

The regular meeting of the Town Council of the Town of Front Royal, Virginia was held on December 1, 2014, in the Warren County Government Center's Board Meeting Room. Mayor Darr led Council and those attending in the Pledge of Allegiance to the flag and a Moment of Silence. The roll was called at 7:00 p.m.

**PRESENT:** Vice Mayor N. Shae Parker  
Councilman Eugene R. Tewalt  
Councilman Daryl L. Funk  
Councilman Bret W. Hrbek  
Councilman Thomas H. Sayre  
Councilman Hollis L. Tharpe  
Town Manager Steven M. Burke, P.E.  
Town Attorney Douglas W. Napier  
Clerk of Council Jennifer E. Berry, CMC

**ABSENT:** Mayor Timothy W. Darr

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

**COUNCIL APPROVAL – Avtex Rezoning** (2<sup>nd</sup> Reading)

**Summary:** Council is requested to consider on its second and final reading a Rezoning Application RZ14-10-71 was submitted by the Industrial Development Authority (IDA), conducting business as the Economic Development Authority (EDA), for the conditional rezoning of Tax Map #20A1-3-7 from the I-2 (Industrial Employment) District to the MCD (Mixed-Use Campus Development) District. The property consists of approximately 147 acres, located generally beside and behind 400 Kendrick Lane, to the east of the Norfolk Southern Railroad, to the west of Randolph Macon Academy, south of Kendrick Lane, and north of Skyline Soccer Plex. The application includes a concept plan for the development of approximately 30 acres, consisting of a mixed use campus development, including offices, retail, and potentially other commercial and light industrial uses. A proffer is submitted with the application that initially limits development beyond the 30 acres until a traffic study and concept plan is submitted for the 147 acres.

*Councilman Funk moved, seconded by Councilman Sayre that Council approve on its second and final reading a Rezoning Application RZ14-10-71, as submitted by the IDA, including acceptance of the submitted proffers, for the conditional rezoning of the property identified as Tax Map #20A1-3-7, consisting of approximately 147 acres, from the I-2 District to the MCD District.*

Councilman Hrbek asked that they could work perhaps work to finish the extension of the road as soon as possible. Councilman Funk reiterated his comments pertaining to safety and traffic which he had made public before. Councilman Sayre asked for bike lanes. Councilman Tewalt asked that the item be passed rather than be held up on minor issues.

Vote: Yes – Funk, Hrbek, Parker, Sayre, Tewalt and Tharpe  
No – N/A  
Abstain – N/A  
Absent – Darr

(By Roll Call)

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There being no further business, the Mayor declared the meeting adjourned at 7:04 p.m.

APPROVED:

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Jennifer E. Berry  
Clerk of Council



## TOWN COUNCIL WORK SESSION MINUTES

Monday, December 1, 2014  
to be held immediately after the Special Meeting  
Front Royal Administration Building

### 1. Write Off for Bad Debt – *Director of Finance*

**Summary:** The Finance Department presented a policy in October of 2012 for adoption that will help accommodate the request of the Towns' auditors to remove some of the outstanding accounts receivable on the Town's ledger. This is the annual process to formally remove the accounts receivable from the Town's Balance sheet, a copy of the policy as approved is attached.

**Staff Evaluation:** The Finance department has attached a spreadsheet that will provide detailed information for removal of bad debt 7 years or older. The total dollar value is \$144,049.31 [to be removed from electric, water, sewer, solid waste and general fund] liability accounts. This dollar value includes 298 utility and miscellaneous billing accounts.

**Budget/Funding:** No funding is needed, this journal entry will effect balance sheet lines only.

**Staff Recommendations:** Finance Department would like for Council to approve the removal of these bad debts and continue the process in the future.

**Council Discussion:** Councilman Tewalt asked if it could be attached to Virginia State income tax. Mrs. Breeden noted that they do that, and they generally collect a bit from that each month. Mr. Tewalt further asked how to track those that establish accounts in various individuals names. Mrs. Breeden stated that they do track in many ways and do so extensively. She added that they may go so far as to request a copy of a lease for all rentals.

Councilman Hrbek asked about those that are clustered at certain apartment complexes, and whether they could attach it to the apartment building. Mrs. Breeden noted that they would have to clear it with the Town Attorney. Mr. Hrbek stated that it appeared that certain landlords seemed to be creating ongoing issues with some apartments.

Vice Mayor Parker asked about accounts that have extensive debt, such as \$5,200. Mrs. Breeden noted that there are cases where a large leak occurs, for example, where a large bill can take place in a relatively short period of time.

Councilman Hrbek asked whether all of the accounts are rentals. Mrs. Breeden noted that some were foreclosures, though most on the list were rentals. He further asked about disconnecting for non-payment in the winter. Mrs. Breeden stated that they turn off in the winter.

Councilman Tharpe asked what other jurisdictions may be doing. Mrs. Breeden noted that they have checked with other localities and they do what other towns do, including asking for letters of credit.

Councilman Sayre asked if they are tracked through real estate closes. Mrs. Breeden noted that liens are not placed on the property, so that does not occur.

Council voiced support of the placing the matter on the agenda.

## **2. Catlett Mountain Landfill Fencing Repairs – *Town Manager***

**Summary:** This Catlett Mountain Landfill is owned and was once operated by the Town of Front Royal and the County of Warren. The site was fenced a number of years ago to keep out trespassers and limit damage by 4-wheelers. However, the fence has been breached in several locations. The County received bids to either repair the existing American Wire fence or to replace it with a more secure 6 foot chain link fence. Based on the estimated costs the County has recommended accepting the low bid of \$3,800 to have the fence repaired. This item was discussed at the November 20, 2014 Liaison Committee Meeting.

**Council Discussion:** Councilman Tharpe noted that it had to be repaired. Councilman Tewalt asked if the fence area was normally monitored. Mr. Stanley stated that they attempt to monitor the site on occasion, though at times four wheelers have been in the area at certain times. He noted that they looked into a chain link fence with barb wire, though it was very expensive. Mr. Stanley stated that surveillance cameras were on the site at one time, and a new access road was in place, so visiting the site would be easier.

Councilman Sayre asked if four wheelers could eventually be an option on the site. Mr. Stanley stated that the ATV's would do more damage, though perhaps hikers could eventually be on site.

Council voiced support of moving the request forward.

## **3. Continued Discussion of Planning Commission Recommended Updates to Town Code**

### **Chapters 148, 156, and 175 – *Director of Planning/Zoning***

**Summary:** This agenda topic is broken down into two parts. Part A is discussion and update of revisions made to address the three comments made by Town Council during the October 20<sup>th</sup> worksession regarding the DRAFT update of the Subdivision and Land Development Ordinance (Chapter 148). Part B is information added regarding corner lots, as included in the DRAFT update of the Zoning Ordinance (Chapter 175).

Part A: During the October 20, 2014 Town Council Worksession, the following three changes were discussed by Town Council:

- ✓ Eliminate 32' wide roads;
- ✓ Increase the minimum surface course pavement depth to 1 ½";
- ✓ Add requirement that buildings have to be elevated at least 2' above the centerline street grade.

Attached with this coversheet are draft revisions intended to address Town Council's comments. The first comments above could be addressed with changes to the table under 148-820.D The last comment, regarding the elevation above the centerline, necessitated a new section and new text.

Part B: Additionally included with this coverpage is information regarding corner lots, as drafted under Chapter 175, as discussed by Town Council during the worksession on November 24th. This information was requested by Councilman Tewalt during the November 24<sup>th</sup> worksession.

When Council's questions/concerns are adequately addressed, Town Staff would recommend scheduling a public hearing for the draft amendments of Chapter 148, Chapter 156 and 175.

**Council Discussion:** Councilman Tewalt and Councilman Tharpe discussed the issues that individuals that face on homes that are below the street grade that have drainage issues. Mr. Tewalt stated that he was attempting to protect the citizens with an ongoing issues with those buying homes below street levels.

Vice Mayor Parker noted that it appears that "where" the front ground finished floor elevation would clarify Mr. Tewalt's concerns in Part A.

Councilman Sayre asked who signed off on the Part B requirements. Mr. Burke noted that Staff reviews it and then Council approves the acceptance of the roadway into the Town's system. Councilman Tewalt asked about the completion of a road from a developer. Mr. Camp stated that the bonding requirements specify a year, though it can be extended. He noted that it can be extended by Council and the Planning Commission. Mr. Tewalt noted that he did not want individuals buying a new home and then driving on a poorly set up roadway for years because they developer does not finalize the road.

Council asked that no public hearings be held until February, and that they be held at separate meetings. Mr. Camp suggested that the subdivision ordinance move forward first.

*Mayor Darr arrived at 7:47 p.m.*

Councilman Tewalt asked about listing the addresses with the front of the home always with the address, as Mayor Darr had suggested at the last meeting. Mr. Tewalt expressed concern with the shortest side wording, as it did not appear to be clear, as presented.

Councilman Funk noted that there could be a potential situation with certain circumstances, and for that reason he would like the option in place to have the matter go to the Planning Commission for a special circumstance, should one arise. Councilman Sayre suggested that a variance be filed with the BZA, Mr. Tewalt noted that they could. Mr. Camp stated that was correct.

Mr. Burke asked if the Town could say: "The front shall be identified on the site plan." Mayor Darr asked that the matter come forward in the worksession with Mr. Burke's suggestion, after he and Mr. Camp discuss the matter.

#### **4. Warren County Middle School Rezonings – Director of Planning/Zoning**

**Summary:** Attached with this coversheet is a Staff Report and several attachment associated with the two rezoning applications submitted by Warren County and the IDA or the rezoning of property

they own from the A-1 and R-S Districts to the R-1 District. The intent of the rezoning is to accommodate the development of a future middle school at the property, which is located at the future intersection of Leach Run Parkway and Happy Creek Road.

Separate public hearings and actions of Town Council are required for the two applications after a public hearing is held. As with all rezoning applications, a 1<sup>st</sup> and 2<sup>nd</sup> reading is required.

**Staff Recommendations:** Staff's comments are documented on the attached staff report. The Planning Commission recommended approval of the rezoning application, conditional that an appropriate traffic signalization agreement is made for the cost of constructing a signalized intersection at the proposed bus loop road and Happy Creek Road.

Councilman Sayre submitted the following disclosure:

Pursuant to VA Code Sections 2.2-3112.A.2 and 2.2-3115.h, I disclose that my wife and I own real estate, in common with many other real estates in that general area, may be affected one way or the other by the future Warren County Middle School, to be located at the future intersection of Leach Run Parkway and Happy Creek Road, and by the rezonings of said future Middle School property applications submitted by the County of Warren and the EDA to be acted upon by the Town Council of Front Royal. After full disclosure of all relevant facts and consultation with the Town Attorney, I declare that I am a member of a group which is affected by the transaction encompassed by the rezoning action by the Town of Front Royal, that legally and appropriately I may and will participate in these rezoning transactions because the group affected by these rezoning transactions consists of three or more members, and that I am able to participate in the rezoning transactions fairly, objectively, and in the public interest.

**Council Discussion:** Council expressed concern with individuals crossing the four-lane roadway without a stoplight. Mr. Tewalt noted that he had vast issues with the portion of Happy Creek Road that was not developed; the double "s" turn. He stated that though we may encourage people to use the Parkway, some will use Happy Creek Road, and safety was a huge issue. He and Vice Mayor Parker suggested an additional proffer, perhaps. Councilman Tewalt expressed safety issues were his main concern. Councilman Sayre noted that he agreed fully with Mr. Tewalt. Mr. Tewalt noted that we should not put it in the CIP, as then it states that the burden would be on the taxpayers of Front Royal. Councilman Hrbek stated that such a similar issue had already taken place on John Marshall Highway with that school.

Vice Mayor Parker noted that it needed to be a joint effort, to include the technology park increase as well. Mr. Camp stated that the Planning Commission issue was that the impacts of the school would warrant a traffic signal.

Mr. Stanley, County Administration, stated that they would not be adding more bus traffic to the roadway. He noted that the site would actually cut traffic off, and be using Leach Run Parkway. He expressed agreement with Mr. Tewalt, that the road had been in the plans for many, many years.

Mr. Stanley stated that bus traffic must be separate from parent traffic. He noted that they had to obtain additional property to make the school site work with the bus traffic work. He noted

that the School Board is going through final stages of plan review, with work to begin in March or April. He noted that this far in the process, it was disingenuous to begin roadway discussion at this point.

Councilman Tewalt noted that as soon as the school is built, the issue would be the problem would become the Town's and he did not wish to see that occur. Mayor Darr noted that it would certainly be a burden, and he agreed with Mr. Tewalt.

Mayor Darr noted that the road issues would fall on the Town and that concerned him greatly. He suggested that the Town follow through with Mr. Tewalt's suggestion, to have all meet, however; insert language that does not hold up the process for the IDA and the School System. Mr. Stanley noted that they were paying a large share of Leach Run Parkway. Mr. Tewalt voiced his strong disagreement with Mr. Stanley.

Mr. Stanley noted that in a rezoning application, with a locality, you are able to demand or impose road conditions that are generated by the application. He stated that many of the trips into town would be stopped when they went to the Middle School, rather than all the way into town, as they are now.

Mr. Burke noted that perhaps VDOT be contacted in order to evaluate the traffic study and look into the Phase Two section that is allocated towards Town projects. He added that he mostly agreed with the matters as Mr. Stanley's stated.

Councilman Hrbek asked which neighborhoods would go to this school. Mrs. McInnis noted that mainly it would be LFK and HJB students that would attend the Leach Run Middle School.

Councilman Tewalt expressed hope that the three government entities could sit down to work out the issues that this school installation can bring. He asked everyone to visualize the large picture. Mayor Darr agreed with Mr. Tewalt, adding that the process does not need to be stopped, but the discussions need to take place.

## **5. Consideration of Adoption of Guidelines for Public-Private Partnerships under the PPEA**

— *Town Attorney*

**Summary:** The Public-Private Education Facilities and Infrastructure Act of 2002 (the "PPEA") grants responsible public entities ("RPE") the authority to create public-private partnerships for the development of a wide range of projects for public use if the public entities determine there is a need for the project and that private involvement may provide the project to the public in a timely or cost-effective fashion. The PPEA defines "responsible public entity" to include any public entity that "has the power to acquire, design, construct, improve, renovate, expand, equip, maintain, or operate the applicable qualifying project." Individually negotiated comprehensive agreements between an operator and a responsible public entity will define the respective rights and obligations of the responsible public entity and the private operator.

In order for a project to come under the PPEA, it must meet the definition of a "qualifying project." The PPEA contains a broad definition of qualifying project that includes public buildings and facilities of all types; for example:

- (i) Not applicable to the Town, but if it was, any education facility, including, but not limited to a school building, any functionally related and subordinate facility and land to a school building (including any stadium or other facility primarily used for school events), and any depreciable property provided for use in a school facility that is operated as part of the public school system or as an institution of higher education;
- (ii) Any building or facility that meets a public purpose and is developed or operated by or for any public entity;
- (iii) Any improvements, together with equipment, necessary to enhance public safety and security of buildings to be principally used by a public entity;
- (iv) Utility and telecommunications and other communications infrastructure;
- (v) A recreational facility;
- (vi) Technology infrastructure, services, and applications, including, but not limited to, telecommunications, automated data processing, word processing and management information systems, and related information, equipment, goods and services;
- (vii) Any services designed to increase the productivity or efficiency of the responsible public entity through the use of technology or other means;
- (viii) Any technology, equipment, or infrastructure designed to deploy wireless broadband services to schools, businesses, or residential areas;
- (ix) Any improvements necessary or desirable to any unimproved locally- or state-owned real estate; or
- (x) Any solid waste management facility as defined in Va. Code § 10.1-1400 that produces electric energy derived from solid waste.

The PPEA establishes requirements that the responsible public entity must adhere to when reviewing and approving proposals received pursuant to the PPEA. In addition, the PPEA specifies the criteria that must be used to select a proposal and the contents of the comprehensive agreement detailing the relationship between the responsible public entity and the private entity.

In particular, Va. Code § 56-575.3:1, attached, states that prior to entering into a PPEA agreement, the RPE must have adopted publically available guidelines, or policy, that enable the RPE to comply with the PPEA. This statute sets forth in detail the factors that must be placed in the guidelines in order to comply with the PPEA. The attached guidelines are an amalgamation of several guidelines from different jurisdictions in an attempt to select what seem to be the most comprehensive, flexible, and advantageous to the Town in entering into a contract with a private entity if a PPEA project is selected.

Council is requested to consider whether or not it wants to adopt the Town's official policies, or, guidelines, prior to its considering proposals by private entities to enter into public-private partnerships with the Town in order to finance, build and equip "qualifying projects."

**Staff Evaluation:** Adoption of PPEA guidelines will give the Town greater flexibility in financing, in a cost-effective and timely basis, a wide variety of public projects that could be of considerable benefit to the citizens of the Town, by allowing the Town to consider proposals by private entities who might be willing to finance and/or construct the public facilities in partnership with the Town.

**Staff Recommendations:** Staff recommends that Town Council consider adoption of PPEA guidelines as a tool that Town Council would have available to finance a wide variety of public projects, should the Town be able to partner with private entities to finance and construct these public projects.

**Council Discussion:** Mr. Napier stated that it could be posted on the Town's website to be available for all those in search of the matters. He added that it does not bind the Town under such strict bidding, and the Town can take into consideration value.

Councilman Tewalt stated that his understanding that proposals come in, at no cost to the Town. The Town must advertise the matter for 45 days, and at the end of the time period, the proposals are reviewed. He stated that a company is chosen, and then it eliminates change orders and issues with the process. Mr. Tewalt noted that it would save the Town a great deal of money over the long run. Councilman Hrbek expressed his support of Mr. Tewalt, adding that he would like the matter to move forward quickly to have it used for the Town's new Police Building. He added that eventually it would like it in the Town Code.

Mayor Darr stated that the item should have the documents and policy in place then they do not have the tool in their tool box. He noted that there are specific criteria that need to be met, and that is where the Town Attorney comes in with his expertise.

Council voiced their support of the matter as presented.

#### **6. Budget Amendment for Acceptance of Pledge from Councilman Sayre**

**Summary:** Acceptance of pledge from Thomas Sayre to assist with Holiday Luncheon for employees. Acceptance of pledge to increase the FY15 budget for Town luncheon.

**Staff Evaluation:** \$200.00 pledge was received by Councilman Sayre to assist with the funding of the Annual Holiday luncheon in December 2014. This increase in both revenue and expense needs to be accepted with a budget amendment.

**Budget/Funding:** 1000-3189902 [Private Donation]  
1202-3029 [HR – Staff Development]

**Staff Recommendations:** Staff recommends acceptance of pledge to assist with the annual expenses for the Holiday luncheon.

**Council Discussion:** Mayor Darr noted that it would go on the Consent Agenda.

#### **7. Waiver of Curb, Gutter and Apron for Habitat for Humanity – Councilman Funk**

Mayor Darr withdrew from the discussion on this matter.

Vice Mayor Parker stated that perhaps they could include wording to reflect that a lien on the property regarding the curb and gutter.

#### **8. Council Discussion/Goals**

Councilman Tewalt asked about the dilapidated buildings. Mr. Napier stated that it was being looked into. Mr. Tewalt asked if it could go onto the next agenda if at all possible.

Councilman Tharpe asked about bumping up the starting pay for employees. He expressed concern with the lower paid employees tossing trash on the refuse trucks.

## **9. Closed Meeting – Urban Forestry Advisory Commission**

### **Motions to Go Into Closed Meeting**

Vice Mayor Parker moved, seconded by Councilman Sayre that Council convene and go into Closed Meeting for the purpose of assignment, appointment, promotion, performance, demotion, salaries, disciplining, or resignation of specific public officers, appointees, or employees of a public body, specific to Urban Forestry Advisory Commission, pursuant to Section 2.2 3711. A. 1. of the Code of Virginia.

Vote: Yes – Funk, Hrbek, Parker, Tewalt, Tharpe and Sayre

No – N/A

Abstain – N/A

Absent – N/A

(Mayor Darr did not vote as there was no tie to require his vote)

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### **Motion to Certify Closed Meeting at its Conclusion**

Vice Mayor Parker 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 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.

Vote: Yes – Darr, Funk, Hrbek, Parker, Tewalt, Tharpe and Sayre

No – N/A

Abstain – N/A

Absent – N/A

(By Roll Call)

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**Present:** Mayor Darr *arrived at 7:47 p.m.*, all Council  
Staff:

**Absent:**