



TOWN COUNCIL WORK SESSION MINUTES

Monday, March 3, 2014 @ ~~6:30pm~~

Due to Snow the Worksession was

RESCHEDULED TO: Tuesday, March 4, 2014 @ **7:00 pm**

Front Royal Administration Building

1. CLOSED MEETING – Personnel Matter (Community Development Director Position)
w/ the Economic Development Committee
Removed

2. Waiver of Sidewalk Requirement on W. 15th Street – Doug Boyd – *Director of Planning/ Zoning*

Tharpe noted that several members of Council toured the site and with no other parcels containing sidewalks it would appear to be a no brainer that it would be inappropriate to have Mr. Boyd place sidewalk on his property

Mayor Darr noted that installation of the sidewalks would reduce the yard of the other properties as well

Burke stated that with the removal of the former Middle School in the neighborhood

Funk – he would agree with those sentiments

Sayre – it is unfortunate that the area does not have sidewalks

Consent agenda

3. AMP Comverge Demand Response Program – *Director of Energy Services*

Summary: For several years AMP has offered and managed enrollment in the PJM's demand response program for member utilities. PJM has changed the rules, which requires participants to commit to 3 years in advance with penalties. This 3-year advance commitment has discouraged retail customers from participating.

AMP recently entered into a contract with a third party Curtailment Service Provider (CSP), Comverge to allow member communities to partner with AMP and Comverge to enroll retail customers into the PJM demand response program.

Staff Evaluation: This program will allow the Town of Front Royal to offer our commercial customers an opportunity to enroll into the PJM demand response program. This program provides revenue to both the Town and the commercial customer, maintains existing long-term marketing relationships, and potentially hedges against some auction risk.

Staff Recommendations: Staff supports and recommends the participation in the demand response program. Staff recommends that council consider the draft schedule and ordinance at a future council meeting for approval and participation in the program.

Council Discussion: Waltz - Comverge is bidding into the market and then divies out the money and he will monitor the revenue

Involve any Staff time – cost more?

Waltz - Just administrative, though it is a good thing to have it out speaking with commercial contacts in the community

Darr – definitely get the EDA in the loop to let them be aware of the program that could assist them with long time costs

Sayre – asked about hypothetical of how it works

Waltz – Martins could bid their generator to reduce their load down by 500kW and they work it down with Comverge – the Town is not involved

Martins then within two hours – they have to reduce their load within those two hours

Funk – this is something that the Town must do with Comverge or some other entity

Waltz – we are trying to be proactive to make certain our customers are not being used and abused

If we get the program running and participation is good, then it would benefit us for years to come....it helps retail customer, helps the Town, helps the power generator

Waltz – January was a landmark month for the Town

Three polar vortexes in January – power bills were 2-4 times higher for some

Lot of transmission

Calvert Cliffs in MD tripped offline – that night, close to losing power throughout the eastern seaboard

Tewalt - What about more electric production

Waltz – AMP is working on resolutions to assist municipalities to address that matter

Resolution on next agenda

4. Johnny Blue Toilet Systems Waste Disposal Request – *Town Manager*

Summary: The Town has received a request from Kristen Bush with Johnny Blue Toilet Systems that the Town consider establishing a rate agreement with their firm to treat septage received from the South Fork Bridge Project. The Town currently charges \$25 per 1,000 gallons and the County charges \$75 per 2,000 gallons. Based upon their contract, the firm will be hauling approximately 500 gallons of septage from the bridge project.

Council is requested to consider reducing the disposal fee for septage associated with the South Fork Bridge Project.

Staff Evaluation: The County Administrator has indicated that the County will not consider waiver of their fee. In addition, the Town will be initiating improvements at the Wastewater Treatment Plant this year that could ultimately affect the cost for septage treatment.

Recommendations: Staff recommends that Council not establish an agreement for a reduced treatment fee for septage from the South Fork Bridge Project.

Council Discussion: Council noted that if you began with one hauler then we would have to reduce for others. They directed that the Town Manager send a letter noting that the Council was not in agreement to amend the rate.

5. Continued Discussion on Ordinances to Repeal Fireworks Display Permits & Blasting Storage – *Town Manager*

Summary: Warren County has amended Chapter 96 regulating the storage and display of fireworks and established oversight by the Fire Marshal. The County's Amendment includes the approval of the Town Manager for storage and display of fireworks in the Town limits. Staff have developed Amendments to Chapter 80 of the Town Code to conform with the new County regulations.

Council is requested to consider the proposed Amendment to Chapter 80 regulating the storage and display of fireworks within the Town limits.

Staff Evaluation: The proposed Amendment to Chapter 80 defers permit approval to the Warren County Fire Marshal. At the October 21st Work Session, Council requested that staff confirm that the Ordinance Amendment comply with both the County and State fireworks regulations.

Staff Recommendations: Staff recommends that Council consider amending Chapter 80 of the Town Code as proposed.

Council Discussion: Funk asked the prohibitions section should contain "or successor provision"...Napier noted that it could be included. He also asked if the fireworks list needed to be noted. Burke stated that it allowed the layperson a quick reference Funk suggested it state "the list but not included"

Sayre asked about sparklers

Burke noted that sparklers were a defined exception

Council discussed the difference in misdemeanors 1 & 3
Chose to change it to a 1 to 3 misdemeanor

6. Sale of Parking Lot for Future Police Department – *Town Attorney*

Summary: The Economic Development Authority ("EDA") has agreed to sell 5.24 acres of the former Avtex property on the north side of Kendrick Lane to the Town for the future headquarters of the Police Department. It is my understanding that all the holders ("stakeholders") of the Conservation and Environmental Protection Easement and Declaration of Restrictive Covenants dated November 23, 1999, they being the Valley Conservation Council, the EDA, U.S. Dept. of Justice, the Lord Fairfax Soil and Water Conservation District, FMC Corporation, and Honeywell, have all signed a Concurrence to this sale, clearing the way for the Town to purchase this site.

The Contract to Purchase calls for a purchase price of \$36,680.00 (\$7,000.00 per acre), with an earnest money deposit of \$1,000.00 to be credited toward the purchase price; a deed of special warranty (meaning the EDA warrants that it has good title to the property—I suggest that the Town obtain title insurance in addition); that the Police headquarters will allow "emergency, non-recurring sleeping quarters due to snow or other emergency events, for Police Department staff only"; and that closing on the property and payment of the purchase price will occur within 60 days following the date of the Contract.

Town Council should decide if the terms of this Contract are acceptable, so that if it is, the Contract can be signed and forwarded to the EDA for its execution, and then title work and closing can be performed.

Staff Evaluation: This is the site recommended for the Police Headquarters by the Town's consultant; and the purchase price seems quite reasonable. The Contract of Sale appears to be in good legal form, and satisfactory to protect the interests of the Town.

Budget/Funding: The purchase price is \$36,680.00, of which \$1,000.00 is due up front when the Contract is signed by the Town, and the balance due at closing. There will be costs for title insurance, survey costs, recordation costs, costs for the preparation of the deed, and costs for any environmental investigation of the property the Town might wish to perform prior to closing (I don't claim to be an expert, but it is my understanding the property on the north side of Kendrick Lane was never substantially contaminated, so this might not be a concern).

Council Discussion: Mr. Napier noted that all stakeholders agreed and have no objection for the future Police Headquarters; he added that they all have agreed for emergency sleeping quarters there for personnel. Mr. Napier stated that the site is clear and we are good with moving forward with the expenditure and the acquisition.

Mayor Darr stated that he would like to fast-track the purchase of the property. Councilman Funk asked about an environmental impact study for the property. Mr. Burke stated that it has had significant testing to clear the site, and note that it should not be included in the superfund site. Councilman Tewalt stated that it has been fully released from the contaminated portions across the street.

7. Front Royal Limited Partnership Voluntary Settlement Agreement – *Town Attorney*

Summary: On August 12, 2013, Town Council approved the draft 3-party Voluntary Settlement Agreement (VSA) with the Board of Supervisors and the Front Royal Limited Partnership (FRLP), for the annexation of 604.76 acres of undeveloped land into the Town. On January 6, 2014, the Commission on Local Government (COLG) issued its report and recommendations regarding the proposed annexation, and noted that, in the opinion of COLG, under the terms of Va. Code § 15.2-3400 which governs voluntary settlement agreements, the VSA must be between the County and the Town, and cannot include FRLP as a party. The Town Attorney and County Attorney drafted a revision to the VSA last November, making it a 2-party agreement, and including all the same terms as the 3-party agreement. The COLG noted at its January 6, 2014 meeting, that it had reviewed the revised VSA and its recommendation of approval of the annexation is based on that revised 2-party agreement.

However, both the Town Attorney, the County Attorney, and the attorney for FRLP continue to have significant reservations if FRLP can legally be excluded as a party to this VSA, as the underlying Annexation Petition which gives rise to the VSA was filed by FRLP and therefore, the parties feel that FRLP may be a necessary party to the VSA and the subsequent annexation suit. Further, the Town's Planning and Zoning Director has pointed out the difficulties in the Town attempting to collect monetary and other proffers on behalf

of the County under the VSA if FRLP is not a party to the VSA, and if the VSA is not binding on FRLP and its successors in interest.

The change from the 3-party agreement approved by Town Council last August to a 2-party agreement is simply that the VSA is to be between the Town and the County (FRLP is not to be a party). The edited 2-party VSA is attached. The VSA rewords the proffer provisions simply to say that the Town will not approve any rezoning for any part of the FRLP property unless FRLP makes the same proffers on cash contributions to the County, the cap on total number of market rate housing units, and the minimum size of the units that were included in the original 3-party VSA.

To move forward with the proposed annexation, the Town and County and the Town should approve the VSA, by Ordinance, after a public hearing. The Town has proposed that each governing body approve both the 3-party agreement and the revised 2-party agreement (the County has already approved both VSAs). In that manner, both VSAs can be submitted to the Special Annexation Court, in the alternatives, and the Court can approve whichever version it feels appropriate.

The terms of both versions of the VSA include the following:

- 604.76-acre site, north of Happy Creek Road, will be boundary adjusted into the Town limits, initially zoned agricultural under the Town Zoning Ordinance.
- FRLP may in the future apply for rezoning to allow for residential and/or other uses.
- Town will not approve any rezoning resulting in more than 818 “market rate” houses, defined as houses capable of housing persons of age 55 and younger.
- Detached market rate houses will be a minimum of 1,600 square feet in size. No minimum size for attached units (duplexes) or multi-family units.
- FRLP proposes to offer approximately 56 acres of land to County for school, park, open space or other governmental use. County not obligated to accept any or all of it.
- Town will not approve any rezoning with cash proffers to County of less than:
 - \$8,750 per unit at time of occupancy permit for first 409 units built.
 - \$16,250 per unit at time of occupancy permits for units 410 – 818.
- Amount of cash payment will be adjusted pursuant to Consumer Price Index beginning 2 years after Court approves agreement, up to a maximum adjustment of 2% per year.
- Value of land dedications to County (as determined by average of 3 appraisers) will reduce amount of cash payments on a dollar-for-dollar basis.
- Town will allow FRLP to extend public water and sewer facilities into the site at FRLP’s expense.
- County and FRLP will endorse expansion of the Town’s electric service into the site.

- Town and County will amend their Comprehensive Plans to show the proposed future development of the site to include the market rate housing, age-restricted housing, and commercial uses.
- County and Town will dedicate needed right-of-way for connection of East-West Connector Road to Commerce Avenue. If any current public facilities require relocation, FRLP shall pay for such relocation.
- Town will use its best efforts to consider approval of any requested rezoning of site (or parts of site) within 12 months of application.
- All parties agree to submit agreement to COLG and Special Annexation Court for approval.
- Town will support FRLP applications for public funding to assist in construction of East-West Connector Road.
- Agreement terms shall be binding for the later of 25 years or complete build-out of project.

The proposed Ordinance to approve both versions of the VSA as alternatives is attached. If Town Council approves the VSAs, the next step in the annexation process will be for the Town and County to jointly petition the Circuit Court for approval of the appropriate VSA and the annexation. The Circuit Court Clerk must then notify the Supreme Court of Virginia of the filing of the petition, and request the Supreme Court to designate a special 3-judge panel to hear the petition.

Council is requested to consider approving the 2-party (Town and County as parties) VSA in the alternative to the 3-party VSA (Town, County, FRLP) to conform to COLG's recommendation, so as to cover all the legal bases when this matter comes before the Special Annexation Court.

Town Manager Recommendation: The Town Manager concurs with the recommendation of the Town Attorney and the Town Planning and Zoning Director.

Council Discussion: public hearing would soon be held on March 24th
Mr. Camp added that if the court added the two party agreement – the Town could discuss a boundary agreement with the County of Warren

8. Liaison Committee Meeting Items for March 20th Meeting

January 2014 ITEMS:

1. Law Enforcement at the Skate Park
2. Catlett Mountain Landfill Improvements
3. Leach Run Parkway Project
4. Waste Water Treatment Plant/Septage Receiving Facility
5. South Fork Bridge Lighting, Agreement for Installation/Maintenance
6. Blue Ridge Shadows Proffer Amendment Request
7. Route 340/522 Corridor

8. FRLP
9. Proposed Park-N-Ride Location
10. Riverton Substation (Warren County Plan Review Update)
11. Property Boundary Adjustment Process

9. Virginia Maintenance Code — *Vice Mayor Parker*

Removed until Mr. Parker is present.

10. Council Discussion/Goals

TEWALT - Commerce Avenue trail area – want it removed as soon as possible

TEWALT – rentals being checked on

TEWALT – right of uses in that area, remove certain businesses that

Commerce, South, Royal, 14th & Shenandoah

Restaurant on 14th, now it is going to be a geriatric place

Another restaurant site is going to be a loan place – these places are not generating any tax dollars

FUNK – agree with the idea, though if the businesses were not able to find a spot, then that can hinder as well.

Also a hinderance to have empty store fronts

DARR – send the idea to the economic committee, Tewalt agreed

He asked Burke to write up a summary and send it to Eco Committee

Berry asked Burke to forward to her and she would place it on their agenda for March 17th

ABSENT – PARKER & HRBEK

STAFF – Burke, Berry, Napier, Shifflett, Camp, Waltz