



TOWN COUNCIL WORK SESSION
TUESDAY, September 5, 2017 @ 7:00pm
Town Hall Conference Room

Town Council Orientation held at 6 p.m.

Present: Tharpe, Sealock, Gillispie, Morrison (arrived at 6:20 p.m.), Waltz, Napier, Berry, Wilson, Jones, Hannigan, and Press

Mr. Waltz gave a brief overview of the form of government of the Town of Front Royal (Council/Manager form), the powers defined by the Town's Charter, the State of Virginia, the Town's Code, etc. He noted the three members of appointed by Council, the Town's public hearings, closed session/motions, etc. Mr. Waltz gave a run down of some Senior Staff members.

Mr. Napier gave a summary of Freedom of Information of Act requests. He gave a rundown of FOIA requests and how to handle said requests. He explained the cost and how the charges are estimated to requestors. He noted that all records and meetings are open unless there is a specific reason to exempt the record or meeting. Mr. Napier explained the importance of State and Local conflict of interest. He noted that the business holdings and dealings would be public. He advised that Council contact the Town Attorney's office to obtain guidance regarding any issue.

1. CHA Presentation on Route 522 Corridor Water Upgrade/Reliability

Summary: Information will be provided at the work session. Attached is information from March 20, 2017 Work Session

Route 522 Corridor Reliability Study

Project Summary

- Agreement with Dominion Power results in up to \$3.5 million dollars to help fund construction of the "Looping Project".
- While the original "Looping Project" idea has been eliminated from consideration, the concept has been replaced with a new 12-inch waterline running parallel to the existing waterline along Route 522, as shown on the attached Figure 5.1
- CHA performed an evaluation of available options for increasing the reliability of the Route 522 Corridor water system. This report evaluated storage tank and parallel waterline options. The Executive Summary is included in this packet. The study recommends the installation of a parallel waterline
- Town Staff concur with recommendations of the CHA Report
- Dominion Power has indicated that "....of the options presented [in the CHA Report], only the New Parallel Waterline will meet this requirement."
- Overall project cost is estimated at \$5.5 million (\$2.0 million contribution from the Town)
- Modeling based upon the Town GIS information does indicate a 3-12 psi pressure drop when Route 522 pump station capacity increases due to additional line capacity provided by parallel waterline. Pressure stays at acceptable levels, though pump control measures (short term) and/or waterline improvements (long term) within the Town distribution network would

eliminate these concerns.

EXECUTIVE SUMMARY:

The Town of Front Royal desires to increase the reliability of the northern portion of their water distribution system known as the Route 522 corridor (Corridor). This water system includes many large commercial and industrial users and is currently served by a single transmission main. If this main were to fail anywhere in the Corridor, the only water available north of the break would be that already stored in the 1.0 million gallon Fairgrounds Road tank. The goals of the project are to:

1. Maximize the volume of water supply available if water transmission main failure occurs;
2. Minimize the users affected during this scenario; and
3. Ensure all water quality regulations continue to be met.

Several alternatives along the Corridor were evaluated including:

1. Installing a waterline parallel to the existing line;
2. Connecting to an alternate portion of the Town's distribution system (Route 55 Pressure Zone Loop Connection);
3. Adding storage tank volume; and
4. Adding storage tank volume and upgrading the distribution pipe network.

These four alternatives were evaluated based on effectiveness at meeting project goals, estimated project costs, and constructability. The current Corridor water demands were utilized in the evaluation as well as future demand projections based on Warren County's (County) evaluation of undeveloped land.

A parallel waterline would significantly increase the reliability of the water supply in the 522 Corridor. If a line break occurred at any location in the Corridor to either of the waterlines, the other line would be able to provide all the necessary flow to all users along the Corridor. Figure 5.1 shows the proposed routing of this parallel line alternative, and divides the project up into three separate sections. The sum of the three new sections of waterline totals approximately 23,500 linear feet.

The total estimated project cost for a redundant waterline is \$5,470,800.

Council Discussion: Mr. Steel of CHA gave a history of the reason for Dominion's commitment to the looping system. He noted that the amount shown of \$5.5 million is going to only increase in the coming year, especially with recent hurricane activity and pipe reserve and location issues. He added that he has been working with Mike Kisner at the Water Treatment Plant to examine long term CIP recommendations that need to be put in place, in order to be proactive, rather than reactive. Mr. Steel reviewed the executive summary and the water line maps. Councilman Sealock asked that he be given a drive around in order to obtain an update on the water system and fully understand the line system and pipe networks. Mr. Steel described areas in the Corridor near Fairground Ground that he would like to parallel in order to have more redundancy. Council took a look at the water use of Dominion Power and how the water requirement the company will need in the coming year.

Mr. Steel went over the \$2 million loan amount for a 10 year payback schedule, with an annual payment of about \$224,000. He noted that there were many options, such as looking at the average 5,700 in town connections, with the connections paying \$1.98 more per connection for example, with others (out of town) paying more as well. Mayor Tharpe suggested a sunset clause after ten years; Mr. Steel expressed some concern with that option.

Mr. Steel noted that this was the PROJECT PLAN for Moving Forward:

- Hydraulic evaluation of existing town water system from Water Treatment Plant to proposed parallel waterline connection point;
- PER Update and submission to Virginia Department of Health for review and approval;
- Design and permitting of project;
- Construction.

Mayor Tharpe noted that Council should move forward with the project as soon as possible. Mr. Steel stated that he would like some direction, he added that he needs to verify some mapping information and complete some mapping information. Councilmen that chose that they wanted to move forward due to the liability issues: Connolly, Morrison, Gillispie, Sealock, Tharpe. Councilman Tewalt expressed concern with moving forward at this time. Mr. Waltz stated that the modeling funding is available and would be coming to Council soon and the study could be done. Mr. Tewalt noted that the Town should examine their lines fully before the funding is spent. He expressed support in the study, but not the permitting process. Mr. Waltz noted that having Council's approval to move forward was vital and the hydraulic evaluation would answer many of the questions that Mr. Tewalt posed. Mr. Tewalt expressed support of the hydraulic evaluation.

2. Continued Discussion - Proposed Vacation of Town Rights-of-Way a 1521 N. Royal Ave - Butler

Summary: Town Council held a public hearing on the vacation of right-of-way on August 28, 2017 in which four citizens spoke with two in opposition to the vacation. Council also amended the motion to include a requirement that Mr. Butler comply with his future intent of the property. Council has requested to return to a work session to fully discuss the amended motion and the opposition to the vacation.

To discuss the amended motion and the issues with the opposition brought up during the public hearing on August 28, 2017 before the second reading.

Council Discussion: Mr. Connolly asked that it come to the worksession. He noted that he had time to review the documentation sent by the Town Attorney via email and he was now okay with moving forward with the matter. Vice Mayor Tewalt noted that the Butlers stated that they understood the matter regarding his amendment.

3. Adoption of Llewellyn LLC Conservation Easement – *Town Attorney*

Summary: Llewellyn, LLC has submitted a request for the Town to accept a conservation easement of approximately 40 acres (the Property) situated on U.S. Route 340 and along the South Fork of the Shenandoah River. The purpose of the conservation easement is to retain open-space and natural resource values of the Property. The easement would substantially limit future development and subdivision of the Property.

The Virginia Open-Space Land Act, §§ 10.1-1700 — 10.1-1705, specifically, Va. Code § 10.1-1700, states: *"Open-space easement" means a nonpossessory interest of a public body in real property, whether easement appurtenant or in gross, acquired through gift, purchase, devise, or bequest imposing limitations or affirmative obligations, the purposes of which include retaining or protecting natural or open-space values of real property, assuring its availability for*

agricultural, forestal, recreational, or open-space use, protecting natural resources, maintaining or enhancing air or water quality, or preserving the historical, architectural or archaeological aspects of real property”, which may be granted to a public body. “Public body” means any state agency having authority to acquire land for a public use, or any county or municipality, any park authority, any public recreational facilities authority, any soil and water conservation district, any community development authority formed pursuant to Article 6 (§ 15.2-5152 et seq.) of Chapter 51 of Title 15.2, or the Virginia Recreational Facilities Authority.”

Pursuant to the Open-Space Land Act, the Town must acknowledge that the conservation easement conforms to the Town’s Comprehensive Plan for the owner, Llewellyn, LLC, to receive tax credits. The proposed conservation easement is located within an area that is designated in the Comprehensive Plan for future conservation use.

Enclosed is a draft Deed of Gift of Easement submitted by Llewellyn, LLC. A survey and aerial map of the Property is also included.

Town Council will want to consider whether it wishes to implement the Town’s Comprehensive Plan by accepting the Conservation Easement.

Staff Evaluation: The Conservation Easement seems to conform to the Town’s Comprehensive Plan. The draft Deed of Gift of Easement, when the blanks are properly filled in to properly list the names and dates at the time of signing, appears to be in proper legal form.

Council Discussion: Mr. Camp noted that a vast majority, if not all above the railroad, is in the floodplain. Mayor Tharpe asked about the installation of the roadway. Mr. Camp stated that the easement allows for one driveway and home. Councilman Tewalt asked about whether it was one conservation easement; Mr. Camp noted the restrictions apply to one parcel, though it was actually two parcels. He added that it allows for one house, there are three parcels, though it is one conservation easement. Mr. Napier stated that the survey was received late this afternoon, though he had not had a chance to review it. Mayor Tharpe noted that it would go to the regular agenda when ready.

4. Advancement of Abandonment of Right-of-Way and Authorization of Quitclaim Deed to William M. Biggs and William J. Biggs Resolutions and Acceptance of Right-of-Way Deed Previously Adopted by Town Council; and, Damages Claim – *Town Attorney*

Summary: These two matters are being dealt with together, for reasons which hopefully will be clear. They can be separated if and when they go to Regular Meeting.

(1) By Resolution of Town Council dated November 10, 2009 (correcting two earlier Town Council Resolutions dealing with the same subject), Town Council authorized the Mayor to execute a Quitclaim Deed to William J. Biggs and William M. Biggs, as tenants in common, for an unimproved and unused portion of West 8th Street, the said portion being 60 feet in width and 150 feet in length (approximately 9,000 sq. ft.), in return for payment to the Town by the Biggs of the sum of \$30,000.00; it being further Resolved by Town Council that the conveyance of the portion of W. 8th Street would be conditioned by the Town retaining a twenty foot (20’) wide easement for a sewer line. Said Resolution further accepted the conveyance of a Deed from Messrs. Biggs for a 1,860 square foot right of way at the intersection of Shenandoah Avenue and

Kendrick Lane, all to be done upon the delivery of the said sum and the delivery of the right of way Deed. After said Resolution was passed, it was discovered by the attorney for Messrs. Biggs that there was a title defect to the title to property that Messrs. Biggs already owned that they wished to merge with the property they were to acquire from the Town. This title issue took some years for the attorney to resolve. In the meantime, the prior Town Attorney resigned, and this issue “fell through the cracks”. Messrs. Biggs still wish to go through with this transaction, and the current Town Attorney met with Messrs. Biggs on site on August 25 of this year to familiar himself with the particulars. Messrs. Biggs stated that they are willing to honor the terms of the agreement as stated in the Resolution.

(2) About the same time as said Resolution was passed by Town Council, William Biggs apparently notified the Town he had a claim with the Town for \$2,586.53 in property damages to his fence and gate. Mr. Biggs is also claiming damages for trees that were removed from his property.

The claim arose on an Old Virginia lot that Mr. Biggs owns, where a fence was removed and damaged from the installation of a storm sewer on his parking lot in 2010. The information and paperwork I have on this are somewhat sketchy, but it seems that the Town used Key Construction, Inc. to install the storm sewer. Mr. Biggs states that this happened when Michael Graham was Town Manager. It seems that sometime after the damage occurred, Mr. Biggs contacted Key Construction about the damage. Charlie Williams of Key Construction in turn sent an e-mail to Steve Burke, who I assume at the time was Director of Environmental Services, who informed Mr. Burke that Key Construction had been unaware it had damaged the fence until contacted by Mr. Biggs over a year later, and that when Mr. Williams attempted to call Mr. Biggs to speak to him about the situation, Mr. Biggs told him that it was not a convenient time for him and to call back later. Mr. Williams informed Mr. Burke that he was somewhat concerned that this issue was first raised more than a year after completion of the storm sewer project. Later, it appeared that Key Construction went out of business. The Town did not receive any more information of this issue until I was contacted by B.J. Biggs on behalf of William Biggs and informed of the claim in late 2015. I notified the then-Town Manager of the claim, and was under the impression that the matter would be handled from there, but learned last week it had not been. Messrs. Biggs are willing to offset the damages claim against the \$30,000 purchase price if this is better for the Town, although this might be problematic to the Town’s auditors. Also, Messrs. Biggs are also under the impression that their damages claim is rather more in the range of \$5,000, apparently because of the loss of their trees. VML was notified of the Claim, and VML’s response is:

From: Scott Martin [<mailto:SMartin@vmlins.org>]

To: Laura Scholtz <lscholtz@frontroyalva.com>

Subject: RE: Question

I looked at what you have supplied...I don't think the claim was ever reported to the VML; it was properly referred to the contractor who apparently ignored it or dropped the ball. The claimant has not followed up on it in 5-6 years. I don't think he can pursue the matter this late in the game; there is a 5 year statute of limitations for property damage in Virginia so even if the contractor went out of business, the Town is protected by the statute.

I can understand the situation for the Town as it relates to Mr. Biggs. Unfortunately give the

statute, we cannot offer any assistance; if the Town chooses to pay Mr. Biggs, it should be a gratis payment with any admission of liability; it should also be in exchange for a full release of all claims. I can provide a fill in for if the Town chooses to go that route.

Regards, Scott

(1) Town Council is asked consider honoring implementing the 2009 Town Council Resolution. (2) Town Council is also asked to consider whether or not it wishes to honor the contemporaneous damages claim the Biggs have submitted.

Staff Evaluation: Town Staff is prepared to implement the 2009 Town Council Resolution. As stated, the portion of W. 8th Street being considered to be conveyed has never been improved by the Town.

Budget/Funding: (1) None from the Town. (2) Whatever amount, if any, Town Council chooses to pay to Messrs. Biggs.

Legal Evaluation: (2) It appears that the damages claim by Mr. Biggs for his fence and gate was timely filed in writing with the Town within the six month period required by statute. There does not appear to be a written claim for the trees that were removed. My site visit left me little doubt that the trees were, in fact, removed, when the storm sewer line was installed. However, for reasons that are not clear, the records the Town has does not indicate why these matters were not followed up to their conclusion.

There is a five (5) year statute of limitations on these claims being filed in court; however, given that the Biggs have seemed to have dealt patiently and in good faith with the Town, it is not my professional recommendation at this time to force this issue.

Council Discussion: Mayor Tharpe asked about whether Council would do \$2,500 or \$5,000. Vice Mayor Tewalt noted that the Town did also let the ball fall on the matter as well. Council chose to move forward with the \$2,500 on the issue.

5. Request to Revise Policy for Town Fixed Video Equipment in Public Areas – *Town Manager*

Summary: Town Council approved a Resolution on July 11, 2016 pertaining to enacting a policy for Town Fixed Video Equipment in Public Areas. Since this time Town Staff has realized that two revisions are warranted to the policy: 1) give the Town Manager the authority to give others, as he deems necessary, permission to view video recordings. Currently the policy states that the no one can view a recording without a court order or without legitimate purpose directly related to an investigation by law enforcement of a reported criminal incident (#7). Another revision will also give the Town Manager the authority to place fixed video equipment in other Town buildings for monitoring as he deems necessary. (#10). The policy currently states that personnel at the Water Treatment Plant, Wastewater Treatment Plant and Energy Services Department are the only departments permitted to monitor their facility.

Council Discussion: Mr. Waltz noted that there are slight tweak needed in two areas of the current video equipment policy. Mayor Tharpe expressed his support of the suggested adjustments.

Councilman Connolly stated that the initial desire of some members of Council was to prevent any leeway, though he believes that the suggested tweaks would not be an issue.

6. Liaison Committee Meeting Items for September 21 Meeting

Summary: The next Liaison Committee Meeting is scheduled for September 21, 2017. The last meeting agenda is attached. At the August 7, 2017 Work Session Council suggested that the MOA for the Front Royal-Warren County Joint Tourism Committee be added to the next Liaison Committee Agenda.

Mayor Tharpe noted that he would like to add a “Splash Pad” to the agenda. Councilman Connolly suggested that the “Water Looping System” be added. Councilman Sealock noted that the “IT Federal” item should be on the agenda.

Past Agenda Items:

1. Development Review Committee
2. Avtex Property/Main St. Extension
3. WWTP/Septage Receiving Facility
4. Joint Towing Board
5. McKay Property Update
6. Building Inspection Software
7. Warren Co. In Town Projects
8. Leach Run Parkway Project
9. Tethering of Dogs
10. Electrical Outlets at Soccer Facilities

County submitted two requests for inclusion on the agenda: Happy Creek Road Project Update and the Town Building Maintenance Code Enforcement Update.

7. Council Discussion/Goals

Criser Road Bridge bid would be released again in a couple weeks.

Council asked about the new street sweeper flushing mud off of streets.