



TOWN COUNCIL WORK SESSION MINUTES

Monday, July 3, 2017 @ 7:00 PM
Town Hall Conference Room

1. Presentation from JTS, LLC (Clerk of the Works – Police Department)

Summary: The town issued a RFP for “Clerk of the Works” for the construction of the new Police facility in February 2017. In March, we received four bids from the RFP for services. Staff has been in negotiations with our selected firm and have settled on a price for services as Clerk with JTS, LLC.

Staff Evaluation: Staff evaluated all proposals and selected the preferred firm to engage in contract negotiations, which is JTS. As a result of negotiations, they have amended pricing to incorporate changes results in an 8.7 to 12.2 % reduction in fee. JTS will provide additional information at the work session.

Budget/Funding: Funding through the new market tax credits

Staff Recommendations: Staff recommends approval of contract with JTS to provide the clerk of the work duties for the construction of the new Police department facility.

Council Discussion:

Ken Cordo, of JTS, explained that they will be the eyes and ears for the Town of Front Royal. He brought field reports of other projects that they have done for other organizations. He stated that they document with photographs and provide that to a distribution list. Mr. Cordo stated that the monthly pay applications come into play greatly with the issues relating to schedules and tasks. He noted that they look from all perspectives, including are they completing matters relating to the project details and he remains on site to note man power and the daily reports from the job site. Mr. Cordo stated that he would not authorize field changes, commit the Town’s funds, nor is he a code official. He stated that he works with the Town to maintain proper records to benefit and protect the Town.

Mayor Tharpe and Mr. Waltz stated that they met with JTS and Councilman Meza in order to review the credentials of JTS. Councilman Tewalt asked about proper record keeping and whether JTS had the power to overrule the submittals of the contractors on site. Mr. Cordo noted that they cannot overrule the contractor document, though they can raise the contradiction with the Town and dispute. Councilman Sealock asked if they could stop work on site. Mr. Cordo noted they can only stop if it was critical harm, not if it was a matter of “rework”. Mr. Sealock asked about change orders; Mr. Cordo noted that they are there determining credible requests for a change order and whether the cost request is reasonable.

Mayor Tharpe noted that it would be on the regular agenda.

2. Continued Discussion - Property Maintenance/Rental Inspection Program – *Director of Planning/Zoning*

Summary: Attached with this coversheet is a DRAFT amendment to the Town Code (See Attachment A).

This draft amendment would accomplish the following:

- Establishment of a maintenance code that is applicable Town-wide; and,
- Establishment of a rental inspection program, within the central portion of the Town, as identified on the attached map (Attachment B).
- The amendment also makes other minor code changes associated with the above, and reaffirms Warren
- County as the current building inspections department for the Town, something that the current Town Code does not adequately address.

On July 20, 2016, the Planning Commission held an initial public hearing/public information meeting regarding the possibility of establishing a property maintenance code and/or rental inspection district program within the Town. This public hearing was scheduled after the topic was referred to the Planning Commission by Town Council, and following development of a study area for a potential rental inspection program. During the initial public hearing, six (6) members of the public spoke in favor of the concept and one (1) member of the public spoke in opposition. Following this first public hearing, the Planning Commission created the attached DRAFT amendment to the Town Code with assistance from Town Staff and input from the Warren County/Town Building Official. The draft was created to comply with Virginia Code §36-105 and §36-105.1:1.

On November 30, 2016, the Planning Commission held a second public hearing with the draft ordinance. During this meeting the Planning Commission passed a motion to *“recommend adoption of Ordinance Amendment ORD16-09-227, to establish a rental inspection district in the Town, as identified on the map titled “Front Royal Downtown Rental Inspection District”; to establish a property maintenance code for the entire town; and other minor changes to Chapter 9, as submitted.”* The recommendation included the necessary findings of fact, as listed under Section 9-300 in the draft ordinance amendment, and a reference to the Virginia Code’s definition of blight. A draft set of guidelines is attached for information purposes (See Attachment C).

Budget/Funding: If Town Council chooses to adopt the ordinance recommended by the Planning Commission, or amendment thereof, funding for the program would need to be determined for administration. This may include hiring of additional Town Staff or establishing an agreement with Warren County for such administration. A comparison of similar Towns is attached (See Attachment D) with data on staffing levels.

Council Discussion:

Mr. Camp noted that in February, he gave a detailed presentation was given to Council on the matter. He stated that there were many issues with substandard housing in Town and some are concerned with the costs that property owners may have to incur with the change in the matter. Mayor Tharpe stated that many should attend the meeting to understand the changes proposed and also that the Council needs to pay the employee, find an office the employee, find them a vehicle, and is the Council going to be ready to implement a position and these changes for the Town. Mayor Tharpe stated that the public hearing would at first would be to receive information and then see if the Council is ready to perhaps raise taxes to possibly implement the program. Councilman Connolly asked to see the program’s cost; Mr. Camp estimated about \$162,000 for the first start-up

year. Mr. Camp stated that Planning & Zoning was used to hand me down vehicles. Councilman Tewalt asked if in his neighborhood could the property be examined even if it is not in the downtown area be checked on. Mr. Camp stated that yes, his street, Wine Street, could be examined – if the renter complains then the property could be examined, period, even without the property owners consent. Mr. Camp stated that once the tenant complains, the tenant is concerned that they will be evicted once the property is inspected by the Town.

Once the Town inspects the property, the Town can do one of three things:

- Issue certificate of exemption, meaning no violations of VMC were found
- Issue violation which allows time for correction
- Issue a notice of unsafe/unfit structure, time to make repairs or vacate unit

Councilman Tewalt noted that the Council should not be in the appeal process and he does not want to be in property maintenance process, period. Mayor Tharpe stated that funding is the truly the main issue at this point. He asked that the Town Council consider that an increase in taxes is possible. Councilman Tewalt noted that it would take 2 cents to continue the program each year. Mayor Tharpe noted that there were several units in Town that need a vast amount of help and other units that are in great shape. He stated that Council should digest the matter and it should return to Council in a couple of weeks.

3. Proposed Ordinance Amendment for Flea Market Regulations – *Director of Planning/Zoning*
Summary: Attached is a draft amendment to the Town Code that would modify the flea market regulations within the Town. The proposed code changes were initiated by Andrick's Flea Market, and were referred to the Planning Commission by Town Council. The Planning Commission recommended the attached draft amendment after review of the matter over a few work sessions. The Town Code presently restricts flea markets to only Saturdays, Sundays and Holidays. The draft amendment would allow a flea market to operate on Fridays with a Special Use Permit and subject to review and certain performance standards. If adopted, Andrick's Flea Market, or any other future flea market operator, may apply for a Special Use Permit to obtain approval to operate a flea market on Fridays. Andrick's Flea Market has also expressed an interest to possibly open a Farmer's Market as well.

No code changes were necessary to the Town Code to allow for Andrick's to apply for a Farmer's Market. A letter supporting the request from the current property owner of Andrick's Flea Market is also enclosed.

July 24th is the next available regular meeting for a public hearing.

Council Discussion:

Mr. Camp noted that though it is in the Code, the Flea Market and the previous Finance Director were in debate as to whether the fee per table is to be collected by the Town. Mr. Napier stated that he was unsure of what the dispute is and he would be glad to pursue the matter. Mr. Tewalt stated that the public hearing should not go forward at this time, as it may need to be re-advertised once resolved. Mr. Napier stated that the full nature of the dispute was not resolved. Ms. Andrick noted that the matter was found to be illegal and nothing was repaid and the fees were stopped by the prior attorney and Finance Director, in her opinion.

Council noted that they needed more information and more of a determination as to what took place, and whether it is proper in the Town Code. Mr. Waltz stated that holding up the Code change was in proper order until the matter was fully resolved. Mayor Tharpe stated that the matter would be looked into and then the Town would properly re-advertise the matter at a later time.

4. Ordinance Amendment to Section 46-1 - Public Drunkenness to Public Intoxication – *Town Attorney*

Summary: Virginia Code Section 18.2-388 makes it unlawful for a person to be intoxicated in public “from alcohol, narcotic drug or other intoxicant or drug of whatever nature”. Town Code Section 46-1 only addresses public drunkenness from alcohol consumption. Police Department Administration would like Town Code amended to reflect the expanded offense of being intoxicated in public, allowing officers to cite violators using “Local” summonses rather than “State” summonses. The use of “Local” summonses would allow the Town Attorney to prosecute persons intoxicated in public in Town from other intoxicants, in addition to alcohol.

Town Council is asked to consider an amendment to Town Code 46-1 to expand the prohibited conduct to include a person being intoxicated in public from other intoxicants, in addition to alcohol, with a violation constituting a Class IV Misdemeanor as defined in Town Code Section 1-15.

Staff Evaluation: The proposed amendment will allow for the charging and prosecution of those persons found intoxicated in public in the Town from other intoxicants, in addition to alcohol, and consistent with state law.

Legal Evaluation: Town Council has the power to adopt the ordinance amendment pursuant to Section 18 (14) of the Town Charter and Virginia Code §15.2-1102. The Town Attorney will be available for legal questions.

Council Discussion: Mr. Napier noted that this was a housekeeping matter to conform to the State Code in order to allow the Town’s legal department to use local summonses rather than State summonses and allow the funds to go into the Town funds, rather than the State.

5. Term expiring on the Planning Commission

Summary: Joseph McFadden’s term on the Planning Commission will expire August 31, 2017. He has asked to be considered for re-appointment. The Planning Commission has 4-year terms. Council is requested to direct Staff on their desired action.

Council Discussion:

Mayor Tharpe noted that they do not need to readvertise and he would like to move forward with his reappointment. Councilman Connolly and Tewalt voiced their support of advertising in order to obtain more applicants from the community.

6. Liaison Committee Meeting Items for July 20th Meeting

Last agenda below:

1. Development Review Committee

2. Avtex Property – Main Street Extension
3. Wastewater Treatment Plant/Septage Receiving Facility
4. Consideration of Joint Towing Board
5. McKay Property Update
6. Building Inspections Software
- ~~7. Leach Run Parkway~~
- ~~8. Utility Contribution Request from Warren Heritage Society~~
9. Warren County's In - Town Projects
10. Tethering of Dogs in Extreme Weather
- ~~11. Tourism Discussion~~

Council Discussion:

Councilman Meza is our Liaison representative for July.

7. Council Discussion/Goals

Council discussed Criser Road bridge and the delay at this point, and Mr. Waltz stated that he would obtain a preliminary schedule at this point. Council also discussed contacting their delegates in order to speed along the dilapidated buildings. Council reviewed the appointments and materials for the 6th Street railroad resolution. Council reported a water leak along Evelyn Court.

8. CLOSED MEETING – Council Vacancy, Town Manager Contract, Disposition of Publicly Held Property and Consultation with Legal Counsel

Councilman Connolly moved, seconded by Vice Mayor Tewalt that Town Council go into closed meeting for the following purposes: 1) to discuss, consider, and/or interview prospective candidates for appointment to fill the vacancy on Town Council occasioned by the resignation of former Town Council Member Bébbinn Egger, pursuant to Section 2.2-3711.A.1 of the Code of Virginia; 2) to discuss and consider the performance, salary, and other contractual terms of employment of a specific employee of the Town, specifically the Town Manager, pursuant to Section 2.2-3711.A.1 of the Code of Virginia; 3) consultation with legal counsel employed or retained by a public body regarding specific legal matters requiring the provision of legal advice by such counsel, namely, employment contractual provisions of the Town Manager, pursuant to Section 2.2-3711. A. 7. of the Code of Virginia; 4) discussion or consideration of the disposition of the publicly held real property located around 16th Street near Belmont Avenue, 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, 5) consultation with legal counsel and briefings by staff members or consultants pertaining to actual litigation, specifically, Grace Fellowship Church of God of the Abrahamic Faith 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, Morrison, Sealock and Tewalt
No – N/A

Abstain – N/A

Absent – Meza

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

(By Roll Call)

Motion to Certify Closed Meeting at its Conclusion

Councilman Connolly moved, seconded by Vice Mayor Tewalt 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, Morrison, Sealock and Tewalt

No – N/A

Abstain – N/A

Absent – Meza

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

(By Roll Call)

PRESENT: Mayor Tharpe, Councilman Connolly, Councilman Morrison, Councilman Sealock, Town Manager Waltz, Town Attorney Napier, Clerk of Council Berry, Director of Planning Camp, Director of Finance Wilson, Interim Director of Energy Services Jenkins, Police Captain Nicewarner, IT Director Jones, Director of Environmental Services Hannigan, members of the public and members of the press.

ABSENT: Councilman Meza