan Augugliaro, Winchester, VA, stated that, collectively, the health care system had failed to provide informed consent to patients inquiring about the COVID-19 Vaccine. She listed the risks associated with the vaccine and noted that until recently those risks were not shared on documents that were given to patients receiving the vaccine.

Lindsay Shumaker, 14 Morningside Drive, Winchester, VA, explained that informed consent requires free choice. She added that a mandate was not free choice, but coercion.

John Sine, 103 Black Powder Court, Winchester, VA, expressed his opposition to the Valley Health mandate. He stated that, over the last year, health care workers had given their best to help their patients and that the community owed it to them to stop companies from requiring vaccines.

Buddy Corr, Augusta, WV, stated that his son, who was in the United States Air Force, was not required to get the COVID-19 Vaccine. But his wife and daughter, both Valley Health employees, were.

Michelle Scheutzow, 1452 Reliance Road, Front Royal, VA, urged Council to adopt the proposed Medical Freedom Ordinance. She explained that she had a medically complex child, who spent six months in the hospital, and the nurses, doctors and therapists of Valley Health had become friends and family.

Dr. Bernard Pegis, Village Court, Front Royal, VA, stated that Valley Health’s mandate would have a horrible effect on the community. He added that all versions of the COVID-19 Vaccine included ingredients that did not align with his morals.

Lucia Hughes, 841 Red Hawk Road, Middletown, VA, asked council to adopt the proposed Medical Freedom Ordinance.

Lee Ann Kecurek, 174 Beach Road, Front Royal, VA, expressed her support of the proposed Medical Freedom Ordinance. She added the importance of setting a precedence that doesn’t allow others to tell one what to do with their bodies, families, or children.

Dr. Darrell Voischke, Stephens City, VA, cited several products and medicines that were originally considered safe, but after time, were discovered not to be. He added that people who experienced injury in those instances were able to take legal action against manufacturers, but that would not be the case with COVID-19 Vaccine manufacturers or institutions that mandate them.

MAYOR TOOK A 10-MINUTE RECESS AND PUBLIC COMMENT PERIOD WAS DELAYED SO THAT OTHER BUSINESS COULD BE ACTED UPON

PUBLIC HEARINGS

- A. Rezoning application Requesting an Amendment to the Town’s Zoning Map to Reclassify a Parcel from I-1 to R-2 on Crosby Road for Jason and Christie Sine

Mayor Holloway opened the public hearing. Jason and Christie Sine, both spoke noting that they have owned the parcel in question for many years and recently decided to construct a duplex on it, noting that the Planning Commission has recommended approval. Mayor Holloway closed the public hearing.

Councilman Thompson moved, seconded by Vice Mayor Cockrell that Council approve a rezoning application request from Jason and Christie Sine requesting an amendment to the Town's Zoning Map to Reclassify a 0.727 parcel located on the east side of Crosby Road abutting the railroad and near the intersection of East 8th Street and Crosby Road from I-1 to R-2.

Vote: Yes – Vice Mayor Cockrell, Councilmen Gillispie, Lloyd, McFadden (remote), and Thompson

No – N/A

Absent – N/A

Abstain – N/A

ROLL CALL

- B. An Ordinance Amendment to the Nonconforming Section of the Town Code Chapter 175 (Zoning) to Ease Restrictions and Give incentive to the Rehabilitation of Nonconforming Blighted Structure and/or Lots

Mayor Holloway opened the public hearing. No one spoke and public hearing was closed

Vice Mayor Cockrell moved, seconded by Councilman Gillispie that Council approve an ordinance amendment to the nonconformity section of Town Code Chapter 175 (Zoning) specially sections 175-126; 175-128; 175-130A; 175-131; 175-132; to ease the restrictions and give incentive to the rehabilitation of nonconforming blighted structures and/or lots beyond their fifty (50%) percent fair market value, as presented.

Vote: Yes – Vice Mayor Cockrell, Councilmen Gillispie, Lloyd, McFadden (remote), and Thompson

No – N/A

Absent – N/A

Abstain – N/A

ROLL CALL

CONSENT AGENDA ITEMS

A. Bid for Okonite Cable for Leach Run Parkway

Council approved the award of a bid to ANIXTER/WESCO in the amount of \$77,004.00 for Okonite cable to complete the Line Extension Project along Leach Run Parkway that would continue installation for the new Warren Memorial Hospital to John Marshall Highway as well as to provide a redundant loop in the event of an emergency.

B. Lease and License Agreement for Additional Parking – N. Royal Avenue – Randolph/Manson

Council approved between the Town and Joseph T. Manson and Sarah Randolph for the use of a 413.82 square foot area of a public alley running between North Royal Avenue and Virginia Avenue and adjacent to their residence at 1602 N. Royal Avenue for additional parking, as presented. Councilman further approved that Council authorize the Town Manager to execute the Lease and License Agreement.

C. Lease Agreement for Parking Spaces – CJMWO Family, LLC (aka Fussell Florist)

Council approved a Lease Agreement between the Town and CJMWO Family, LLC (aka Fussell Florist) for the use of Town property adjacent to the florist at 202 E. 2nd Street to be used for twenty-two (22) parking spaces for the florist due to lack of on-site parking, as presented. Council further approved that Council authorize the Town Manager to execute the Lease Agreement.

Councilman Gillispie moved, seconded by Vice Mayor Cockrell that Council approve the Consent Agenda Items as presented.

Vote: Yes – Vice Mayor Cockrell, Councilmen Gillispie, Lloyd, McFadden (Remote), and Thompson

No – N/A

Absent – N/A

Abstain – N/A

ROLL CALL

BUSINESS ITEMS –

A. Policy and Procedures for Special Event Permits

Clerk of Council Presley passed out handouts to Council from Rick Novak who had signed up for the public comment section but had not been called on yet. Mayor Holloway allowed him and others to speak.

Rick Novak, owner of 117 E. Main Street, advised Council of the recent Façade Grant and how it improved his business considerably. He advised that the Special Event Policy and Procedures has evolved over the last thirty years with numerous revisions. He noted that events are special but opined that there has been a mishandling of street closures and asked that Council use caution before approving the Policy and Procedures before them. He asked that Council continue to review the Policy and Procedures for transparency and clarity.

John Lundberg, 203 Peach Tree Court, Front Royal, VA, agreed with Mr. Novak and suggested that Council go back to the “drawing board” because the current Policy and Procedures was too expensive and complicated.

William Huck, owner of C & C Frozen Treats at 409 E. Main Street, had many questions that were not clear in the Policy and Procedures before Council and noted his urgency in having procedures in place so that he could begin planning Family Fun Day on May 7, 2022.

Vice Mayor Cockrell moved seconded by Councilman Gillispie that Council move the Policy and Procedures for Special Events to the next Work Session.

Vice Mayor Cockrell advised that moving this item back to a work session would help in answering the many questions brought up tonight. She was particularly interested in how businesses would be notified that an event was scheduled.

Councilman Gillispie agreed to move it to a work session to “make sure we get it right”.

Councilman Thompson urged input from interested citizens on this subject since it has been discussed many times. She suggested that any and all special requests be sent to the Clerk of Council before the next work session.

Vote: Yes – Vice Mayor Cockrell, Councilmen Gillispie, Lloyd, McFadden (Remote), and Thompson

No – N/A

Absent – N/A

Abstain – N/A

ROLL CALL

B. FY22 Budget Amendment for Tourism and Contract Amendment for JLL

Councilman Gillispie moved seconded by Councilman Thompson that Council approve a FY22 budget amendment in the amount of \$74,070.00 and approve a contract amendment allowing JLL Inc. to provide the Visitor Center Staff with direction to receive funds from JLL Inc. to reimburse for the expense of staffing tourism.

Vote: Yes – Vice Mayor Cockrell, Councilmen Gillispie, Lloyd, McFadden (Remote), and Thompson
No – N/A
Absent – N/A
Abstain – N/A

ROLL CALL

C. Joint Tourism Memorandum of Agreement with Warren County & Destination Marketing Organization Contract

Councilman Thompson moved seconded by Vice Mayor Cockrell that Council approve a new Memorandum of Agreement (MOA) with Warren County to establish a Joint Tourism Board and authorize the Mayor to execute the MOA and the Town Manager to execute the Destination Marketing Organization contract and any related documents on behalf of the Town Council. Councilman moved, seconded by Councilman that Council rescind the approved January 4, 2021 Front Royal-Warren County Joint Tourism Committee MOA upon approval of all documents.

Vote: Yes – Vice Mayor Cockrell, Councilmen Gillispie, Lloyd, McFadden (Remote), and Thompson
No – N/A
Absent – N/A
Abstain – N/A

ROLL CALL

PUBLIC COMMENTS RESUMED (COMMENTS NOT RELATED TO PUBLIC HEARINGS)

Ingrid Christensen, Garden Court, Front Royal, VA, stated that she was “*totally against*” mandated vaccines.

Marie Lundberg, 203 Peachtree Court, Front Royal, VA, mentioned an article that was written in the Royal Examiner after the Medical Freedom Ordinance was proposed that was “*very critical*”. She recommended sources to learn more about adverse reactions to the COVID-19 Vaccine.

Catherine Reilly, 1035 Stuart Drive, Front Royal, VA, said she was “*vigorously opposed to vaccine mandates.*”

Jane Elliot, Front Royal, VA, quoted “*my body, my choice.*” She added that people should have a choice and informed consent when it comes to the COVID-19 Vaccine. She also wondered, if vaccines were able to be mandated, what would come next.

Amanda Williams, Front Royal, VA, thanked Councilman Lloyd for bringing the Medical Freedom Ordinance before Council. She stated that as a single mother she did not feel safe receiving the COVID-19 Vaccine, but the proposed ordinance had given her, and other Valley Health employees hope.

Kaylee Williams, 514 Manassas Avenue, Front Royal, VA, advised that she was exposed to COVID and was out for a month and a half and is currently vaccinated, and noted she was here tonight to support her colleagues.

Matt Marrazzo, Jackson Place, Middletown, VA, thanked Mr. Meza for the “*tough call he made*” and Councilman Lloyd for “*proposing this very important timely legislation*” while it focused on Valley Health, he opined that it was bigger than that, noting that a “*vaccine passport*” was coming.

Zachary Wendt, 27 Hillvue Street, Front Royal, VA, noted that his wife was a nurse at Valley Health and voiced his concern about staffing if nurses walked away creating a real crisis.

Melissa Nicolson, 902 Robin Lane, Front Royal, VA expressed gratitude to do those who were there on the front lines the last 17 months and now asked to take an experimental vaccine that was granted for emergency use only or lose their jobs. She mentioned several recalls and questioned false data.

Jennifer Turman Bayliss, Winchester, VA, noted that the Valley Health religious exemption, that requires a religious test, was unacceptable. She voiced support of the ordinance.

Gene Kilby, Front Royal, VA, disagreed with the proposed ordinance and questioned how *"we can do nothing to stop the spread of the virus"*, noting the many deaths and cases in the past year including his own mother who passed away last year due to COVID. **MAYOR HOLLOWAY ASKED THE AUDIENCE TO BE RESPECTFUL OR THEY WOULD BE ASKED TO LEAVE.** He reminded Council of the 1918 Spanish Flu Pandemic and the Smallpox Vaccine and the resistance to both. He again questioned how to stop the spread if no one wants to wear masks or get a vaccinated. Mr. Kilby asked that Council *"do the right thing for the entire citizens of this community"* noting this was not a proper place to deal with this subject, encouraging it be dealt with in a court of law.

Rose Herlihy, 64 Dale Drive, Front Royal, VA, voiced disappointment that Valley Health would call them heroes and then *"throw them under the bus"*. She thanked Councilman Lloyd for the proposed ordinance and being a representative for them.

Melissa Schaffer-Dearman, Stephens City, VA, expressed her struggles on how her life was turned around the last year and a half by homeschooling and working, as well as teaching her children to not let other people tell them what to do with their bodies and at the same time respect people. She asked that Council show generations to come to stand up for what they believe in.

Tracy Finn, Stephens City, VA, advised that she had an extensive medical background and told Council a story of the many jobs she was asked to do during the beginning of the pandemic and developed COVID in the process. She blames Valley Health who did not make sure it was a safe place to work. She asked Council to take a stand.

Stevi Hubbard, 1169 Elm Street, Front Royal, VA, advised that employers have the right to mandate vaccinations and that there was nothing the Town Council could do to help those in attendance tonight. She questioned the costs of *"fighting Valley Health"*. **MAYOR HOLLOWAY WARNED THE AUDIENCE THAT IF THERE WERE ANY MORE INTERRUPTIONS THEY WOULD BE ASKED TO LEAVE.** Ms. Hubbard read from the Virginia Health Department website various statistics for fully vaccinated individuals compared to unvaccinated individuals in cases and death.

Krista Shepherd, Martinsburg, W.VA, expressed fear in being fired for not getting the vaccine, and mentioned a waiver she could sign that stated that Valley Health would not take responsibility if she contracted the disease. She asked to stop the mandate.

Eddie Dearman, Stephens City, VA, thanked Councilman Lloyd. He voiced *"we are Americans and we have choices"* and people should not be forced out of their jobs because of their choices.

Manuel Vicente, 541 Eric Court, Front Royal, VA, voiced his pride in being an American since he is from Havana, Cuba. He questioned the Supreme Court and their decisions. He asked that Council inform themselves and vote with Councilman Lloyd for what is right.

MAYOR HOLLOWAY TOOK A 10-MINUTE RECESS AFTERWARDS PUBLIC COMMENTS CONTINUED

Rita Sargis, 606 River Drive, Front Royal, VA, opposed to the COVID-19 vaccine so her doctor gave her guidance on using Ivermectin. She voiced support of Councilman Lloyd's proposal.

Joseph Sledkey, 67 Waterfall Road, Chester Gap, VA, quoted Edmund Burke that *"evil triumphs when good men men do nothing"*. He thanked Councilman Lloyd for being a good man for doing something. He opined that the vaccine was an experiment and a *"crime against humanity"*. He asked Council to *"do the right thing and make the Town a health freedom sanctuary."*

Gene McGuirk, 252 Chestnut Hill Drive, Front Royal, VA, thanked Council for allowing them to have their say and thanked the heroes who are here and those who are not here. Gave updates and statistics on various reports pertaining to the safety of the vaccine. Asked for support of the Medical Freedom Ordinance.

Bridget Hickson, 135 Morrison Lane, Front Royal, VA, suggested that Valley Health focus on improving the health of patients and employees as opposed to mandating something that will cause a lot more side effects down the road. She also gave a shout out to Mr. Meza.

Kara Osborne, New Market, VA, voiced concern that Valley Health was not listening to the employees concerns and expressed her gratitude that Council was listening.

Candace Guyer, Broadway, Rockingham County, begged for no mandate.

Charlene Adanitsch, 213 Henrico Road, Front Royal, VA, advised that she was not in favor of the vaccine due to health issues. She suggested that the conversation start here and to take the information shared tonight with our legislators.

Sherry Baldovio, unknown address, spoke on behalf of those who were forced to do something to their own bodies that is against their informed consent and conscience. She asked Council to listen to the people.

MAYOR HOLLOWAY ASKED IF THERE WAS ANYONE ELSE WHO WISHED TO SPEAK

Laura Clantin, Fort Valley, VA, noted that while she was pro-vaccine, she was opting to get fired due to the their being no true studies prepared on the vaccine. She asked for Council's help

Leo Morton, unknown address, noted that approximately 50% of the employees of the Center of Disease Control (CDC) were not vaccinated questioning the expectations of Valley Health. He asked Council to do their due diligence and make the right decision.

Storm Baylis, Winchester, VA, asked that she not be mandated to take the vaccine as she believes it will not be effective in preventing infection control.

Joseph Sledkey, Rappahannock County, VA, thanked Councilman Lloyd for the proposal. He asked that Council make the right decision tonight so that it can move national and on to DC.

Debra Crowder, Stephens City, VA, thanked Councilman Lloyd for his proposal. She noted that most of those tonight took the risk of catching COVID even when they were not vaccinated and questioned why it was being forced upon them now.

REPORTS

- a. Report of Town Manager – Town Manager Hicks advised of the Voluntary Water Conservation in the Town that will go into effect tomorrow for all Town water consumers.
- b. Report of Councilmembers – Councilman Gillispie advised that he would hold his comments regarding the emergency ordinance when that item comes up on the agenda. He thanked Mr. Meza for his service, noting he considered him a great friend and wished him well in the future.

Councilman Lloyd echoed the sentiments of Councilman Gillispie noting that Mr. Meza was one of the “*sharpest professionals*” he knew and was blessed to have his service on Council.

Vice Mayor Cockrell echoed the sentiments of the previous councilmembers noting that Mr. Meza was a bright man and spoke with eloquence. She reminded the public of the Waggin’ for Dragons Race on Saturday, August 7th and that the proceeds raised would go to three entities (Humane Society, 4-H Center and the Chamber of Commerce). She advised that the Town had a team as well.

Councilman Thompson thanked Mr. Meza for his service and that she was sad to see him go “again”.

- c. Report of Mayor – Mayor Holloway thanked Mr. Meza for his service, noting that he was on the Planning Commission for a brief time and expressed his sadness for his departure.

BUSINESS ITEMS CONTINUED

D. Emergency Ordinance to Enact Town Code Chapter 172 – Welfare, Health and Safety, Prohibiting Any Business Located in the Town Corporate Limits from Requiring the COVID-19 Vaccines as a Condition of Employment.

Councilman Lloyd moved seconded by Councilman McFadden that Council approve an emergency ordinance that would enact Town Code Chapter 172 – Welfare, Health and Safety, prohibiting any business located in the Town corporate limits from requiring the COVID-19 vaccines as a condition of employment, as presented.

Councilman Thompson advised all nurses and doctors that they were heroes before COVID, heroes during COVID, heroes while they are working now and heroes if they get fired by Valley Health. She thanked everyone for coming out tonight and expressed hope that Valley Health Administration and other employers were looking at tonight’s meeting and paying attention to what employees want. Mrs. Thompson read some of a prepared statement. *Valley Health is not the first health care provider to require the COVID-19 vaccine. I am sure you know that INOVA is also doing it and most of the surrounding counties. I know most of you are familiar with the Houston hospital system where they required the vaccine, and 117 employees were fired, and they took their case to court, and they lost their case. It was determined that the employer was within their right to mandate and fire those that were not in compliance. For those who are concerned with the vaccine not being fully FDA approved. It should be approved in September. Valley Health requires the first shot in October and the second shot in November. The truth is the Town has no real*

authority on this. It's a point that has been brought up numerous times by our legal staff. It is a point of confusion. I saw on social media and in private conversations people think that if the ordinance is passed that won't need to follow their employer's guidelines and they will be protected from firing. This is not true. The most prudent thing an employee of Valley Health can do is file their exemption paperwork. If the request is denied and they do not get the vaccine, they are subsequently fired or suspended then EEOC has to be filed individually or collectively. I personally believe that everyone should have a choice what is best for them and their family. I am sure my counterparts feel the same way. I don't think any of us believe that Valley Health or anyone should essentially force you. I also believe businesses should do what they feel is best for their business. Freedom has always gone in both directions. Please also remember that Virginia is a right-to-work state, and you can get fired for practically anything. We have no authority, and we can't prevent you from being fired. So, I have to say that because I feel that I would be doing a disservice if I give a false hope, we can protect you and you can take this ordinance to your employer and say I am not doing it and you still suffer a consequence. That's not what we are doing right now. We cannot prevent you from getting fired. The one thing that has come from this being forced onto our agenda which is what happened, we were forced into this, which is fine because it did get a conversation started. We have a lot of recorded testimony. Get the people that have more say and authority to do something. I will take the boos for this and that is fine, but this has been political theater because we can't do anything. We came up here essentially to appease Scott which is fine because we got a conversation started. We have had a conversation here that I think is great for employers to see what their employees want and do not want to do. We have no legal standing. I cannot protect you from being fired and if I were to sit here and vote yes just for the sake of making everybody in this room happy, I don't feel like I am doing the right thing. We are not requiring our employees to get vaccinated which is what we have control over. I refuse to give false hope to employees of Valley Health or anywhere in Town. The last thing I want is for someone to lean on this ordinance thinking they are in the clear only to discover after being fired that they were not. Again, the Town cannot keep you from being fired and losing your job over this. If you believe this to be true, you have been misled. There was a number of you that came up and said stop this mandate. We can't stop the mandate. Please do what you need to do, what is best for you and your family. I just can't emphasize this enough that we cannot protect your job which a lot of people talked about losing their livelihood. I don't want someone to lose their livelihood then come back and say well you guys passed this ordinance aren't I safe? You are not and it's sad and I always try to do things to help other people but in this instance, there is nothing I can do and like I said I am willing to accept the boos and I know it's a touchy subject. If I was employed by somebody that wanted to make me do things that I thought was morally questionable I would have to make a decision that was best for me and my family and my moral compass. I truly do appreciate you coming out in full force and maybe this will have enough impact on its own with Valley Health. They should be looking at their staffing concerns. The last thing we need is a hospital with one doctor and one nurse.

Councilman Gillispie thanked Dr. Pegis for bringing to his attention the use of fetus tissue being used in this medicine as he did not know this and would not have gotten the shot if he had known. Mr. Gillispie stated the following: I have never hidden the fact that I am a conservative republican. I think everybody in this room and in this community knows that about me. The basic principles of the party: less regulations, less taxes, preservation of personal freedom, protection of rights and liberty and the rule of the law, just to name a few. Although I can appreciate the attention Councilman Lloyd is hoping to accomplish which I too have my personal feelings about employees being terminated by a business because of not getting a vaccine, I cannot support his motion. If a business chooses to impose customers to wear a mask on their property, they have that right. It's their property and I have the right to not visit that business if I choose. The courts have reaffirmed that they have a legal right to do that. If an employee feels their legal rights have been violated under the legal system, they could sue Valley Health, and our judicial system will make a ruling.

Again, I do not like Valley Health's policy. I have the right and choice to not use Valley Health. As previously stated, I have my personal feelings on this matter but tonight we as Council are deciding the role of our Town government to impose law on businesses telling them what they can and cannot do. I think government needs to interfere less with businesses not more. As a government we need to tread very lightly on what we are trying to do tonight, stepping on a businesses' right. That's why in this instance I feel it is outside the scope of our jurisdiction and I will be voting no on this tonight. Mr. Gillispie thanked all those who came out tonight to speak and echoed Councilman Thompson's statement that "there is legally nothing we can do about this".

Vice Mayor Cockrell read the following statement: *First, I want to say that I completely empathize with anyone being faced with deciding between their employment and whether or not to have a vaccine that they do not feel comfortable taking. When the Town Council was faced with this very issue, we as members of the Front Royal Town Council, decided that we would not make vaccines a requirement for employment with the Town. In theory, I agree that each individual should decide for themselves whether or not to take the Covid vaccine based on theirs and their family's health and risk factors when making the decision. In relation to the ordinance being proposed tonight by Councilman Lloyd, our Town Attorney was consulted for multiple weeks. Our Town Attorney, who has over 40 years representing local governments, has advised us that it is not within our authority to tell a private business what they can or cannot require of their employees. Because Virginia is a Dillon-Rule state, we are only permitted to enforce laws that the state government gives us the authority over. If we were to pass this ordinance, that our Town Attorney has advised us is not legal, we would be giving the employees employed in the town of Front Royal a false sense of hope that we could somehow protect their jobs if they chose not to get the Covid vaccine. When I took the oath for this office, I agreed to support the Constitution of the United States and The Commonwealth of Virginia. For this reason, I cannot support something that I am told is illegal to do. If citizens do not want a vaccine requirement to be a condition of employment in Virginia, the Virginia legislature and the Governor would have the authority to address this issue. I would suggest those who share this concern to contact their state representatives requesting this change.*

Councilman Lloyd advised and stated, *this was essentially the discussion we began having about six weeks ago and it's revolved around the legalities that have actually, in full view of the entire dais, here have developed over those six weeks, but we are defaulting to six-week-old positions and reading statements that were written before any of this discussion even happened tonight which I think is disappointing. I am an attorney. I went to law school and passed the bar. I am active in the state of Virginia. I would not propose something that gives people false hope and has no hope of their being no legal argument to make in court. Mr. Napier and I have discussed back and forth the legalities. I referred and I read from the Town Charter which gives us police power. Beyond the police power it gives us power within the health realm to create our own hospital, to create our own health board, to regulate that hospital. But back to the police power, you find it in localities and states throughout the nation. Jacobson came up tonight, the Supreme Court case in 1905 stated that a locality in Massachusetts could enforce a mandatory vaccine and the punishment in that case was to pay about 140 of today's dollars for not taking the vaccine. This was rational basis scrutiny because the fine could be paid and go on with their life. Here we are talking about entire livelihood. What's a nurse make? It's tens of thousands of dollars a year and we are talking about health insurance and so on. But the dramatic irony here is that Jacobson was rooted in the police power so what we are hearing from several of our fellow councilmen and from the Town Attorney is that the police power would give us the right. If we wanted to have a mandatory vaccine regime in this Town, we would have the right to do that. But at the same time, they are also telling us that we cannot find anywhere in the police power the right to say to an employer no you cannot have a coerced vaccine regime. The two do not compute. There's a*

difference in the law which is how lawyers stay employed. So, what happens we pass an ordinance, and we potentially get sued for it and we defend ourselves in court. We defended ourselves in court over the appointment of Mr. Meza. So, all I am saying is that the arguments that can be made before a reasonable judge might have a chance in court and I think its worth taking that chance. We are sitting in front of a room full of people who when the pandemic was young walked into rooms with people who were infected and faced the unknown. They didn't know the facts about the disease. They didn't know whether the person in front of them was infected. They didn't know the morbidities and everything else, yet they still showed up for work to face the unknown. And we are going to turn and say we are not going to risk a lawsuit in order to defend these people and I am saying why not just make the argument in court. We are insured as a Town and so if we get sued our insurance will cover us. It's part of the regular business of the Town. We have an inquiry into our insurer whether they will cover this specific case. I have not been informed whether we have an answer from them, [noted it was confirmed that we do not have an answer] but my understanding is that this is normal case of business for them, and they defend ordinances, that's their job. But in the case that it doesn't cover it, I will defend it myself without a cost to the Town period.

Councilman McFadden (remote) advised that he was currently in training for the National Guard. He stated: *I have been in a position in the past where I was in the Marines where I had gotten an experimental vaccination called the anthrax shot. I appreciate and understand the real fear of taking a vaccination especially when its mandated. I also point out that the shift in tactic from Valley Health, and I have under good source, that they are going to change the mandate to not being allowed to work around patients unless you are vaccinated. I don't know how much good it will actually do for Valley Health but will set a precedent that a vaccination or an experimental medicine, something that has not been FDA approved cannot be mandated. I think that is an important point and I think that it's a stand that we need to make here on this Council. I understand the differences in opinions. I understand the hard stance that this might be a political suicide or whatever you want to call it but standing up for our citizens to whom I was voted in by to represent is a very important decision to make and I think each one of you on the Council should consider that.*

Mayor Holloway asked Town Attorney Napier is opinion on this ordinance if it were to pass. Town Attorney Napier confirmed that there is *"no mechanism legally for the enforcement of this ordinance if it did pass. Virginia is a Dillion-Rule state, and I am unable to find any legal mechanism for enforcement of this ordinance if it did pass."*

Councilman Lloyd reminded Mr. Napier that he read him the Town Charter and addressed this with specific language. Everyone here can look at it and read it.

Vote: Yes – Councilmen Lloyd and McFadden (Remote)

No – Vice Mayor Cockrell, Councilmen Gillispie and Thompson

Absent – N/A

Abstain – N/A

ROLL CALL

Mayor Holloway thanked everyone for coming out tonight.

CLOSED MEETING – Vice Mayor Cockrell moved, seconded by Councilman Thompson *that Town Council go into Closed Meeting pursuant to Section 2.2-3711, of the Code of Virginia for the following purposes:*

- (1) Discussion or consideration of the disposition of publicly held real property, specifically, the conveyance of the Town's interest in two different pieces property it owns with others outside the Town limits; all*

where discussion in an open meeting would adversely affect the bargaining position or negotiating strategy of Town Council, all pursuant to Subsection A.3 of that Section.

- (2) *Consultation with legal counsel and briefings by staff members or consultants pertaining to actual litigation, specifically, on-going litigation against the Warren County EDA and Jennifer McDonald, where such consultation or briefing in Open Meeting would adversely affect the negotiating or litigating posture of the public body; pursuant to Subsection A. 7. of that Section.*

Vote: Yes – Vice Mayor Cockrell, Councilmen Gillispie, Lloyd, McFadden (remote) and Thompson

No – N/A

Absent – N/A

Abstain – N/A

ROLL CALL

MOTION TO CERTIFY CLOSED MEETING AT ITS CONCLUSION – *Vice Mayor Cockrell moved, seconded by Councilman Thompson moved seconded by Councilman 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 – Mayor Holloway, Vice Mayor Cockrell, Councilmen Gillispie, Lloyd, McFadden (remote) and Thompson

No – N/A

Absent – N/A

Abstain – N/A

ROLL CALL

Approved by Town Council

Date: _____



TOWN COUNCIL SPECIAL MEETING MINUTES

Tuesday, August 2, 2021 at 6:00 PM

Town Hall Conference Room

The following minutes are a summary of items on the agenda. This meeting may be viewed in its entirety by accessing the video of the same date online via the Town's website at www.frontroyalva.com.

ROLL CALL FOR MAYOR/TOWN COUNCIL

PRESENT: Mayor Chris W. Holloway
Vice Mayor Lori A. Cockrell
Councilman Gary L. Gillispie
Councilman E. Scott Lloyd
Councilman Letasha T. Thompson

ABSENT: Councilman Joseph E. McFadden

APPOINTED STAFF PRESENT: Town Manager Steven W. Hicks
Clerk of Council Tina L. Presley

APPOINTED STAFF ABSENT: Town Attorney Douglas W. Napier

Resolution Pertaining to a Legislative Request

Councilman Gillispie moved seconded by Councilman Thompson that Council approve a resolution encouraging all businesses located in the Town corporate limits from requiring COVID-19 vaccines as a condition of employment.

Mayor Holloway advised that he initiated the resolution before Council for their consideration as an alternative to the recently denied Medical Freedom Ordinance on July 26, 2021. Councilman Lloyd advised that the resolution before Council was not the one circulated to Council just recently. Clerk of Council Presley made copies for Council with the most current resolution. Councilman Lloyd continued that his question of legality was not fully answered stating provisions in the Virginia State Code and the Town's Charter that say otherwise. He questioned where it said that localities cannot mandate a vaccine. He voiced concern about paragraph #3 as well as other areas in the resolution. Mayor Holloway advised that an Attorney General's opinion would be sought. Councilman Thompson advised that she would be voting no on the resolution because after reading it she was afraid confusion would still exist on what Council can and cannot do.

Vote: Yes – Vice Mayor Cockrell and Councilman Gillispie
No – Councilmen Lloyd and Thompson
Absent – Councilman McFadden
Abstain – N/A

ROLL CALL

Mayor Holloway: Yes - to break tie

CLOSED MEETING – Interviews for FREDA and BAR and Personnel

Councilman Gillispie moved seconded by Vice Mayor Cockrell that Town Council go into Closed Meeting pursuant to Section 2.2-3711, of the Code of Virginia for the purpose of assignment, appointment, promotion, performance, demotion, salaries, disciplining or resignation of specific public officers, appointees, or employees of a public body, under subsection A.1.

Vote: Yes – Vice Mayor Cockrell, Councilmen Gillispie, Lloyd, and Thompson

No – N/A

Absent – Councilman McFadden

Abstain – N/A

ROLL CALL

Councilman Gillispie moved seconded by Councilman Thompson 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 – Mayor Holloway, Vice Mayor Cockrell, Councilmen Gillispie, Lloyd, and Thompson

No – N/A

Absent – Councilman McFadden

Abstain – N/A

ROLL CALL

Meeting was adjourned.

Approved by Town Council

Date: -----



Council Agenda Statement

Item # 07A

Meeting Date: August 23, 2021

Agenda Item: PUBLIC HEARING - An Ordinance Amendment to Town Code Chapter 175 to Ease the Regulations for Bed and Breakfasts (B&B) Uses in Residential Districts

Summary: Council is requested to approve an ordinance amendment to Town Code Chapter 175.107.2 to ease the regulations for bed and breakfasts (B&B) uses in residential districts. The proposed amendment would increase the permitted number of bedrooms from three (3) to six (6) for lots between 0.5 acres to 1.49 acres in area and from six (6) to ten (10) for lots 1.5 acres or greater in area, as presented. At their August 18, 2021 meeting, the Planning Commission recommended this amendment to move forward as proposed. Staff concurs with Planning Commission and recommends approval.

Budget/Funding: None

Meetings: Work Session held August 9, 2021. Planning Commission meeting held August 18, 2021.

Proposed Motion: I move that Council approve an ordinance amendment to Town Code Chapter 175.107.2 to ease the regulations for bed and breakfasts (B&B) uses in residential districts, as presented.

Moved _____ *Seconded* _____

Cockrell _____ *Gillispie* _____ *Lloyd* _____ *McFadden* _____ *Thompson* _____

**ORDINANCE TO AMEND TOWN CODE CHAPTER 175-107.2 BED AND BREAKFAST USES IN
RESIDENTIAL ZONING DISTRICTS BY SPECIAL PERMIT**

WHEREAS, it is requested to amend Town Code to allow for more guest rooms for Bed & Breakfasts based on lot sizes, and,

NOW THEREFORE, BE IT ENACTED, by the Town Council of the Town of Front Royal, Virginia, that Chapter 175 of the Front Royal Town Code hereby be amended as follows:

175-107.2 BED AND BREAKFAST USES IN RESIDENTIAL ZONING DISTRICTS BY SPECIAL PERMIT

The following provisions shall apply to Bed and Breakfast Uses located in residential zoning districts:

B. The maximum number of guest rooms shall be ~~six (6)~~ **ten (10)** for Bed & Breakfasts with a lot size of 1.5 acres or greater. The maximum number of guest rooms shall be ~~three (3)~~ **six (6)** for Bed and Breakfasts with a lot size of 0.5 acres to 1.49 acres.

This ordinance shall become effective upon passage.

APPROVED:

Chris W. Holloway Mayor

ATTEST:

Tina L. Presley, Clerk of Council

THIS ORDINANCE was approved at the Regular Meeting of the Town of Front Royal, Virginia conducted _____ 2021, upon the following recorded vote:

Lori A. Cockrell ☐ Yes ☐ No

Gary L. Gillispie ☐ Yes ☐ No

Letasha T. Thompson ☐ Yes ☐ No

E. Scott Lloyd ☐ Yes ☐ No

Joseph E. McFadden ☐ Yes ☐ No

A public hearing on the above was held on _____ having been advertised in the Northern Virginia Daily on _____ and _____, 2021.

Approved as to form and legality:

Douglas W. Napier, Town Attorney

Date: ____ / ____ / ____



**Town of Front Royal
Planning Commission Review**

August 18, 2021

This is to certify that **FRZORDAM 2835-2021 – Ordinance Text Amendment** has been

☒ Recommended for Approval

☐ Recommended for Denial

☐ Tabled

by the Planning Commission for the following request:

FRZORDAM2835-2021

Zoning Ordinance Text Amendment to ease the regulations for bed and breakfasts (B&B) uses in residential districts to promote tourism. The proposed amendment would increase the permitted number of bedrooms from three (3) to six (6) for lots between 0.5 acres to 1.49 acres in area and from six (6) to ten (10) for lots 1.5 acres or greater in area.

CERTIFIED by the Planning Commission

Chairman Douglas Jones

CONDITIONED UPON THE FOLLOWING (if applicable):



Council Agenda Statement

Item # 07B

Meeting Date: August 23, 2021

Agenda Item: PUBLIC HEARING – Special Use Permit Application Submitted by Philip Vaught, Requesting to Operate a five (5) Bedroom Bed and Breakfast at 124 Luray Avenue

Summary: Council is requested to consider the approval of a special use permit application submitted by Philip Vaught, requesting to operate a five (5) bedroom bed and breakfast at 124 Luray Avenue. The property represents 22,298 square feet of land; zoned Residential R-3, located on Luray Avenue between Kilby Drive and W. Jackson Street abutting a paved alley. The application is subject to a public hearing because a bed and breakfast is a use permitted only by special use permit in the R-3 zoning district.

Note: The Planning Commission held their Public Hearing on July 21, 2021, with the unanimous recommendation of approval to Town Council to conditionally permit the use of a three (3) bedroom bed and breakfast at 124 Luray Avenue, as identified in the application FRSPU2655-2021. Staff concurs with the Planning Commission's recommendation (see page 8 of the staff report).

Budget/Funding: None

Meetings: Planning Commission Public Hearing held July 21, 2021. Work Session held August 9, 2021

Proposed Motion: I move that Council approve a special use permit application submitted by Philip Vaught, to operate a five (5) bedroom bed and breakfast at 124 Luray Avenue.

Moved _____ **Seconded** _____

Cockrell _____ **Gillispie** _____ **Lloyd** _____ **McFadden** _____ **Thompson** _____

TOWN OF FRONT ROYAL
DEPARTMENT OF PLANNING & ZONING



STAFF REPORT – SPECIAL USE PERMIT APPLICATION #FRSPU-2655-2021

APPLICATION #:

FRSPU-2655-2021

APPLICANT:

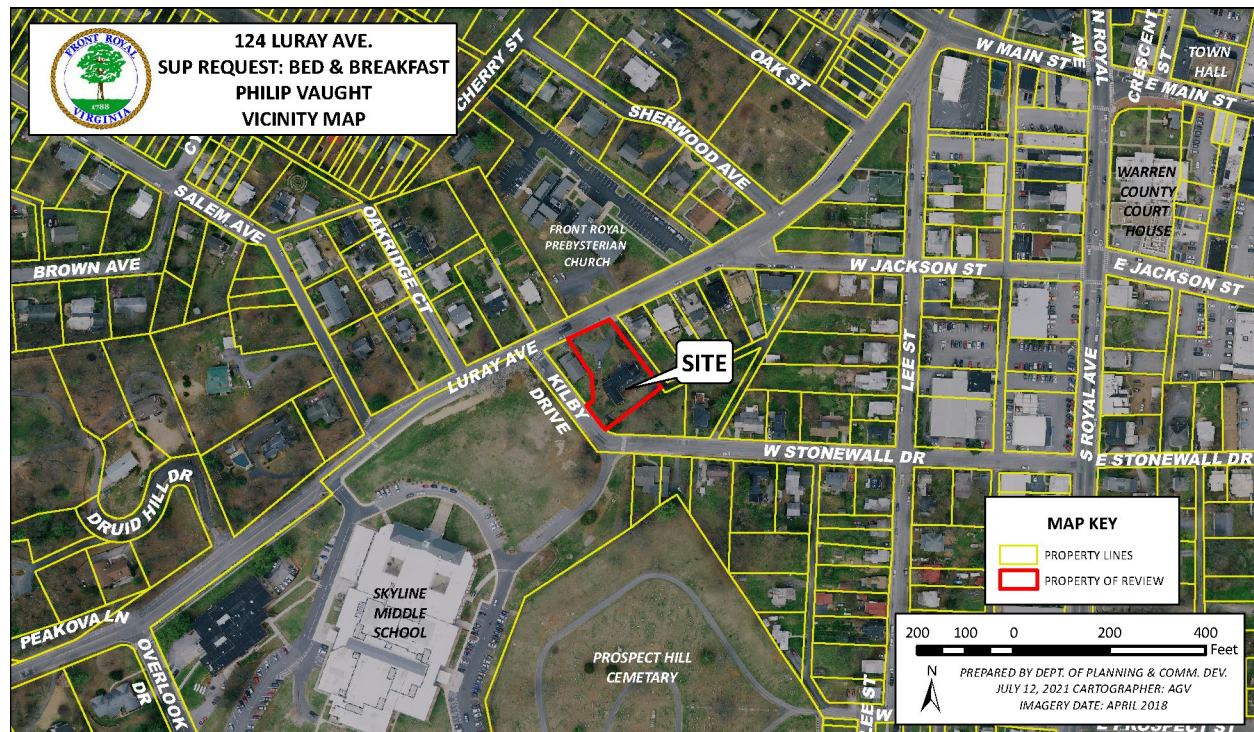
Philip Vaught

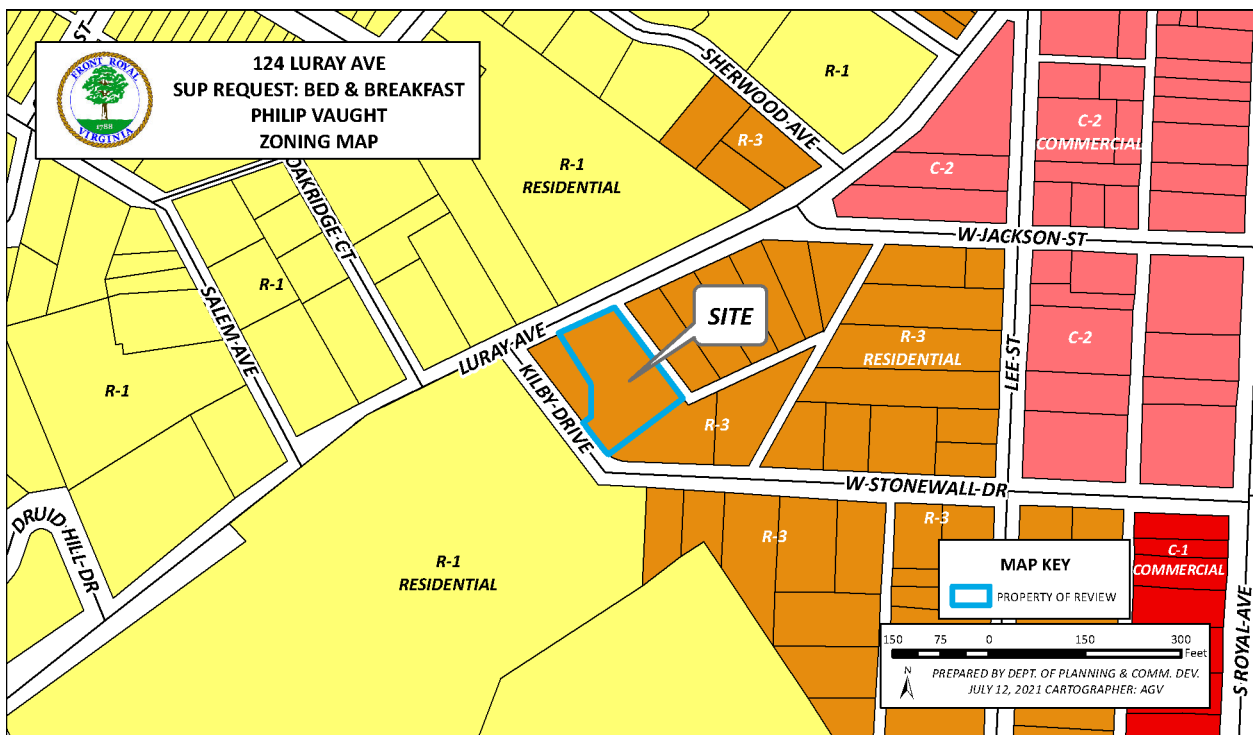
SUMMARY OF REQUEST:

The application for review proposes to use a single-family dwelling residence located at 124 Luray Avenue in the R-3 Residential District as a five (5) bedroom bed and breakfast.

GENERAL INFORMATION:

<i>Site Addresses</i>	124 Luray Ave
<i>Property Owner(s)</i>	Vaught Real Estate LLC
<i>Existing Zoning</i>	R-3 Residential District
<i>Proposed Use</i>	Bed and Breakfast, five (5) bedrooms
<i>Tax Identification</i>	20A7-4-74
<i>Location</i>	The property is located on the southeast side of Luray Avenue between W. Jackson Street to the northeast and Kilby Drive to the southwest. The property has double frontage on Luray Avenue and Kilby Drive.





INFORMATION ON THE APPLICATION:

Application Documents

A list and brief description of the attachments:

A – Special Use permit Application

B – Plat

C – Letter of Intent

D – Site Development Plan Application

ATTACHMENT A: APPLICATION

- **Application Form.** This is the standard application form used for special use permit applications in the Town.

ATTACHMENT B: PLAT

- **Plat.** A survey plat of the property showing property limits and existing improvements thereon. This survey plat suffices as the preliminary plan required by the site plan application.

ATTACHMENT C: LETTER OF INTENT

- **Letter of Intent.** The letter states: “I have been encouraged by friends and neighbors to find a way to showcase the beauty and historical significance of ‘Bon Air.’...I have decided that the best way to do so is to utilize this property as a Bed & Breakfast...Located only a few blocks from Main Street and in close proximity to the Shenandoah River and other amenities is only part of the many reasons that make this location an ideal candidate for a B & B.”

ATTACHMENT D: SITE PLAN APPLICATION

- **Site Plan Application.** This is the standard application form used for site development plan applications in the Town.

Zoning Ordinance

This special use permit application proposes to use a single-family dwelling residence located at 124 Luray Avenue in the R-3 Residential District as a five (5) bedroom bed and breakfast. The statement of intent of the R-3 residential district as set forth in the Front Royal Zoning Ordinance is as follows:

R-3 District, Zoning Ordinance Sec. 175-19.

“The R-3 Residential District is composed of medium-to-high density concentrations of residential uses. The standards for this district are designed to stabilize and protect the essential character of the area so designated and to promote and encourage, insofar as compatible with the intensity of land use, a suitable environment for families desiring the amenities of apartment living and the convenience of being closest to shopping, employment centers and other community facilities. Development is, therefore, limited to medium- to high-density concentration, and permitted uses are limited to single-family, two-family

*Zoning and
Surrounding
Land Uses*

and multifamily dwellings, plus selected additional uses, such as schools, parks, churches and certain public facilities...”

R-3 Zoning District

- Permits medium-to-high density residential uses (two-family dwellings, duplexes, townhouses, apartments)
- Permits, by special-use permit, bed and breakfasts in accordance with Town Code Chapter 175-107.2.

The property of review is bound by properties classified as either R-1 Residential District or R-3 Residential District. Properties adjoining the site across Luray Avenue and Kilby Drive are in the R-1 Residential District. Those properties directly abutting the site and across the alley (to the east) are zoned R-3 Residential District. Most of the adjoining properties are single-family dwellings, except for the Front Royal Presbyterian Church across Luray Avenue (to the north) and Skyline Middle School across Kilby Drive (south and west).

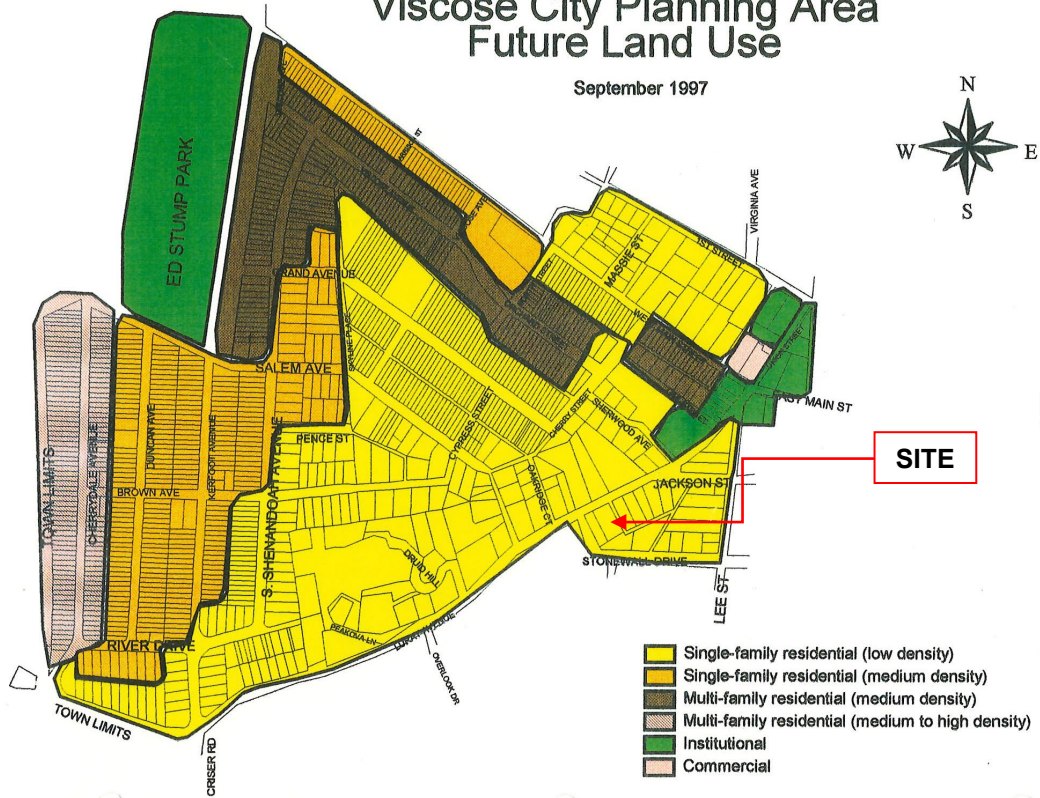
*Town Comp.
Plan*

The property is in the Viscose City planning area, which consists of several zoning districts: small clusters of C-1, C-2, I-2; primarily R-1, R-1A, R-2, and R-3.

The Town of Front Royal Comprehensive Plan future land use chapter shows the property of review being located in the Viscose City Planning Area (see future land use map below) and shows the proposed future land use as single-family residential (low density).

Viscose City Planning Area Future Land Use

September 1997



Findings and Analysis

The proposed special use permit application is to operate a five (5) bedroom bed and breakfast (B&B) in the single-family dwelling at 124 Luray Avenue. The property is zoned Residential District R-3 and is 0.51 acres. Per the zoning ordinance (Chapter 175), the Residential R-3 district is designed to provide medium-to-high density residential uses (single-family dwellings, duplexes, two-family dwellings). The proposed use (B&B) would change the use of the property as a single-family dwelling, to a dwelling with guests occupying a room at any time; however, the residential land use (single-family dwelling) is consistent with the uses of the adjoining properties across the Luray Avenue and directly abutting properties, which are primarily residential.

Review and comment below are reviewed per each regulation stated below:

175-107.2 BED AND BREAKFAST USES IN RESIDENTIAL ZONING DISTRICTS BY SPECIAL PERMIT

The following provisions shall apply to Bed and Breakfast Uses located in residential zoning districts:

- A. The minimum lot size for a Bed and Breakfast Home use shall be 1.5 acres if associated uses referenced in Subsection H are proposed on the property. The minimum lot size for a Bed & Breakfast with no associated uses is 0.5 acres. (Amended 9-27-10-Effective Upon Passage)
 - **Staff Comment:** Uses in subsection H are not permitted, because the lot size is 0.51 acres.
- B. The maximum number of guest rooms shall be six (6) for Bed & Breakfasts with a lot size of 1.5 acres or greater. The maximum number of guest rooms shall be three (3) for Bed and Breakfasts with a lot size of 0.5 acres to 1.49 acres. (Amended 9-27-10-Effective Upon Passage)
 - **Staff Comment:** The number of guests rooms permitted on the property is limited to three (3), because the lot size is 0.51 acres.
- C. No provisions shall be allowed for cooking in individual guest rooms.
 - **Staff Comment:** The applicant has not stated any intent to permit cooking in guest rooms.
- D. Parking shall be provided as follows: Two (2) spaces for residents, one (1) space per guest room and spaces for associated uses as determined by the Planning Commission. Tandem or stacked parking arrangements may be approved. Parking for associated uses must be provided on site. (Amended 9-27-10-Effective Upon Passage)
 - **Staff Comment:** The plat dated 6/17/2021 prepared by Brogan Land Surveying shows six (6) off-street parking spaces in accordance with the design standards in Town Code Chapter 148 – Article 8.
- E. The provision of the required parking and the traffic created due to this use shall not adversely impact any adjacent residential uses.

- **Staff Comment:** All parking is off-street and does not block any ingress/egress, public or private right-of-way, etc. as shown on the plat. Further, the driveway off Luray Avenue is limited to one-way entrance and exit and access to the property is also available from the sixteen (16) foot-wide alley.
- F. The exterior appearance of the structure shall not be altered from its single-family character.
- **Staff Comment:** No applications have been made to alter, change, renovate the exterior of the property and or buildings/structures thereon. The property is within the Front Royal Historic District, exterior changes may require review and approval by Town Staff and/or the Board of Architectural Review – separate from this application.
- G. Adequate landscaping, distancing and/or restriction of hours of operation shall be provided to buffer the adjacent residential uses from any noise or light generated by this use that is either uncharacteristic of residential neighborhoods or takes place at times uncharacteristic to residential neighborhoods.
- **Staff Comment:** No landscaping, distancing, or restriction of hours has been proposed by the applicant. The property is subject to the regulations set forth in Town Code Chapter 106 “Noise”.
- H. Associated uses are allowable and may include but not be limited to catered events such as receptions and dinner parties, provided that such associated uses do not adversely impact any adjacent residential uses.
- **Staff Comment:** Uses in this subsection are not permitted, because the lot size is 0.51 acres – see staff comment in subsection A.
- I. The owner must reside on premise. (Added 9-27-10-Effective Upon Passage)
- **Staff Comment:** The applicant has stated he intends to reside on the premise per the letter of intent.
- J. Applicable provisions of the Uniform Statewide Building Code and all other laws, regulations, inspections, and licenses must be met. (Added 9-27-10-Effective Upon Passage)
- **Staff Comment:** The applicant is required to meet the above when he submits a change of use application to Warren County Building Inspections, which is responsible for those inspections prior to issuing approval for that use.
- K. Each Bed and Breakfast shall be allowed one (1) on premise sign no larger than two feet by two feet (2’ x 2’). (Added 9-27-10-Effective Upon Passage)
- **Staff Comment:** The applicant has not submitted any renderings for a sign for the site.
- L. The owner must submit a plat of the property showing the existing conditions and location of the proposed parking. (Added “A-H” 9-27-10-Effective Upon Passage)

- **Staff Comment:** The applicant has submitted the plat dated 6/17/2021 prepared by Brogan Land Surveying titled “PLAT SHOWING PROPOSED PARKING SPACES ON THE VAUGHT REAL ESTATE LLC PROPERTY”.

Planning Commission Recommendation

Planning Commission forwarded a recommendation of approval to Town Council to conditionally permit the use of a three (3) bedroom bed and breakfast at 124 Luray Avenue.

Staff Recommendation

Staff concurs with the recommendation of the Planning Commission.

Town of Front Royal
Attn: Planning & Zoning Department
102 E Main St
Front Royal, VA 22630

Philip Vaught
124 Luray Ave
Front Royal, VA 22630
(540)671-0460

Re: Letter of Intent for proposed Bed & Breakfast

To Whom it May Concern,

My home located at 124 Luray Ave in Front Royal is the oldest standing residence in Front Royal. Since purchasing the property this winter, I have been encouraged by friends and neighbors to find a way to showcase the beauty and historical significance of 'Bon Air.' After substantial consideration, I have decided that the best way to do so is to utilize this property as a Bed & Breakfast, which will allow me to share this special place with others who are visiting our town and experiencing all we have to offer. Located only a few blocks from Main St, and in close proximity to the Shenandoah River and other amenities is only part of the many reasons that make this location an ideal candidate for a B & B.

Please find enclosed a site plan/survey that shows seven parking spaces (6 + 1 handicap space), which is consistent with the requirement for proposed guest rooms. The home features an elevator, a pedestrian door ramp, and easy access entrances that make this property handicap accessible.

While I occupy a portion of the home as my personal residence, Bon Air has approximately 5500 square feet of living space that will provide comfortable accommodations for B & B guests. To my knowledge, this property meets all of the stated requirements for this proposed use. It is also worth mentioning that I am the owner of an adjacent property located at 126 Luray Ave, and my neighbors on both sides of Bon Air support this proposal.

Thank you for your time and consideration.

Sincerely,
Philip E. Vaught



TOWN OF FRONT ROYAL

DEPARTMENT OF PLANNING & ZONING
102 EAST MAIN STREET
P.O. BOX 1560
FRONT ROYAL, VA 22630

Main: 540.635.4236

Fax: 540.631.2727

Internet: www.frontroyalva.com

SUP FRSPU2655-2021

SPECIAL USE PERMIT REQUEST

APPLICANT

NAME PHILIP VAUGHT
VAUGHT REM ESTATE, LLC PHONE 540 671 0460
ADDRESS 124 LURAY AVE, FRONT ROYAL VA 22630
E-MAIL philipvaught@gmail.com

PROPERTY DESCRIPTION

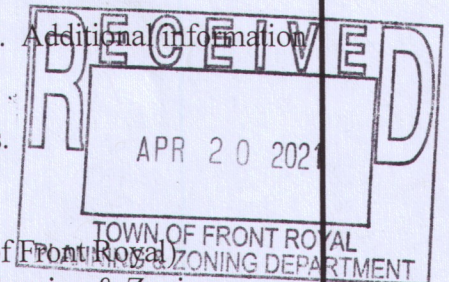
PROPERTY ADDRESS 124 LURAY AVENUE
TAX MAP 20 SECTION A 7 BLOCK 4 LOT 74
SUBDIVISION NAME _____ ACREAGE .5119

REQUEST

ZONING DISTRICT R 3
PROPOSED USE OF PROPERTY BED & BREAKFAST / AIRBNB
SPECIFIC SPECIAL USE PERMIT REQUEST AIRBNB

ATTACHMENTS --The following must be submitted with the application. Additional information may be required depending on the nature of the request.

1. Survey/Plat of property showing all **existing** improvements.
(10 copies if larger than 11" X 17")
2. Site Plan Application
3. Application Fee of \$400.00 (Checks payable to the Town of Front Royal)
4. Additional information as required by the Department of Planning & Zoning.



CERTIFICATION

I certify that the information provided with this application is correct to the best of my knowledge and should the special use permit be granted, the project will comply with the conditions imposed upon it and will be implemented only as approved by Town Council.

Signature [Signature] Date 4/20/2021

By submitting this application, the applicant grants permission to Town officials and employees to enter upon the property, which is the subject of this application, during reasonable hours and for purposes related to the application process.

Receipt # 140208 Check # 1343 Date Paid 4-20-2021

\$400-



Council Agenda Statement

Item # 07C

Meeting Date: August 23, 2021

Agenda Item: An Ordinance Amendment to Town Code Chapter 175 Pertaining to Uses in C-2 Downtown Business District

Summary: Council is requested to approve an ordinance amendment to Town Code Chapter 175 Sections 175.3; 175-47.A.; 175-48.A.; 175-49; 175-113.E.1 and to add Section 175-48.1 pertaining to uses permitted by right in C-2 Downtown Business District by defining and easing apartment conversions. At their meeting held August 18, 2021, the Planning Commission recommended the attached ordinance amendment as presented. Staff concurs with Planning Commission and recommends approval of the C-2 district edits.

Budget/Funding: None

Meetings: Work Sessions held August 9, 2021. Planning Commission Meeting held August 18, 2021.

Proposed Motion: I move that Council approve an ordinance amendment to Town Code Chapter 175 Sections 175.3; 175-47.A.; 175-48.A.; 175-49; 175-113.E.1 and to add Section 175-48.1 pertaining to uses permitted by right in C-2 Downtown Business District by defining and easing apartment conversions, as presented.

Moved _____ *Seconded* _____

Cockrell _____ *Gillispie* _____ *Lloyd* _____ *McFadden* _____ *Thompson* _____

**AN ORDINANCE PROPOSING TEXT AMENDMENTS TO THE REGULATIONS OF
THE FRONT ROYAL ZONING ORDINANCE PERTAINING TO THE PERMITTING
OF APARTMENTS AND MULTI-FAMILY DWELLINGS IN THE C-2 DOWNTOWN
BUSINESS DISTRICT**

WHEREAS, the Town of Front Royal has a downtown business district that is central to the historic, social, and economic identity of the Town and its future prosperity; and,

WHEREAS, the unique nature and existing physical development of the downtown district warrants its own zoning district with regulations tailored to promote the complementary coexistence of historical preservation and new development; and,

WHEREAS, by Resolution adopted February 8, 2021, the Front Royal Town Council has duly initiated the consideration of amendments to the use and development regulations of the C-2 District and other Ordinance regulations pertaining to apartments and other multi-family dwelling uses as contained in the Front Royal Town Code, Chapter 175, Zoning, as identified below:

SECTION I

That **Section 175-3**, Definitions, be amended by adding the following:

APARTMENT HOUSE (BUILDING) - A multifamily ~~structure~~ **building** originally intended, arranged, or designed to be occupied by three (3) or more families, each in an individual dwelling unit and living independently of each other. The number of families in permanent residence shall not exceed the number of dwelling units provided. Entranceways through the structure to the units may be either common or separate, and each lot on which the building is located shall be held in single ownership, even though individual units may be sold in accordance with this chapter. Such term shall not include "row house" or "townhouse." Each apartment unit shall occupy space on not more than one (1) story in a structure.

CONVERSION - a physical, structural, or design change or transformation of a building from one state or condition to another, especially to affect a change in use.

SECTION II

That **Section 175-47(A)**, Uses Permitted by Right, C-2, be amended by adding the following:

A. Subject to the standards and requirements set forth in this Chapter, except as prohibited or restricted by separate restrictions of record that may pertain to property within the C-2 District, the following uses of land and buildings are permitted by-right in the C-2 District:

RESIDENTIAL:

Conversion of existing residential and/or commercial ~~structures into buildings with a greater number of dwelling units~~ **buildings, not to exceed maximum number of eight (8) total units combined.**

Single-family and two-family dwellings

SECTION III

That **Section 175-48(A)**, Uses Permitted by Special Permit, C-2, be amended by rescinding the following:

A. The following uses are permitted within the C-2 District only by approval of a special use permit, except as prohibited or restricted by separate restrictions of record that may pertain to property within the C-2 District:

RESIDENTIAL:

~~Apartments located in buildings constructed after January 1, 1999, in accordance with the area requirements in Section 175-49.~~

Conversion of existing residential and/or commercial structures into buildings with a greater number of dwelling units exceeding eight (8) total existing and new dwelling units combined.

Apartment developments, in accordance with 175- 113.

Apartment houses.

SECTION IV

That a new section, **175-48.1**, Use Provisions, be added:

A. Conversion(s) exempt from the area requirements in 175-49(A), as defined in 175-3, of existing residential and/or commercial structures into buildings with a greater number of dwelling units are permitted only on lots fronting on that portion of Main Street which extends from Royal Avenue to Happy Creek or upon that portion of Jackson Street which extends between South Royal Avenue and Church Street.

B. Residential uses are not permitted on the ground floor on any lot fronting on that portion of Main Street which extends from Royal Avenue to Happy Creek or upon that portion of Jackson Street which extends between South Royal Avenue and Church Street.

SECTION V

That section 175-49, Area Regulations, C-2, be amended by rescinding the following:

~~A. Minimum Lot Size: There are no area requirements except in the case of new apartment structures, whereby the lot must be three thousand (3,000) square feet, plus an additional one thousand (1,000) square feet for each individual dwelling unit above one (1).~~

A. Minimum Lot Size: There are no area requirements except in the case of apartment conversions or new apartment houses, in which case the lot must be three thousand (3,000) square feet, plus an additional one thousand (1,000) square feet for each individual dwelling unit above one (1), and for new apartment developments in which case the lot size requirements must be in accordance with 175-113.

~~B. Minimum Unit Size: The minimum average unit size (floor area) in any structure containing dwellings shall be three (300) hundred square feet. No dwelling unit shall have less than two hundred and fifty (250) square feet of floor area. This floor area shall not include bathroom, closet and storage space.~~

B. Minimum Unit Size: The minimum unit size (floor area) in any building containing dwellings shall be four hundred and fifty (450) square feet.

SECTION VI

That Section 175-113.E.1 be amended by adding the following:

E. Other regulations for all apartment construction:

1. Each apartment structure and/or apartment parking area shall have parking areas **fronting** on a dedicated public street or on an access easement meeting State Department of Transportation and Town standards.

This ordinance shall become effective upon passage.

APPROVED:

Chris W. Holloway Mayor

ATTEST:

Tina L. Presley, Clerk of Council

THIS ORDINANCE was approved at the Regular Meeting of the Town of Front Royal, Virginia conducted _____ 2021, upon the following recorded vote:

Lori A. Cockrell ☐ Yes ☐ No
Letasha T. Thompson ☐ Yes ☐ No
Joseph E. McFadden ☐ Yes ☐ No

Gary L. Gillispie ☐ Yes ☐ No
E. Scott Lloyd ☐ Yes ☐ No

A public hearing on the above was held on _____ having been advertised in the Northern Virginia Daily on _____ and _____, 2021.

Approved as to form and legality:

Douglas W. Napier, Town Attorney

Date: ____/____/____



**Town of Front Royal
Planning Commission Review**

August 18, 2021

This is to certify that **FRZORDAM 2519-2021 – Initiated by Front Royal Town Council** has been

☒ Recommended for Approval

☐ Recommended for Denial

☐ Tabled

by the Planning Commission for the following request:

FRZORDAM2519-2021

Zoning Ordinance Text Amendment initiated by resolution of the Front Royal Town Council. The purposes of the proposed amendments are to change the use regulations of the C-2 Downtown Business District pertaining to the administrative permitting of residential units and the special use permitting of apartments by Town Council.

CERTIFIED by the Planning Commission

Chairman Douglas Jones

CONDITIONED UPON THE FOLLOWING (if applicable):

Change sq. ft.
from 300 sq. ft. to
450 sq. ft.

RESOLUTION

A RESOLUTION INITIATING PROPOSED TEXT AMENDMENTS TO THE REGULATIONS OF THE FRONT ROYAL ZONING ORDINANCE PERTAINING TO THE PERMITTING OF APARTMENTS AND MULTI-FAMILY DWELLINGS IN THE C-2 DOWNTOWN BUSINESS DISTRICT

WHEREAS, the Town of Front Royal has a downtown business district that is central to the historic, social, and economic identity of the Town and its future prosperity; and,

WHEREAS, the unique nature and existing physical development of the downtown district warrants its own zoning district with regulations tailored to promote the complementary coexistence of historical preservation and new development; and,

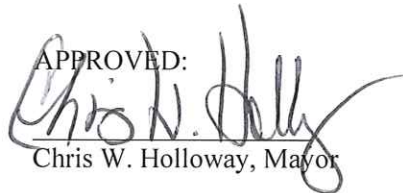
WHEREAS, it is increasingly recognized that a thriving and successful downtown means more than just being a place that is an attractor of businesses and visitors, but also a place where people choose to live and reside.

NOW THEREFORE, BE IT RESOLVED, that the Town Council of the Town of Front Royal, Virginia, in the furtherance of promoting the public necessity, convenience, general welfare, and for good zoning practice does hereby initiate amendments to the by-right and special use permit regulations of the C-2 District pertaining to apartments and other multi-family dwelling uses to increase administrative permitting opportunities and greater flexibility in special use permitting to promote residential life as part of a successful and sustainable downtown development strategy.

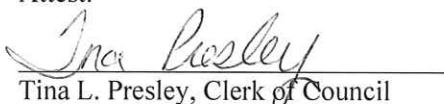
BE IT FURTHER RESOLVED, that staff prepare an Ordinance to amend the by right and special use permit regulations of the C-2 District as required and otherwise deemed appropriate to best accomplish these public purposes and that such Ordinance be forwarded to the Planning Commission as soon as practical for required public hearing and the transmittal of a recommendation for consideration by this Council.

Adopted this 8th day of February 2021.

APPROVED:


Chris W. Holloway, Mayor

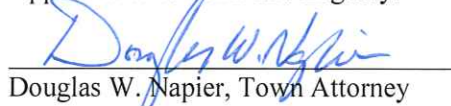
Attest:


Tina L. Presley, Clerk of Council

Lori A. Cockrell Yes/No
Letasha T. Thompson Yes/No
E. Scott Lloyd Yes/No

Gary L. Gillispie Yes/No
Jacob L. Meza Yes/No
Joseph E. McFadden Yes/No

Approved as to Form and Legality:


Douglas W. Napier, Town Attorney

Dated: 02-08-2021



Council Agenda Statement

Item # 07D

Meeting Date: August 23, 2021

Agenda Item: PUBLIC HEARING – An Ordinance to Amend and Re-Enact Town Code Chapter 156 to Create an Environmental Sustainability Chapter

Summary: Council is requested to consider an ordinance to amend and re-enact Town Code Chapter 156 from Urban Forestry to Environmental Sustainability, as presented.

Budget/Funding: None

Meetings: Work Session held August 9, 2021.

Proposed Motion: I move that Council amend and re-enact Chapter 156 as Environmental Sustainability as presented.

Moved _____ *Seconded* _____

Cockrell _____ *Gillispie* _____ *Lloyd* _____ *McFadden* _____ *Thompson* _____

Chapter 156~~URBAN FORESTRY~~ – ENVIRONMENTAL SUSTAINABILITY

Sections:

156-1 PURPOSE AND INTENT OF THIS CHAPTER**156-2 DEFINITIONS****156-3 ~~URBAN FORESTRY ADVISORY COMMISSION (UFAC)~~****ENVIRONMENTAL SUSTAINABILITY ADVISORY COMMITTEE (ESAC)****156-4 PLANTING, MAINTENANCE AND PROTECTION OF TREES ON PUBLIC PROPERTY****156-5 SCREENS AND BUFFERS****156-6 DEVELOPMENT TREE PLANTINGS****156-7 STREET TREES****156-8 PARKING LOT LANDSCAPING****156-9 ADMINISTRATION AND ENFORCEMENT****156-10 APPEALS****156-11 SEVERABILITY****156-1 PURPOSE AND INTENT OF THIS CHAPTER**

It is the intent and purpose of this Chapter to create Environmental Sustainability in the Town of Front Royal that focuses on the Town's ecosystem, by establishing recommended goals for environmental protection involving waste reduction, recycling, energy conservation, clean air and water, natural resources, as well as establishing a sustainable community to include public art. Further intent and purpose of this Chapter is to create an Environmental Sustainability Advisory Committee (ESAC). This is to include to promote and protect the public health, safety, and general welfare by providing for the regulation of the planting, maintenance, preservation, and removal of trees within the Town of Front Royal on both public property and private property during land disturbing activities.

156-2 DEFINITIONS

Buffer - Linear bands of vegetation, preferably consisting of native and locally adapted species, associated with many features including wetlands, greenways, transportation corridors, and wildlife corridors. Vegetated buffers uptake pollution and minimize impact on adjacent surrounding areas.

Caliper: the diameter measurement of the tree trunk taken six (6) inches above ground level for trees up to and including four (4) inch caliper size. Measurement shall be taken twelve (12) inches above the ground level for larger trees.

Canopy - The full extent of existing leaves crowning a tree or groups of trees, or the full extent of future leaves crowning a tree or group of trees at a tree maturity of twenty (20) years.

Certified Arborist - A tree professional certified by the International Society of Arboriculture. Certified Arborists have achieved a level of knowledge in the art and science of tree care through at least three years of experience and have passed a comprehensive examination to provide proper tree care.

Cutting - The felling or removal of a tree, or any procedure which leads to the death or substantial destruction of a tree. Cutting does not include normal pruning within the bounds of accepted arboricultural practice.

DBH - diameter of tree trunk at breast height; measured at 4.5 feet above the ground.

Dripline - An imaginary perpendicular line that extends downward from the outermost branches of a tree to the ground.

Hazard - A tree with structural defects likely to cause failure of all or part of the tree, which could strike a "target." A target can be a vehicle, building, or a place where people gather such as a park bench, picnic table, street, or backyard. (per Department of Agriculture's Urban Tree Risk Management: A Community Guide to Program Design.)

Heritage Tree - Any tree that because of its historical association (associated with a notable local or regional historical event, person, or landscape) is of special importance to the Town. Such a tree, on either public or private property, will be nominated and adopted by the Town for significant designation. The significant designation of a heritage tree is transferable through the property deed and will extend to any new owner.

Invasive, Nonnative Vegetation - Any plant not indigenous to the Commonwealth of Virginia, which exhibits, or has the potential to exhibit, uncontrolled growth and invasion or alteration of the natural qualities and functions of any native habitat.

Memorial Tree - A tree donated to commemorate a person or event is of special importance to the Town as a living tribute. Such a tree, on either public or private property, will be nominated and adopted by the Town for significant designation. The significant designation of a memorial tree is transferable through the property deed and will extend to any new owner.

Public Property - Property that is owned or maintained by the Town of Front Royal.

Private Tree - Any tree not located on property owned or controlled by the Town. For the purposes of this ordinance, a private tree is subject to this ordinance if it is either (1) designated as a Memorial, Heritage, or Specimen tree; or (2) is on property proposed for land disturbance after adoption of this ordinance and is subject to site landscape plan and conformance with the Town canopy plan guidelines; or (3) is a Hazard tree.

Protective Root Zone - The entire surface and subsurface soil area encompassed by radius for protected trees (per Landscape Preservation and Planting Guide) typically the distance around tree trunk equal to the drip line of the tree; also generally referred to as tree preservation target or critical root zone.

Public Trees - Trees on land owned and or managed by the Town of Front Royal.

Specimen Tree - Individual trees which are healthy with a diameter at breast height of **twenty-four** (24) inches or greater, or which otherwise are noteworthy because of species, age, size, location, aesthetics, or any other exceptional quality, such as, uniqueness, rarity, ecological value, or status as a landmark or species specimen. Such a tree, on either public or private property, will be nominated and adopted by the Town for significant designation. The significant designation of a specimen tree is transferable through the property deed and will extend to any new owner.

Topping - Topping involves cutting limbs back to stubs or lateral branches not large enough to assume dominance. A lateral branch that is acceptable is generally greater than **one third** (1/3) the size of the branch that is being removed. This includes pruning that leads to the disfigurement of the normal shape of the tree. Topping is the indiscriminate cutting of tree branches to stubs or lateral branches that are not large enough to assume the terminal role.

Tree - Any self-supporting woody plant, growing upon the earth with one trunk, or a multi-stemmed trunk system with a definitely formed crown, or other woody plant material exceeding five (5) feet in height.

Tree Bank - Funds for tree replacement paid into account managed by the Director for ~~Planning & Zoning~~ **Public Works or designee** for the purposes of future tree replacement or restoration in-lieu of tree planting.

Tree Canopy - Also referred to as “tree cover”, or “tree canopy coverage”, an area of land covered by plant material exceeding five feet in height, and the extent of planted tree canopy at **ten (10) or twenty (20)** years maturity. Planted canopy at **ten (10) or twenty (20)** years maturity shall be based on published reference texts generally accepted by landscape architects, nurserymen, and arborists in the community, and the texts shall be specified in the ordinance.

Tree Canopy Plan - ~~UFAC~~ **ESAC** shall prepare a Tree Canopy Plan in coordination with the Director of Planning ~~and Zoning~~ **or designee** of the Town which designates preferred sites as priority areas for tree plantings when off-site tree replacement planting is utilized.

TREE CANOPY CALCULATION WORKSHEET

Tree Canopy Calculation Worksheet Town of Front Royal			
Please fill in only the green shaded cells below			
A. Site Size			
A1	Total Site Area in square feet	Ft ²	
Choose the % canopy cover required based on the requirements of Section 156-6.A. of the Town Code.			
A2	10% 15% 20%		%
A3	Multiply line A2 % times A1	Ft ²	
To calculate Required Canopy Cover for Site in Sq Feet			0
B. Tree Preservation (provides 1.5 credit)			
B1	Existing Tree Canopy Cover (<i>Insert Square feet here calculated from Town Planning Dept or calculate sum of driplines</i>)	Ft ²	
B2	Tree Canopy to be preserved of the overall site (<i>Insert Sq Feet here calculated by Town Planning Dept or sum of driplines of preserved trees</i>)	Ft ²	
B3	Canopy Preservation Credit (Multiply B2 x 1.5)	Ft ²	0
B4	Canopy Remaining to meet Requirements (Subtract A3 - B3)	Ft ²	0
B5	If a negative number appears in B4; canopy requirements have been met. Otherwise, please go to Section C or D	Have been met.	
		Have NOT been met.	
C. New Tree Plantings			
C1	Canopy (sq ft) remaining to meet requirements (B4)	Ft ²	0
Refer to Front Royal Tree Cover Guide for species list and 10 year projected canopy to fulfill necessary coverage on line C1			
C2	Projected canopy coverage (sq ft) from plantings (<i>Insert Sq Feet</i>)	Ft ²	
C3	Canopy remaining to meet requirements (C1 - C2)	Ft ²	0
C4	If C3 is a negative number, canopy requirements have been met. Otherwise, please go to Section D	Have been met.	
		Have NOT been met.	
D. Exception			
Has A3 been met? (Preferably through preservation &/or new plantings.) If not calculate amount owed below:			
D1	Square feet requirements still remaining to meet A3	Ft ²	0
D2	Amount for Tree Fund (D1 x \$3.00)	\$	\$ -

**156-3 ~~URBAN FORESTRY ADVISORY COMMISSION (UFAC)~~
ENVIRONMENTAL SUSTAINABILITY ADVISORY COMMITTEE (ESAC)**

The vision of the ESAC shall include recommendations on:

- Preservation, enhancement, management and protection of Front Royal's environment and natural resources.
- Education, outreach, communications, and public awareness on the care of the Town's environmental assets.
- Proposed amendments and variations to environmental and natural resources-related policies, regulations, ordinances, and plans.
- Updates to the Town's Comprehensive Land-use Plan regarding sustainability and urban forestry planning.
- Continue a sustainable community to include public art
- Maintaining recognition as a Tree City USA Town.
- Coordinating with community organizations and volunteer groups to work on environmental projects.
- Planning the annual Arbor Day ceremony.
- Supporting and coordinating with farmers markets and small retailers that specialize in farm to table and healthy food choices.

ESAC shall further promote the following:

1. The preservation and planting of trees in the development process to create a specified tree canopy cover pursuant to the authority granted in Section 15.2-961 of the Code of Virginia, 1950, as amended and set forth herein.
2. The planting, maintenance, and preservation of desirable trees to increase the tree canopy cover in the Town of Front Royal. A goal of this Chapter is to increase tree canopy cover from 41% (2008) to 46% by 2030.
3. The protection of residents living in the community and visitors from personal injury and property damage, and the protection of the Town from property damage, caused or threatened by the improper planting, maintenance, or removal of trees located on public property and private property proposed for land disturbance after adoption of this ordinance.
4. The reduction of erosion, sedimentation, stormwater run-off, and associated costs.
5. The protection and enhancement of property values, unique or significant landscapes, and aesthetic qualities in the Town for the enhancement of the overall environment and the quality of life.
6. The economic benefits of reduced energy use and wind resistance, which results from strategically planted trees shading homes, schools and businesses.

7. The environmental and social benefits related to the ability of trees and other vegetation to mitigate sound and light pollution, and reduce sunlight and heat loss.
8. Assistance in improving air quality through the use of trees which filter the air by removing dust and other particulates. Trees also absorb carbon dioxide from the air and other air pollutants, such as ozone, carbon monoxide, and sulfur dioxide, and provide oxygen.
9. Filtering of water, reducing nutrients, stabilizing and recharging the groundwater, slowing velocity of overland sheet flow, and up taking floodwaters through root systems.
10. The improvement of traffic safety by controlling sightlines and calming traffic.
11. The provision of areas for wildlife habitat.

- A. ~~An Urban Forestry Advisory Commission~~ ~~An Environmental Sustainability Advisory Committee~~ (ESAC) shall be established to

Perform the following duties:

1. Develop and monitor a Tree Canopy Cover Plan.
2. ~~To develop, implement, and maintain an urban forestry management program and adopt an Urban Forestry Management Plan.~~ Provide advisory recommendations on matters related to the preservation, enhancement, management and protection of the Town's environment and natural resources through education, outreach, and communications.
3. ~~To develop, implement and maintain a program that recognizes trees of significance for heritage, memorial or specimen designation.~~ Provide advisory recommendations regarding proposed amendments and variations to environmental and natural resources-related policies, regulations, ordinances, and plans.
4. ~~To develop standards and guidelines for planting, maintenance, preservation, and replacement of trees on public property and any land disturbing activities on private property.~~ Provide advisory recommendations pertaining to the Town's Comprehensive Land-Use Plan for the elements regarding an Environmental Sustainability Plan.
5. ~~To promote education of the general public, Town Officials, and Town Employees regarding proper tree care and planting practices.~~ provide advisory recommendations pertaining to education, outreach, and communications regarding preservation and enhancement of the Town's environment and natural resources.

6. Support the efforts of other groups interested in ~~urban forestry~~ **environmental sustainability** in Front Royal, **including but not limited to** Master Gardeners, Beautification of Front Royal Committee and the Front Royal / Warren County Tree Stewards.
 7. Provide expert advice ~~regarding urban forestry~~, as needed, to the Town Manager **or designee**, Town Council, ~~members of Town Staff~~ **Director of Planning & Zoning, Director of Public Works, Town Engineer, Planning Commission**, and other Boards or Commissions of the Town.
 8. Provide guidance regarding appropriate tree species for specific landscaping projects, including education regarding non-native invasive vegetation.
 9. **Upon request**, review plantings, maintenance, and removal of trees and other vegetation on Town-owned public property, landscaping easements and rights-of-way.
 10. **Upon request**, review and make recommendations to the Director of Planning & Zoning regarding landscape plans related to subdivisions and/or developments. Except where authorized by the applicant, any subdivision or development application may not be delayed or denied solely because of a delay or lack of review by the ~~UFAC~~ **ESAC**.
- B. Establishment of ~~UFAC~~ **Environmental Sustainability Advisory Committee (ESAC)**
1. Composition & Appointment.
 - a. **Town Council shall appoint five (5) volunteer committee members to ESAC who are committed to environmental protection programs and working to strengthen the sustainability of the Town's ecosystem. Committee members shall include one (1) Town employee who shall be the chairman lead, one (1) high school senior, and three (3) at-large residents. The three (3) at-large residents shall be appointed by Town Council. Each member shall be a resident of the Town of Front Royal or Warren County when appointed or selected. Residents of Warren County must own a business within the corporate limits of the Town of Front Royal. When a member ceases to be a resident of the Town, or if a resident of Warren County ceases to be owner of a business within the corporate limits of the Town or ceases to be a resident of Warren County, that member shall become immediately vacant and a new member shall be appointed or selected for the remainder of the term.** ~~The Urban Forestry Advisory Commission~~ **ESAC** ~~shall be made up of no fewer than five (5) members, each member being a citizen of Warren County. In addition, the Virginia Department of Forestry's Chief Forest Warden for Warren County shall serve as a standing committee member.~~
 - b. ~~The members shall be appointed by the Town Council.~~
 2. Qualifications.

The ~~Urban Forestry Advisory Commission~~ ESAC shall be made up of citizens with skills and an expressed interest in at least one of the following areas:

- a. Urban Forestry
- b. Landscaping
- c. Arboriculture
- d. Engineering or related field
- e. Study of Interest
- f. Water Resources
- g. Natural Resources
- h. Solid Waste
- i. Sustainability
- j. Energy Conservation
- k. Artist

3. Terms of Office.

- a. The three (3) members of ESAC shall be appointed initially for the following terms: one member for two (2) years, one member for three (3) years and one member for four (4) years. Subsequent appointments shall be for terms of four (4) years, except appointments to fill vacancies, which shall be for the unexpired terms. The Town employee member and high school senior shall be selected by the Town Manager or designee and serve terms as deemed by the Town Manager or designee.
- b. Members may be re-appointed to serve consecutive terms as determined appropriate by the Town Council.
- c. ~~The Commission shall elect a Chair and Vice Chair who shall serve annual terms and may succeed themselves.~~

4. Agenda, Minutes and Rules.

- a. The Committee shall adopt such rules and regulations as it may consider necessary.
- b. The Committee shall prepare meeting agendas in advance of meetings and make available to the public prior to the start of the meeting. The Committee shall keep minutes of its proceedings, showing the vote of each member upon each question or, if absent or failing to vote, indicating such fact. It shall keep records of its examinations and other such official actions, all of which shall be immediately filed in the office of the Committee and shall be a public record.
- c. All meetings of the Committee shall be open to the public.
- d. A quorum shall be at least three (3) members.

e. The Commission shall hold one regular meeting every third month or as needed.

C. Authority for ~~UFAC~~ ESAC to Receive Donations and Apply for Grants.

1. All persons interested in an ~~urban forestry~~ Environmental Sustainability Community in the Town are invited to make gifts, devises and bequests to the Town to be used for that purpose. All donations of money shall be made through the Department of Finance, and it is hereby authorized and directed to receive such donations. All such monies shall be used only for the purpose of ~~planting, maintenance, and promotion of the urban forest~~ creating an Environmental Sustainable Community in the Town. Expenditures from of these donations shall be made by the Town Manager or designee as authorized, from time to time, by the Town Council.
2. The ~~Urban Forestry Advisory Commission~~ ESAC may, with the consent of the Town Council, apply for federal, state, or private grants or funding, and/or assistance, and to aid in the performance of their duties.

D. Sharing of Information and Services.

Upon request of the ~~Urban Forestry Advisory Commission~~ ESAC with approval by the Town Manager or designee, the departments, boards, commissions, offices and agencies of the Town government shall furnish to the Committee such available information and render such service as may be needed in the performance of their duties.

E. Designation of Heritage, Memorial or Specimen Trees ~~Designation~~.

Designation of a Heritage, Memorial, or Street tree(s) are afforded recognition and protection by this ordinance. These trees, on either public or private property, have been recommended by ~~UFAC~~ ESAC for significant status designation. The process for designation includes submittal of a nomination application form to the Director of Planning & ~~Zoning~~ documenting the subject tree's significance in age, size, location, aesthetics, historical association, species and any other characteristic that justifies its uniqueness. The nomination is then forwarded to ~~UFAC~~ ESAC for review, unless otherwise submitted by the ~~UFAC~~ ESAC. If the tree is recommended for designation by the ~~UFAC~~ ESAC, the ~~Town Manager or designee~~ Director of Planning and Zoning shall present the nomination to Town Council for consideration of significant designation status. Trees designated as heritage, memorial, or specimen trees have a significant designation status transferable with change in property ownership. In addition, such trees are afforded protection status by the Town and are discouraged from removal.

156-4 PLANTING, MAINTENANCE AND PROTECTION OF TREES ON PUBLIC PROPERTY

A. Planting.

1. Any tree planted on public property shall be of an approved species as outlined in "The Preferred Species List" adopted by the UFAC **ESAC**, as found within the "Landscape Preservation and Planting Guide."
2. Any tree not on the preferred species list shall not be planted on public property without the **Town's Arborist or Director of Public Works or their designee approval.**
~~specific approval of the Urban Forestry Advisory Commission.~~
3. Any tree shall be properly planted according to the standards and guidelines, as stipulated in the most current version of the "American Standard for Nursery Stock."

B. Maintenance.

1. All outside contractors hired for pruning and/or maintenance of Town-owned trees shall meet the following minimum requirements:
 - a. Have current Town Business License.
 - ~~b. Provide proof of liability and Workmen's Compensation Insurance in amount established by the Town Council.~~
 - c. Have employed at least one certified arborist to generally oversee all work.
2. All Town-owned trees shall be maintained in accordance with the most recent version of the "American National Standards Institute's ANSI A300 (Part 1): Tree, Shrub, and Other Woody Plant Maintenance – Standard Practices (Pruning)" and the "American National Standards Institute's ANSI Z-133.1: Safety Requirements." No town-owned tree shall be "topped" nor shall any climbing spurs be used when working on live trees.
3. All tree pruning around utility lines shall be performed in accordance with the guidelines in "American National Standards Institute's ANSI A300 (Part 1): Tree, Shrub, and Other Woody Plant Maintenance – Standard Practices (Pruning)", "Best Management Practices Utility Pruning of Trees."
4. No private citizen shall cut, prune, or elevate any Town-owned tree in conflict with guidelines adopted by the ~~Urban Forestry Advisory Commission~~ **ESAC**, without prior approval by the Town Manager **or designee** after review and recommendation by the UFAC **ESAC**.
5. The Town of Front Royal should maintain elevation of Town-owned trees to a height of thirteen (13) feet over roadways and a height of eight (8) feet over public sidewalks where possible.
6. The Town is not required to cut and/or remove weeds, brush, plants, grass or other vegetation growing in the public alleys, unimproved streets and other unimproved rights-of-way except as provided in Section 170-2 of the Town Code. Any adjacent

property owner, tenant or citizen, at their own expense, may cut and/or remove any weeds, brush, plants, grass or other vegetation, except trees in excess of three (3) inches (3") caliber measured twelve (12") from the ground, growing in the public alleys, unimproved streets and other unimproved rights-of-way and in the unimproved portion of the public right-of-way lying between any public property and private property lines.

7. If any tree growing in a public alley, unimproved street or other unimproved right-of-way is dead or growing in such a manner that the branches, limbs or other parts of the tree extend or protrude onto private property in a manner that constitutes a danger to citizens or property, the Town will cut and remove or prune such tree once it has been notified of the condition of the tree. It shall be the responsibility of the adjoining property owner or tenant to notify the Town when a tree is growing in such a manner that it needs to be cut and removed or pruned.

C. Protection.

1. Excavation or construction of any building or structure shall be kept outside of the protective root zone of a tree proposed to be saved on a site plan. Such tree shall be guarded with a highly visible protective fence with signage placed at least three (3) feet from the trunk of the tree, or the dripline, whichever is greater. Signage shall include language to the effect that all equipment, building material, dirt or other debris shall be kept outside the protected area.
2. To the maximum extent possible, all Town Departments will coordinate with the UFAC **ESAC** during the planning phase of public improvements that might require the removal of or cause injury to any street tree, or its root system, or interfere with the fulfillment of any adopted street tree plan.
3. When a tree is removed on an emergency basis, UFAC **the Town's Arborist or Director of Public Works or designee** will be notified so proper tree replacements can be made, where appropriate. After consideration of the tree species, tree size and location, UFAC's **Town's** response should include recommendations as to whether removed trees are to be replaced, and if so, the type of replacement to be planted.
4. When advance coordination with the UFAC **ESAC** is not practicable due to unforeseen or emergency circumstances, the Town Departments should request the UFAC's **ESAC's** recommendations on an expedited basis. In such instances, the UFAC **ESAC** will make every effort to respond within forty-eight (48) hours and will forward its recommendations **to the Director of Public Works or designee.** ~~through the Office of the Town Manager.~~
5. **Recommendation to the Town Manger or designee is need from ESAC to remove a tree** ~~No tree may be removed if the UFAC~~ **ESAC** establishes that the tree is a heritage specimen, or other tree of significant historic status, ~~except upon approval by Town Council.~~

6. Any existing plant material less than six (6) inches in diameter (dbh) or determined by the Town's Arborist or designee shall be exempt under the preservation requirements in this ordinance.
7. Except for normal household refuse collection activities, no person shall deposit, place, store or maintain, upon any public place of the Town, any stone, brick, sand, concrete or other materials that may impede the free passage of water, air and fertilizer to the roots within the dripline of any tree growing thereon, except by written approval by the Town Manager or designee after review and recommendation by the UFAC ESAC.
8. Whenever any tree is planted or set out in conflict with the provisions of this chapter, the UFAC ESAC may pursue removal of said tree and initiate effective remedies.
9. Unless specifically authorized by the Town Manager or designee, after review and recommendation by the UFAC ESAC, it shall be unlawful for any person to intentionally damage, cut, carve, transplant or remove any tree on public property, nor attach any rope, wire, nails, advertising posters or other contrivance to any public tree, nor allow any gaseous liquid or solid substance which is harmful to such trees to come in contact with them, nor set fire or permit any fire to burn when such fire or the heat thereof will injure any portion of any public tree. Any person found to violate the provisions of this section shall be responsible for the cost of repair, or removal and replacement, of any public tree so damaged. The owner of any vehicle that accidentally damages any tree on public property shall be responsible for the cost of repair, or removal, and replacement, of any public tree damaged.

156-5 SCREENS AND BUFFERS

A. Vegetative Buffers.

1. A vegetative buffer shall be provided on the rear of any double frontage lot and on any commercial or industrial development abutting a residential district. All required vegetative buffers shall consist of a minimum area, as shown in the following table:

Type	Minimum Width (feet)
Rear yard abutting right-of-way 60 feet or wider	20 (3 Rows)
Rear yard abutting right-of-way less than 60 feet	15 (2 Rows)
Commercial/industrial uses abutting residential uses	15 (2 Rows)

2. Any required vegetative buffer shall be designed, planted and maintained in accordance with a landscaping plan approved by the Director of Planning or designee, upon review and recommendation by the UFAC ESAC. The landscaping plan shall satisfy the following standards:

- a. The vegetative buffer may be comprised of existing vegetation, provided that the majority of such existing vegetation consists of trees that are listed in the Town's Construction Standards & Specifications Manual, and have at least two-inch (2") caliper. When complete, the vegetation and plantings shall provide a year-round screen visually opaque at five (5) feet above finished grade when viewed from fifteen (15) feet away, which satisfies the standards set out in this section.
 - b. The vegetative buffer may consist of a mixture of deciduous and evergreen trees or a planting of evergreen trees.
 - c. The vegetative buffer shall be subject to on-site inspection by the Department of Planning which, if necessary, may prescribe that additional plantings be made in order to satisfy the standards set out herein.
 - d. The width of the vegetative buffer may be reduced by administrative waiver in an amount determined by the Director of Planning or designee, if a wall or fence is provided to supplement the planting to an equivalent degree, and/or if the size of the lot prevents a full-width buffer. In no case shall the requirement for vegetative material be totally waived.
3. All required vegetative buffers shall be located on a permanent landscaping easement, and established so that perpetual maintenance is ensured. Where possible, the permanent landscaping easement should be located within open space and maintained by the homeowner's association. If the landscaping easement is established on private property, the easement shall ensure that the property owner is provided disclosure of their responsibilities for future maintenance, including the replacement of dead trees. Upon review and recommendation by the UFAC ESAC, the Director of Planning Commission or designee may waive the requirement of perpetual maintenance when it is determined that such maintenance will create an unreasonable hardship on the property owner(s).

156-6 DEVELOPMENT TREE PLANTINGS

- A. All major subdivisions and developments shall provide a minimum tree canopy cover for the gross area of the subdivision or development in accordance with the following table.

Type of Development	Percent Tree Canopy*
Business, Commercial, or Industrial Development	10
Residential Development (≥ 20 du per acre)	10
Residential Development (> 10 , but < 20 du per acre)	15
Residential Development (≤ 10 du per acre)	20

*Notes: See Tree Canopy Calculation Worksheet. The acronym "du" means "dwelling unit."

- B. The minimum tree canopy cover may be achieved by new tree plantings or preservation of existing trees. Existing trees that are to be preserved may be approved to meet all or part of the tree cover requirements of this section according to subsection C below. New

tree plantings may include the trees provided as part of required interior or perimeter parking lot landscaping, landscaped open space, vegetative screens and buffers, street trees or other trees that are planted on the site.

- C. The tree cover calculations for planted trees shall be based on the projected twenty-year tree cover area for each tree as shown in the adopted “Landscape Preservation and Planting Guide for the Town of Front Royal”, or other generally accepted tree resource guide accepted by the UFAC ESAC. Calculation of credit for preservation of existing trees shall be as determined by the UFAC ESAC, based on the UFAC’s ESAC’s “Tree Canopy Calculation Worksheet”, and consideration of the following additional information.
1. Location of existing trees on a subdivision plan or plat.
 2. Tree species.
 3. Identification of all observable diseases, wounds, decay, cavities, or organisms that may threaten the health of the tree.
 4. Tree trunk diameter.
 5. Approximate tree height.
 6. Identification of any trees that have been designated as a heritage, memorial or specimen tree.
 7. Any other noteworthy conditions.
- D. All major subdivision plans, or site plans for uses on property one (1) acre or greater, shall include the existing canopy cover.
- E. Tree cover requirements may be waived or modified by the Director to permit the reasonable development of farm land or other areas devoid of woody materials.
- F. The following areas shall be exempt from the requirements of the Landscape Preservation and Planting Guide for the Town of Front Royal, as follows:
1. Dedicated school sites.
 2. Playing fields and other non-wooded recreation areas.
 3. Floodplains and wetlands.
 4. Other areas where, in the opinion of the Director, the strict application of the requirements would result in unnecessary or unreasonable hardship to the developer.
- G. Tree cover and planting requirements shall be completed by the developer or subdivider prior to the issuance of any occupancy permit or business licenses. Exceptions may be made when weather conditions or other justifiable circumstances exist or occur that impede tree planting. In such cases, the subdivider or developer shall provide a performance bond with surety satisfactory to the Town for the installation of required planting in accordance with a completion schedule.
- H. For one (1) year from the date of acceptance, the subdivider or developer shall be required to replace any trees that do not survive, or that, in the opinion of the Town, are undesirable

due to disease, malformation, infestation, damage, or are otherwise not expected to thrive under the existing conditions. The subdivider or developer shall execute a landscape maintenance agreement with the Town to ensure performance under this section.

- I. Tree Bank. When neither tree preservation nor on-site tree planting is feasible, a developer may submit a written request to the Director of Planning or designee to make payment in-lieu of all, or a portion of, the required landscaping. The written request shall include the rationale for not being able to meet the tree preservation or tree planting requirements. The UFAC ESAC shall advise the Director of Planning or designee of the in-lieu fee amount, which shall be based on the estimated cost of the landscaping that is required by code. If approved, the payment shall be placed within an escrow account, generally referred to as a “tree bank”, that may be used by the Town to advance urban forestry goals, such as, but not limited to, increasing the Town’s tree canopy coverage.

156-7 STREET TREES

- A. According to the following standards, all subdivisions and developments shall provide for the planting of trees on both sides of new streets and along existing streets.
 1. Street trees shall be planted in accordance with a submitted landscape plan approved by the Town. Existing trees, undisturbed by the construction process, may be incorporated and credited as part of the landscape plan.
 2. The minimum quantity of required street trees shall be based on the amount of street frontage and estimated size of the proposed tree’s canopy at maturity. The standards of the following table shall be used to calculate the minimum quantity of street trees.

Mature Tree Canopy Size (width)	Planting Interval*
Large trees (40’ plus)	1 per 50’
Medium trees : (30’ to 40’)	1 per 40’
Small trees: (up to 30’)	1 per 30’

*Note: These standards are based only on one side of a street. Additional trees would be required for the opposite side of the street if also included within the development.

3. Street trees may either be spaced evenly, massed, or a combination of the two styles along the street.
4. The number of massed trees shall not be less than the number calculated for the street under the even spacing guidelines.
5. Street trees may be placed within the street right-of-way when the street is a collector or arterial street. Street trees along local streets shall be planted on individual lots.
6. All street trees that are required along local streets shall be provided a landscaping easement that ensures perpetual maintenance and protection. The easement shall also

ensure that the property owner is provided disclosure of their responsibilities for future maintenance and protection of the street trees, including the replacement of dead trees. Upon review and recommendation by the ~~UFAC~~ **ESAC**, the Planning **Director** ~~Commission~~ **or designee** may approve, or approve conditionally, a waiver to the requirements of this section when it is determined that such maintenance creates an unreasonable hardship.

- B. Tree plantings shall not interfere with utilities, roadways, sidewalks, sight distance or streetlights. Tree location, species and spacing shall be approved by the Town as part of the landscape plan.
- C. All street trees shall have a minimum caliper of two (2) inches in diameter and shall be nursery grown in order to better ensure survival and help meet the Town's requirements for canopy height at twenty (20) years. All tree plantings shall be in accordance with the adopted Landscape Preservation and Planting Guide for the Town of Front Royal.
- D. The subdivider or developer shall be required to replace, within one (1) year from the date of street acceptance, any trees that do not survive or that, in the opinion of the Town, are diseased, malformed, or otherwise undesirable. The subdivider or developer shall execute a landscape maintenance agreement with the Town of Front Royal to ensure performance under this section.

156-8 PARKING LOT LANDSCAPING

- A. Interior parking lot landscaping.
 - 1. Parking areas shall be suitably landscaped to minimize noise, glare and heat. Large parking areas shall be broken down into sections appropriate for the type and size of the development. Sections shall be separated by landscaped dividing strips, berms or similar features. The landscaped areas shall be reasonably dispersed throughout parking areas.
 - 2. Parking lots of fifteen (15) or more spaces shall have a total interior landscaped area of not less than five percent (5%) of the total area of the parking lot. Parking lot landscaped areas shall be more than five (5) feet from any principal structure.
 - 3. The primary landscaping materials to be used in parking lots shall be shade trees. Other types of trees, including, but not limited to, those commonly referred to as shrubs, may be used to complement the tree landscaping, but shall not constitute the only landscaping.
 - 4. The requirements for interior parking lot landscaping shall not apply to any lots used solely for the storage of vehicles or the display of vehicles for sale. Such lots shall comply, however, to the requirements for peripheral parking lot landscaping.
- B. Peripheral parking lot landscaping.

In addition to the requirements for interior parking lot landscaping, parking areas with fifteen (15) or more parking spaces shall provide peripheral parking lot landscaping as follows:

1. A landscaped buffer strip at least five (5) feet in width shall be located between the parking lot and each abutting property line, except where parking or access is designed to be shared by the abutting property. A total of one (1) tree for each fifty (50) feet of landscaped buffer shall be planted. Trees may be massed or spaced evenly.
 2. In the event that the parking lot adjoins a public street with no intervening structures, a landscaped buffer strip of at least ten (10) feet in width, which shall not include a sidewalk or other paved surface, shall be located between the parking lot and the street right-of-way. A total of one (1) tree for each forty (40) feet of landscaped buffer shall be planted. Trees may be massed or spaced evenly.
- C. All deciduous trees planted shall be a minimum caliper of two (2) inches in diameter and shall be nursery grown. Evergreen trees shall be planted at a height of no less than six (6) feet. All materials and installation shall be in accordance with the adopted Landscape Preservation and Planting Guide for the Town of Front Royal.
- D. The requirements of this section shall be required for all new parking lots, and for the enlargement or substantial alteration of any existing lot. The requirements shall not apply to the resurfacing of any existing parking lot.
- E. The Town may, in its discretion, waive or modify the requirements for parking lot landscaped buffer strips in cases where berms, grade separation, plantings or other approved designs provide an effective screen and do not adversely impact on adjoining properties, traffic patterns or safety.

156-9 ADMINISTRATION AND ENFORCEMENT

1. Administration and Enforcement. The requirements of this chapter shall be administered and enforced by the Town Manager or designee in regards to public property. The requirements of this chapter shall be administered and enforced by the Director of Planning or designee and Zoning in regards to private property, and new subdivisions and/or developments, provided that, the approval authority for landscaping plans shall be as specified under Chapter 148 of the Town Code.
2. Violations. Any person, firm or corporation violating, causing or permitting the violation of any of the provisions of this chapter shall be guilty of a class I misdemeanor, and upon conviction thereof, may be punishable by up to 12 months in jail and a \$2500 fine.

156-10 APPEALS

Town Council reserves the right to grant special exceptions to the requirements of this Chapter. Furthermore, Town Council reserves the authority to affirm, overrule or modify any administrative decision. Any person aggrieved by an administrative decision related to this Chapter, may submit a written appeal to the ~~Director of Planning & Zoning~~ or Town Manager or designee for consideration by Town Council. Any person aggrieved by a requirement of this Chapter may submit a written request for a special exception, however, such requests for special exception shall only be considered after all other administrative remedies of this ordinance have been exhausted.

156-11 SEVERABILITY

Should any part or provision of this Chapter be declared invalid by any Court, the same shall not affect the validity of the Chapter as a whole or any part thereof other than the part held to be invalid.

This ordinance shall become effective upon passage.

APPROVED:

Chris W. Holloway Mayor

ATTEST:

Tina L. Presley, Clerk of Council

THIS ORDINANCE was approved at the Regular Meeting of the Town of Front Royal, Virginia conducted _____ 2021, upon the following recorded vote:

Lori A. Cockrell ☐ Yes ☐ No

Gary L. Gillispie ☐ Yes ☐ No

Letasha T. Thompson ☐ Yes ☐ No

E. Scott Lloyd ☐ Yes ☐ No

Joseph E. McFadden ☐ Yes ☐ No

A public hearing on the above was held on _____ having been advertised in the Northern Virginia Daily on _____ and _____, 2021.

Approved as to form and legality:

Douglas W. Napier, Town Attorney

Date: ____/____/____



Council Agenda Statement

Item # 07E

Meeting Date: August 23, 2021

Agenda Item: PUBLIC HEARING – An Ordinance Amendment to Chapter 4 Pertaining to Placing Items on a Council Agenda

Summary: Council is requested to consider an ordinance amendment to Chapter 4 pertaining to the placement of items on Council Agendas. If approved, items requested by at least two (2) members of Council will stay the same for work session. Items requested to be placed on a Council regular meeting agenda will require majority of Council. In the event of a tie the Mayor will determine the placement.

Budget/Funding: None

Meetings: Work Session held August 9, 2021

Proposed Motion: I move that Council approve an ordinance amendment to Chapter 4 Pertaining to the placement of items on Council Agendas, as presented.

Moved _____ *Seconded* _____

Cockrell _____ *Gillispie* _____ *Lloyd* _____ *McFadden* _____ *Thompson* _____

**AN ORDINANCE TO AMEND TOWN CODE CHAPTER 4-19.B.d and 4-19.C.1
PERTAINING TO PLACEMENT OF ITEMS ON COUNCIL AGENDAS**

WHEREAS, currently the Front Royal Town Code allows items to be placed on a Council agenda by at least two (2) members of Council; and,

WHEREAS, the Mayor has requested an amendment to the Front Royal Town Code that would require a majority of Council to place an item on a Council agenda to allow for a consensus of the entire Council; and,

WHEREAS, in the event of a tie the Mayor will determine the placement; and,

NOW THEREFORE, BE IT ENACTED, by the Town Council of the Town of Front Royal, Virginia, that Chapter 4-19.B.d of the Front Royal Town Code hereby be amended as follows:

CHAPTER 4-19

B. THE PLACEMENT OF ITEMS ON AGENDAS

1. The following items shall be placed on a Council Agenda for a regular meeting or work session provided they are delivered to the office of the Town Manager.

- a. Items from members of Town Boards or Commissions whose membership is appointed by the Council.
- b. Items required for decision by the Town Manager, to include citizen requests placed in writing by the citizen or by the Town Manager.
- c. Items requested by the Mayor to include citizen requests placed in writing.
- d. Items requested by at least two (2) members of Council **to be placed on a Work Session. Items requested by a majority of Council to be placed on a Regular Meeting. In the event of a tie the Mayor will determine the placement.**
- d. Items requested from citizens who have appeared at a previous meeting of Council, and who have placed their requests in writing and asked for the matter to be considered at an upcoming meeting of Council.

C. APPROVAL OF PLACEMENT OF ITEMS ON THE AGENDAS

1. The Mayor, or in his absence, the Vice Mayor approves the final regular meeting and work session agendas before publication and shall not remove any item on said agendas placed by at least (2) councilmembers **for a work session agenda or a majority of councilmembers for a regular meeting agenda.**

2. No items may be placed on regular meeting or work session agendas after publication without unanimous vote from all members of Council present and voting.

This ordinance shall become effective upon passage.

APPROVED:

Chris W. Holloway Mayor

ATTEST:

Tina L. Presley, Clerk of Council

THIS ORDINANCE was approved at the Regular Meeting of the Town of Front Royal, Virginia conducted _____ 2021, upon the following recorded vote:

Lori A. Cockrell __ Yes __ No

Gary L. Gillispie __ Yes __ No

Letasha T. Thompson __ Yes __ No

E. Scott Lloyd __ Yes __ No

Joseph E. McFadden __ Yes __ No

A public hearing on the above was held on _____ having been advertised in the Northern Virginia Daily on _____ and _____, 2021.

Approved as to form and legality:

Douglas W. Napier, Town Attorney

Date: ____/____/____



Council Agenda Statement

Item # 9A

Meeting Date: August 23, 2021

Agenda Item: Bid for Water and Wastewater Treatment Chemicals

Summary: Council is requested to approve bids for FY22 water and wastewater treatment chemicals at firm fixed pricing as follows:

- Brenntag Mid-South Inc, Durham, SC. – sodium permanganate (\$4,197.60)
- Suffolk Sales & Service Corporation, Suffolk, VA – glycerin (\$111,800)
- Univar Solutions, Inc., Morrisville, PA – carbon (\$7,040), polyaluminum hydroxychlorosulfate (\$63,360), sodium hypochlorite (\$60,480), and sodium fluoride (\$19,338), and sodium chlorite (\$1,396), and Potassium Permanganate Technical Grade (\$20,646)
- USALCO, Baltimore, MD – Aluminum Chlorohydrate Solution (\$353,203.20)

Budget/Funding: Funding available in FY22 Water Treatment budget line item 9601-45605 “Chemicals”, and the FY22 Wastewater Treatment budget line item 9801-45406 “Chemicals”.

Meetings: None

Should Council wish to remove this item from the consent agenda, the following motion would allow approval of this request:

Proposed Motion: I move that Council approve the bids for water and wastewater treatment chemicals as presented in the Purchasing Manager’s memorandum dated August 16, 2021 and this cover sheet.

Moved _____ Seconded _____

Cockrell _____ Gillispie _____ Lloyd _____ McFadden _____ Thompson _____



Town of Front Royal, Virginia

Purchasing, Department of Finance

MEMORANDUM

Date: August 16th, 2021
To: Tina Presley, Senior Executive Assistant
From: Alisa Scott, Purchasing Manager
RE: Request to add Consent Agenda item to Town Council's Regular Meeting

Purchasing issued a solicitation for water treatment and wastewater treatment chemicals. The procurement method was sealed competitive bidding.

On Thursday, August 12th, 2021, Purchasing held a public bid opening and received eight (8) bids. Staff recommends awarding the following bidders their bid for firm fixed pricing on FY22 chemicals as follows:

- Brenntag Mid-South Inc, Durham, SC. – sodium permanganate (\$4,197.60)
- Suffolk Sales & Service Corporation, Suffolk, VA – glycerin (\$111,800)
- Univar Solutions, Inc., Morrisville, PA – carbon (\$7,040), polyaluminum hydroxychlorosulfate (\$63,360), sodium hypochlorite (\$60,480), and sodium fluoride (\$19,338), and sodium chlorite (\$1,396), and Potassium Permanganate Technical Grade (\$20,646)
- USALCO, Baltimore, MD – Aluminum Chlorohydrate Solution (\$353,203.20)

The Public Works department has budgeted an expense of \$100,000 for all water treatment chemicals, and \$750,000 for all wastewater treatment chemicals throughout the year. Town Council is requested to review and approve the award. Attached to this memo is recommendation memos from Robbie Boyer, Public Works Director and Mike Kisner, Water Treatment Plant Manager, and the bid tabulation. Please add this consent agenda item to the next available Regular Town Council agenda.

Funding for these chemicals will be available in the FY22 Water Treatment budget line item 9601-45605 "Chemicals", and the FY22 Wastewater Treatment budget line item 9801-45406 "Chemicals".

Purchasing, Department of Finance
102 E Main Street
Front Royal, VA 22630
Website: www.frontroyalva.com
Phone 540-636-6889

VENDOR SPREAD SHEET



Town of Front Royal, VA

IFB #5278-1-2021 CHEMICALS

BID/PROPOSAL OPENING DATE: 8/12/2021

BID/PROPOSAL OPENING TIME: 2:00 PM

	KUEHNE CHEMICAL, CO, INC. KEARNY, NJ	CHEMTRADE CHEMICALS PARISPPANY, NJ	MARUBENI AMERICA CORP. HARRISON, NY	GEORGE S. COYNE CHEMICAL COMPANY, INC. CROYDON, PA	UNIVAR SOLUTIONS, INC. MORRISVILLE, PA	BRENNTAG SOUTHEAST INC DURHAM, NC	USALCO BALTIMORE,MD	SUFFOLK SALES & SERVICES CORP. SUFFOLK, VA
	UNIT PRICE	UNIT PRICE	UNIT PRICE	UNIT PRICE	UNIT PRICE	UNIT PRICE	UNIT PRICE	UNIT PRICE
WATER TREATMENT PLANT CHEMICAL DESCRIPTION								
ESTIMATED 32,000 GALLONS POLYALUMINUM HYDROXYCHLOROSULFATE		\$3.745			\$1.98			
ESTIMATED 54,000 GALLONSSODIUM HYPOCHLORITE	\$1.35				\$1.1200	\$1.695		
ESTIMATED 4 TONS CARBON (AQUA NUCAR) 50# BAGS ONLY					\$1,760.0000	\$1,840.00		
ESTIMATED 6 TONS SODIUM FLUORIDE (CRYSTAL) 50 LBS BAG ONLY					\$3,223.0000			
ESTIMATED 6 TONS TECHNICAL GRADE ONLY POTASSIUM PERMANGANATE 55# PAILS			\$3,260 *		\$3,441.0000	\$3,690.000		
ESTIMATED 8 DRUMS SODIUM PERMANGANATE					\$766.0000	\$524.70		
ESTIMATED 2 DRUMS SODIUM CHLORITE				\$767.9167	\$698.0000			
ESTIMATED 2 DRUMS HYDROCHLORIC ACID								
WASTEWATER TREATMENT CHEMICAL DESCRIPTION								
ESTMATED 52,000 GALLONS GLYCERIN								\$2.15
ESTIMATED 108,000 GALLONS DELPAC-XG		\$5.55					\$3.2704	

***DENOTES NON-RESPONSIVE BID**

The VENDOR SPREAD SHEET is generated from the initial, raw information collected. No award decision has been made.



Council Agenda Statement

Item # 09B

Meeting Date: August 23, 2021

Agenda Item: Board of Architectural Review (BAR) Appointment

Summary: Council is requested to appoint a member to the Board of Architectural Review (BAR) to fill the unexpired term, expiring November 13, 2024, left by Lauren Kopishke who was hired as the Town's Planning and Community Development Director.

Budget/Funding: None

Meetings: Special Meeting held August 2, 2021

Should Council wish to remove this item from the consent agenda, the following motion would allow approval of this request:

Proposed Motion: I move that Council appoint _____ to the Board of Architectural Review to an unexpired term ending November 13, 2024.

Moved _____ *Seconded* _____

Cockrell _____ *Gillispie* _____ *Lloyd* _____ *McFadden* _____ *Thompson* _____



Council Agenda Statement

Item # 9C

Meeting Date: August 23, 2021

Agenda Item: Award for Planning Professional Service for a Comprehensive Plan Rewrite

Summary: Council is requested to approve an issue to award to Summit Design in the amount of \$115,000 for the completion of a Comprehensive Plan re-write and an update to the Town Planning and Zoning Ordinances.

Budget/Funding:

8101-R43002 - \$100,000

8101-43002 - \$15,000

Meetings: Work Session held April 7, 2021

Proposed Motion: I move that Council approve an issue to award to Summit Design in the amount of \$115,000 for the completion of a Comprehensive Plan re-write and to update the Town Planning and Zoning Ordinances.

Moved _____ *Seconded* _____

Cockrell _____ *Gillispie* _____ *Lloyd* _____ *McFadden* _____ *Thompson* _____



Town of Front Royal, Virginia

Purchasing, Department of Finance

MEMORANDUM

Date: August 12th, 2021
To: Tina Presley, Senior Executive Assistant
From: Alisa Scott, Purchasing Manager
RE: Request to add action item to Town Council Agenda

Purchasing received a request from the Town Manager's office to solicit proposals for planning professional services for a Comprehensive Plan rewrite. The method of procurement was sealed competitive negotiation.

In accordance with the Virginia Public Procurement Act, an evaluation team met with two firms. Negotiations began with the firm ranked first and a price considered fair and reasonable and pursuant to the contractual terms and conditions acceptable to the Town is offered for Council review.

Town Council is requested to review and issue the award to Summit Design in the amount of \$115,000 for the successful completion of a Comprehensive Plan re-write.

Please find attached to this memo, a consensus letter signed by members of the evaluation team as well as a scope of work to be added as a consent item to Council's August 23rd, 2021 Regular Town Council Meeting.

Funding has been budgeted for and is available in the FY22 budget.

Purchasing, Department of Finance
102 E Main Street
Front Royal, VA 22630
Website: www.frontroyalva.com
Phone 540-636-6889



Town of Front Royal, Virginia

Purchasing, Department of Finance

August 2, 2021

Mr. Craig A. Wilson, AICP
Principal Planner
Summit Design and Engineering Services
2201 West Broad Street, Suite 204
Richmond, VA 23220

RE: Evaluation Committee Consensus Letter & Request for Scope of Work

Dear Mr. Wilson,

The evaluation committee for the Planning Professional Services for Comprehensive Plan Rewrite Request for Proposals has reached a consensus after proposals were scored and the committee was able to meet with one or more offerors. After elaborating on qualifications, performance data, and staff experience, the evaluation committee would like to request from Summit a formal scope of work to include options for zoning ordinance and subdivision ordinance rewrites.

Steven Hicks, Town Manager

B.J. Wilson, Director of Finance

Chris Brock, Deputy Zoning Administrator

David Jenkins, Director of Energy Services

Robert Boyer, Director of Public Works

Sincerely,

Alisa Scott, CPPB, VCA, VCO, PMP, Purchasing Manager

Evaluation #1
Evaluation #2
Evaluation #3
Evaluation #4
Evaluation #5

Summit Engineering	Benchmark
6.95	8.80
8.10	7.35
9.25	9.35
9.30	7.75
8.70	7.60
8.46	8.17

August 9, 2021

Town of Front Royal Purchasing
Finance Department
P.O. Box 1560
102 East Main Street
Front Royal, Virginia 22630

Subject: Fee Proposal for Comprehensive Planning and Zoning and Subdivision Re-write Services

Dear Ms. Scott,

Summit is pleased to submit this contract agreement to provide services to update the Town's Comprehensive Plan as well as re-write the Town's Zoning and Subdivision Ordinances.

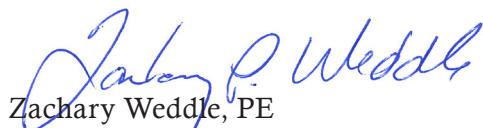
The following proposal includes the details of the services to be provided and the compensation, as well as a schedule. We have noted items in the scope that differ from our original proposal in blue text.

We anticipate a process that totals 18 months from the signing of the services contract, with the Zoning and Subdivision Ordinance rewrite project beginning as soon as the draft Future Land Use Map and Vision, Goals, Objectives and Strategies are approved by the Town Council. These plan elements will have the essential components of the Comprehensive Plan, which we will use as a guide to begin the Zoning and Subdivision Ordinance re-write. This overlap will mean that if there needs to be ample time for the Town to review and comment on the Comprehensive Plan document, it will not hold up the Zoning and Subdivision Ordinance re-write.

The enclosed scope and fee is inclusive of the services necessary to complete the above referenced projects. Also enclosed is a rate sheet for any services outside this scope as well as a standard contract for services, if the Town does not want to provide their own contract.

Please let me know if you have any further questions.

Sincerely,



Zachary Weddle, PE
Vice President, Virginia Branch

SCOPE OF WORK

PHASE 1 - DATA COLLECTION, ANALYSIS AND COMMUNITY ENGAGEMENT

Get Started – Kick-Off Meetings and Planning for Community Engagement

The consultant team will hold a meeting with key staff to determine the point of contact and preferred method of communication through the process, and to gain their insight into priorities and vision for the Comprehensive Plan. At this time we will discuss any further details to the work plan, set the calendar of events, and to work out the logistics for community engagement.



Review Previous Plans and Additional Documents

Our team will review The Town of Front Royal's existing long-range planning documents and work with staff and elected officials to determine what elements of those plans should be incorporated into this Comprehensive Plan and where the gaps may be. We will also review the existing Comprehensive Plan and any additional documents, including the existing Zoning Ordinance at this time.

Leadership Forum



This event will provide an opportunity to align leadership expectations for the comprehensive planning process, to discuss concerns and opportunities to be addressed in this Comprehensive Plan and Zoning and Subdivision Ordinance re-write, and to identify key strategies to be researched and potentially included in the comprehensive plan. This forum should be held as a joint work session of the Town Council and Town Planning Commission along with key staff involved in the planning process. Please allow three hours for this event.



Data Inventory and Research; Existing Conditions and other Mapping Data Analysis

The team will collect the relevant GIS data from the Town, census data, and any other additional data to create the initial set of maps of socioeconomic and geographic data, existing conditions of infrastructure, utilities, natural resources, and others as requested. The Summit team will conduct an on-the-ground existing land use inventory if the data does not already exist, or make necessary updates to existing datasets.



Public Engagement Strategy #1 – Website and Social Media Outreach

The consultant team will create a new Plan website with integrated comment/questions forms as well as Facebook and Instagram accounts. These will be used to get information out about the Comprehensive Planning process and to pose questions to and create dialogue with social media participants regarding their ideas for the future of the Town of Front Royal. These means will also be used to push the Resident Survey to social media participants to encourage robust participation in the more formal survey. The map book and summary of previous plan review will be posted online for public review. Notifications about the planning process and link to new Plan website should also be posted on the Town website and in other appropriate media outlets.

SCOPE OF WORK



Refine and Publish Existing Conditions Report and Community Profile

Using initial background research and analysis, information gathered from preliminary meetings and social media input, we will compile and publish an Existing Conditions Report, Map Book and Community Profile for use in the final Comprehensive Plan and as a data brief and discussion starter for upcoming facilitated Town meetings. Data and trends to be highlighted include but are not limited to:

- Population and Demographic Profile
- Housing Assessment
- Economic Assessment
- Community Services and Facilities
- Transportation
- Existing Land Use and Development
- Natural Resources
- Public Utilities
- Historic and Cultural Resources



Public Engagement Strategy #2 – Stakeholder Survey

With input from Town staff, our team will develop and publish an on-line Resident Survey to be used in gathering community-wide input regarding priorities and vision for the Town of Front Royal. The survey will be posted on the new Plan website, made available through social media outlets, and also made available in print for residents who prefer to complete a paper survey or do not have easy access to a computer. The consultant team will compile and analyze the results of the survey using a program such as Survey Monkey.

Results of the survey will be posted on the Plan website.



Public Engagement Strategy #3 – Facilitated Town-wide Meetings

As the COVID-19 situation allows, we will facilitate a minimum of six public input sessions hosted in various locations around the Town open to the community at different times of the day in order to encourage and enable participation as well as to make sure attendance at any one forum is not overwhelming and everyone's voice is heard. These forums will be conducted in two parts. The first part (1/2 hour) will include a presentation about the process with highlights from the Existing Conditions Report. The second part (1 hour) will utilize interactive small groups gathered around visioning, key concepts, scenarios, and community interests that have been pre-determined in advance by the consultant team in consultation with Town staff and the Steering Committee. Several Town staff will need to be available to help facilitate the table discussions. If needed, these sessions can be conducted digitally with registration in advance for one of the several scheduled sessions. Depending on the digital platform utilized, the sessions could still include break-out groups for interactive small groups.

A summary of feedback from these meetings will be posted on the Plan website.

SCOPE OF WORK

PHASE 2 – DEVELOPING THE COMPREHENSIVE PLAN



Establishing Town Goals, Priorities, and Strategic Growth Plan

We will develop a draft of goals, priorities, and a strategic growth plan based on community input:

- Pattern of Desired Growth and Development
- Transportation & Land Use Connections
- Economic and Community Development
- Preservation and Protection of Natural Resources
- Housing Availability, Type and Affordability
- Community Services and Facilities
- Public Utilities & Infrastructure
- Hazard Mitigation
- Recreation and Open Spaces
- Protection of Significant Architectural, Historic, Scenic and Cultural Resources



This draft will be posted on the Plan website for public review and comment, with accompanying social media blasts to request comment.



Flesh out the Plan – Objectives and Strategies

After the Town priorities, strategic growth plan, and goals are set, our team will work with key staff to develop a detailed set of objectives and strategies that will be categorized as short-term, intermediate, or long-term recommendations. The objectives and strategies will be specifically tailored to make use of the Town's available implementation tools while complying with Section 15.2-2223 of the Code of Virginia.

Draft objectives and strategies will be posted on the Plan website for public review and comment, with accompanying social media blasts to request comment.



Prepare Future Land Use Map and Growth & Development Policies

Based on the collected data, information, and community input, the consultant team will prepare the Future Land Use Map in consultation with key staff, the Planning Commission, and citizen advisory committee showing areas to which growth should be directed, and areas that should be preserved. Additionally, through the same process, an accompanying set of policies that helps steer growth to the appropriate locations, targets specific types of development, and promotes the local economy, will be developed to back up the Future Land Use Map. We will also identify where the Zoning Ordinance needs to be updated to assist in implementing the plan.

Draft Future Land Use Map and Growth and Development policies will be posted on the Plan website for public review and comment, with accompanying social media blasts to request comment.

SCOPE OF WORK



Month 9

Identify Development Regulations for Revision

The consultant team will align the emerging Comprehensive Plan and Future Land Use Map with a proposed Capital Improvement Plan and existing development ordinances to create a matrix of recommendations that assist in the rewriting of these documents, with a particular focus on the Zoning Ordinance.



Month 10

Write and Compile the Draft Comprehensive Plan

The team will complete the full draft of the Comprehensive Plan and review it with key staff, citizen advisory committee members, the Town Council, staff working groups, citizen associations, and the Planning Commission for editing and the eventual production of the final draft.

Begin Zoning and Subdivision Ordinance Re-write

This process can begin before the Comprehensive Plan is adopted, provided that the draft Future Land Use Map, and Goals and Objectives are approved by Town Council (these items will all be designed as individual deliverables, posted on the Plan website, and can be presented to Town Council). The Summit team will compile a list of elements needed in the new Zoning and Subdivision Ordinances, as well as a list of elements from the existing Ordinances that should not be included in the new Ordinances. The Summit team will meet with Town staff to confirm that expectations are aligned on content and format of final document.

Public Engagement Strategy #4 – Public Meetings

The consultant team will develop a short, easily accessible summary of the Comprehensive Plan and a visual presentation at a Public Meeting/Hearing. The draft Plan will be posted on the Plan website for public review and comments, with accompanying social media blasts to request comment. Any input from the public will be gathered and utilized to make final edits to the Plan in consultation with key staff and the Steering Committee.



Month 12

Complete All Edits and Present the Comprehensive Plan for Approval

Our team will complete all edits of the Comprehensive Plan and suggested changes to the Zoning Ordinance in both hard copy and digital formats, including strong mapping and graphic communication, user friendly narrative, and a measurable implementation strategy. We will then assist staff members in presentation of the plan to the Planning Commission and Town Council for adoption. We will also provide final recommendations for changes to the Zoning Ordinance that will assist in the plan's implementation.



Month 13

Ordinance Table of Contents

The Summit team will create a draft Table of Contents for the Zoning and Subdivision Ordinances for approval by the Town. The Table of Contents will guide the creation of the new Zoning and Subdivision Ordinances.

SCOPE OF WORK

Draft Language

The Summit team will populate the documents using the approved Table of Contents. This is the most time-consuming and labor-intensive aspect of the Zoning and Subdivision Ordinance creation. The team will ensure that all new language is consistent with State Code and current best planning practices and is crafted to achieve Front Royal's land use and future development goals. During this phase we will keep in touch with Town staff to ensure that the work is consistent with Town expectations.



Review and Comments/Changes by Town Staff and Final Editing and Formatting

The draft document will be discussed with staff, then comments and changes will be incorporated into the document before publishing the draft document on the Plan website for public comment.



Presentations to Planning Commission and Town Council

Final draft will be presented to Planning Commission and Town Council for comments/changes and then the Final will be presented for recommendation and adoption. Summit staff can make the presentation or support Town staff to do so, as desired.

Assumptions and Exclusions

- Traffic counts and traffic impact analysis are excluded
- Zoning Map amendments are excluded
- It is assumed that all planning processes will be conducted in accordance with State and local laws

Client Responsibilities

It shall be the responsibility of Town staff to:

- communicate promptly and regularly, including reviewing draft documents for comment in a timely manner
- provide public notice as appropriate in accordance with State and local laws
- draft ordinances and resolutions as needed for local adoption of the Comprehensive Plan and Zoning and Subdivision Ordinances
- assist with public meetings and public outreach efforts

ACTIVITY	COST
PHASE I - DATA COLLECTION, ANALYSIS AND COMMUNITY ENGAGEMENT	
Initial Meetings, Detailed Scoping and Planning for Community Engagement	\$800.00
Review of Previous Plans and Additional Documents	\$1,200.00
Leadership Forum	\$800.00
Data Inventory and Research; Existing Conditions and Mapping	\$8,500.00
Public Engagement Strategy #1 - Website and Social Media Outreach	\$2,500.00
Refine and Publish Existing Conditions Report and Community Profile	\$8,500.00
Public Engagement Strategy #2 - Stakeholder Survey	\$2,500.00
Public Engagement Strategy #3 - Facilitated Town Meetings	\$2,500.00
PHASE II - DEVELOPMENT OF THE COMPREHENSIVE PLAN	
Establishing Town Goals, Priorities and Strategic Growth Plan	\$6,500.00
Flesh Out the Plan - Objectives and Strategies	\$10,500.00
Prepare Future Land Use Map and Growth and Development Policies	\$3,500.00
Identify Development Regulations for Revision	\$4,200.00
Write and Compile the Draft Comprehensive Plan	\$8,500.00
Begin Zoning and Subdivision Ordinance Rewrite	\$1,000.00
Public Engagement Strategy #4 - Public Meetings	\$1,000.00
Complete all Edits and Present the Comprehensive Plan for Approval	\$1,300.00
Zoning and Subdivision Ordinance Table of Contents	\$5,000.00
Draft Language	\$37,500.00
Review and Comments/Changes by Town Staff	\$4,500.00
Final Draft Presented to Planning Commission and Town Council for Review	\$2,000.00
Final Presented to Planning Commission and Town Council	\$2,000.00
Subtotal: Comprehensive Planning Services	\$63,000.00
Subtotal: Zoning and Subdivision Ordinance Re-write	\$52,000.00
Total - Services for Comprehensive Plan and Zoning and Subdivision Ordinance Re-write	\$115,000.00



Council Agenda Statement

Item # 10A

Meeting Date: August 23, 2021

Agenda Item: Emergency Ordinance to Enact Town Code Chapter 172 – Welfare, Health and Safety, Regulating Hospitals or Other Medical or Health-Related Facilities

Summary: Councilman Lloyd has requested that Council consider the approval of an emergency ordinance that would enact Town Code Chapter 172 – Welfare, Health and Safety, regulating hospitals or other medical or health-related facilities, as presented. Council considered and denied a different but related emergency ordinance on July 26, 2021.

Note: Per Town Charter § 38.

An emergency measure is an ordinance or resolution to provide for immediate preservation of the public peace, property, health or safety, in which the emergency claimed is set forth and defined in a preamble thereto. The affirmative vote of at least three members of the council shall be required to pass any ordinance or resolution as an emergency measure. Effective July 1, 1994, the affirmative vote of at least four members of the Council shall be required to pass any ordinance or resolution as an emergency measure. In case there shall be a tie among the members of the council, the vote of the mayor, in event of such tie, shall be controlling (1937, c. 44; 1993, c. 479)

Budget/Funding: None

Meetings: None

Proposed Motion: I move that Council approve an emergency ordinance that would enact Town Code Chapter 172 – Welfare, Health and Safety, regulating hospitals or other medical or health-related facilities, as presented.

Approved By: _____

Moved _____ Seconded _____

Cockrell _____ Gillispie _____ Lloyd _____ McFadden _____ Thompson _____

**AN EMERGENCY ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF
FRONT ROYAL, VIRGINIA, TO ENACT TOWN CODE CHAPTER 172 WELFARE,
HEALTH AND SAFETY PROHIBITING ANY BUSINESS LOCATED IN THE TOWN
CORPORATE LIMITS FROM REQUIRING THE COVID-19 VACCINES AS A
CONDITION OF EMPLOYMENT**

WHEREAS, an Emergency Ordinance is being proposed that would prohibit any business or entity from operating in Town limits from requiring its employees, volunteers, members, etc. to receive any COVID-19 vaccines as a condition of employment, membership, etc.;

WHEREAS, an emergency ordinance is appropriate for the immediate preservation of the public peace, property, health or safety;

WHEREAS, the entity that operates the only hospital and the majority of health facilities in town, and is one of the largest employers in the Town, has retroactively stated that all employees must receive one of the available COVID-19 vaccines or be “subject to suspension or termination;”

WHEREAS, although exemptions are available, management of this entity has stated that these exemptions will be “carefully...evaluated.” Several employees have stated to Town Council that they read this to mean that the entity will deny many requests for exemptions that they believe to be valid;

WHEREAS, numerous employees at the same employer have contacted Town Council members to describe a campaign of what they have described as “harassment,” “coercion,” and “undue influence,” including the public sharing of vaccination status among fellow employees, ~~personnel walking through the halls of a facility calling out the names of those who have not received the vaccination, and other egregious acts;~~

WHEREAS, The Belmont Report was written by the National Commission for the Protection of Human Subjects of Biomedical and Behavioral Research. The Commission, created as a result of the National Research Act of 1974, was charged with identifying the basic ethical principles that should underlie the conduct of biomedical and behavioral research involving human subjects and developing guidelines to assure that such research is conducted in accordance with those principles. It remains a reference point for conduct in drug trials;

WHEREAS, of informed consent, Belmont Report states, "An agreement to participate in research constitutes a valid consent only if voluntarily given. This element of informed consent requires conditions free of coercion or undue influence;”

WHEREAS, the Belmont Report defined “coercion” as a situation in which an “overt threat of harm is intentionally presented by one person to another in order to obtain compliance...Unjustifiable pressures usually occur when persons of authority or commanding influence--especially where possible sanctions are involved-- urge a course of action for a subject...[U]ndue influence would include actions such as manipulating a person's choice through the controlling influence of a close relative and threatening to withdraw health services to which an individual would otherwise be entitled;”

WHEREAS, a significant number of employees have stated their intention to leave the facility rather than comply with the mandate, creating the possibility of a mass unemployment event and the additional possibility of shortages at health facilities throughout Town;

WHEREAS, all of these circumstances together justify emergency action by Town Council as an action justified for the immediate preservation of the public peace, property, health or safety;

WHEREAS, in determining the legislative powers of local governing bodies, Virginia follows the Dillon Rule of strict construction. The Dillon Rule provides that municipal corporations possess and can exercise only those powers expressly granted by the General Assembly, those necessarily or fairly implied therefrom, and those that are essential and indispensable. *See, e.g., City of Richmond v. Confrere Club of Richmond, Virginia, Inc.*, 387 S.E.2d 471, 239 Va. 77 (1990).

WHEREAS, Chapter V, Section 18, Paragraph 8 of the Town Charter states that Town Council can “regulate hospitals or other medical or health-related facilities;”

WHEREAS, The power to regulate hospitals and other medical or health-related facilities is expressly granted by the General Assembly to the Town of Front Royal;

WHEREAS, Town Council discussed this topic in work sessions held February 16, 2021, March 8, 2021, June 14, 2021 and July 12, 2021;

WHEREAS, Town Council considered a different but related ordinance on July 26, 2021;

NOW THEREFORE, BE IT ENACTED, by the Town Council of the Town of Front Royal, Virginia, that this emergency ordinance be approved and enacted as Chapter 172

Chapter 172

WELFARE, HEALTH AND SAFETY

Sections:

172-1 LEGISLATIVE AUTHORITY; PURPOSE

172-2 POLICY

172-3 MEDICAL FREEDOM RECOGNIZED

172-3 PENALTIES

172-1 LEGISLATIVE AUTHORITY; PURPOSE

This Chapter is enacted pursuant to the provisions of the Charter of the Town of Front Royal, Virginia, being Chapter 200 of the Municipal Code of the Town of Front Royal, sub - Chapter V therein, § 18, Subparagraphs Eighth, Ninth, and Twenty-Fifth, particularly for the purposes of securing Town inhabitants from contagious, infectious, or other dangerous diseases, promoting or maintaining the security, general welfare, comfort, education, morals, peace, government, health,

~~trade, commerce, and industries of the Town and its inhabitants, not in conflict with the Constitution of the Commonwealth of Virginia, or the Constitution of the United States.~~
regulating hospitals or other medical or health-related facilities.

172-2 POLICY

The residents of Front Royal have a natural right to be secure in their persons and to be free of economic or moral coercion to take actions with which they disagree, including and especially actions that involve the violation of one's person. This principle is at the heart of laws ensuring the free exercise of religion, freedom of speech, and freedom of assembly and association. They are furthermore at the heart of laws prohibiting unreasonable searches and seizures, battery, sexual violence, assault, defamation, and harassment. Our society has yet to carry this principle to its proper extent, particularly with regard to medical practices and interventions, where all persons have a reasonable expectation to informed consent. The Town of Front Royal seeks to ensure the freedom and liberty of its residents and inhabitants in all aspects of their lives, including in matters of health, medicine, and welfare.

172-3 MEDICAL FREEDOM RECOGNIZED

~~(A) It shall be unlawful for any person or entity operating within the Town of Front Royal~~

(A) It shall be unlawful for any hospital or other medical or health-related facility operating within the Town of Front Royal

(1) to fail or refuse to hire or confer any lawful public or generally available benefit or service, including education and medical services or care, to discharge any individual, or otherwise to discriminate against any individual with respect to his or her compensation, terms, conditions, or privileges of employment, because such individual has declined to take any of the vaccines or boosters available for the prevention and / or treatment COVID-19 or any of its mutations known or unknown; or

(2) to limit, segregate, or classify his or her employees or applicants for employment in any way which would deprive or tend to deprive any individual of employment opportunities or otherwise adversely affect his or her status as an employee for the same.

172-4 PENALTIES

An aggrieved party shall be entitled to injunctive relief, and the Town ~~Attorney or his designee~~ shall work with the employer to remediate any such discrimination. Any employer that violates this ordinance shall be civilly liable for attorney's fees, lost wages, benefits, opportunities and other damages that a court of law shall deem appropriate. The Town in its discretion may pursue a claim on behalf of an aggrieved party.

This ordinance shall become effective upon passage.

APPROVED:

Chris W. Holloway Mayor

ATTEST:

Tina L. Presley, Clerk of Council

THIS ORDINANCE was approved at the Regular Meeting of the Town of Front Royal, Virginia conducted _____ 2021, upon the following recorded vote:

Lori A. Cockrell __Yes __No

Jacob L. Meza __Yes __No

Gary L. Gillispie __Yes __No

Letasha T. Thompson __Yes __No

E. Scott Lloyd __Yes __No

Joseph E. McFadden __Yes __No

Approved as to form and legality:

Douglas W. Napier, Town Attorney

Date: ____/____/____



Council Agenda Statement

Item # 13

Meeting Date: August 23, 2021

CLOSED MEETING

Motion to Go Into Closed Meeting

I move that Town Council go into and convene a Closed Meeting for the purpose of 1) 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, the impact of the changes to the marijuana laws in Virginia on the Town's hiring and employment practices and policies, pursuant to Section 2.2-3711. A. 8. of the Code of Virginia, and 2) the discussion or consideration of the disposition of publicly held real property, specifically, the conveyance of the Town's interest in real property located outside of Town limits 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. of the Code of Virginia, and 3) the discussion or consideration of the assignment, promotion, performance, demotion, salaries, disciplining and/or resignation of the Town Attorney of the Town, pursuant to Section 2.2-3711. A. 1. 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 Action 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

Moved _____ Seconded _____

Cockrell _____ Gillispie _____ Lloyd _____ McFadden _____ Thompson _____