



TOWN COUNCIL WORK SESSION

Monday, October 20, 2014 @ 7:00pm
Front Royal Administration Building

Town/Staff Related Issues:

1. Purchase of Police Vehicles – *Chief of Police*
2. FY16 MAP21 Grant Application Proposal – *Director of Planning/ Zoning*
3. Public Private Partnerships – *Town Attorney*
4. Continued Discussion of Amendments to Chapter 148 – *Director of Planning/ Zoning*

Council/Mayor Related Items

5. UFAC Terms Expiring
6. Council Discussion/Goals (*time permitting*)

Item No. 1

Town of Front Royal, Virginia Work Session Agenda Form

Date: October 20, 2014

Agenda Item: Purchase of Replacement Police Vehicles

Summary: Request is being made for the purchase and replacement of five vehicles to be used in the Patrol and Administration Divisions within the Police Department. Two 2015 Ford Interceptor Utility vehicles would replace a 2008 Ford Crown Victoria cruiser and a 2001 Ford Expedition that are currently assigned to the Patrol Division, each having over 125,000 miles. Three 2015 Chevrolet Impalas would be assigned to the Administration Division and would replace two 2006 Ford Crown Victoria's, each having over 150,000 miles. The third Chevrolet Impala would replace a 2013 Ford Explorer, currently assigned to the Chief of Police. The Ford Explorer would be transferred to the Drug Task Force, to replace a 2002 Jeep Liberty, which will be removed from the Police Department fleet.

Council Discussion:

Staff Evaluation: See attached documents for vehicle purchase and equipment costs

Budget/Funding: The total cost associated with the purchase and equipment for the five vehicles totals \$135,857.00. The funding is as follows: \$58,318 in the Motor Vehicles budget (Acct. # 47005) and \$77,539 in the Asset Forfeiture account previously allocated for the purchase of three police vehicles. The initial purchase price of each vehicle was obtained from the current Virginia State Contract and includes the needed options allowed under the contract.

Legal Evaluation:

Staff Recommendations: Request Approval

Town Manager Recommendation:

Council Recommendation:

☐ Additional Work Session ☐ Regular Meeting ☐ No Action
Consensus Poll on Action: ___(Aye) ___(Nay)

Work Session



TOWN OF FRONT ROYAL

POLICE DEPARTMENT
23 EAST JACKSON STREET
FRONT ROYAL, VIRGINIA 22630-1560

NORMAN SHIFLETT
Chief of Police
(540) 635-2111
(540) 635-6160 (Fax)

To: Kim Gilkey-Breeden
Tina Presley

From: Chief Norman Shiflett
Captain Kevin Nicewarner

Date: October 08, 2014

Subject: Purchase of Police Vehicles

I am requesting that we purchase five vehicles to be used in Patrol and Administration Divisions. Below you will find the vehicle descriptions, purchase costs, along with vehicle assignments within the department fleet.

		<u>Vehicle Purchase</u>	<u>Equipment</u>	<u>Total</u>
1. Purchase 2015 Ford Police Interceptor Utility (To be used in the Patrol Division)	=	\$29,997.00	+ \$9100	= \$39,097
2. Purchase 2015 Ford Police Interceptor Utility (To be used in the Patrol Division)	=	\$29,997.00	+ \$9100	= \$39,097
3. Purchase 2015 Chevrolet Impala (Silver) (To be used in Administration - Chief)	=	\$17,721.00	+ \$1500	= \$19,221
4. Purchase 2015 Chevrolet Impala (Black) (To be used in Administration- Captain)	=	\$17,721.00	+ \$1500	= \$19,221
5. Purchase 2015 Chevrolet Impala (Gray) (To be used in Administration - Captain)	=	\$17,721.00	+ \$1500	= \$19,221
TOTAL =		\$113,157.00		<u>\$135,857.00</u>

- A. Car 285 – 2008 marked Crown Victoria police cruiser (mileage 123000) will be replaced with the 2015 Utility. Car 285 will be removed from the fleet.
- B. Car 256 – 2001 unmarked Ford Expedition (Odometer not working) will be replaced with the 2015 Utility. Car 256 will be removed from the fleet and due to the vehicle being proceeds from a drug seizure, the vehicle will need to be sold at auction with the proceeds returned to asset forfeiture.
- C. Car 297 – 2013 unmarked Ford Explorer/Chief's vehicle (mileage 15000) will be replaced by the 2015 gray Chevrolet Impala. Car 297 will be transferred to DTF to replace Car 283. Car 283 - 2002 Jeep Liberty (mileage of 75,000) will be removed from the fleet.

- D. Car 278 – 2006 unmarked Ford Crown Vic/Capt. Ryman vehicle (mileage 160,000) will be replaced by 2015 Chevrolet Impala. Car 278 will be removed from the fleet.
- E. Car 277 – 2006 unmarked Ford Crown Vic/Capt. Nicewarner vehicle (mileage 147,000) will be replaced by 2015 Chevrolet Impala. Car 277 will be removed from the fleet.

As of October 08, 2014, the Police Department has funds totaling \$62,394.00 in the Motor Vehicles budget (Acct. #47005). The Police Department has funds totaling \$79,791.00 in the Asset Forfeiture account slated for the purchase of three Ford Police Utility vehicles. The initial purchase price of each vehicle was obtained from the current Virginia State Contract and includes needed options allowed under the contract.

The following breakdown could be used for the purchase of the above vehicles:

FRPD Motor Vehicles Budget

One Ford Interceptor Utility	=	\$39,097
One Chevrolet Impala	=	<u>\$19,221</u>
Total	=	\$58,318

FRPD Asset Forfeiture Account

One Ford Interceptor Utility	=	\$39,097
Two Chevrolet Impalas	=	<u>\$38,442</u>
Total	=	\$77,539

2015 Ford Inteceptor Utility
Equipment Costs

Quantity	Item	Description	Unit Price	Total
1	c-vs-2400-inut-1	Havis Interceptor Utilitiy console	339.95	\$339.95
1	MT C-CUP2-I	Havis 4" Dual console mnt cup holder	39.95	\$39.95
1	mt c-arm-103	Havis flip up console arm rest	89.95	\$89.95
1	mt c-ap-0325	Havis 3" accy pocket, 2.5"deep	39.95	\$39.95
1	pt p1000uint13a	Pro-gard prisoner transport 1/2 partition	1,699.95	\$1,699.95
1	mt stpkt#	Interceptor whelen clamp kit	69.95	\$69.95
2	gll ent2b3b	Interceptor LED under mirror light	159.95	\$319.90
1	PB400	Setina push bumper	279.95	\$279.95
1	TK0***1tu12	Setina cargo security storage box	1,200.00	\$1,200.00
1	F110	(MDT) Getac Tablet w/ vehicle power adptr	3,360.87	\$3,360.87
1	DS-GTC-202-3	(MDT) Havis Getac docking station	655.11	\$655.11
1	C-DMM-123	(MDT) Dash Monitor Mount Base for dock	190.59	\$190.59
1	PKG-FAM-104	(MDT) Flex Arm Package for keyboard	106.65	\$106.65
1	CG-X	(MDT) Charge Guard timer	72.17	\$72.17
1	DN1594	(MDT) iKey SL-86-911-TP keyboard	344.80	\$344.80
1	AP-CWG-Q-S222-BL	(MDT) Tri Gain Antennae array	148.37	\$148.37
		Shipping charge for MDT purchases	75.00	\$75.00

Total added equipment costs: **\$9,033.11**

Cost of vehicle purchase: (VA State Contract) **\$29,997.50**

Total Cost \$39,030.61



Town of Front Royal, Virginia Work Session Agenda Form

Date: October 20, 2014

Agenda Item: FY 16 Map-21 Grant Application Proposal
- *Director of Planning & Zoning*

Summary: This past year was a success for future pedestrians in the Town. Happy Creek Trail, Phase 2, was completed, and in addition, the Town was awarded a FY 15 MAP-21 Transportation Alternatives Grant for pedestrian improvements at intersections along Commerce Avenue. Town Staff believes the next step is to pursue the continuation of Happy Creek Trail, as recommended in the Town Plan, Royal Shenandoah Greenway, and Town Vision. To help this project move forward, Town Staff is proposing that the Town submit a FY 16 MAP-21 Transportation Alternatives Grant.

The Map-21 Transportation Alternatives Program was created by the 2012 transportation bill "Moving Ahead for Progress in the 21st Century" (MAP-21). That bill reformed several existing grant programs within the Commonwealth into the current MAP-21 Program. VDOT currently administers the grant program. Awarded grantees are required to provide a 20% match, which can be a mixture of funding and in-kind payment.

The proposed segment of trail would run along Criser Road from the current southern terminus of Happy Creek Trail to the intersection of Rt. 340 and Criser Road. If Town Council supports moving forward with this project, and supports the submission of the proposed grant application, a sample resolution would need to be adopted by Town Council. A sample version of this resolution is attached with this coversheet. If the grant is awarded, an administrative agreement would be required before any legal or funding commitment is made.

Council Discussion: This agenda item is scheduled for discussion between Town Council and Staff during the October 20, 2014 Town Council Work Session. If Town Council supports moving forward with the grant application the sample resolution should be added to the October 27, 2014 Town Council Agenda.

Staff Evaluation: A preliminary concept plan and budget will be presented during the work session.

Budget/Funding: none

Legal Evaluation: The Town Attorney will be available at the upcoming work session for legal questions.

Staff Recommendations: Town Staff requests authorization to submit the above-referenced grant application and for Town Council to pass the required resolution on October 27th.

Town Manager Recommendation: The Town Manager will be available at the upcoming work session for discussion and questions.

Council Recommendation:

☐ Additional Work Session ☐ Regular Meeting ☐ No Action
Consensus Poll on Action: ____ (Aye) ____ (Nay)



Sample Resolution

Transportation Alternatives Project Endorsement Resolution

Whereas, in accordance with the Commonwealth Transportation Board construction allocation procedures, it is necessary that a resolution be received from the sponsoring local jurisdiction or agency requesting the Virginia Department of Transportation to establish a Transportation Alternatives project in (jurisdiction).

Now, Therefore, Be It Resolved, that (the project sponsor), requests the Commonwealth Transportation Board to establish a project for the improvement of (name/description of project).

Be It Further Resolved, that (the project sponsor) hereby agrees to provide a minimum 20 percent matching contribution for this project.

Be It Further Resolved, that (the project sponsor) hereby agrees to enter into a project administration agreement with the Virginia Department of Transportation and provide the necessary oversight to ensure the project is developed in accordance with all state and federal requirements for design, right of way acquisition, and construction of a federally funded transportation project.

Be It Further Resolved, that (the project sponsor) will be responsible for maintenance and operating costs of any facility constructed with Transportation Alternatives Program funds unless other arrangements have been made with the Department.

Be It Further Resolved, that if (the project sponsor) subsequently elects to cancel this project (the project sponsor) hereby agrees to reimburse the Virginia Department of Transportation for the total amount of costs expended by the Department through the date the Department is notified of such cancellation. (The project sponsor) also agrees to repay any funds previously reimbursed that are later deemed ineligible by the Federal Highway Administration.

Adopted this ____ day of _____, 20____
_____, Virginia

By: _____
Attest

Town of Front Royal, Virginia Work Session Agenda Form

Date: October 20, 2014

Agenda Item: CONSIDERATION OF ADOPTION OF GUIDELINES FOR PUBLIC-PRIVATE PARTNERSHIPS UNDER THE PPEA

Summary: The Public-Private Education Facilities and Infrastructure Act of 2002 (the "PPEA") grants responsible public entities 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

he 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.

Council Discussion: Council is requested to consider whether or not it wants staff to prepare the Town's official policies, or, guidelines, which must be officially adopted by Town Council 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.

Budget/Funding: None at this time.

Legal Evaluation: The Assistant Town Attorney will be available to answer legal questions.

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.

Planning Commission Recommendation: Not applicable.

Town Manager Recommendation: The Town Manager concurs with staff's recommendation.

Council Recommendation:

☐ Additional Worksession ☐ Regular Meeting ☐ No Action

MEMORANDUM

TO: MAYOR AND MEMBERS OF TOWN COUNCIL
FROM: DOUGLAS W. NAPIER, TOWN ATTORNEY
DATE: OCTOBER 20, 2014
RE: OVERVIEW OF LAW OF PPEA (PUBLIC-PRIVATE PARTNERSHIPS)

Summary:

The following is a summary of the law of the Public-Private Education Facilities and Infrastructure Act of 2002 (Va. Code § 56-575.1, *et seq.*), often referred to as the PPEA, or Public-Private Partnerships. This memorandum's format was taken from the Model Procedures Promulgated by General Assembly in 2002. I have been unable to find a more current version, so therefore I have updated it to reflect the current version of law. I apologize for the length of this memorandum, however, it is a complicated Act, and hopefully, this will help organize it so as to make the Act easier to understand.

I. Introduction

The Public-Private Education Facilities and Infrastructure Act of 2002 (the "PPEA") grants responsible public entities 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) 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 passing the legislation, the General Assembly directed the Governor and the chairs of the House and Senate Committees on General Laws to facilitate the development of model procedures to assist in the implementation of the PPEA. The respective governing body of the public entity must first adopt procedures that it will follow to receive and evaluate any proposal submitted to the public entity under the provisions of the PPEA. The procedures adopted by the public entity should designate an individual to serve as the point of contact to receive proposals submitted under the PPEA and to respond to inquiries regarding the PPEA or the procedures.

The following model procedures were developed to assist public entities in adopting procedures to guide the implementation of the PPEA.

II. General Provisions

A. Proposal Submission

A proposal may be either solicited by a public entity or delivered by a private entity on an unsolicited basis. Proposers may be required to follow a two-part proposal submission process consisting of an initial conceptual phase and a detailed phase. The initial phase of the proposal should contain specified information on proposer qualifications

and experience, project characteristics, project financing, anticipated public support or opposition, or both, and project benefit and compatibility. The detailed proposal should contain specified deliverables.

The PPEA allows private entities to include innovative financing methods, including the imposition of user fees or service payments, in a proposal. Such financing arrangements may include the issuance of debt instruments, equity or other securities or obligations, including, if applicable, the portion of the tax-exempt private activity bond limitation amount to be allocated annually to the Commonwealth of Virginia pursuant to the Economic Growth and Tax Relief Reconciliation Act of 2001 for the development of education facilities using public-private partnerships, and to provide for carryovers of any unused limitation amount.

Proposals should be prepared simply and economically, providing a concise description of the proposer's capabilities to complete the proposed qualifying project and the benefits to be derived from the project by the public entity. Project benefits to be considered are those occurring during the construction, renovation, expansion or improvement phase and during the life cycle of the project. Proposals also should include a comprehensive scope of work and a financial plan for the project, containing enough detail to allow an analysis by the public entity of the financial feasibility of the proposed project. The public entity may establish criteria by which the proposer may provide clarification to the submission.

B. Affected Local Jurisdictions

Any private entity requesting approval from or submitting a conceptual or detailed proposal to a responsible public entity must provide each affected local jurisdiction with a copy of the private entity's request or proposal by certified mail, express delivery or hand delivery. Affected local jurisdictions that are not responsible public entities under the proposed qualifying project shall have 60 days from the receipt of the request or proposal to submit written comments to the responsible public entity and to indicate whether the proposed qualifying project is compatible with the (i) local comprehensive plan, (ii) local infrastructure development plans, or (iii) capital improvements budget or other government spending plan. Comments received within the 60-day period shall be given consideration by the responsible public entity, and no negative inference shall be drawn from the absence of comment by an affected local jurisdiction.

C. Proposal Review Fee

A public entity may seek the advice of internal staff or outside advisors or consultants with relevant experience in determining whether to enter into an agreement with the private entity. No fee may be charged by a public entity to process, review or evaluate any solicited proposal submitted under the PPEA. The public entity may charge a fee to the private entity to cover the costs of processing, reviewing, and evaluating any unsolicited proposal or competing unsolicited proposal submitted under the PPEA, including a fee to cover the costs of

outside attorneys, consultants, and financial advisors. Any fee charged for such review of a proposal should be reasonable in comparison to the level of expertise required to review the proposal and should not be greater than the direct costs associated with evaluating the proposed qualifying project. "Direct costs" may include (i) the cost of staff time required to process, evaluate, review and respond to the proposal and (ii) the out-of-pocket costs of attorneys, consultants and financial advisors.

The proposal fee may cover all or part of the initial review process. For example, a public entity may require a proposal fee in an amount sufficient to cover all anticipated direct costs associated with evaluating the proposal, or a public entity may require a smaller initial processing fee with an additional proposal fee to be charged should the project proceed beyond the initial review.

The public entity may establish a fee schedule for the cost of the proposal review. The public entity shall set forth in the procedures it has established for the implementation of the PPEA the methodology used to calculate proposal fees. If the cost of reviewing the proposal exceeds the initially established proposal fee, the public entity may assess the proposer the additional costs deemed necessary to evaluate the proposal.

For rejected proposals, the public entity may establish a schedule for refunding any portion of fees paid in excess of its direct costs associated with evaluating the proposal. If the cost of reviewing the proposal is less than the initially established proposal fee, the public entity may refund to the proposer the excess fee. As noted in section IV.A. 1 below, fees should be refunded entirely if the public entity decides not to proceed to publication and conceptual-phase review of an unsolicited proposal.

D. Freedom of Information Act

Generally, proposal documents submitted by private entities are subject to the Virginia Freedom of Information Act ("FOIA"). In accordance with § 2.2-3705 A 56 of FOIA, such documents are releasable if requested, except to the extent that they relate to i) confidential proprietary information submitted to the responsible public entity under a promise of confidentiality or (ii) memoranda, working papers or other records related to proposals if making public such records would adversely affect the financial interest of the public or private entity or the bargaining position of either party.

Subsection 56-575.4 G of the PPEA imposes an obligation on a public entity and any affected local jurisdiction to protect confidential proprietary information submitted by a private entity or operator. When the private entity requests that the public entity not disclose information, the private entity must (i) invoke the exclusion when the data or materials are submitted to the public entity or before such submission, (ii) identify the data and materials for which protection from disclosure is sought, and (iii) state why the exclusion from disclosure is necessary. A private entity may request and receive a determination from the public entity as to the anticipated scope of protection prior

to submitting the proposal. The public entity is authorized and obligated to protect only confidential proprietary information, and thus will not protect any portion of a proposal from disclosure if the entire proposal has been designated confidential by the proposer without reasonably differentiating between the proprietary and non-proprietary information contained therein.

Upon receipt of a request that designated portions of a proposal be protected from disclosure as confidential and proprietary, the public entity shall determine whether such protection is appropriate under applicable law and, if appropriate, the scope of such appropriate protection, and shall communicate its determination to the proposer. If the determination regarding protection or the scope thereof differs from the proposer's request, then the public entity should accord the proposer a reasonable opportunity to clarify and justify its request. Upon a final determination by the public entity to accord less protection than requested by the proposer, the proposer should be accorded an opportunity to withdraw its proposal. A proposal so withdrawn should be treated in the same manner as a proposal not accepted for publication and conceptual-phase consideration as provided in section IV.A.1 below.

E. Use of Public Funds

Virginia constitutional and statutory requirements as they apply to appropriation and expenditure of public funds apply to any comprehensive agreement entered into under the PPEA. Accordingly, the processes and procedural requirements associated with the expenditure or obligation of public funds shall be incorporated into planning for any PPEA project or projects.

F. Applicability of Other Laws

Nothing in the PPEA shall affect the duty of a responsible public entity to comply with all other applicable law not in conflict with the PPEA. The applicability of the Virginia Public Procurement Act (the "VPPA") is as set forth in the PPEA, and the PPEA significantly alters the application of the VPPA to PPEA agreements.

III. Solicited Proposals

A public entity may issue Requests for Proposals (RFPs), inviting proposals from private entities to acquire, construct, improve, renovate, expand, maintain or operate qualifying projects or to design or equip projects so constructed, improved renovated, expanded, maintained or operated. The public entity may use a two-part proposal process consisting of an initial conceptual phase and a detailed phase. An RFP may invite proposers to submit proposals on individual projects identified by the public entity. In such a case the

responsible public entity should set forth in the RFP the format and supporting information that is required to be submitted, consistent with the provisions of the PPEA.

The RFP should specify, but not necessarily be limited to, information and documents that must accompany each proposal and the factors that will be used in evaluating the submitted proposals. The RFP should be posted in such public areas as are normally used for posting of the public entity's notices, including the public entity's website and on the Commonwealth's electronic procurement website. Notices should also be published in a newspaper or other publications of general circulation and advertised in Virginia Business Opportunities. The RFP should also contain or incorporate by reference other applicable terms and conditions, including any unique capabilities or qualifications that will be required of the private entities submitting proposals. Pre-proposal conferences may be held as deemed appropriate by the public entity.

IV. Unsolicited Proposals

The PPEA permits public entities to receive, evaluate and select for negotiations unsolicited proposals from private entities to acquire, construct, improve, renovate, expand, maintain, or operate a qualifying project or to design or equip projects so constructed, improved, renovated, expanded, maintained or operated.

A responsible public entity may publicize its needs and may encourage interested parties to submit proposals subject to the terms and conditions of the PPEA. When such proposals are received without issuance of an RFP, the proposal shall be treated as an unsolicited proposal.

A. Decision to Accept and Consider Unsolicited Proposal; Notice

1. Upon receipt of any unsolicited proposal or group of proposals and payment of any required fee by the proposer or proposers, the responsible public entity should determine whether to accept the unsolicited proposal for publication and conceptual-phase consideration. If the public entity determines not to accept the proposal and proceed to publication and conceptual-phase consideration, it should return the proposal, together with all fees and accompanying documentation, to the proposer.

2. If the responsible public entity chooses to accept an unsolicited proposal for conceptual-phase consideration, it shall post a notice in a public area regularly used by the public entity for posting of public notices for a period of not less than 45 days. The responsible public entity shall also publish the same notice for a period of not less than 45 days in one or more newspapers or periodicals of general circulation in the jurisdiction to notify any parties that may be interested in submitting competing unsolicited proposals. In addition, the notice should also be advertised in Virginia Business Opportunities. The notice shall state that the public entity (i) has

received and accepted an unsolicited proposal under the PPEA, (ii) intends to evaluate the proposal, (iii) may negotiate a comprehensive agreement with the proposer based on the proposal, and (iv) will accept for simultaneous consideration any competing proposals that comply with the procedures adopted by the public entity and the PPEA. The notice also shall summarize the proposed qualifying project or projects, and identify their proposed locations. Copies of unsolicited proposals shall be available upon request, subject to the provisions of FOIA and § 56-575.4 G of the PPEA.

B. Initial Review by the Responsible Public Entity at the Conceptual Stage

1. Only proposals complying with the requirements of the PPEA that contain sufficient information for a meaningful evaluation and that are provided in an appropriate format should be considered by the responsible public entity for further review at the conceptual stage. Formatting suggestions for proposals at the conceptual stage are found at Section V A.

2. The responsible public entity should determine at this initial stage of review whether it will proceed using:

- a. Standard procurement procedures consistent with the VPPA; or
- b. Procedures developed by the responsible public entity that are consistent with procurement of other than professional services through "competitive negotiation" as the term is defined in § 2.2-4301 of the Code of Virginia. The responsible public entity may proceed using such procedures only if it makes a written determination that doing so is likely to be advantageous to the responsible public entity and the public based upon either (i) the probable scope, complexity or urgency of need, or (ii) the risk sharing, added value, increase in funding or economic benefit from the project would otherwise not be available.

3. After reviewing the original proposal and any competing proposals submitted during the notice period, the responsible public entity may determine:

- (i) not to proceed further with any proposal,
- (ii) to proceed to the detailed phase of review with the original proposal,
- (iii) to proceed to the detailed phase with a competing proposal, or
- (iv) to proceed to the detailed phase with multiple proposals.

In the event that more than one proposal will be considered in the detailed phase of review, the public entity should consider whether the unsuccessful proposer should be reimbursed for costs incurred in the detailed phase of review, and such reasonable costs may be assessed to the successful proposer in the comprehensive agreement.

V. Proposal Preparation and Submission

A. Format for Submissions at Conceptual Stage

A responsible public entity may require that proposals at the conceptual stage contain information in the following areas: (i) qualifications and experience, (ii) project characteristics, (iii) project financing, (iv) anticipated public support or opposition, or both, (v) project benefit and compatibility and (vi) any additional information as the responsible public entity may reasonably request to comply with the requirements of the PPEA. Suggestions for formatting information to be included in proposals at this stage include:

1. Qualification and Experience

a. Identify the legal structure of the firm or consortium of firms making the proposal. Identify the organizational structure for the project, the management approach and how each partner and major subcontractor in the structure fits into the overall team.

b. Describe the experience of the firm or consortium of firms making the proposal and the key principals involved in the proposed project including experience with projects of comparable size and complexity. Describe the length of time in business, business experience, public sector experience and other engagements of the firm or consortium of firms. Include the identity of any firms that will provide design, construction and completion guarantees and warranties and a description of such guarantees and warranties.

c. Provide the names, addresses, and telephone numbers of persons within the firm or consortium of firms who may be contacted for further information.

d. Provide a current or most recently audited financial statement of the firm or firms and each partner with an equity interest of twenty percent or greater.

e. Identify any persons known to the proposer who would be obligated to disqualify themselves from participation in any transaction arising from or in connection to the project pursuant to The Virginia State and Local Government Conflict of Interest Act, Chapter 31 (§ 2.2-3100 et seq.) of Title 2.2.

2. Project Characteristics

a. Provide a description of the project, including the conceptual design. Describe the proposed project in sufficient detail so that type and intent of the project, the location, and the communities that may be affected are clearly identified.

- b. Identify and fully describe any work to be performed by the public entity.
- c. Include a list of all federal, state and local permits and approvals required for the project and a schedule for obtaining such permits and approvals.
- d. Identify any anticipated adverse social, economic and environmental impacts of the project. Specify the strategies or actions to mitigate known impacts of the project.
- e. Identify the projected positive social, economic and environmental impacts of the project.
- f. Identify the proposed schedule for the work on the project, including the estimated time for completion.
- g. Propose allocation of risk and liability for work completed beyond the agreement's completion date, and assurances for timely completion of the project.
- h. State assumptions related to ownership, legal liability, law enforcement and operation of the project and the existence of any restrictions on the public entity's use of the project.
- i. Provide information relative to phased or partial openings of the proposed project prior to completion of the entire work.

3. Project Financing

- a. Provide a preliminary estimate and estimating methodology of the cost of the work by phase, segment, or both.
- b. Submit a plan for the development, financing and operation of the project showing the anticipated schedule on which funds will be required. Describe the anticipated costs of and proposed sources and uses for such funds.
- c. Include a list and discussion of assumptions underlying all major elements of the plan.
- d. Identify the proposed risk factors and methods for dealing with these factors.
- e. Identify any local, state or federal resources that the proposer contemplates requesting for the project. Describe the total commitment, if any, expected from governmental sources and the timing of any anticipated commitment.

4. Project Benefit and Compatibility

- a. Identify who will benefit from the project, how they will benefit and how the project will benefit the overall community, region, or state.
- b. Identify any anticipated public support or opposition, as well as any anticipated government support or opposition, for the project.
- c. Explain the strategy and plans that will be carried out to involve and inform the general public, business community, and governmental agencies in areas affected by the project.
- d. Describe the anticipated significant benefits to the community, region or state including anticipated benefits to the economic condition of the public entity and whether the project is critical to attracting or maintaining competitive industries and businesses to the public entity or the surrounding region
- e. Compatibility with the local comprehensive plan, local infrastructure development plans, the capital improvements budget or other government spending plan.

B. Format for Submissions at Detailed Stage

If the responsible public entity decides to proceed to the detailed phase of review with one or more proposals, the following information should be provided by the private entity unless waived by the responsible public entity:

1. A topographical map (1:2,000 or other appropriate scale) depicting the location of the proposed project;
2. A list of public utility facilities, if any, that will be crossed by the qualifying project and a statement of the plans of the proposer to accommodate such crossings;
3. A statement and strategy setting out the plans for securing all necessary property. The statement must include the names and addresses, if known, of the current owners of the subject property as well as a list of any property the proposer intends to request the public entity to condemn;
4. A detailed listing of all firms that will provide specific design, construction and completion guarantees and warranties, and a brief description of such guarantees and warranties;
5. A total life-cycle cost specifying methodology and assumptions of the project or projects and the proposed project start date. Include anticipated

commitment of all parties; equity, debt, and other financing mechanisms; and a schedule of project revenues and project costs. The life-cycle cost analysis should include, but not be limited to, a detailed analysis of the projected return, rate of return, or both, expected useful life of facility and estimated annual operating expenses.

6. A detailed discussion of assumptions about user fees or rates, and usage of the projects.
7. Identification of any known government support or opposition, or general public support or opposition for the project. Government or public support should be demonstrated through resolution of official bodies, minutes of meetings, letters, or other official communications.
8. Demonstration of consistency with appropriate local comprehensive or infrastructure development plans or indication of the steps required for acceptance into such plans.
9. Explanation of how the proposed project would impact local development plans of each affected local jurisdiction.
10. Identification of any known conflicts of interest or other disabilities that may impact the public entity's consideration of the proposal, including the identification of any persons known to the proposer who would be obligated to disqualify themselves from participation in any transaction arising from or in connection to the project pursuant to The Virginia State and Local Government Conflict of Interest Act, Chapter 31 (§ 2.2-3100 et seq.) of Title 2.2.
11. Additional material and information as the public entity may reasonably request.

VI. Proposal Evaluation and Selection Criteria

The following items shall be considered in the evaluation and selection of PPEA proposals.

A. Qualifications and Experience

Factors to be considered in either phase of the public entity's review to determine whether the proposer possesses the requisite qualifications and experience should include:

1. Experience with similar projects;
2. Demonstration of ability to perform work;
3. Leadership structure;

4. Project manager's experience;
5. Management approach;
6. Financial condition; and
7. Project ownership.

B. Project Characteristics

Factors to be considered in determining the project characteristics include:

1. Project definition;
2. Proposed project schedule;
3. Operation of the project;
4. Technology; technical feasibility;
5. Conformity to laws, regulations, and standards;
6. Environmental impacts;
7. Condemnation impacts;
8. State and local permits; and
9. Maintenance of the project.

C. Project Financing

Factors to be considered in determining whether the proposed project financing allows adequate access to the necessary capital to finance the project include:

1. Cost and cost benefit to the responsible public entity;
2. Financing and the impact on the debt or debt burden of the responsible public entity;
3. Financial plan;
4. Estimated cost; and
5. Life-cycle cost analysis.

D. Project Benefit and Compatibility

Factors to be considered in determining the proposed project's compatibility with the appropriate local or regional comprehensive or development plans include:

1. Community benefits;
2. Community support or opposition, or both;
3. Public involvement strategy;
4. Compatibility with existing and planned facilities; and
5. Compatibility with local, regional, and state economic development efforts.

VII. Comprehensive Agreement

Prior to acquiring, designing, constructing, improving, renovating, expanding, equipping, maintaining, or operating the qualifying project, the selected proposer shall enter into a comprehensive agreement with the responsible public entity. The responsible public entity may designate a working group to be responsible for negotiating the comprehensive agreement. Each comprehensive agreement shall define the rights and obligations of the responsible public entity and the selected proposer with regard to the project.

The terms of the comprehensive agreement shall include but not be limited to:

1. The delivery of maintenance, performance and payment bonds or letters of credit in connection with any acquisition, design, construction, improvement, renovation, expansion, equipping, maintenance, or operation of the qualifying project;
2. The review of plans and specifications for the qualifying project by the responsible public entity;
3. The rights of the responsible public entity to inspect the qualifying project to ensure compliance with the comprehensive agreement;
4. The maintenance of a policy or policies of liability insurance or self-insurance reasonably sufficient to insure coverage of the project and the tort liability to the public and employees and to enable the continued operation of the qualifying project;
5. The monitoring of the practices of the operator by the responsible public entity to ensure proper maintenance;
6. The terms under which the operator will reimburse the responsible public entity for services provided;
7. The policy and procedures that will govern the rights and responsibilities of the responsible public entity and the operator in the event that the comprehensive agreement is terminated or there is a material default by the

operator including the conditions governing assumption of the duties and responsibilities of the operator by the responsible public entity and the transfer

or purchase of property or other interests of the operator by the responsible public entity;

8. The terms under which the operator will file appropriate financial statements on a periodic basis.
9. The mechanism by which user fees, lease payments, or service payments, if any, may be established from time to time upon agreement of the parties. Any payments or fees shall be set at a level that are the same for persons using the facility under like conditions and that will not materially discourage use for the qualifying project;
 - a. A copy of any service contract shall be filed with the responsible public entity.
 - b. A schedule of the current user fees or lease payments shall be made available by the operator to any member of the public upon request.
 - c. Classifications according to reasonable categories for assessment of user fees may be made.
10. The terms and conditions under which the responsible public entity may contribute financial resources, if any, for the qualifying project; and
11. Other requirements of the PPEA.

Any changes in the terms of the comprehensive agreement as may be agreed upon by the parties from time to time shall be added to the comprehensive agreement by written amendment.

Item No. 4

Town of Front Royal, Virginia Work Session Agenda Form

Date: October 20, 2014

Agenda Item: Planning Commission Recommended Ordinance Amendments
- *Director of Planning & Zoning*

Summary: On March 19, 2014, the Town of Front Royal Planning Commission recommended a comprehensive update of Chapter 148 (Subdivision & Land Development).

Below are six (6) reasons why these code amendments should be adopted:

- 1) The amendments ...update the Town Code to comply with the Virginia Code.
- 2) The amendments ...eliminate numerous conflicts and vagueness in the code.
- 3) The amendments ...allow design flexibility in new development projects.
- 4) The amendments ...create a more user friendly code.
- 5) The amendments ...allow a simpler process for small projects.
- 6) The amendments ...add safeguards to ensure that required public improvements are completed to Town specifications.

The proposed ordinances amendments include 112 pages. A digital copy is presently posted on the town website at <http://www.frontroyalva.com/draft-ordinances.html> and is attached to this coversheet with digital versions of the Town Council Agenda. If requested, Staff would be glad to provide paper copies.

Council Discussion: This agenda item is scheduled for discussion between Town Council and Staff during the October 20, 2014 Town Council Work Session.

Staff Evaluation: The Planning Director will be at the upcoming Town Council work session to answer questions and provide an overview presentation of Chapter 148.

Budget/Funding: none

Legal Evaluation: The Town Attorney will be available at the upcoming work session for legal questions.

Staff Recommendations: Staff recommends that Town Council hold a public hearing to consider adoption of the proposed ordinance amendments. Staff also recommends that a public hearing be scheduled for the adoption of the changes to Chapter 156 (Urban Forestry) and 175 (Zoning). As required by the Town Code, a 1st and 2nd Reading is required prior to adoption.

Town Manager Recommendation: The Town Manager will be available at the upcoming work session for discussion and questions.

Council Recommendation:

☐ Additional Work Session ☐ Regular Meeting ☐ No Action
Consensus Poll on Action: ____ (Aye) ____ (Nay)

Work Session



Item No. 5

Town of Front Royal, Virginia Work Session Agenda Form

Date: October 20, 2014

Agenda Item: Urban Forestry Advisory Commission Terms Expiring

Summary: Ron Perlik and Lorraine Hultiquet terms on the Urban Forestry Advisory Commission (UFAC) will be expiring December 20, 2014. They have not notified staff before the completion of this agenda on whether they would like to be considered for re-appointment. UFAC's terms are for four years.

Council Discussion: Council takes desired action

Staff Evaluation: N/A

Budget/Funding: N/A

Legal Evaluation: N/A

Staff Recommendations: N/A

Town Manager Recommendation: N/A

Council Recommendation:

☐ Additional Work Session ☐ Regular Meeting ☐ No Action
Consensus Poll on Action: ___(Aye) ___(Nay)

Work Session