

TOWN COUNCIL WORK SESSION

June 20, 2016 @ 7:00pm

Front Royal Administration Building

1. Front Royal Limited Partnership Proffer Amendment Request – Dir. of Planning/Zoning

Summary: Please find attached a Staff Report with information on the proposed proffer amendment. This report is the same as submitted to the Planning Commission, but with updates shown in red, primarily located on the last couple pages of the report.

In addition, FRLP's initial request is included, as well as the current and proposed proffers. A new submission was received by the Applicant on June 13, 2016 in regards to Section 13 of the proffers; which is also attached.

The proffers were postponed at the request of the applicant until this time. A joint work session is scheduled between Town Council and the Planning Commission on June 22nd. This joint meeting is shared with the other agenda item of VDOT's presentation and recommendations for South Street.

APPLICATION SUMMARY FROM PLANNING & ZONING:

Front Royal Limited Partnership (FRLP) has submitted a request to amend the proffers associated with their 149-acre property that underwent a rezoning in 2009/2010. The Applicant's request letter is provided as Attachment 1 to this report.

The proposed changes include, but are not limited to, modifications to the Preamble, Section 7, Section 10, Section 11, Section 13, and Section 15 of the proffers. The proposed removal of Sections 11.2 and 11.3 would eliminate the development scenario where FRLP is required to build Phases 2 – 4 of the East/West Connector Road by the 199th house in exchange for the Town building Phase 5 and authorizing the credits outlined under Sections 13 and 11.3.4., such as, but not limited to a dollar-for-dollar credit against per unit cash proffers for all costs incurred by FRLP for the engineering, design and construction of Phases 2 – 4 of the East/West Connector Road, and for any combined sewer and water connection and availability fees that exceed \$10,000 on a per unit basis. The proposed modification of Section 7 includes the removal of the requirement that homes be Energy Star approved.

SUMMARY OF CURRENT PROFFERS:

Maximum Number of Houses: 320

Per Unit Cash Proffers: The current proffers require FRLP to pay \$19,600 per house built to be used by the Town for either Leach Run Parkway or the East/West Connector Road. The following exceptions apply:

- The first 99 houses are exempt.
 - Credit for tap fees paid over \$10,000. *It is not clear in the proffers how the credit system would function from permit to permit and from phase to phase of the development. Also, it is not clear if it is legally permissible to allow tap fee credits in a proffer.*
 - Credit for right-of-way dedications.
 - Credit for land dedication along Shenandoah Shores Road.
 - Credit for cost of construction of Phases 2 – 4 of the East/West Connector Road.
 - East/West Connector Road: The current proffers include the East/West Connector Road. FRLP is required to build Phases 1-4 of the East/West Connector road in the current proffers if the Town chooses to build Phase 5 of the East/West Connector Road. FRLP must build Phases 2 – 4 by the 200th permit and the Town must decide to build Phase 5 within 1-year of the first subdivision plat. The following major concerns complicate these scenarios for both parties:

- The current proffers allows development to stop at the 199th house, and under such circumstances, the requirement to build Phases 2 – 4 is eliminated, even if the Town has already built phase 5.
- The current proffers require the Town to provide FRLP with a credit for costs incurred in the construction of Phases 2 – 4 of the East/West Connector Road.

This credit is applied to FRLP's per unit cash proffer noted above. However, it is not clear what will happen when the credits exceed the per unit contributions. This is a probable outcome considering the cost of the East/West Connector Road. *Could FRLP bill the Town for such additional costs for the off-site road improvements?*

Warren County: The current proffers provide a cash contribution to Warren County for public schools in the amount of \$5,500 per unit, minus a credit for a land dedication of a neighborhood park.

Shenandoah Shores/Happy Creek Road: The current proffers require FRLP to pay \$225,000 towards a traffic signal at Happy Creek Road and Shenandoah Shores Road.

FRLP is also required to build a right and left turn lane onto Shenandoah Shores Road (update: left turn lane to be built with LRP/Middle School).

Other: The proffers include a number of other minor provisions, such as Energy Star Compliance Homes, Design Modifications Standards, Closure of Mary Shady Lane (if possible), Open Space, House Construction Phasing, Community Design, etc.

Quick Summary of Proposed Changes

Proffer Section Reference	Page	Summarization of the Proposed Change
Preamble	1	<i>Adds acreage, revision date and includes 604-acre property.</i>
Section 1 (Land Use)	2	<i>No change.</i>
Section 2 (Phasing)	2	<i>No Change.</i>
Section 3 (Water & Sewer)	2	<i>No change.</i>
Section 4 (Stw. Mgmt. & Env.)	2-3	<i>No change.</i>
Section 5 (Community Design)	3	<i>No change.</i>
Section 6 (Creation of HOA & POA)	3-4	<i>No change.</i>
Section 7 (Home Construction)	4	<i>Removes requirement that homes must be Energy Star approved. Appliances would remain Energy Star but the homes would not be certified. FRLP wants to remove this requirement primarily due to expenses.</i>
Section 8 (Land Dedication)	4-5	<i>No change.</i>
Section 9 (Pedestrian & Park Fac.)	5-6	<i>No change.</i>
Section 10 (ROW Dedications & Reservations)	6-7	<i>1) Added language that the ROW width can be less than 100 feet if approved; 2) Clearer terms for the dedication of Phase 2 ROW added; 3) Removed language regarding the Town's option to move the intersection of the E/W Connector and Commerce Ave. location.</i>
Section 11 (Construction of East/West Connector)	7-9	<i>Removed 11.2 & 11.3 entirely, pertaining to the construction of the E/W Connector by the Town, or by FRLP at the expense of the Town.</i>
Section 12 (Shen. Shores Rd and Happy Creek Rd)	9-10	<i>1) Added language to clarify that the westbound right turn lane on Happy Creek Rd. will be at least 50' in length; 2) Added language that the road improvement obligations are not required if done by others; 3) Added language to clarify when the funds for the traffic signal will be paid to Town.</i>
Section 13 (Cash to Town)	10-12	<i>1) Adds language to the effect that both parties agree that the tap fees serve a public purpose/benefit (drafted by Town Attorney but with an understanding that the credit concept would be removed from the proffers which was pulled by FRLP). 2) Removed the credit for costs incurred by FRLP for the construction of Phases 2 – 4 of the East/West Connector Road; 3) Removed language related to FRLP building Phases 2-4 of the E/W Connector Road at the expense of the Town; 4) Added language to clarify that the Tap Fee Credit will not exceed the cumulative amount of cash proffers. <i>See 06/13/16 Submission from Applicant.</i></i>
Section 14 (Cash to County)	12	<i>No change.</i>
Section 15 (Design Modifications)	12-13	<i>Removed design modification language entirely.</i>
Section 16 (Mary's Shady Lane)	13	<i>No change.</i>
Section 17 (Miscellaneous)	13	<i>No change.</i>
Section 18 (Open Space)	13	<i>No change.</i>
Section 19 (Escalator)	13-14	<i>No change.</i>
Signatures	15	<i>No change. The Town Attorney has commented that the proffers do not include language that the conditions run with the land.</i>

Most Significant Considerations With The Proposed Revisions

- Removal of the East/West Connector Road – Transportation Planning

The need for more than one public access road into the development was addressed in the original rezoning with the construction of the East/West Connector Road. The road is also an important planned collector road that would serve the entire area, including the subject property and FRLP's other 604-acre property. While the current proffers do not guarantee construction of the East/West Connector with this project, it does give discretion to Town Council. This is removed with the proposed revisions with the removal of the scenario where the East/West Connector is built with this project.

- Removal of the East/West Connector Road – W/out Removal of the Tap Fee Credits. It appears that for all intents and purposes, the Town accepted a tap fee credit in the original rezoning to help defray the cost FRLP would incur with the construction of Phases 2 – 4 of the East/West Connector Road. This is coupled with the credit for all costs incurred by FRLP for the cost of construction of the East/West Connect Road. The intent was that FRLP would construct Phases 1 – 4 of the East/West Connector road without any direct costs to the Town. Regardless of how the numbers play out, it appears that the legal justification for the tap fees was the public benefit of the East/West Connector Road in lieu of the credits. The proposed revision removes the road but leaves in the credits. Legal concerns exist with the Tap Fee Credits in general being in the proffers. The proposed proffers intensifies this legal concern because the road is being removed, which is at least a justification of a public purpose for the Tap Fee Credit. ***The Applicant's June 13, 2016 language revision appears to address most legal concerns regarding the "tap fee credits". Under the structure of the language, the Applicant would clearly pay the full tap fees, but for any amount over 10K the per unit proffer contribution amount is reduced.
- 199 House Cap. The current proffers cap the development at 199 houses until the East/West Connector Road is built. The proposed revision eliminates this. ***As noted under page 6, the Applicant can stop development at house number 199 and not be required to build Phases 2 – 4 of the East/West Connector Road. This is a risk to the Town in building Phase 5 of the road, since there is no guarantee that the applicant will complete the road.
- Energy Star Certification. The current proffers require homes in the development to be Energy Star Certified. ***This is proposed to be removed in the Applicant's proposed revision.

Planning Commission did not recommend approval of the proffers as submitted. The Commission recommended that the 604 acres and the smaller 149 acres project together, which would address the big picture for both the Town and applicant.

Council Discussion/Council Notes:

- Crosby Road bridge near ballpark would need to be upgraded
- Railroad crossings would be at grade
- More information on why the Energy Star removal is requested

2. Special Use Permit – EDA – Director of Planning/Zoning

Summary: The Economic Development Authority (EDA), legally titled the Industrial Development Authority of Front Royal, has submitted a Special Use Permit (SUP)

application (SUP16-04-264) to establish 36 apartments at the end of Royal Lane. The EDA intends to market the units as workforce housing. The site consists of approximately 3.6 acres, and is zoned C-1 (Community Business) District. Pursuant to Town Code 175-39.B., apartments with 4 or more units, or any number of apartments when located on the ground level, require an approved SUP.

The EDA has submitted a preliminary site plan with their SUP application. The preliminary site plan depicts the proposed layout of the project. There are three separate buildings proposed, each containing 12 apartment units. Utilities will need to be extended to the site from Royal Lane, and Royal Lane would also be extended to provide access to the apartments. The majority of such road extension is proposed to be a private drive, but will be recorded with a right-of-way reservation to authorize the Town to dedicate the road as a public street if determined by Town Council, such as if in the future the road is ever extended.

A small portion of the proposed road is proposed to be dedicated to the Town up-front. This portion of the road is located on property owned by the adjoining lot. It was reserved for dedication to the Town in the past, and a dedication plat was submitted by the EDA's attorney, and is attached. The Planning Commission Staff report is also attached, which include additional information on the project, including the traffic analysis information submitted by Pennoni Associates Inc. The Staff report includes 7 recommended conditions for the SUP.

The Planning Commission is scheduled to hold a public hearing on June 15th, which will be concluded prior to the Town Council Meeting.

Council Discussion:

There was no Council discussion.

3. Continued Discussion of Anti-Litter Signs – Director of Planning/Zoning

Summary: Attached is an illustration of the proposed sign submitted by the Anti-Litter Council (ALC) with the language changes recommended by Town Council at the previous work session. A local citizen has graciously printed a large version of the sign and also made another alternative version of the sign that will be available at the meeting. When Town Council is happy with the proposed signage, the ALC is requesting that the signs be posted at the following locations:

1) Remount Road (Rt. 522) northbound.

Suggested location: On the east side of the road between the two existing Front Royal signs. Suggested dimensions: 24" x 30"

2) John Marshall Highway (Rt. 55) westbound.

Suggested location: On the north side of the road near the intersection of Richmond Road. Suggested dimensions: 18" x 24"

3) South Royal Avenue (Rt. 340) northbound.

Suggested location: On the lightpole in front of Pioneer Motel. Suggested dimensions: 18" x 24"

4) Happy Creek Road (Rt. 647) westbound.

Suggested location: on the north side of the road between LRP and Ewell Street.

Suggested dimensions: 18" x 24"

5) Strasburg Road (Rt. 55) eastbound.

Suggested location: On the south side of the road across from Heritage Hall.

Suggested dimensions: 24" x 30"

6) N. Shenandoah Avenue (Rt. 340/522/55) southbound.

Suggested location: On the lightpole in front Enterprise Rental. Suggested

dimensions: 24" x 30"

7) Leach Run Parkway northbound and southbound (upon completion of road)

Suggested location: TBD Suggested dimensions: 24" x 30"

Council Discussion:

Council chose the more simplistic sign.

4. Update on CDBG Downtown Revitalization Project – Director of Planning/Zoning

Summary: Town Staff will report to Town Council of the status of the CDBG - Downtown Revitalization Project. This includes updates in regards to the Downtown Revitalization Plan that is being developed by the Project Management Team with grant funding awarded to the Town. The principle components of the plan will include a Façade Improvement Program and Branding Strategies, including, but not limited to, wayfinding signage.

Upon completion of the Downtown Revitalization Plan at the end of this year, the project includes a goal of submitting for implementation funding next year for the March 2017 deadline. Town Staff would also like to discuss with Town Council the current idea to work with the DRIVE Tourism group to maximize what can be accomplished for wayfinding signage. This would require working with a branding approach that will be compatible with the entire community, as well as the downtown.

Council Discussion:

Mayor Darr noted that Council needed a worksession with their Community Development Director. He asked that the Town hold the worksession to ensure that the Town is not duplicating efforts and to inform Council. Mr. Camp stated that he is asking for Council's feedback on the DRIVE matter. Mr. Burke noted that the Staff is requesting the funding, towards the wayfinding signs, and they agree that a joint meeting should also be held.

5. Employee Handbook Revision - Work-Related Injury/Illness Reporting Policy

Summary: OSHA recently published its Final Rule pertaining to workplace injuries and illnesses. The rule requires employers to develop injury and illness reporting requirements that meet certain criteria. It mandates that employees are informed of the following:

- 1) Employees right to report work-related injuries and illnesses, and to do so free from retaliation.
- 2) Procedures for reporting work-related injuries and illnesses: procedures must be reasonable and not deter or discourage employees from reporting.
- 3) Employers are prohibited from any manner of discrimination or retaliation against employees for reporting work-related injuries or illnesses.

Council is requested to approve the addition of the attached “Work-Related Injury and Illness Reporting Policy” to the Employee Handbook; Chapter 8, Section XVI.

Staff Evaluation: The policy will ensure compliance with OSHA regulations. It provides employees with more detailed information and explicit instruction for when a work-related injury or illness occurs.

Work-Related Injury & Illness Reporting Policy & Procedures

Employees have the right to report work-related injuries and illnesses. Town policy requires all employees to report on-the-job injuries as follows, no matter how slight, **immediately** following the injury.

When a work-related injury occurs:

- ☐ Notify your supervisor immediately
- ☐ Call Toll Free **1-877-234-0898** (NT24 worker’s compensation work-related injury line)
- ☐ Use Member Number **230**
- ☐ 24 hours a day – 7 days a week – 365 days a year
- ☐ Injuries must be reported immediately

Upon calling the NT24 work-related injury line, you have the opportunity (not required) to speak with a Registered Nurse who will obtain a history of the injury and offer a best course of action based on the symptoms reported.

This policy does not replace calling 911 when immediate medical attention is required. When appropriate or necessary, an injured employee must seek medical attention in an emergency facility or with a physician’s office that is specifically listed on our panel of physicians. The panel of physicians, as well as prescription information, is provided by your supervisor or department head. It is the employee’s responsibility to attend follow-up appointments as scheduled by Occupational Health or medical office related to a work injury.

Employee’s must not be deterred or discouraged from reporting injuries and illnesses. Town policy prohibits discrimination and/or retaliation against employees for reporting work-related injuries and illnesses.

Council Discussion:

Mayor Darr asked about the toll-free number. Ms. Scholtz noted that they should call the number in order to report to VML regarding the injury. Mayor Darr stated that the definition of the number as listed should be clarified. Vice Mayor Tharpe questioned the reason behind the number. Mr. Burke explained the reason behind the telephone call, noting that it is a VML requirement.

6. Update on Town Charter Revision – *Town Attorney*

Summary: On November 26, 2012, Town Council passed the attached proposed Town Charter amendments (the proposed additions are underlined, and the proposed deletions are interlined) which Council requested the General Assembly to pass at the upcoming 2013 Session. The most significant of these proposed changes are as contained in the attached letter dated November 30, 2012, to the Town's then General Assembly Senator and Delegates, and include: The change in the Town's elections for Town Council and Mayor from the first Tuesday in May in even numbered years, to the general election day in November in even numbered years (this has now been codified in the Town Code in Section 10-1; however, the General Assembly can undo this by change to State Code).

Other proposed changes to the Town Charter include: Allowing the Town Council to designate additional Town officers by ordinance; to cause elections to Town Council and Mayor to be non- partisan (so that federal employees, such as our present Mayor, to be able to hold local public office—historically, all Town elections, as most local elections nation-wide, have always been non-partisan); to allow minutes to be kept in electronic format in lieu of hard-copy minute books; to allow the publication of proposed ordinances and other notices by any method allowed by law; to combine the duties of the town treasurer with that of town manager or town finance director; and for the provision of a number of other minor or clerical amendments to the Charter.

A copy of the black-lined proposed Charter amendments that was sent to the Town's General Assembly delegation, together with the letter dated November 30, 2012, sent to the Town's General Assembly delegation, are attached.

Unfortunately, for reasons that are not completely clear, while in committee in the House of Delegates, the Town's proposed Charter amendments were significantly altered, to the extent that it completely defeated what the Town wanted to see happen, so the Town caused the House of Delegates to "pull" the proposed Charter amendments from further consideration during that Session of the General Assembly.

Town Council is requested to consider and discuss any other amendments it would like to see to the Town's Charter. Consideration might include whether the Town wishes to be able to retain its zoning authority over any State directives regarding Airbnb; more local control over cleaning up derelict properties; cleaning up the present Charter provisions regarding zoning and planning, as they are outdated and conflict with current State law and current zoning and planning best practices; provisions for more local flexibility on taxation; etc.

Staff Evaluation: Staff might be requested to evaluate the Town Charter and give its recommendations to Town Council as to what staff recommends might be considered amended.

Council Discussion:

Mayor Darr noted that he wished Council elections were in May, that the Mayor's term was four years and the Council should be reduced to five members.

Councilman Egger asked if term limits that Council can include in the Charter. Mr. Napier noted that he suspects that it could be if in the Charter.

7. Sidewalk Lease Agreement – 501 E Main Street – *Town Attorney*

Summary: Katie Mac, L.L.C., comprised of Katie Tewell and Mac McIntyre, the daughter and son, respectively, of George McIntyre, requests that their company be able to install three 100 gallon propane gas tanks in the public sidewalk along Church Street near its intersection at 501 East Main Street in conjunction with a new business their company proposes opening in a currently vacant building. The reasons for this request is more fully set forth in that attached letter dated September 2, 2015, from Blossman Propane Gas & Appliance to Jeremy F. Camp, Director of Planning & Zoning. Summarized, the reasons are that it is safer that the propane tanks are not placed underground; that it is easier to replace above ground tanks if there is a problem with the tanks; and that there are reports that the water table is approximately 16" below grade in this area, so that underground tanks would be sitting in water. Mr. Camp has received confirmation from the Warren County Building Official (David Beahm) that the project would comply with the Building Code. The Town's Risk Manager verified with VML (the Town's insurance carrier) that the Town should have the lessee sign a hold harmless agreement and insurance coverage, and to use normal procedures.

Notice was also sent to the Fire Marshal, and the Town should have confirmation of his positive response prior to the Town entering into a lease with Katie Mac, L.L.C. Attached are the following: A proposed Lease Agreement dated May 24, 2016 signed by a

Member ("Partner") of Katie Mac, L.L.C., , with attached Exhibits "A", "B", "C", "D", "E", " " and "F"; a letter from Blossman Propane Gas & Appliance to Jeremy F. Camp, dated September 2, 2015; photos of proposed sidewalk lease site; sketch drawing of site; document titled "Fencing: A Guide to the Options"; email message from David Beahm dated September 10, 2015, to Jeremy Camp; email from Jeremy Camp dated September 10, 2015, to David Beahm; email message from Sue McIntosh (Town's former Risk Manager) dated September 14, 2015, to Jeremy Campbell; email message from Karen Nuckols of VML dated September 14, 2015, to Sue McIntosh; email message from Sue McIntosh dated September 11, 2015, to Karen Nuckols of VML; email message from Jeremy dated September 10, to Gerry Miatico, Fire Marshall of Warren County; and email message from Laura Glavis of Blossman Gas & Appliance dated September 4, 2015, to Jeremy Camp.

The proposed lease appears to allow sufficient room, four feet, for pedestrian travel around the propane tanks.

Council is requested considering leasing sidewalk space for the placement of three 100 gallon above ground propane gas tanks on Church Street to service this new business located on 501 East Main Street.

Staff Evaluation: Staff believes it has requested and obtained the relevant information from the appropriate authorities, including the Building Official, the Fire Marshall, and the Town's insurance Carrier, the Virginia Municipal League, to ensure that, if Town Council agrees to allow a lease of the Item No. 7 2 sidewalk to Katie Mac L.L.C., that it can be done safely and consistent with public convenience. The Planning/Zoning Director comments are below:

- 1) The placement of the tanks shall not interfere with the egress from the building if the sidewalk area is used as the part of the exit discharge. (could not tell from the pictures)
- 2) Vehicle impact protections shall be provided in accordance with the Building/Fire Code or as approved with the Warren County Building Official.
- 3) The installation of the above ground containers shall be in accordance with the Virginia Statewide Fire Prevention Code Table 6104.3 (footnote E) Budget/Funding: None required on the part of the Town. A nominal lease amount of \$1.00 per year is proposed in order to get a currently vacant building into a commercially viable business.

Legal Evaluation: It is recommended that the lease term be for five (5) years or less because of the following Constitutional and statutory provision:

The Constitution of Virginia [1971]

Article 7 Local Government

Section 9. Sale of property and granting of franchises by cities and towns....Before granting any such franchise or privilege for a term in excess of five years,... except for a trunk railway, the city or town shall, after due advertisement, publicly receive bids therefor.

Va. Code § 15.2-2100. Restrictions on selling certain municipal public property and granting franchises. — ...Before granting any such franchise or privilege for a term in excess of five years, except for a trunk railway, the city or town shall, after due advertisement, publicly receive bids therefor, in such manner as is provided by § 15.2-2102 [Va. Code § 15.2-2102. How bids received and to whom franchise awarded. — The presiding officer shall read aloud, or cause to be read aloud, a brief summary of each of the bids that have been received, for public information, and shall then inquire if any further bids are offered. If further bids are offered, they shall be received. The presiding officer shall thereafter declare the bidding closed. The presiding officer shall receive recommendations from the staff relative to any bids received in advance and staff's recommendations, if any, on any bids received at the advertised council meeting.

After such other investigation as the council sees fit to make, the council shall accept the highest bid from a responsible bidder and shall adopt the ordinance as advertised, without substantial variation, except to insert the name of the accepted bidder. However, the council, by a recorded vote of a majority of the members elected

to the council, may reject a higher bid and accept a lower bid from a responsible bidder and award the franchise, right, lease or privilege to the lower bidder, if, in its opinion, some reason affecting the interest of the city or town makes it advisable to do so, which reason shall be expressed in the body of the subsequent ordinance granting the franchise, right, lease or privilege. The process described in this section may run concurrently with any other advertisement or public ordinance requirements of this title, or such requirements as may be contained in charters of such cities or towns.], and shall then act as may be required by law.

Staff Recommendations: Staff has no objection to this lease, as it would allow a business to be established at 501 East Main Street where currently there is a vacant building.

Council Discussion:

Council agreed to the matter.

8. 1st Street and Massie Street Traffic – Councilman Connolly

Councilman Connolly asked if Massie Street could possibly be one-way as the volume and steepness of the street call for such a matter. He noted that no thru traffic could be considered, and he requested what procedures need to take place in order to make it one-way and whether there are other alternatives.

Councilman Connolly noted that there was a response list submitted by the Town Manager that noted that various residents prefer different outlets to solve the problem. Mr. Burke stated that there are more vehicles going northbound, in response to Council questions.

Mr. Burke noted that Council does have the power to go one-way. He stated that the Town Manager can actually determine that the street can be changed to one-way. Councilman Connolly asked about a public hearing. Mr. Burke noted that a hearing was not required, he added that homeowners have spoken.

Mr. Daniels stated that the northbound traffic is heavier and it is earlier. He noted that reducing traffic in the afternoon would not be affected. He added his various concerns with the adjustments, noting that it would be less drastic than having First Street made as First Street.

Council heard from other members of the neighborhood and chose to do a letter of support to make Massie Street one-way on the consent agenda.

10. Closed Meeting – Disposition of Publicly Held Property

Motion to Go Into Closed Meeting

Councilman Connolly moved, seconded by Councilman Egger that Town Council go into closed meeting for the purpose of the discussion or consideration of both the acquisition of real property for a public purpose, and of the disposition of publicly held real property, being privately owned property along Stockton Road and Washington Avenue, and a public right of way known as The Hill, pursuant to Section 2.2- 3711. A.3., where discussion in an open meeting would adversely affect the bargaining position or negotiating strategy of the public body and that Council convene and go into Closed Meeting for the purpose of consultation with legal counsel and briefings by staff members or consultants pertaining to actual litigation in the matter of *Grace Fellowship Church of God v. Town Council of the Town of Front Royal*, where such consultation or briefing in Open Meeting would

adversely affect the negotiating or litigating posture of the public body; pursuant to Section 2.2-3711. A. 7. of the Code of Virginia.

Vote: Yes – Connolly, Egger, Meza and Tharpe

No – N/A

Abstain – N/A

Absent – Hrbek and Tewalt

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

Motion to Certify Closed Meeting at its Conclusion

Councilman Connolly moved, seconded by Councilman Egger that Council certify that to the best of each member's knowledge, as recognized by each Council member's affirmative vote, that only such public business matters lawfully exempted from Open Meeting requirements under the Virginia Freedom of Information Act as were identified in the motion by which the Closed Meeting was convened were heard, discussed or considered in the Closed Meeting by Council, and that the vote of each individual member of Council be taken by roll call and recorded and included in the minutes of the meeting of Town Council.

Vote: Yes – Connolly, Darr, Egger, Meza and Tharpe

No – N/A

Abstain – N/A

Absent – Hrbek and Tewalt

(By Roll Call)

Present: Mayor Darr, Vice Mayor Tharpe, Councilman Connolly, Councilman Egger, Councilman Meza, Finance Director Breeden, Town Attorney Napier, Clerk of Council Berry, Police Captain Hite, Planning & Zoning Director Camp, Risk Manager Scholtz, members of the media and members of the public.

Absent: Councilman Hrbek and Councilman Tewalt