



## TOWN COUNCIL WORK SESSION MINUTES

Monday, August 20, 2018

7:00pm

Town Hall Council Chambers

**1. Request to Waive Curb/Gutter Installation at 419/423 Luray Ave – *Director of Planning/Zoning***

**SUMMARY:** The Applicant owns two lots on Luray Avenue with one (1) single-family house under construction on each lot. The addresses are 419 and 423 Luray Avenue. The Applicant has requested that Town Council waive the curb & gutter requirement for these new houses. A letter of request from the Applicant is attached. Curb & gutter is required for the Applicant's houses by Town Code 148-850.C. This requirement can be waived by the Town Engineer when there are not more than 2 dwellings and when curb & gutter is not present within 200 feet of the property. In this particular circumstance, there is curb & gutter within 200 feet, located directly across the street, so curb and gutter can only be waived by Town Council.

As explained in the Applicant's letter of request, the primary reason that a waiver is being sought is because of the additional cost for it. The Applicant identifies in the letter that the project has already had many additional costs that are atypical for house construction projects. The main reason for this is the fact that the lot has very steep terrain. The slope of the driveway is designed to have a grade of 20%. The Applicant was required, as determined by Town Code, to submit an engineered plan with driveway profiles. The Applicant was also required to pave the driveway and design it to mitigate additional stormwater runoff onto the public street. An as-built is required to ensure that the grading is done according to the approved plan.

The following supporting documents are attached with this cover sheet:

- Applicant's letter of request
- Town Code 148-850.C.
- House Location Plans for 419 and 423 Luray Avenue.
- Driveway Profile & Detail of Proposed Roof Drain/Pavement Detention Area
- Town of Front Royal Standard Construction Details

### **BUDGET/FUNDING:**

No direct impact. May have an impact in future budgets.

### **STAFF RECOMMENDATION:**

Curb and gutter is not necessary for the purpose of stormwater management for this particular development. However, if Town Council chooses to waive curb & gutter, the Town may incur additional costs if curb & gutter is added to Luray Avenue in the future. Furthermore, if curb & gutter is waived, installation of a 10" pipe culvert at the Applicant's entrances and regrading the drainage ditch is recommended.

### **Council Discussion:**

Councilman Connolly asked about the excavation work at the site. Mr. Camp stated that the driveway has been prepped and primarily at this time the driveway needs the rock to be dealt with.

Vice Mayor Tewalt noted that the Town Code is in place for a reason and the Town should either enforce the Code or do away with it. Mr. Sealock expressed his agreement with Mr. Tewalt. He noted that the Town is now putting in curb and gutter at other sites and they must take a stand with curb and gutter installation to avoid issues in the future with water run-off.

Councilman Meza noted that with the significant slope/excavation costs he needed more understanding regarding the site. Councilman Connolly voiced his support of removing the curb and gutter requirement from the Code, and he stated that he is in favor of waiving the improvement when possible, rather than sinking the project and removing the developed property from the tax roll. Councilman Morrison agreed with removing the curb and gutter from the Code. Mr. Camp noted that the whole street would benefit from curb and gutter, though the one home would not benefit from stand-alone/one home curb and gutter.

Vice Mayor Tewalt voiced support of remaining with the Code and requiring the installation of curb and gutter. He noted that if the Code will not be followed, then Council should remove the ordinance from the Code. Councilman Meza asked about whether the curb and gutter being installed at one home could erode easier with run off. Mr. Camp noted that it could possibly; Mr. Tewalt stated that those that build on a hill should obviously expect water run off issues.

Councilman Sealock stated that in the area off Braxton Road, the Town just paid months ago to tend to basement flood relief because proper improvements were not put in place years earlier. Councilman Connolly opined that he was in favor of curb and gutter for new development; just not individual in-fill lots, such as the property up for discussion.

Council chose to place the matter on the upcoming Monday's agenda for formal vote.

\*\*At the end of the meeting after Closed Session, Mrs. Wines noted that the project given to them by the contractor was grossly underestimated and she explained the engineering plans for water runoff. She stated that the Town asked them to engineer the property to have the water runoff at a minimum.

Mrs. Wines noted that the area has had an excess amount of water these last few months and curb and gutter would have no use on just single pieces of property. She pleaded with Council to reconsider having them require the installation of curb and gutter on just this section of roadway when it is not along the rest of the street.

Vice Mayor Tewalt commented that curb and gutter is very valuable and if they waive for one person, others would request the waiver. He stated that it is unfair to have the taxpayer to pay for the curb and gutter for one individual. Mayor Tharpe stated that Council would vote on the matter at Monday's meeting. Council noted they could waive the improvements, require them as Code notes, require them for this project and place a lien for payment at a later time, or require the payment for curb and gutter if/when the improvements are installed along that portion of Luray Avenue.

**\*\*\*\*Motion to ADD Closed Meeting to Worksession Agenda\*\*\*\***

*Councilman Connolly moved, seconded by Vice Mayor Tewalt that Council ADD Closed Meeting to the agenda pertaining to:*

- (1) Consultation with legal counsel and;*
- (2) The protection of the privacy of individuals in personal matters not related to public business.*

Vote: Yes – Connolly, Gillispie, Meza, Morrison, Sealock and Tewalt

No – N/A

Abstain – N/A

Absent – N/A

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

(By Roll Call)

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**2. Continued Discussion of Funding Radio System for Police Department – Director of Finance**

**SUMMARY:** The Town has been provided pricing of \$545,000.00 for the purchase of new radio equipment for the Police Department and needs to determine how to finance/pay for the radio system. This amount does not include annual maintenance fees that will be incorporated into annual budget.

**Motorola has proposed the following terms/rates:**

4 Years @ 4.52% - approximately \$151,986.39 annually (\$62,946 interest expense)

5 Years @ 4.57% - approximately \$124,388.70 annually (\$76,944 interest expense)

7 Years @ 4.86% - approximately \$ 93,709.49 annually (\$110,966 interest expense)

**VML Vaco has quoted the following terms/rates**

5 Years @ 3.00% - approximately \$119,277.60 annually (\$51,388 interest expense)

7 Years @ 3.30% - approximately \$ 88,639.10 annually (\$75,474 interest expense)

10 Years @ 3.55% - approximately \$65,820.56 annually (\$113,205 interest expense)

**Borrowing from General Fund Balance**

5 Years with no interest - \$109,000.00 annually

7 Years with no interest - \$77,857.14 annually

10 Year with no interest - \$54,500.00 annually

**Including with New Market Tax Credit Program**

Interest Only @ 1.5% for 7 years = \$57,225

Annual payments for 20-30 years ranging from \$19,000-\$32,000 depending on terms/rates to pay principal balance of \$381,500.00.

**Use Funds from General Fund Balance without repaying**

No annual payment

**BUDGET/FUNDING:**

The adopted FY19 budget \$50,000 incorporated to be used for the purchase of radio equipment. Future budgets may need to incorporate additional funding.

**STAFF RECOMMENDATION:**

Staff recommends using the General Fund Surplus Funds to purchase the radio system and not to require repayment. The General Fund Surplus is approximately \$1.5 million. The surplus amount exceeds current obligations, the 3-month reserve levels, and outstanding encumbrances.

The General Fund Balance Surplus would be approximately \$968,000 after purchasing the radio system. This option would save the Town approximately \$51,000-\$113,000 in interest paid and possibly help assist in future budgets by help making additional funds available to pay toward those projects financed under the New Market Tax Program.

**Council Discussion:**

Vice Mayor Tewalt noted that he was not in favor of removing items from the General Fund and cutting the funding below a million dollars. Councilman Meza stated that this is money above the three months reserve; Mr. Wilson noted that was correct. Mr. Meza stated that he was in favor of removing it from the General Fund. Councilman Morrison suggested removing half the funding from the General Fund. Councilman Connolly voiced some support towards Mr. Meza's choice; as did Mr. Mr. Gillispie. Councilman Sealock noted that if the Town has the excess above the three month supply then the Town should use the funding as suggested by Mr. Meza.

Mr. Waltz noted that he supports removing from the funding from General Fund and then repaying the monies to the account. Vice Mayor Tewalt expressed concern with it not being in the budget to begin with; he noted that it should not come forward as an emergency and the effort was not made to plan ahead and budget for the expense from the start.

Mr. Waltz stated that the program has been on the CIP list for some time and it was allocated as a debt service. Councilman Meza stated that the current building upgrade forced the matter. He asked about rather than paying back the General Fund, Council could place the funds aside and plan for the future expense of replacing the radios in a few years. Council voiced support of reviewing the options for Monday's agenda.

**3. Resignation from Urban Forestry Advisory Committee (UFAC)**

**SUMMARY:** Staff has received the resignation of Lorraine Hultquist from the Urban Forestry Advisory Commission (UFAC) effective immediately. Ms. Hultquist was filling a 4-year term ending December 20, 2018.

**Council Discussion:**

Linda Taylor from Beautification Committee would move to UFAC per suggestion of David Means. The item would be a regular item, not consent, for appointment until December.

**4. Continued Discussion of Property Maintenance – Mayor Tharpe**

**SUMMARY:** Staff has prepared various Property Maintenance Enforcement Options for Council. Chart located below.

At the beginning of the discussion: Morrison – C, Sealock – B, Gillispie – B, Connolly – A.

| PROPERTY MAINTENANCE ENFORCEMENT OPTIONS                                                                                                                                               |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |                                            |
|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------|
| OPTIONS                                                                                                                                                                                | PROS/CONS                                                                                                                                                                                                                                                                                                                                                                                                                                                                       | ESIMATED STAFFING                          |
| <b>A</b><br><u>OPTION A:</u><br>No change.                                                                                                                                             | N/A                                                                                                                                                                                                                                                                                                                                                                                                                                                                             | N/A                                        |
| <b>B</b><br><u>OPTION B:</u><br>Adopt Sections 104, 105 and 106 of the Property Maintenance Code Only.<br>Example: Town of Culpeper                                                    | <b>PROS:</b> Additional legal path for enforcing unsafe structures.<br><b>CONS:</b> Does not expand powers beyond unsafe structures which can already be enforced by the public nuisance code.                                                                                                                                                                                                                                                                                  | .5 - 1<br>Requires Code Official.          |
| <b>C</b><br><u>OPTION C:</u><br>Adopt the Property Maintenance Code in full without a Rental Inspection Program.<br>Example: Town of Strasburg (not enforced)                          | <b>PROS:</b> Addresses all structures in the Town. Addresses maintenance issues. Can be enforced on a complaint basis or proactive enforcement.<br><b>CONS:</b> Legal costs from challenges from landlords.                                                                                                                                                                                                                                                                     | 1 - 1.5<br>Requires Code Official.         |
| <b>D</b><br><u>OPTION D:</u><br>Adopt the Property Maintenance Code in full with a Rental Inspection Program.<br>Example: Planning Commission Draft                                    | <b>PROS:</b> Addresses property maintenance town-wide and addresses the condition of rental units inside of the designated Rental Inspection District.<br><b>CONS:</b> Moderate cost from higher staffing level need. Size of Rental Inspection District controls staffing level to some extent. Legal costs from challenges from landlords.                                                                                                                                    | 1.5 - 2<br>Requires Code Official.         |
| <b>E</b><br><u>OPTION E:</u><br>Adopt the Property Maintenance Code in full with a Rental Inspection Program and a Building Inspections Department.<br>Example: City of Winchester, VA | <b>PROS:</b> Addresses property maintenance town-wide and addresses the condition of rental units inside of the designated Rental Inspection District. Permit fees from building permits generate more income. Better communication link and control between property maintenance violations and building permits. All services in-house.<br><b>CONS:</b> Higher cost from higher staffing level need. Legal costs from challenges from landlords. Redundant services argument. | 3 + outsourcing<br>Requires Code Official. |

Vice Mayor Tewalt noted that the dilapidated buildings should be the top option at this point. Mr. Meza noted that the Town does not currently have any teeth for enforcement at this point apparently. Mr. Napier stated that the Town only has dangerous unsafe structures. Mr. Meza stated that it was his understanding that hiring additional staff was not necessary in the early stages. Mr. Camp stated that the State Code requires a Building Official and he cannot say that Staff will not be necessary. He noted that Staff needs a Code Official one way or another. Mr. Napier agreed, reading the requirements from State Code. Mr. Meza suggested getting the matter moving and then look forward at another time to throwing funding towards the project with an employee, etc.

Vice Mayor Tewalt stated that he was unsure about going into a full maintenance program at this point, and perhaps a baby step (B) may be the option. Mr. Camp noted that Strasburg adopted an ordinance and went with C though they are not enforcing matters; and then he added that perhaps the Town could share Staff with the Town of Front Royal. Councilman Sealock noted that he was favoring B because it considers safety matters. He stated that the Town needs to decide whether to include C, which notes the maintenance of issues. Councilman Morrison stated that he likes C and noted that he spoke with Winchester and they began at \$25 per house. Mr. Meza noted that choosing B does very little for the community and he would favor C.

Councilman Sealock stated that he chooses B because it is a baby step, but he can vote for C if the parameters are correct. Councilman Morrison stated that the current program in Culpeper does not work well. Mr. Camp noted that an RFP could go out to see the costs and see who may be qualified. Councilman Meza noted that he was not in favor of the RFP.

Mayor Tharpe noted that the Council would vote between option B and C direction on Monday. Councilman Meza stated that he was not in favor of the Mayor's suggestion. Councilman Connolly noted that the discussion here at worksession was sufficient to move forward and it would be basically be a vote eventually to amend option D to B. Mr. Napier stated that it could come back to one additional worksession; Council agreed. Mr. Napier stated that it would return to worksession on Tuesday, September 4<sup>th</sup>.

#### **5. Council Discussion/Goals**

Email from earlier in the day: Jaywalking suggestion from Chief Magalis to make the matter a minor violation rather than a criminal warrant. Mr. Napier will work with the Chief to amend.

#### **6. CLOSED SESSION: Motion to Go Into Closed Meeting**

*Councilman Sealock moved, seconded by Councilman Connolly that Council convene and go into Closed Meeting for the following purposes:*

- (1) Consultation with legal counsel employed or retained by a public body regarding specific legal matters, specifically, legal mechanisms relating to handling debt service related to prior and current budget years, requiring the provision of legal advice by such counsel, pursuant to Section 2.2-3711. A. 8. of the Code of Virginia.*
- (2) The protection of the privacy of individuals in personal matters not related to public business, pursuant to Section 2.2-3711. A. 4. of the Code of Virginia.*

Vote: Yes – Connolly, Gillispie, Meza, Morrison, Sealock and Tewalt

No – N/A

Abstain – N/A

Absent – N/A

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

(By Roll Call)

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#### **Motion to Certify Closed Meeting at its Conclusion**

*Councilman Sealock moved, seconded by Vice Mayor Tewalt moved 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 Action 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, Gillispie, Meza, Morrison, Sealock, Tewalt and Tharpe

No – N/A

Abstain – N/A

Absent – N/A

(By Roll Call)

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**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, Police Captain Nicewarner, IT Director Jones, members of the public and members of the press.