



TOWN OF FRONT ROYAL, VIRGINIA TOWN COUNCIL MEETING

Monday, August 10, 2015 @ 7:00pm

Warren County Government Center

1. Pledge of Allegiance
2. Moment of Silence
3. Roll Call
4. Approval of the Regular Council Meeting minutes of July 27, 2015
5. Receipt of Petitions and/or Correspondence from the Public
6. Reports:
 - a. Report of special committees or Town officials and Town Manager.
 - [1] Report from Warren County Administrator Doug Stanley
 - [2] Quarterly Report from Finance Director Kim Gilkey-Breeden
 - b. Requests and inquiries of Council members.
 - c. Report of the Mayor
 - d. Proposals for addition/deletion of items to the Agenda.
7. **CONSENT AGENDA ITEMS** – (ROLL CALL VOTE REQUIRED) - NONE
8. **PUBLIC HEARING** – Receive Comments from Public Pertaining to a Possible Vacation of a Public Right-of-Way on South Fork Drive (*1st Reading*)
9. **COUNCIL APPOINTMENTS** – Front Royal Planning Commission
10. **COUNCIL APPROVAL** – Budget Amendment for VDOT Grant on Commerce Avenue Pedestrian Improvements
11. **COUNCIL APPROVAL** – Budget Amendment for Gazebo Flicks
12. **COUNCIL APPROVAL** – Resolution to Reinstate Meals and Lodging Tax in Rt 522 N Corridor
13. **COUNCIL APPROVAL** – Memorandum of Agreement for PILOT Meals and Lodging Taxes with the County of Warren
14. **COUNCIL APPROVAL** – Resolution to Request a Joint Public Work Session with the County of Warren Pertaining to a Friendly Boundary Line Adjustment
15. **COUNCIL AUTHORIZATION TO ADVERTISE FOR PUBLIC HEARING** to Repeal Town Code Section 134-1.C.
16. **COUNCIL AUTHORIZATION TO ADVERTISE FOR PUBLIC HEARING** Pertaining to the Memorandum of Agreement with the County of Warren

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Town of Front Royal, Virginia Council Agenda Statement

Page 1
Item No. 8

Meeting Date: August 10, 2015

Agenda Item: PUBLIC HEARING – Receive Comments from Public Pertaining to a Possible Vacation of a Public Right of Way on South Fork Drive

Summary: Council is requested to receive comments and concerns from the public pertaining to the possible vacation of a 6,346 square foot public right away located on a portion of South Fork Drive at its intersection with Kesler Road per attached plat dated 10/10/14; and, to consider the possible sale of said property by means of bids to a private owner. Council is further requested to set a return date for the bids, as well as, to set a date to accept or reject the bid offers and possibly vacate the property at an upcoming regular Council meeting. Council approved a Resolution July 27, 2015 pertaining to the Sale of this Town Property.

Budget/Funding: None

Attachments: Resolution and Plat

Meetings: Regular Meetings held July 13 and July 27, 2015

Staff

Recommendation: Approval ✓ Denial _____

Proposed Motion: I move that Council approve the return date of Thursday, September 3, 2015 for bid offers for a 6,346 square foot public right of way located on a portion of South Fork Drive at its intersection with Kesler Drive per attached plat. I further move that Council accept or reject bid offers and possibly vacate this property during its regular meeting of Monday, September 14, 2015.

*Note: Motions are the formal & final proposal of Council,
proposed motions are offered by Staff for guidance

*To be clear and concise, motions should be made in the positive

Approved By: SB

**RESOLUTION
SALE OF TOWN PROPERTY**

WHEREAS, at its regular meeting held on ~~July 13, 2015~~, **August 10, 2015** the Town Council of the Town of Front Royal, Virginia ("Town Council") received comments and concerns from the public that the public may have as to the possible vacation of a 6,346 sq. ft. portion of South Fork Drive public right of way (the Property), at its intersection with Kesler Road, located in North River Magisterial District, Town of Front Royal, Warren County, Virginia, per plat dated 10/10/14, prepared by Joseph G. Brogan, Sr., Land Surveyor, recorded in the Warren County Circuit Court Clerk's Office in Slide 154 C, and to consider the possible sale of said Property by means of the receipt by the Town of bids for the sale thereof to a private owner, pursuant to Town Code Section 1-22. A. and the Town's written Vacation of Streets/Alleys policy; and

WHEREAS, at the conclusion of which public hearing at the Town Council determined that the Town has no foreseeable use for said Property and its vacation and sale to a private owner would not inconvenience the public.

NOW, THEREFORE, BE IT HEREBY RESOLVED by the Town Council of the Town of Front Royal, Virginia, in accordance with Section 1-22 of the Code of the Town of Front Royal, as follows:

The Town Council may authorize the acceptance, or rejection, of the best bid offered by members of the public during a regular meeting, with a date to be determined later. Publication of this bid will be advertised on the Town website, www.frontroyalva.com, and in the Public Notices section of the Northern Virginia Daily.

APPROVED:

Mayor Timothy W. Darr

ATTEST:

Jennifer E. Berry, CMC, Clerk of Council

THIS RESOLUTION was adopted by unanimous vote of all Members, including the Vice-Mayor, all of whom were present and voting, of Town Council voting "Yes" below at a Regular Meeting of the Town Council of Front Royal, Virginia, on _____, 2015, upon the following recorded vote:

Motion to Approve by: _____

Seconded by: _____

Votes:

Town Council Members

John P. Connolly _____ Bébhinn C. Egger _____

Daryl L. Funk _____ Bret W. Hrbek _____

Eugene R. Tewalt _____ Hollis L. Tharpe _____

APPROVED AS TO FORM AND LEGALITY:

Douglas W. Napier,
Town Attorney

Date

KESLER ROAD

50' R/W

EDGE OF PAVEMENT

W. STRASBURG RD. - RT. 55
VARIABLE WIDTH

R=27.00'
L=33.16'
 $\Delta=70^{\circ}22'17''$
C LEN=31.12'
BRG=N $1^{\circ}43'33''$ E

134.09'
124.25'

N $53^{\circ}23'18''$ E

118.39'

T.M. 20A11-1-2
LOT 2

T.M. 20A11-1-2
LOT 1

W.F. KESLER SUBDIVISION BLOCK 2 PER P.B. 2/98
DERIVATION OF TITLE LOTS 1 AND 2 TO: WILLIAM B. MURPHY
LIVING TRUST PER INSTRUMENT # 990005468.

PER PLAT IN SLIDE 154 C
SCALE 1" = 30'

T.M. 20A11-1-2 LOT 5A
W.F. KESLER SUBD. PER
330/351 AND INST. # 060012330

TOWN OF FRONT
ROYAL PUBLIC
RIGHT OF WAY

SOUTH FORK
CONC. CURB & GUTTER

CONC. CURB & GUTTER
BRG=N $57^{\circ}15'37''$ W
 $\Delta=40^{\circ}41'52''$ C LEN=71.38'
R=102.63' L=72.90'

AREA = 6,346 SQ. FT.

NEW LINE IS
MINIMUM 7'
BACK OF CURB

DRIVE

BRG=N $67^{\circ}50'55''$ W
 $\Delta=19^{\circ}31'13''$ C LEN=70.31'
R=207.37' L=70.65'

POLE UTIL BOX BOX
SECTION ONE PER 416/164.
T.M. 20A11-6-1 LOT 70

PREPARED BY:
JOSEPH G. BROGAN, SR.
PROFESSIONAL LAND SURVEYOR
P.O. BOX 1578
FRONT ROYAL, VA. 22630-0034
TEL. & FAX (540) 635-5657
OCTOBER 10, 2014

- DENOTES PIN SET.
- DENOTES EXISTING PIN.

NO TITLE REPORT WAS FURNISHED TO THIS OFFICE.
SUBJECT TO ANY AND ALL EASEMENTS OF RECORD.

PROPERTY SITUATED OUTSIDE THE LIMITS OF THE FEMA FLOOD ZONE.

SURVEY OF A 6,346 SQ. FT.
PORTION OF SOUTH FORK DRIVE
PUBLIC RIGHT OF WAY PER PLAT
RECORDED IN SLIDE 154 C
NORTH RIVER MAGISTERIAL DISTRICT
**TOWN OF FRONT ROYAL,
WARREN COUNTY, VIRGINIA**



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**Town of Front Royal, Virginia
Council Agenda Statement**

Page 1
Item No. 9

Meeting Date: August 10, 2015

Agenda Item: COUNCIL APPOINTMENTS – Planning Commission

Summary: Council is requested to appoint and re-appoint three members to the Front Royal Planning Commission.

Budget/Funding: None

Attachments: None

Meetings: None

**Staff
Recommendation:** Approval ☒ Denial ☐

Proposed Motion: I move that Council appoint _____ to the Front Royal Planning Commission to an un-expired term, said term to expire August 31, 2017. I further move to re-appoint _____ and _____ to 4-year terms, said terms to expire August 31, 2019.

*Note: Motions are the formal & final proposal of Council,
proposed motions are offered by Staff for guidance
*To be clear and concise, motions should be made in the positive

Approved By: SB

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**Town of Front Royal, Virginia
Council Agenda Statement**

Page 1
Item No. 10

Meeting Date: August 10, 2015

Agenda Item: COUNCIL APPROVAL – Budget Amendment for VDOT Grant for Commerce Avenue Pedestrian Improvements

Summary: Council is requested to approve a budget amendment in the amount of \$127,531.00 for the purchase of materials and equipment to complete pedestrian access improvements along Commerce Avenue at various locations. This project is partially funded through the Virginia Department of Transportation (VDOT) Transportation Alternative Project with local funds to match.

Budget/Funding: Total project \$164,414.00 (VDOT-\$127,531.00 + Match-\$36,883.00)

9401- 7025 (VDOT Crosswalks) \$127,531.00

9401 – 3410209 (VDOT Reimbursement) \$127,531.00

Attachments: None

Meetings: Work Session held August 3, 2015

Staff

Recommendation: Approval ✓ Denial _____

Proposed Motion: I move that Council approve a budget amendment in the amount of \$127,531.00 for the purchase of materials and equipment to complete pedestrian access improvements along Commerce Avenue at various locations.

ROLL CALL VOTE REQUIRED

*Note: Motions are the formal & final proposal of Council,
proposed motions are offered by Staff for guidance

*To be clear and concise, motions should be made in the positive

Approved By: SB

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**Town of Front Royal, Virginia
Council Agenda Statement**

Page 1
Item No. 11

Meeting Date: August 10, 2015

Agenda Item: COUNCIL APPROVAL – Budget Amendment for Gazebo Flicks

Summary: Council is requested to approve a budget amendment in the amount of \$2,450.00 from various sponsors for the Gazebo Flicks to be held at the Gazebo located at Main and Chester Streets every Thursday evenings from August 6 – September 24, 2015.

Budget/Funding: 1201-5428 Community Relations [Expense]
1000-3189913 Donations [Revenue]

Total amount \$2,450.00

Attachments: Flyer

Meetings: None

Staff

Recommendation: Approval ✓ Denial

Proposed Motion: I move that Council approve a budget amendment in the amount of \$2,450.00 from various sponsors for the Gazebo Flicks to be held at the Gazebo located at Main and Chester Streets every Thursday evenings from August 6 – September 24, 2015.

ROLL CALL VOTE REQUIRED

*Note: Motions are the formal & final proposal of Council,
proposed motions are offered by Staff for guidance

*To be clear and concise, motions should be made in the positive

Approved By: SB

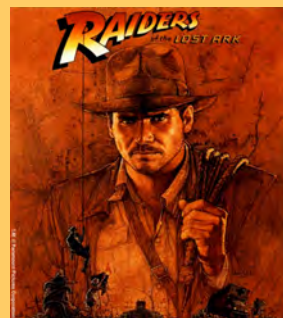
REDISCOVER THE 80'S

Gazebo Flicks - 8 pm Thursdays

August 6	Top Gun	Joseph F. Silek, Jr. PC
August 13	The Three Amigos	Edward Jones
August 20	Ghostbusters	CBM Mortgage
August 27	Back to the Future	Team Waller - Weichert Realtors
September 3	Ferris Bueller's Day Off	Marlow Motors
September 10	Honey I Shrunk the Kids	Aire Serv Heating & Air Conditioning
September 17	Raiders of the Lost Ark	Culligan Water Treatment
September 24	The Goonies	Economic Development Authority

Bring a Chair to the Gazebo
Best Movie Costume Contest
Food Vendors Onsite

Thanks to our Sponsors!



**Joseph F. Silek,
Jr. PC**



Edward Jones
MAKING SENSE OF INVESTING



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Town of Front Royal, Virginia Council Agenda Statement

Page 1
Item No. 12

Meeting Date: August 10, 2015

Agenda Item: COUNCIL APPROVAL – Resolution to Reinstate Meals and Lodging Tax in Route 522 N Corridor

Summary: The Town of Front Royal has been providing water and sewer service to out-of-town commercial customers in the Route 522 Service Area through PILOT Agreements as authorized in the 1998 Annexation Settlement Agreement with Warren County. On March 8, 2010, the Town Council approved a resolution to suspend collection of the Meals and Lodging Tax components of the PILOT fees. Since that time, the Town and Council have attempted to arrive at a fair solution for revenue from the Corridor. Council is requested to consider a resolution to direct the Director of Finance to include the Meals and Lodging Tax components of PILOT fees in the monthly bills for commercial businesses in the Route 522 Service Area and to begin collection of these fees with the October 2015 billings, as presented.

Budget/Funding: None

Attachments: Resolutions

Meetings: None

Staff Recommendation: Approval ✓ Denial

Proposed Motion: I move that Town Council approve the Resolution Regarding Meals & Lodging Tax Collection from PILOT Contracts as presented and further move to direct the Director of Finance to include the Meals and Lodging Tax components of PILOT fees in the monthly bills for commercial businesses in the Route 522 Service Area and to begin collection of these fees with the October 2015 billings, as presented.

ROLL CALL VOTE REQUIRED

*Note: Motions are the formal & final proposal of Council,
proposed motions are offered by Staff for guidance
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Approved By: SB



Town of Front Royal, Virginia



**RESOLUTION REGARDING
MEALS & LODGING TAX COLLECTION
FROM PILOT CONTRACTS**

WHEREAS, pursuant to the 1998 Annexation Settlement Agreement with Warren County, the Town has heretofore developed and executed for water and sewer service to commercial customers in the Route 522 Service Area; and,

WHEREAS, said contracts call for the payment of utility charges that include a sum representing a payment in lieu of taxes (PILOT); and,

WHEREAS, the PILOT component of the utility charges includes, in certain contracts, a sum equal to Meals Taxes and Lodging Taxes that such commercial customers “would pay to the Town” if they were located within the boundaries of Front Royal; and,

WHEREAS, Town Council approved a Resolution on March 8, 2010 that directed the Director of Finance to eliminate collection of the Meals and Lodging Tax components of the PILOT fees; and,

WHEREAS, the Town Council has exhausted numerous efforts to achieve an amicable resolution with the County of Warren Board of Supervisors to share in the County’s Meals and Lodging Tax revenue; and,

WHEREAS, the Town Council maintains that the current non-collection of Meals and Lodging Tax components of the PILOT contracts results in an unfair condition of competition between Town and Corridor commercial businesses;

NOW, THEREFORE BE IT RESOLVED by the Mayor and Council of the Town of Front Royal, Virginia hereby direct the Director of Finance to include the Meals Tax and Lodging Tax components of PILOT fees for the monthly bills for commercial businesses in the Route 522 Service Area as of the October 2015 billing.

Adopted this 10th day of August, 2015

APPROVED:

Timothy W. Darr, Mayor

Attest:

Jennifer E. Berry, CMC, Clerk of Council

THIS RESOLUTION was approved at the Regular Meeting of the Town of Front Royal, Virginia
Town Council on _____ 2015, upon the following recorded vote:

John P. Conolly	Yes/No	Bret W. Hrbek	Yes/No
Hollis L. Tharpe	Yes/No	Eugene R. Tewalt	Yes/No
Bébhinn C. Egger	Yes/No	Daryl L. Funk	Yes/No

Approved as to Form and Legality:

Douglas W. Napier, Esq., Town Attorney

Date: _____

**RESOLUTION REGARDING CONTRACTS FOR RESTAURANT
UTILITY CUSTOMERS AND MOTEL/HOTEL UTILITY
CUSTOMERS IN THE ROUTE 522 SERVICE AREA**

WHEREAS, pursuant to the 1998 Annexation Settlement Agreement with Warren County, the Town has heretofore developed and executed Contracts for water and sewer service to commercial customers in the Route 522 Service Area; and,

WHEREAS, said Contracts call for the payment of utility charges that include a sum representing a payment in lieu of taxes (PILOT); and

WHEREAS, the PILOT component of the utility charges includes, in certain contracts, a sum equal to Meals Taxes and Lodging Taxes that such commercial customers "would pay to the Town" if they were located within the boundaries of Front Royal; and,

WHEREAS, the Honorable Dennis Hupp, Judge of the Circuit Court of Warren County, Virginia, has ruled in a law suit styled *Applebee's Restaurants, etc., et als v. Town of Front Royal*, that three restaurants in the Route 522 Service Area are not, by virtue of the language in their Contracts, legally obligated to pay the Town the Meals Tax component of PILOT, because such Tax is paid by the customers of such restaurants rather than the restaurants themselves, under the current provisions of the Front Royal Code; and

WHEREAS, Lodging Taxes are similarly paid by customers of hotels and motels rather than the motels and hotels themselves, under the current provisions of the Front Royal Code.

NOW, THEREFORE, BE IT, HEREBY, RESOLVED by the Town Council of the Town of Front Royal, Virginia:

(1) that the Director of Finance is, hereby, directed to eliminate, from all Town water and sewer rate schedules and fees, the Meals Tax component of PILOT fees for all food establishment businesses in the Route 522 Service Area, as well as the Lodging Tax component for any hotel/motel in the same said area;

(2) that the Director of Finance is, hereby, directed to eliminate, as of the March 2010 billing, the Meals Tax component of PILOT fees from the monthly bills for all food establishment businesses in the Route 522 Service Area, as well as the Lodging Tax component from any hotel/motel in the same said area;

(3) that, notwithstanding the foregoing, all remaining portions of the PILOT charges described in said Contracts shall be billed and enforced as to said businesses and as to all other businesses within the Route 522 Service area without exception;

(4) that individual food establishment businesses in the same service area who earlier filed protests with the said Director of Finance, as provided by their Contracts, shall be relieved of any liability for the Meals Tax component of such PILOT charges, as of

the date of such filing and thereafter, but that under no circumstances shall the said Director authorize or permit any refunds of any description to such businesses, for the reasons set forth in the aforesaid decision of the said Circuit Court of Warren County, unless directed in that Court's Order of February 2, 2010; and

(5) that the Town Council hereby reserves the right to adopt new rate schedules and fees, as expressly permitted in such Contracts, that reinstitute all or any portion of the Meals Tax and Lodging Tax components of such PILOT charges, applicable to such businesses in the Route 522 Service Area, in the event such Town taxes hereafter are imposed on, and paid by, food establishments and motels/hotels, rather than the customers of such businesses, or in the event the Town obtains appropriate contractual authority from Warren County to include such PILOT charges in the rates applicable to such businesses in the Route 522 Service Area.

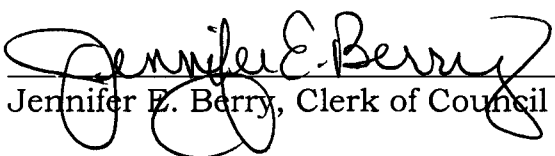
THIS RESOLUTION was approved at the Regular Meeting of the Town of Front Royal, Virginia, Town Council conducted on March 8, 2010, upon the following recorded vote:

Thomas E. Conkey	<u>Yes/No</u>	Chris W. Holloway	<u>Yes/No</u>
Bret W. Hrbek	<u>Yes/No</u>	Carson C. Lauder	<u>Yes/No</u>
Thomas H. Sayre	<u>Yes/No</u>	N. Shae Parker	<u>Yes/No</u>

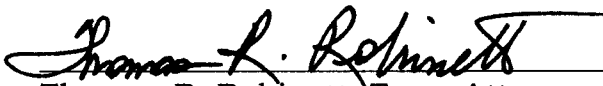
APPROVED:


Eugene Tewalt, Mayor

ATTEST:


Jennifer E. Berry, Clerk of Council

Approved as to form and legality:


Thomas R. Robinett, Town Attorney

Date: 3 / 12 / 10

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Town of Front Royal, Virginia Council Agenda Statement

Page 1
Item No. 13

Meeting Date: August 10, 2015

Agenda Item: COUNCIL APPROVAL – Memorandum of Agreement for PILOT Meals and Lodging Taxes with the County of Warren

Summary: The Town and County have been conducting negotiations to develop a funding agreement to offset the revenue that the Town does not realize from commercial businesses in the Route 552 Corridor due to the March 8, 2010 action by Council to suspend collection of the Meals and Lodging Tax component of the PILOT Contracts. The negotiations have resulted in a proposed Memorandum of Agreement (MOA) that commits to the County annually, appropriating the equivalent of thirty percent (30%) of the Meals Tax collected in the Corridor by the County and the equivalent of five percent (5%) of the Lodging Tax collected in the Corridor by the County during the previous fiscal year, to the Town, as presented. The Town agrees, as part of the MOA, to not reinstate collection of the Meals and Lodging Tax component of the PILOT contracts for the duration of the MOA and to not approve filling for annexation of the Route 522 Corridor. The Town Attorney has identified contract language revisions that do not substantially change the basis of the agreement and that will need to be resolved with the County of Warren.

Budget/Funding: None

Attachments: Revised MOA and Letter from County of Warren

Meetings: None

Staff

Recommendation: Approval ✓ Denial

Proposed Motion: I move that the Town Council approve a Memorandum of Agreement (MOA) with the County of Warren to establish an agreement whereby the County commits to annually appropriate the equivalent of thirty percent (30%) of the Meals Tax and the equivalent of five percent (5%) of the Lodging Tax collected in the Corridor by the County during the previous fiscal year to the Town, as presented. I further move that Council authorize the Mayor, Town Manager, and Town Attorney to execute a Memorandum of Agreement (MOA) with the County of Warren to include any non-substantive changes as identified by the Town Attorney.

ROLL CALL VOTE REQUIRED

*Note: Motions are the formal & final proposal of Council,
proposed motions are offered by Staff for guidance

*To be clear and concise, motions should be made in the positive

Approved By: SB



COUNTY OF WARREN

County Administrator's Office
Warren County Government Center
220 North Commerce Avenue, Suite 100
Front Royal, Virginia 22630

Phone: (540) 636-4600

FAX: (540) 636-6066

Email: dstanley@warrencountyva.net

Richard H. Traczyk
Chairman

**BOARD OF
SUPERVISORS**

CHAIRMAN
Richard H. Traczyk
Shenandoah
District

VICE-CHAIRMAN
Linda P. Glavis
South River
District

Tony F. Carter
Happy Creek
District

Archie A. Fox
Fork
District

Daniel J. Murray, Jr.
North River
District

July 24, 2015

The Honorable Timothy W. Darr, Mayor
Town of Front Royal
P. O. 1560
Front Royal, Virginia 22630

Ref: Route 340/522 Corridor
PILOT Fee Compromise Proposal

Mayor Darr:

I am writing to update you on the County's latest response to the Town's Route 340/522 Corridor PILOT fee compromise proposal. At its meeting on July 21, 2015, the Board unanimously approved a revised counter proposal of the equivalent of thirty percent (30%) of all meals tax and five percent (5%) of the all the occupancy tax collected in the Route 340/522 Corridor as outlined in the attached proposal. This would include both the original and updated utility contract businesses.

In addition, we have again asked that the Crooked Run West property be provided water and sewer under the same utility opportunities as other businesses covered under the Route 340/522 Corridor agreement. We continue to feel that this will be beneficial to both the Town and County; providing additional potential PILOT fee revenue given that it is one of the most developable commercially zoned parcels in the County. As projected by the developer, the site has the potential for over \$90 million in investment generating significant sales and meals tax revenue while only requiring an estimated 30,000 gpd of water and sewer service.

As proposed, the MOA would take affect with the FY2015-2016 budget with the first payment due from the County to the Town not later than December 31, 2016. This will allow the County to budget for the payment. As I am sure that you are aware, the County is facing several significant funding challenges in the next two fiscal years including construction and opening of the new middle school, funding of debt service for the regional jail as well as the anticipated increase in debt service of the proposed Leach Run Parkway and the Avtex connector road. This MOA will require the County to redirect a substantial amount of revenue from the corridor, and the additional time will allow the County to adequately plan to address all anticipated funding needs.

Please note that this is the final offer by the Board of Supervisors. The Board is hopeful that this final counter proposal will be acceptable to the Council.

Sincerely,

A handwritten signature in blue ink, reading "Richard H. Traczyk". The signature is fluid and cursive, with the first name "Richard" and last name "Traczyk" clearly legible, and "H." as a small initial in the middle.

Richard H. Traczyk, Chairman
Warren County Board of Supervisors

RHT:dps
Attachment

**MEMORANDUM OF AGREEMENT
COMPROMISE FOR PILOT
MEALS & LODGING TAXES**

This **Memorandum of Agreement to Compromise for PILOT Meals & Lodging Taxes** is hereby executed this _____ day of _____, 2015 by the **Town of Front Royal, Virginia**, a Virginia municipal corporation (hereinafter “the Town”) and the **County of Warren, Virginia**, a political subdivision of the Commonwealth of Virginia (hereinafter “the County”) to arrive at a resolution of the ongoing issue concerning the Town’s PILOT revenue from commercial businesses in the Rt 522 Corridor (hereinafter “the Corridor”) served by the Town’s municipal utility system and to provide for continued development in the Corridor to the benefit of all residents of the Town and the County.

WITNESSETH:

RECITALS:

- A. In the late 1980’s and early 1990’s, the Town extended water and sewer service into the Corridor to facilitate development in the County so that the County would be able to improve the County’s Public School System. Development of the Corridor both commercially and industrially enabled the County to develop the tax base necessary to fund construction of the new high schools, and middle schools.
- B. At the time of utility extension into the Corridor by the Town, the Town’s loss of Avtex Fibers (FMC), its largest employer and tax revenue source, prompted concern by the Town that development in the Corridor would place businesses within the Town limits at a competitive disadvantage.
- C. The County acknowledged this concern and jointly lobbied with the Town to the General Assembly to approve special legislation in Virginia Code §15.2-2119.J and §15.2-2143 thereby authorizing the Town to provide water and sewer services to industrial and commercial users outside the Town’s boundaries and collect such compensation therefor as may be contracted for between the Town and such users. The Town implemented utility contracts that included Payment In-Lieu of Taxes (PILOT) fees from commercial utility customers in the Corridor, with the intent of keeping all businesses both inside and outside of the Town limits paying as close to the same amounts towards their water and sewer payments, as well as the equivalent of the taxes commercial utility customers would pay if they were located within the Town boundaries.
- D. The Town and the County executed a 1998 Corridor Agreement which was amended in 1999 that documented the basic responsibilities for utility provisions in the Corridor.
- E. Following the outcome of 2009 litigation, the Town suspended the collection of the Meals and Lodging tax component of the PILOT fees included in the utility contracts with businesses in the Corridor.

- F. Subsequent to this suspension of collection, the Town and County have attempted to level the playing field between restaurants and hotels within the Town and those located in the Corridor.

TO THAT END, and for and in consideration of the mutual covenant contained herein, the Town and the County agree as follows:

1. For the duration of this Memorandum of Agreement (hereinafter “MOA”), the Town will not resume collection of Meals and Lodging tax components of the PILOT fees from commercial businesses located within the “Annexation Immunity Area,” as that Area is identified in the 1999 Amended Corridor Agreement.
2. The Town will continue to maintain and establish water and sewer utility contracts with commercial businesses in the Annexation Immunity Area requiring municipal water and sewer utility service, and the Town will continue to collect PILOT fees from those customers, excluding the Meals and Lodging Tax components.
3. For all existing and future commercial water and sewer utility customers operating under any Town PILOT Agreement, the County will appropriate and provide funding to the Town through the County’s General Fund Revenues for the equivalent of thirty percent (30%) of the Meals Tax collected in the Corridor by the County and the equivalent of five per cent (5%) of the Lodging Tax collected in the Corridor by the County during the previous fiscal year to be remitted to the Town in equal, bi-annual payments to be made not later than December 31 and June 30 annually, beginning December 2016. The County shall provide a certified statement from its auditor verifying the County’s General Fund Revenues to include Meals and Lodging Tax revenues in the Corridor to the Town with the December payment.
4. Should the County Board of Supervisors determine that appropriations for payment prescribed in this MOA will not be incorporated into their annual appropriations; the County shall provide the Town with written notice at least one hundred-twenty (120) days in advance of the bi-annual payment date.
5. Should the County Board of Supervisors fail to appropriate funding in compliance with the MOA, this MOA shall terminate.
6. All PILOT agreements will continue as written unless invalidated by a court of competent jurisdiction. In the event such PILOT agreements as currently written are so invalidated, the Town reserves the right to amend the PILOT agreements so long as such PILOT agreements do not increase the payments required of commercial businesses. The Out-of-Town utility rate, which is currently twice the In-Town rate, will continue to apply to industrial customers, unless negotiated otherwise by the Town.

7. For the duration of the MOA, the Town Council will not vote and approve filing for annexation in the Annexation Immunity Area, unless requested by the County.
8. Recognizing that future dining establishments and places of lodging established in the Annexation Immunity Area will operate under as fair of utility payment and tax as possible established by this MOA, the Town and the County agree to use all due diligence and to work with future businesses to consider their rezoning/conditional use permit applications, subdivision plats, site plans and utility applications as expeditiously as practical and appropriate.
9. Requests for future water and sewer utility services within the Annexation Immunity Area shall continue to be considered as provided in the 1999 Amended Corridor Agreement and shall not require the County or the property owner/occupant to request a boundary adjustment to include the involved property/use within the boundary of the Town. Additionally, the Town will continue to be invited to provide input and due consideration of all rezoning requests in Annexation Immunity Area, as provided in the 1999 Amended Corridor Agreement.
10. The parcels identified as parcel numbers 12 M 2 9 (11.22ac), 12 M 2 10 (2.33ac), 12 M 2 11 (53.93 ac), 12 M 2 12 (20.00 ac), 12 M 2 13 (30.43 ac), and 12 M 2 14 (29.94 ac) shall be hereinafter referred to as “Crooked Run West (147.85ac)”. The area known as Crooked Run West is planned to be developed in the future with restaurants, retail stores and financial institutions similar to those in the Crooked Run development, plus one or more hotels, with all of Crooked Run West anticipated to require an average of not more than 40,000 gallons per day of water usage and sewer discharge at full build-out. The Annexation Immunity Area as established in the 1999 Amended Corridor Agreement is hereby expanded and amended to include Crooked Run West, provided that Crooked Run West is developed as herein described and its total water/sewer needs do not exceed 40,000 gallons per day, unless any usage in excess of that estimate is specifically approved by the Town Council. The Town shall be entitled to execute PILOT Agreements with all commercial businesses in Crooked Run West and collect all PILOT fees from these customers, excluding the Meals and Lodging Tax component.
11. The County can terminate the appropriations and payment of funding described in this MOA in the event the Town Council votes and approves 1) the collection of the Meals and Lodging Tax components of the PILOT fees for commercial businesses in the Annexation Immunity Area as established by this MOA; or 2) annexation legal filings within the Annexation Immunity Area as established by this MOA, unless requested by the County. Annexation or Boundary Adjustment of any other area of the County or property owner initiated requests outside the Annexation Immunity Area will not give cause to terminate appropriations or payments.

[Signatures begin on next following page]

WITNESSETH the following signatures:

For the Town of Front Royal, Virginia

For the County of Warren, Virginia

Timothy W. Darr, Mayor

Richard H. Traczyk, Chairman

Date: _____

Date: _____

Attest:

Attest:

Steven M. Burke, Town Manager

Douglas P. Stanley, County Administrator

Date: _____

Date: _____

Approved as to Form:

Approved as to Form:

Douglas W. Napier, Esq.
Town Attorney

Blair D. Mitchell, Esq.
County Attorney

**MEMORANDUM OF AGREEMENT
COMPROMISE FOR PILOT
MEALS & LODGING TAXES**

This **Memorandum of Agreement to Compromise for PILOT Meals & Lodging Taxes** is hereby executed this _____ day of _____, 2015 by the **Town of Front Royal, Virginia**, a Virginia municipal corporation (hereinafter “the Town”) and the **County of Warren, Virginia**, a political subdivision of the Commonwealth of Virginia (hereinafter “the County”) to arrive at a resolution of the ongoing issue concerning the Town’s PILOT revenue from commercial businesses in the Rt 522 Corridor (hereinafter “the Corridor”) served by the Town’s municipal utility system and to provide for continued development in the Corridor to the benefit of all residents of the Town and the County.

WITNESSETH:

RECITALS:

- A. In the late 1980’s and early 1990’s, the Town extended municipal water and sewer utility service into the Corridor (defined herein as that area called the “Annexation Immunity Area” in that Voluntary Settlement Agreement entered into between the Town and the County, dated January 27, 1998, amended October 6, 1998, further amended August 9, 1999, and affirmed by the Circuit Court of Warren County, Virginia by Final Order Validating and Affirming Voluntary Settlement Agreement Between the Town of Front Royal and the County of Warren entered December 13, 1999 (the “Voluntary Settlement Agreement”, together with that area referred to as “Crooked Run West” as set forth in Paragraph No. 10 of this Memorandum of Understanding (“MOA”), all of which will be hereinafter referred to as the “Annexation Immunity Area” or “Corridor” for purposes of this MOA)), to facilitate development in the County so that the County would be able to improve the County’s Public School System. Commercial and industrial development of the Corridor both commercially and industrially enabled the County to develop the tax base necessary to fund construction of the new high schools and middle schools.
- B. ~~At the time of utility extensions into the Corridor by the Town, the Town’s loss of Avtex Fibers (FMC), its largest employer and tax revenue source, prompted concern by the Town that development in the Corridor would place businesses within the Town limits at a competitive disadvantage.~~ Extension of municipal utilities into the Corridor prompted concern on the part of the Town that development in the Corridor would place businesses within the Town limits at a competitive disadvantage with businesses located in the Corridor, as businesses located in the Corridor would not have to pay Town taxes.
- C. The County acknowledged this concern and together with the Town jointly lobbied to the General Assembly to approve special legislation in Virginia Code §15.2-2119.J and §15.2-2143, which thereby ~~authorizing~~ authorized the Town to provide water and sewer utility services to industrial and commercial users outside the Town’s boundaries and

collect such compensation therefor as may be contracted for between the Town and such users. The Town implemented utility contracts that included Payment In-Lieu of Taxes ("PILOT") fees from commercial utility customers in the Corridor, with the intent of ~~keeping~~ causing all businesses both inside and outside of the Town limits paying as closely to the same amounts towards their municipal water and sewer utility payments, as well as the equivalent of the total taxes commercial utility customers would pay, as if they were located within the Town boundaries.

- D. ~~The Town and the County executed a 1998 Corridor Agreement in 1998, which was amended in 1999, that~~ The said Voluntary Settlement Agreement documented the basic responsibilities for municipal water and sewer utility provisions in the Corridor.
- E. Following the outcome of 2009 litigation between the Town and certain restaurants located in the Corridor, the Town suspended the collection of the food and beverage taxes or meals tax, transient room rentals tax or and transient occupancy or lodging taxes, also referred to as "Meals and Lodging" taxes components, of the PILOT fees which had been included in the Town's utility contracts with businesses in the Corridor.
- F. Subsequent to this suspension of collection, the Town and County have attempted to "level the playing field" between restaurants and hotels within the Town and those located in the Corridor, such that all such businesses are paying a substantially equal amount of taxes and none are realizing a competitive advantage or disadvantage based solely on which side of the Town's corporate limits they are placed.

TO THAT END, and for and in consideration of the mutual covenant contained herein, the Town and the County agree as follows:

1. For the duration of this Memorandum of Agreement (hereinafter "MOA"), the Town will not resume collection of Meals and Lodging taxes components of the PILOT fees from commercial businesses located within the "Annexation Immunity Area," as that Area is identified ~~in the 1999 Amended Corridor Agreement Paragraph A. of the Recitals above.~~
2. The Town will continue to maintain and establish municipal water and sewer utility contracts with commercial businesses in the said Annexation Immunity Area requiring municipal water and sewer utility services, and the Town will continue to collect PILOT fees from those customers, excluding the Meals and Lodging Tax components.
3. For all existing and future commercial municipal water and sewer utility customers operating under any Town PILOT fee Agreement in the Annexation Immunity Area the County will appropriate and provide funding to the Town through the County's General Fund Revenues for a.) the equivalent of thirty percent (30%) of the Meals Tax collected in the Corridor by the County, and b.) the equivalent of five per cent (5%) of the Lodging Tax collected in the Corridor by the County during the previous fiscal year, said taxes to be remitted to the Town in equal, bi-annual payments to be made not

later than each December 31 and June 30 annually, beginning December, 2016. The County shall provide a certified statement from its auditor verifying the County's General Fund Revenues to include Meals and Lodging Tax revenues in the Corridor to the Town with the December payment.

4. Should the County Board of Supervisors determine that appropriations for payment prescribed in this MOA will not be incorporated into their annual appropriations in any given year, the County shall provide the Town with written notice at least one hundred-twenty (120) days in advance of the next bi-annual payment date.
5. Should the County Board of Supervisors fail to appropriate funding in compliance with the MOA in any given year, this MOA shall terminate.
6. All PILOT fee agreements with the municipal water and sewer utility customers of the Town will continue as written unless invalidated by a court of competent jurisdiction. In the event any such PILOT fee agreements as currently written are so invalidated, the Town reserves the right to amend the PILOT fee agreements so long as such PILOT fee agreements do not increase the payments required of commercial businesses beyond the payment rates charged to commercial businesses of the same category or class located within the Town limits. The Out-of-Town utility rate, which is currently twice the In-Town rate, will continue to apply to industrial customers, unless negotiated otherwise by the Town with such customers.
7. ~~For the duration of the MOA, the Town Council will not vote and approve filing for annexation in the Annexation Immunity Area, unless requested by the County.~~
8. ~~Recognizing that future dining establishments and places of lodging established in the Annexation Immunity Area will operate under as fair of utility payment and tax as possible established by this MOA,~~ Recognizing that future establishments of dining and lodging located in the Annexation Immunity Area should be operated as fairly and competitively as possible with similar establishments located within the Town limits, the Town and the County agree to use all due diligence ~~and to work in working~~ with future businesses to consider their rezoning/conditional use permit applications, subdivision plats, site plans and utility applications as expeditiously as practical and appropriate.
9. Requests for future municipal water and sewer utility services within the Annexation Immunity Area shall continue to be considered as provided in the ~~1999 Amended Corridor Agreement~~ Voluntary Settlement Agreement and shall not require the County or the property owner/occupant to request a boundary adjustment to include the involved property/use within the boundary of the Town. Additionally, the Town will continue to be invited to provide input and due consideration of all rezoning requests in Annexation Immunity Area, as provided in the ~~1999 Amended Corridor Agreement~~ Voluntary Settlement Agreement.

10. The parcels identified as parcel numbers 12 M 2 9 (11.22ac), 12 M 2 10 (2.33ac), 12 M 2 11 (53.93 ac), 12 M 2 12 (20.00 ac), 12 M 2 13 (30.43 ac), and 12 M 2 14 (29.94 ac) shall be hereinafter referred to as “Crooked Run West (147.85ac)”. The area known as Crooked Run West is planned to be developed in the future with restaurants, retail stores and financial institutions similar to those in the Crooked Run development, plus one or more hotels, with all of Crooked Run West anticipated to require an average of not more than 40,000 gallons per day of water usage and sewer discharge at full build-out. The Annexation Immunity Area as established in the ~~1999 Amended Corridor Agreement~~ Voluntary Settlement Agreement is hereby expanded and amended to include Crooked Run West, provided that Crooked Run West is developed as herein described and its total water/sewer needs do not exceed 40,000 gallons per day, unless any usage in excess of that estimate is specifically approved by the Town Council. The Town shall be entitled to execute PILOT fee Agreements with all commercial businesses in Crooked Run West and collect all PILOT fees from these customers, excluding the Meals and Lodging Tax component.
11. The County can terminate the appropriations and payment of funding described in this MOA in the event the Town Council votes and approves 1) the collection of the Meals and Lodging Tax components of the PILOT fees for commercial businesses in the Annexation Immunity Area as established by this MOA; or 2) to commence annexation legal filings or proceedings within the Annexation Immunity Area as established by this MOA, unless requested by the County. Annexation or Boundary Adjustment of any other area of the County or property owner initiated requests outside the Annexation Immunity Area will not give cause to terminate appropriations or payments.
12. The Town may terminate further extension of municipal water and sewer utility services to any new commercial or industrial customers in the Annexation Immunity Area if the Town determines in good faith that it does not have the utility capacity to serve such new customers without being able to not serve the Town’s existing municipal utility customers in accordance with the Town’s contractual and legal obligations with such existing municipal utility customers.

[Signatures begin on next following page]

WITNESSETH the following signatures:

For the Town of Front Royal, Virginia

For the County of Warren, Virginia

Timothy W. Darr, Mayor

Richard H. Traczyk, Chairman

Date: _____

Date: _____

Attest:

Attest:

Steven M. Burke, Town Manager

Douglas P. Stanley, County Administrator

Date: _____

Date: _____

Approved as to Form:

Approved as to Form:

Douglas W. Napier, Esq.
Town Attorney

Blair D. Mitchell, Esq.
County Attorney

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**Town of Front Royal, Virginia
Council Agenda Statement**

Page 1
Item No. 14

Meeting Date: August 10, 2015

Agenda Item: COUNCIL APPROVAL – Resolution to Request a Joint Public Work Session with the County of Warren Pertaining to a Friendly Boundary Line Adjustment

Summary: Council is requested to consider a Resolution requesting a joint work session with the Warren County Board of Supervisors to discuss a friendly boundary line adjustment of the annexation immunity area as specified in the 522 Corridor Agreement, as presented.

Budget/Funding: None

Attachments: Resolution

Meetings: None

Staff Recommendation: Approval ✓ Denial

Proposed Motion: I move that Council approve a Resolution requesting a joint work session with the Warren County Board of Supervisors to discuss a friendly boundary line adjustment of the annexation immunity areas as specified in the 522 Corridor Agreement, as presented.

ROLL CALL VOTE REQUIRED

*Note: Motions are the formal & final proposal of Council,
proposed motions are offered by Staff for guidance
*To be clear and concise, motions should be made in the positive

Approved By: SB



Town of Front Royal, Virginia



**RESOLUTION REQUESTING
JOINT WORK SESSION WITH
COUNTY OF WARREN**

WHEREAS, the Town of Front Royal and County of Warren have attempted to arrive at an equitable resolution to achieve fair revenue for both the Town and County from commercial development in the Route 522 Corridor; and,

WHEREAS, the meetings associated with development of an agreement have occurred individually by each body in Closed Meetings; and,

WHEREAS, the Town of Front Royal desires to conduct an open discussion with the County of Warren about the merits of a boundary adjustment of commercial development in the Route 522 Corridor into the Town limits;

NOW, THEREFORE BE IT RESOLVED by the Mayor and Council of the Town of Front Royal, Virginia hereby requests that the County of Warren Board of Supervisor conduct a public joint meeting with the Town Council to discuss a friendly boundary line adjustment of the Annexation Immunity Area as designated in the Route 522 Corridor Agreement, and;

BE IT FURTHER RESOLVED that the intention of this discussion would be to discuss and identify the terms of such a friendly boundary line adjustment of the Annexation Immunity Area that would result in a revenue neutral impact to the County of Warren or a better financial situation than the proposed Memorandum of Agreement currently being offered.

Adopted this 10th day of August, 2015

APPROVED:

Timothy W. Darr, Mayor

Attest:

Jennifer E. Berry, CMC, Clerk of Council

THIS RESOLUTION was approved at the Regular Meeting of the Town of Front Royal, Virginia
Town Council on _____ 2015, upon the following recorded vote:

Bébhinn C. Egger	Yes/No	Bret W. Hrbek	Yes/No
Hollis L. Tharpe	Yes/No	Eugene R. Tewalt	Yes/No
John P. Connolly	Yes/No	Daryl L. Funk	Yes/No

Approved as to Form and Legality:

Douglas W. Napier, Esq., Town Attorney

Date: _____

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**Town of Front Royal, Virginia
Council Agenda Statement**

Page 1
Item No. 15

Meeting Date: August 10, 2015

Agenda Item: COUNCIL AUTHORIZATION TO ADVERTISE FOR PUBLIC HEARING to Repeal Town Code Section 134-1.C.

Summary: Town Council is requested to consider conducting a public hearing to repeal Town Code Chapter 134-1.C. This section of the Town Code establishes the Town's policy for the extension of water and sewer service beyond the Town limits into the County of Warren. The policy was established at the request of the County and was codified in 2012.

Budget/Funding: None

Attachments: Town Code Chapter 134-1.C.

Meetings: None

Staff

Recommendation: Approval ✓ Denial

Proposed Motion: I move that Council authorize staff to advertise for a public hearing to repeal Town Code Chapter 134-1.C.

*Note: Motions are the formal & final proposal of Council,
proposed motions are offered by Staff for guidance

*To be clear and concise, motions should be made in the positive

Approved By: SB

CHAPTER 134-1.C.

C. EXTENSION POLICY BEYOND TOWN LIMITS: To better serve the social and economic needs and the common good of Front Royal and Warren County, the Town Council of Front Royal has formulated these policies and procedures for the extension of water and sewer service to Warren County.

The Town has evaluated our resources and anticipated growth within the Town to determine the anticipated excess volume available for extension into Warren County for residential, commercial, or industrial use. This volume will be determined annually based upon conditions within the Town and County. Excess volume shall be defined as the current and projected volume required by the Town subtracted from the current permitted plant capacities.

1. The contact person for the Town is the Town Manager. Any request for water and/or sewer services must be made in writing to the Town accompanied by a joint request from the property owner and the County for the property to be boundary adjusted into the Town's corporate limits or justification to simply provide utility extension. Such request must be made prior to a rezoning or any other action by the County.
2. The Town Council will decide on a case-by-case basis whether to provide water and sewer to the proposed property(ies) as well as whether a boundary adjustment is appropriate.
3. Following a boundary adjustment, the Town will consider the appropriate zoning classification of the property to be boundary adjusted and will complete a rezoning of the property to the classification deemed appropriate through the standard zoning process. Boundary adjusted property(ies) shall be considered as part of the water volume allocated by the Town to the County.
4. In any case of rezoning by the Town, the Town Council will consider proffers deemed necessary to mitigate the impact of the development on County services, as well as what proffers are necessary for the Town. These decisions shall be made before the Town's rezoning of the property(ies) is completed.
5. The Town may elect to provide water and/or sewer services without a boundary adjustment where the Town Council determines it would not be feasible or appropriate to provide other Town services to the property.
6. Extension of utility service shall require development, submittal, and review of site development plans demonstrating the proposed utility locations, proposed usage, appropriate modeling demonstrating no impact to existing users, and construction standard complying with Town standards.
7. Design and construction standards for all utility extensions shall comply with the current standards and specifications adopted by the Town.

8. The Town presently has no intention of extending water and sewer lines into the unincorporated portion of the County at the Town's expense.

9. The Town presently has no desire to sell water for resale through a master meter to third parties.

10. Given the Town's Inflow and Infiltration (I&I) issues associated with the sanitary sewer system, the Town has no desire to accept outside water sources into the Town's sewer system. Future considerations to outside water sources will be evaluated as the I&I issues are addressed.

11. This Policy can be reviewed and updated by Town Council as necessary, but at a minimum annually.

(Added (C) 6-25-12-Effective Upon Passage)

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**Town of Front Royal, Virginia
Council Agenda Statement**

Page 1
Item No. 16

Meeting Date: August 10, 2015

Agenda Item: COUNCIL AUTHORIZATION TO ADVERTISE FOR PUBLIC HEARING
Pertaining to the Memorandum of Agreement with the County of Warren

Summary: Council is requested to authorize Town Staff to advertise for a public hearing to receive public input regarding the Memorandum of Agreement (MOA) with the County of Warren.

Budget/Funding: None

Attachments: None

Meetings: None

**Staff
Recommendation:** Approval ✓ Denial

Proposed Motion: I move that Council authorize Town Staff to advertise for a public hearing to receive public input regarding the Memorandum of Agreement (MOA) with the County of Warren.

*Note: Motions are the formal & final proposal of Council,
proposed motions are offered by Staff for guidance
*To be clear and concise, motions should be made in the positive

Approved By: SB