TOWN COUNCIL WORK SESSION MINUTES

Monday, April 2, 2018 @ 6:15pm
Town Hall Council Chambers

1. **Board of Zoning Appeals Interviews**
SUMMARY: On April 27, 2015 Robert Helms was recommended by Council to the Judge of the Warren County Circuit Court for re-appointment to the Front Royal Board of Zoning Appeals (BZA) to fill a five-year term ending May 1, 2020. On January 9, 2018, Staff received Mr. Helms' resignation effective January 31, 2018 as he was moving out of Front Royal.

Council is requested to interview two candidates and to select one (if so desired) to fill the vacancy left by Mr. Helms. Council will then officially recommend an individual to the Judge of the Circuit Court at an upcoming Regular Town Council Meeting to fill an unexpired term ending May 1, 2020.

BZA candidates are recommended by Town Council and considered by the Judge of the Warren County Circuit Court for appointment. Due to this being a recommendation to the Judge of the Warren County Circuit Court and not an appointment by Council, Council will interview for the recommendation in open session.

Council Discussion: Council noted that they would follow up with the gentlemen after the meeting on Monday.

2. **Route 522 Corridor Water Upgrade/Reliability – CHA Presentation**
CHA representative, Stephen Steele, explained the following presentation to Council:

Route 522 Corridor Reliability Project
1. Previous discussions/reports identified 4 options:

- **1. Parallel Waterline**
- **2. Loop Connection**
- **3. Adding Storage Tank Volume**
- **4. Adding Storage Tank Volume & Corridor Waterline Upgrades**

2. Dominion Power has indicated the Storage Tank Options (3&4) do not meet the intent of the "Loop Project", and they would not view a tank upgrade as eligible for the up to $3.5 million dollar reimbursement

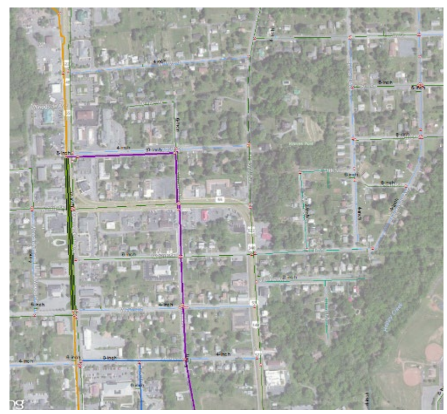
1. **A parallel waterline in the 522 Corridor is only as good as the downtown water distribution network.**
2. **Upon completion of last council session, CHA was tasked with evaluating the impact of various break scenarios related to the existing 12" waterline along Shenandoah Avenue.**
3. **Since that time CHA has worked with Town staff to develop a more accurate water distribution system map and model. We calibrated the downtown model based upon 38 hydrant tests.**

4. **CHA examined 5 line breaks in critical locations to determine the effects upon the Guard Hill PS ability to deliver 2 MGD to the 522 Corridor**

Town System Redundancy Parallel Waterline – Line Break #1
Line Break Scenario 1:
(18th-15th Street)

- **A. With pump station running, pressures in the Town distribution system are greatly reduced.**
- **B. Guard Hill PS can run briefly if fed from the Guard Hill tank**
- **C. This break seriously limits the Towns ability to provide water to Dominion while keeping pressures at VDH mandated levels.**

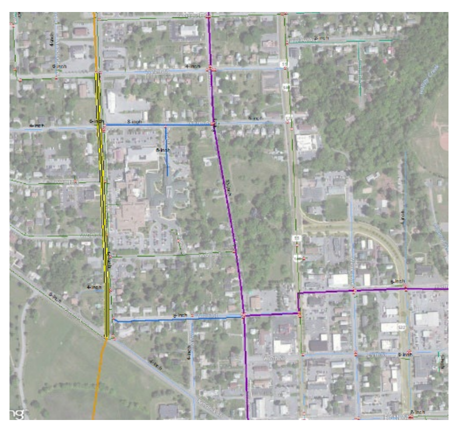
Town System Redundancy Parallel Waterline – Line Break #2
Line Break Scenario 2:
(15th-12th Street)



- **A. With Guard Hill PS running, pressures within the Town remain similar to current pressures, pressures along Strasburg Road drop 10-15 psi**
- **B. This line break, once isolated, is not a serious concern to the reliability of the Corridor water, but does create low pressures in an area of existing concern.**

Town System Redundancy Parallel Waterline – Line Break #3
Line Break Scenario 3:

(12th- Kendrick Street)



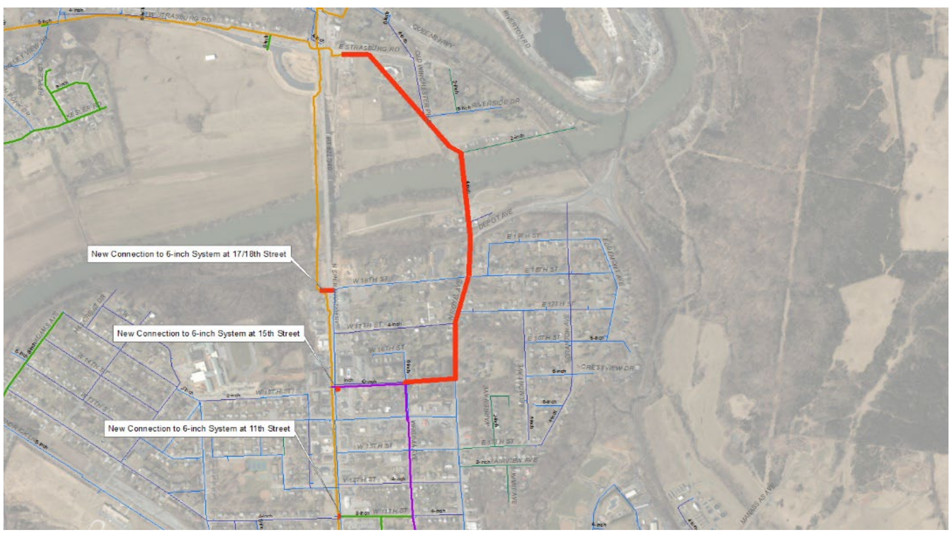
- **A. With Guard Hill PS running, pressures within the Town are similar to Line Break #2**
- **B. This line break, once isolated, is not a serious concern to the reliability of the Corridor water, but does create low pressures in an area of existing concern.**

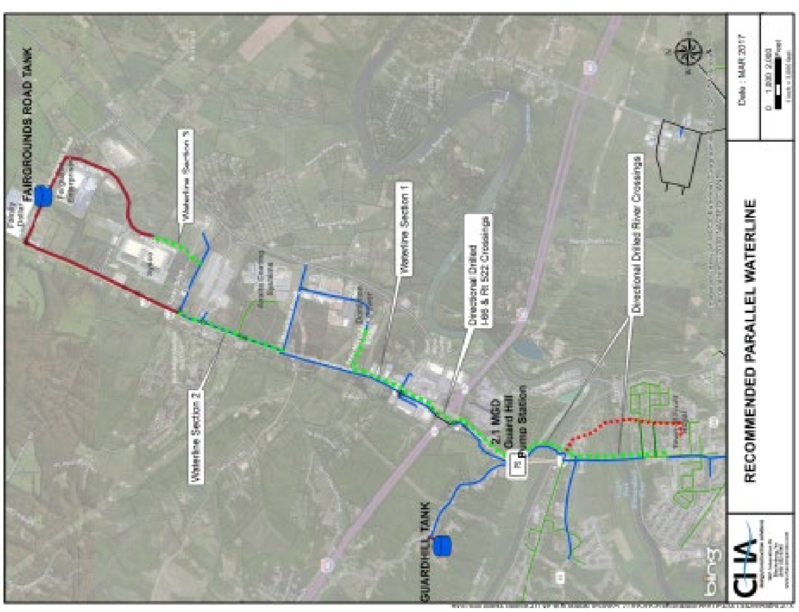
Town System Redundancy Parallel Waterline – Line Break #4
Line Break Scenario 4:

(10-inch on 15th Street)

A. **With Guard Hill PS running, pressures within the Town remain similar to current pressures.**
B. **This line break, once isolated, is not a serious concern to the reliability of the Corridor water**

Town System Redundancy Proposed Improvements





Route 522 Corridor Reliability Project
Moving Forward

1. CHA is not currently under task order to evaluate the proposed upgrades.
2. We recommend Council consider a Feasibility Study to include:
    a. Route determination
    b. Geotechnical evaluation of bore location
    c. VDOT coordination (potential for attaching waterline to bridge)
    d. Easement coordination and preliminary review
3. Upon completion of feasibility study - Complete VDH required Preliminary Engineering Report, including PE stamped water model, with fire flows.

Table 5.1 - Alternative 1 – Parallel Waterline Preliminary Cost Estimate

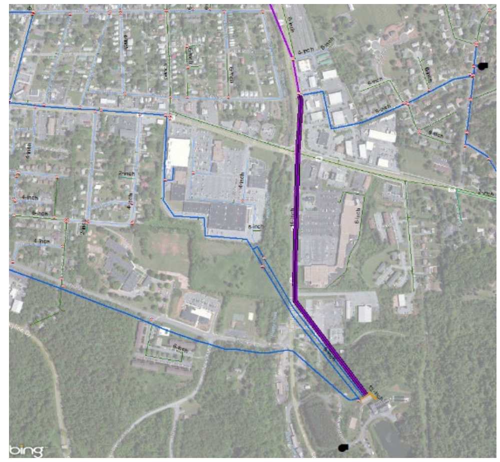
Item	Quantity	Unit	Unit Cost	Total Cost
River Crossings (Bore and Jack)	780	LF	$1,000	$780,000
I-66 Crossing (Bore and Jack)	900	LF	$600	$540,000
522 Crossings (Bore and Jack)	400	LF	$600	$240,000
12-inch Ductile Iron Water Main	21,420	LF	$88	$1,884,960
Valves and Fittings	1	LS	$80,000	$80,000
Pavement Restoration	2,250	SY	$50	$112,500
			Construction Subtotal	$3,637,460
Mobilization	3%	% of Sub	$109,200	$109,200
Contractor Overhead and Profit	12%	% of Sub	$436,500	$436,500
Construction Cost				**$4,183,200**
Easement Acquisition	1	LS	$50,000	$50,000
Geotechnical and Survey	2%	% of Const	$83,700	$83,700
Contingency	10%	% of Const	$418,400	$418,400
Legal, Engineering and Permitting	15%	% of Const	$627,500	$627,500
Resident Project Representation	1,350	Hours	$80	$108,000
				$5,470,800

Town System Redundancy
Parallel Waterline – Line Break #5

Line Break Scenario 5:

(14-inch from Water Plant)

A. With pump station running, creates very low pressures in the Town distribution system.
B. Redundancy for this issue is to be part of future CIP plan currently being prepared.



Council Discussion: Vice Mayor Tewalt noted that it was 15th to North Royal and he asked if it was still in service. Mr. Boyer stated that it was not currently. Mr. Steele stated that the water was more shallow there and they needed to determine matters for boring. Mr. Tewalt asked about the bridge. Mr. Steele stated that VDOT has been more amenable to having matters hanging on their bridges. Mr. Waltz stated that they needed to place the matter on hold until the discussions with Washington Gas & Light are thoroughly looked into. Mr. Steele noted that he was unsure if they could save funding, though those easements must state that gas and water easements are included.

Councilmen Meza and Morrison arrived at 7 p.m.

Mr. Waltz noted that Council just needed to be aware of Washington Gas and their interest and the possibility of sharing the easement locations.

Council and Mr. Steele discussed the other options for redundancy, and Mr. Steele stated that they could be listed per project in order to allow Council to choose which areas they would like to upgrade based on price. To answer Mr. Sealock's question, Mr. Steele noted that the proposed CIP plan would map out when the developments and companies would bring the Water Plant to capacity. Mr. Kisner noted that they were at 50% of the Town's withdraw rate, and the Town is in good shape with capacity.

3. Revise Electric Power Cost Adjustment – *Director of Finance*

SUMMARY: Hawksley & Associates, the firm that performed the Town's electric rate analysis in 2017, recommended that the Town periodically review the Town's power cost adjustment (P.C.A.) and increase/decrease accordingly. The Town's purchases of electric and congestion charges are currently higher than anticipated for FY18 due to the changes in weather. The Town's current P.C.A. rate is currently $0.01091 per kilowatt hour as recommended by Hawksley & Associates formula, but is allowed up to $0.01903 per kilowatt hour based on Town of Front Royal Municipal Code 70-23 Electric Charges Section C. The formula recommended by Hawksley & Associates shows the Town's recommended P.C.A. should be adjusted to $0.01526 per kilowatt hour for FY19. Town staff plans to implement the recommended FY19 P.C.A. rate of $0.01526 per kilowatt hour in April 2018 to help recover some of the additional expense incurred from the increased expense of purchased power and congestion charges during FY18. The $0.01526 per kilowatt hour represents an increase of $0.00435 per kilowatt when compared to the current P.C.A.. A monthly residential electric bill of 1,000 kilowatt hours will see an increase of $4.35.

BUDGET/FUNDING: Increase Electric Sales Revenue from April 2018-June 2018
Estimated Revenue Increase = $170,000

STAFF RECOMMENDATION: This is being presented for informational purposes. Council is not required to take action at this time. Town of Front Royal Municipal Code allows staff the ability to adjust the P.C.A. accordingly. (*…The maximum Power Cost Adjustment (PCA) will be computed according to the above formula for a twelve-month period beginning July 1st of each year, but the Town may choose to charge less than the maximum PCA calculated by this formula. Should it appear at any time during the twelve-month period that continued use of the PCA then in effect for the remainder of the twelve-month period will result in a substantial under/over recovery of the delivered cost of power purchased by the Town, then the Town may modify the PCA (up or down), above, to recover the applicable power cost more accurately.)* [Town Code § 70-23].

	FY 2017	FY 2018	FY 2019
Effective Date:	7/1/2016	7/1/2017	7/1/2018
Projected Purchased Power Cost:	$ 13,746,686	$ 14,880,900	$ 15,637,649
Incremental Change:		1,134,214	756,749
% Change:		8%	5%
% Change in PCA Revenue Needed:		164%	40%
PCA Recommended:	$ 0.00428	$ 0.01091	$ 0.01526
kWh Sales Projections:	161,126,498	173,954,642	174,233,007
PCA Revenue Projections:	$ 689,621	$ 1,897,845	$ 2,658,842
Purchased Power Recovered in Distribution Charges:	$ 10,716,523	$ 11,569,723	$ 11,588,237
PCA Max Revenue Recovery Per Ordinance:	$ 3,030,163	$ 3,311,177	$ 4,049,412
PCA Max:	$ 0.01881	$ 0.01903	$ 0.02324

Council Discussion: Mr. Waltz stated that this recommendation was to be in place in July, though it will now go in place a quarter early.

4. Voluntary Settlement Agreement (VSA) Amendment – *Town Attorney*
SUMMARY: By Final Order Validating and Affirming the Voluntary Settlement Agreement between the Town of Front Royal and the County of Warren, entered by a Special Court sitting in the Circuit Court of the County of Warren, Virginia, on December 13, 1999; the said Special Court affirmed and validated a Voluntary Settlement Agreement executed by the Town and the County as of January 27, 1998, amended on October 6, 1998, and further amended on August 9, 1999 (hereinafter the "Voluntary Settlement Agreement"). The County and Town entered into the Voluntary Settlement Agreement to facilitate development in the County so that the County could generate revenue to improve the County's Public School System. Commercial and industrial development of the North US Route 340/522 Corridor (defined as the "Corridor" in the Voluntary Settlement Agreement) (hereinafter the "Corridor") enabled the County to develop the tax base necessary to fund construction of new public high schools. 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. The County acknowledged this concern and together with the Town jointly lobbied the General Assembly to approve special legislation in Virginia Code §15.2-2119.J and §15.2-2143, which thereby authorized the Town to provide public 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 public utility contracts that included Payment In-Lieu of Taxes ("PILOT") fees from commercial public utility customers in the Corridor, with the intent of 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 public utility customers would pay, as if they were located within the Town boundaries.

The Voluntary Settlement Agreement documented the basic responsibilities for municipal water and sewer utility provisions in the Corridor. Following the outcome of the 2009 *Applebee's, et als. v. Town of Front Royal* litigation between the Town and certain restaurants located in the Corridor, the Town suspended the collection of the food and beverage taxes of ("Meals") tax, transient room rentals tax and transient occupancy ("Lodging") taxes, also referred to as "Meals and Lodging taxes" components, of the PILOT fees which had been included in the Town's public utility contracts with businesses in the Corridor. 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 no businesses are realizing a competitive advantage or disadvantage based solely on which side of the Town's corporate limits they are placed.

In 2015, the Town and County decided to enter into a revenue-sharing agreement, memorialized by a Memorandum of Agreement ("MOA"), whereby the Town agreed to not initiate annexation proceedings of the Corridor and to continue to not collect Meals and Lodging taxes in the Corridor, in return for which the County would remit to the Town 30% of the County's Meals Taxes collected and 5% of the County's Lodging Taxes collected. Normally, Virginia statute requires that such an inter-jurisdictional revenue-sharing agreement requires ratification by the Commission on Local Government and by Order of a three Judge Special Court appointed by the Supreme Court of Virginia. At the time the MOA was executed, however, Town Council and the Board of Supervisors made an informed decision to not follow the formal statutory steps, as it would require too much time (approximately a year) and staff effort. However, in late 2017 Chickfil-A decided to locate in the Corridor, and Chick-fil-A was not satisfied with the informality of the MOA, since either the Town or the County could easily withdraw at any time from the MOA, and the Town could reimpose its Meals Tax collections.

This prompted the Town and County to decide to amend the 1998-1999 Voluntary Settlement Agreement. The 1999 Amendment to the Voluntary Settlement Agreement had been allowed to be amended without the need to obtain ratification by the Commission on Local Government and Order of a three Judge Special Court appointed by the Supreme Court of Virginia, due to the specific wording of the original 1998 Court Order. The County Attorney in March 2018, confirmed with the Commission on Local Government, who in turn obtained confirmation with the Office of the Attorney General, that the original 1998 Court Order, will suffice to obviate the need for the Town and County to obtain the need for ratification by the Commission on Local Government and Order of a three Judge Special Court appointed by the Supreme Court of Virginia, in order to Amend the

Voluntary Settlement Agreement to formalize the MOA. The proposed Amended Voluntary Settlement Agreement would, if agreed to, impose a moratorium upon annexation proceedings by the Town upon the Corridor for 25 years.

The Corridor area would also be expanded to include property located on the west side of Crooked Run, which includes tax map 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), in total containing 147.85 acres (hereinafter referred to as "Crooked Run West").

BUDGET/FUNDING: There are no adverse budget or funding constraints imposed upon the Town by this Amendment to the Voluntary Settlement Agreement on balance, rather, in the long run it should lead to financial and political stability to both the Town and County that should result in economic benefits to both jurisdictions.

STAFF RECOMMENDATION: Given that an Amendment to the Voluntary Settlement Agreement formalizes the MOA which the Town and County have already entered into, and given that the Voluntary Settlement Agreement will help bring in Chick-fil-A into the Corridor, which will be financially beneficial to both the County and the Town, staff recommends this Amendment to the Voluntary Settlement Agreement.

Council Discussion: Vice Mayor Tewalt asked about placing the matter in the Town Code. Mr. Napier stated that it could be placed in the Code, yes. Mr. Napier noted that it was discussed with the County and they are in agreement. He added that the County is most likely moving forward, as is the Town. Councilman Meza asked abut the Town's process; Mr. Napier stated that the Town was formalizing the matter by going through with amendment to Voluntary Settlement Agreement, without going to the three judge panel.

Councilman Connolly asked the votes required for the approval; Mr. Napier noted that regular majority is required. To answer Councilman Meza's questions, Mr. Napier noted that it would be in the Town Code and incoming businesses will see how matters are in place to prevent challenges. He stated that County, Chik-Fil-A and the Town will all be happy with the document and it will be place. He added that from here on out all agreements will be the same. Mr. Napier noted that it would fully be updated on the Town website to reflect the changes to the pubic and incoming businesses.

5. <u>Additional Discussion for Proposed FY18-19 Budget</u> – *Director of Finance/Town Manager*
SUMMARY: Staff presented the FY19 Proposed Budget during the March 5, 2018 work session. Additional time has been allocated to discuss any questions or concerns regarding the proposed budget. The FY19 proposed budget appropriation will be advertised in coming weeks with the public hearing and first reading of appropriation ordinance scheduled for the May 28, 2018 council agenda. Council is requested to discuss any questions or concerns regarding the FY19 proposed budget.

Council Discussion: Mr. Waltz stated that they have stayed on the calendar and they have two worksessions for April if needed for the budget. Councilman Sealock noted that the worksessions are not needed. Councilman Meza asked if there was a shortfall if there was no tax increase. Mayor Tharpe stated that tax increases would be used for future projects. Mr. Meza asked when the interest only would kick in for the Police Department; Mr. Wilson stated that it would kick in later this year, perhaps June. Mr. Meza stated that his concern would be that if taxes would not increase then they should begin to advise Staff on how to pay for some of the projects should be removed and pay for upcoming projects. He noted that if the Town is not going to increase taxes then Council should not approve more projects.

Vice Mayor Tewalt voiced his complete agreement with Mr. Meza. Councilman Sealock noted his agreement with Councilmen Meza and Tewalt, adding that the Town must be realistic because these projects must be funded. Mr. Tewalt noted that the Town needs about $80,000 from the current budget to cover funding. Mr. Connolly noted that one half cent from last year's budget was set aside for the Police Department. Mr. Meza stated that when one half cent was set aside it began with 5-7 cent discussion, and Council knew it would have to incrementally increase. He noted that dedicated time should be set aside to commit funds in order to have projects as the Town moves forward.

Mayor Tharpe asked that Council have a worksession in June to discuss funding and projects and how Council will choose to move forward.

6. VML Policy Committee Nominations

SUMMARY: Attached is the nomination form and policy committee process for the 2018 Virginia Municipal League (VML) Policy Committees. The nomination form is due to VML April 18, 2018; therefore, Council will vote on the nominations at the next regular meeting. All terms are for May 2018 – December 2018. No individual may serve on more than one committee. Below are the Policy Committee members voted by Council at the May 8, 2017 Council meeting and whose terms expired December 2017.

Community & Economic Development Committee – Councilmen Morrison and Sealock
Environmental Quality Committee – Interim Town Manager Waltz & Councilman Morrison
Finance Committee – Interim Finance Director Wilson and Councilman Meza
General Laws Committee – Town Attorney Napier and Councilman Connolly
Transportation Committee – Mayor Tharpe and Vice Mayor Tewalt

Council Discussion: Council chose the following nominations:

Community & Economic Development Committee – Councilmen Gillispie and Sealock
Environmental Quality Committee – Town Manager Waltz & Councilman Morrison
Finance Committee – Finance Director Wilson and Councilman Meza
General Laws Committee – Town Attorney Napier and Councilman Connolly
Transportation Committee – Mayor Tharpe and Vice Mayor Tewalt

7. Council Discussion/Goals

Mayor Tharpe noted that Council will discuss derelict buildings in May.

Vice Mayor Tewalt asked about the Criser Road Bridge project; Mr. Waltz stated that the bid was out at this time for the third time and is due next week.

Mr. Tewalt also asked about the ITFederal roadway; asking about the $3.5 million road funding. Mr. Waltz stated that the EDA noted that the grant should not be a factor and the Town will be advised if the Town will be affected.

Councilman Morrison noted that prior to the May meeting, could the Town Attorney provide documentation, and also note how the Charter changes and how they influence the derelict building matter. Mr. Tewalt asked if the Town Attorney had considered reaching out to the City of Winchester and how they handled the derelict building situation.

Mr. Sealock asked about the Compensation Study and how matters are to be progress.

PRESENT: Mayor Tharpe, Vice Mayor Tewalt, Councilman Connolly, Councilman Gillispie, Councilman Morrison, Councilman Meza, Councilman Sealock, Town Manager Waltz, Town Attorney Napier, Clerk of Council Berry, Director of Planning Camp, Director of Finance Wilson, Director of Energy Services Jenkins, Police Chief Magalis, Interim Director of Environmental Services Boyer, Community Development Director Hart, IT Director Jones, members of the public and members of the press.