



REGULAR TOWN COUNCIL MEETING

TUESDAY, October 9, 2018 @ 7:00pm
Warren County Government Center

1. Pledge of Allegiance
2. Moment of Silence
3. Roll Call
4. Approval of the Regular Council Meeting minutes of September 24, 2018
5. Receipt of Petitions and/or Correspondence from the Public
6. Reports:
 - a. Report of special committees or Town officials and Town Manager
 - b. Requests and inquiries of Council members.
 - c. Report of the Mayor
 - d. Proposals for addition/deletion of items to the Agenda.
7. **CONSENT AGENDA ITEMS** – (ROLL CALL VOTE REQUIRED) - NONE
8. **PUBLIC HEARING** – Ordinance Amendment to Repeal Chapter 9-1 and Re-Enact in its place Buildings and Maintenance Codes and Amend Chapter 145 by Relocating Chapter 9-2 (*1st Reading*)
9. **COUNCIL APPROVAL** – Proclamation for World Polio Day
10. **COUNCIL APPROVAL** – Reconsider Decision Pertaining to Curb/Gutter Waiver at 419/423 Luray Avenue – Susan Wine

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Town of Front Royal, Virginia Council Agenda Statement

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Item No. 8

Meeting Date: October 9, 2018

Agenda Item: PUBLIC HEARING – Ordinance Amendment to Repeal Chapter 9-1 and Re-Enact in its place “Buildings and Maintenance Codes” and Amend Chapter 145 by Relocating Chapter 9-2 (*1st Reading*)

Summary: Council is requested to affirm on its first reading an Ordinance to Repeal Chapter 9-1 “*Removal, Repair, etc. of Certain Buildings and Structures*” and Re-Enact in its place “*Buildings and Maintenance Codes*” and Amend Chapter 145 “*Structures, Dangerous*” by Relocating Chapter 9-2 “*Removal, Repair Etc of Buildings and Other Structures Harboring Illegal Drug Use*” to 145-4, as presented. If approved, Chapter 9-1 would be amended in its entirety, replacing it with: Article 1: Building Code Regulations, providing for the administration and enforcement of the mandatory provisions of the Uniform Statewide Building Code including Part 1 (Construction Code) and Part II (Rehabilitation Code); Article 2: Maintenance Code Regulations, adopting optional provisions of the Uniform Statewide Building Code including the Part III (Virginia Maintenance Code) without a rental inspection program; and Article 3: General, containing general administration and enforcement provisions of Chapter 9. This amendment reserves the Town’s right to establish a Town Building Department and a Local Board of Building Code Appeals (LBBCA); and designates the County of Warren to administer the building code, as previously established by an agreement in 1983, until such time that the Town may establish a building department. Chapter 9 would be further amended by relocating Article 9-2 “*Removal, Repair Etc of Buildings and Other Structures Harboring Illegal Drug Use*” to Chapter 145-4.

Note: At the September 10, 2018 regular meeting, Council approved Property Maintenance Code Enforcement Option C and authorized the advertisement of a Public Hearing to amend the Town Code.

Budget/Funding: None

Attachments: Proposed Ordinance, Resolution from 1983 and Minutes

Meetings: Work Sessions held June 4, July 16, August 20, and August 27, 2018. Regular Meeting held September 10, 2018

Staff

Recommendation: Approval ✓ Denial

Proposed Motion: I move that Council affirm on its first reading an Ordinance to Repeal Chapter 9-1 “*Removal, Repair, etc. of Certain Buildings and Structures*” and Re-Enact in its place “*Buildings and Maintenance Codes*” and Amend Chapter 145 “*Structures, Dangerous*” by Relocating Chapter 9-2 “*Removal, Repair Etc of Buildings and Other Structures Harboring Illegal Drug Use*” as 145-4 as presented.

*Note: Motions are the formal & final proposal of Council,
proposed motions are offered by Staff for guidance

*To be clear and concise, motions should be made in the positive

Approved By: JW

AN ORDINANCE TO REPEAL CHAPTER 9, BUILDINGS, OF THE FRONT ROYAL TOWN CODE AND ENACT CHAPTER 9, BUILDING AND MAINTENANCE CODES; AND RELOCATE CHAPTER 9-2, REMOVAL, REPAIR, ETC OF BUILDINGS AND OTHER STRUCTURES HARBORING ILLEGAL DRUG USE, TO CHAPTER 145-4

Chapter 9

BUILDINGS BUILDING AND MAINTENANCE CODES

**9-1 ~~REMOVAL, REPAIR, ETC., OF CERTAIN BUILDINGS AND STRUCTURES~~
[remove in full]**

**9-2 REMOVAL, REPAIR, ETC., OF BUILDINGS AND OTHER STRUCTURES
HARBORING ILLEGAL DRUG USE
[relocate to Chapter 145-4 in full]**

ARTICLE 1: BUILDING CODE REGULATIONS

9-100 BUILDING CODE

- A. In accordance with the Code of Virginia § 36-105, the Town of Front Royal hereby reserves its authority to establish a Town Building Department, and a Local Board of Building Code Appeals (LBBCA), herein referred to generally as the "Board of Appeals," to administer and enforce the mandatory provisions of the Virginia Uniform Building Code, including Part I, Construction Code, and Part II, Rehabilitation Code, and including future amendments thereto, and all codes incorporated by reference therein. Such codes shall generally be referred to herein generally as the "Building Code."
- B. Under the provisions of this Chapter, Town Council may elect to pass a resolution to officially establish a Town Building Department to administer and enforce the Building Code. Such resolution shall also include the establishment of a Board of Appeals, as described further herein. Upon adoption of such resolution of Town Council the Town hereby adopts the Building Code, and all such duties and requirements specified therein.
- C. Until such time that the Town elects to establish a Town Building Department and Town Board of Appeals, the Town shall enter into an agreement with the local governing body of another county or municipality or with some other agency, or an approved state agency for such administration, enforcement and appeals resulting therefrom.
- (1) The February 8, 1983 agreement with Warren County shall remain in effect at the passing of this ordinance until such time that the agreement is terminated, renewed or amended. This agreement establishes Warren County as the

Building Department for the Town, including the Warren County Board of Building Code Appeals as the appeals board for the Town.

- D. At such time that Town Council may establish a Building Department and Board of Appeals, the Town Manager shall appoint a Building Official to administer and enforce the Building Code. Such Building Official shall meet the required qualification and certification requirements and shall maintain all permanent records of the Building Department, including applications received, permits, certificates, notices and orders issued, fees collected and reports of inspection in accordance with the Library of Virginia's General Schedule Number Six. The Building Official shall administer and enforce the Building Code and may establish procedures and policies as may be necessary for such administration and enforcement. All codes and procedures shall be made available for the public to view and/or obtain copies from the office of the Building Official during established normal business hours.
- E. As specified under Subsection B, Town Council shall appoint five (5) members to a Board of Appeals upon adoption of a Town Building Department. The membership of the Board shall be established in compliance with the following requirements, unless more stringent requirements are required by the Building Code.
- (1) All members of the Board of Appeals shall live within Warren County, Virginia, and at least three (3) members shall reside within the Town.
 - (2) Town Council may appoint two (2) alternate members who shall be called by the board chair to hear appeals during the absence or disqualification of a member. Alternate members shall possess the qualifications required for board membership.
 - (3) At least three (3) members shall have no less than five (5) years knowledge and experience in the construction industry. Members that do not have knowledge and experience in the construction industry shall have an equivalent experience in the real estate, law, architecture, or engineering professions.
 - (4) No employee or official of the Town may serve as a Board Member.
 - (5) Compensation, meeting dates, voting procedures, officers, term limits and other procedures of the Board of Appeals shall be established in by-laws that are approved by Town Council.
 - (6) The Board of Appeals shall be used as the appeals board for the Virginia Maintenance Code.
 - (7) The Board of Appeals shall be reviewed by the Virginia Department of Housing and Community Development.

ARTICLE 2: MAINTENANCE CODE REGULATIONS**9-200 ADOPTION OF MAINTENANCE CODE**

- A. To ensure the protection of the public health, safety and welfare, the Town hereby adopts the optional provisions of the Virginia Uniform Building Code, including Part III, Virginia Maintenance Code, future amendments thereto, and including codes incorporated by reference therein, herein also generally referred to generally as the "Maintenance Code," as related to building regulations that facilitate the maintenance, rehabilitation, development and reuse of existing buildings at the least possible cost to ensure the protection of the public health, safety and welfare of Town residents. Furthermore, in accordance with §36-99 of the Code of Virginia, the purpose of this code is to protect the health, safety and welfare of the residents of the Commonwealth of Virginia, provided that buildings and structures should be permitted to be maintained at the least possible cost consistent with recognized standards of health, safety, energy conservation and water conservation, including provision necessary to prevent overcrowding, rodent or insect infestation, and garbage accumulation; and barrier-free provisions for the physically handicapped and aged.
- B. The Town Manager shall appoint a Maintenance Code Official to administer and enforce the Virginia Maintenance Code. The Maintenance Code Official shall meet the required qualifications, certification requirements, and training requirements of the Maintenance Code. All codes, policies and procedures shall be made available for the public to view and/or obtain copies from the office of the Maintenance Code Official during established normal business hours.
- C. The Town shall appoint a Board of Appeals to consider all appeals that may arise from the provisions of this Article. Such Board of Appeals shall be established under the criteria found within Chapter 9, Section 100, Subsection E. Alternatively, the Town may elect to use the Board of Appeals used by another county or municipality, or with some other agency, provided that an agreement is entered into with the appropriate local government board, or an approved state agency.

ARTICLE 3: GENERAL**9-300 NONLIABILITY OF PERSONNEL ENFORCING CHAPTER.**

Nothing in this chapter or in any code adopted by this chapter shall be construed as imposing upon any Town officer or employee duly authorized to administer or enforce the provisions of this chapter any liability or responsibility for damages to any person injured by a defect in any building construction or other work mentioned herein, or by the installation thereof, nor shall the Town government or any official or employee thereof be held as assuming any such liability or

responsibility by reason of inspections authorized by this chapter or certificates of approval issued by the building official or property maintenance code official.

9-301 VIOLATIONS

- A. It shall be unlawful for any owner or any other person, firm or corporation to violate any provision of this chapter. Any violation shall be deemed a misdemeanor and any owner or any other person, firm or corporation convicted of a violation shall be punished by a fine of not more than two thousand five hundred dollars (\$2,500.00). In addition, each day the violation continues after conviction or the expiration of the court-ordered abatement period shall constitute a separate offence. If the violation remains uncorrected at the time of conviction, the court shall order the violator to abate or remedy the violation in order to comply with the applicable Code. Except as otherwise provided by the court for good cause shown, any such violator shall abate or remedy the violation within six (6) months of the date of conviction. Each day during which the violation continues after the court-ordered abatement period has ended shall constitute a separate offence. Any person convicted of a second offense, committed within less than five (5) years after a first offence under this chapter shall be punished by confinement in jail for not more than five (5) days and a fine of not less than \$1,000 nor more than \$2,500, either or both. Provided, however, that the provision for confinement in jail shall not be applicable to any person, firm or corporation, when such violation involves a multiple-family dwelling unit. Any person convicted of a second offense committed within a period of five (5) to ten (10) years of a first offense under this chapter shall be punished by a fine of not less than \$500 nor more than \$2,500. Any person convicted of a third or subsequent offense involving the same property committed within ten (10) years of an offense under this chapter after having been at least twice previously convicted, shall be punished by confinement in jail for not more than ten (10) days and a fine of not less than two thousand five hundred dollars (\$2,500.00) nor more than five thousand dollars (\$5,000.00), either or both. No portion of the fine imposed for such third or subsequent offense committed within ten (10) years of an offense under this chapter shall be suspended.
- B. Any prosecution under this section shall be commenced within the time specifications provided under Virginia Code § 19.2-8.

9-302 PERMIT FEES.

- A. Town Council reserves the right to adopt and publish a schedule of fees for services rendered by either the Building Code Official and/or Maintenance Code Official, and to amend the schedule by separate resolution. Such schedule of fees and any amendment shall be in lieu of any permit fees set forth in any technical code adopted by the Town.
- B. No permit as required by the Town by ordinance or regulation shall be issued unless the fee prescribed for the service shall have been paid, nor shall any

amendment to such a permit be approved until any additional fee, if any, due to an increase in the estimated cost of the building or structure, shall also have been paid.

9-303 AUTHORITY TO REQUIRE REMOVAL, REPAIR, ETC., OF BUILDING AND OTHER STRUCTURES.

- A. Owners of real property within the Town shall remove, repair or secure any building, wall or any other structure which might endanger the public health or safety of other residents of the Town.
- B. If an owner fails to do so, the building official may send the owner notice of his or her obligations under this section. Such notice shall be:
 - (1) In writing, mailed by certified mail, return receipt requested, sent to the last known address of the property owner; and
 - (2) Published in a newspaper having general circulation in the locality in accordance with the applicable provisions of Code of Virginia §§ 15.2-1426, 15.2-1427.
- C. The Town, through its own agents or employees, may remove, repair or secure any building, wall or any other structure which might endanger the public health or safety of other residents of the Town if the owner and lien holder of the property fails to do so within thirty (30) days following the later of the return of the certified mail receipt or newspaper publication. However, if the structure is deemed to pose a significant threat to public safety and such fact is stated in the notice, the Town may take action to prevent unauthorized access to the building within seven days of such notice. Repair of the structure may include maintenance work to the exterior of a building to prevent deterioration of the building or adjacent buildings.
- D. In the event the Town, through its own agents or employees removes, repairs or secures any building, wall or any other structure pursuant to this section, the cost or expenses thereof shall be chargeable to and paid by the owners of such property and may be collected by the Town as taxes and levies are collected.
- E. Every charge authorized by this section which remains unpaid shall constitute a lien against such property ranking on a parity with liens for unpaid local taxes and enforceable in the same manner as provided Code of Virginia (1950), Title 58.1, Chapter 39, Articles 3 and 4, as amended.
- F. The remedies provided by this section are in addition to, and not in lieu of, any other remedy provided by general law or by the Building Code.

9-304 THROUGH 9-309. *Reserved*

9-310 DEFINITIONS.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Building Code means the applicable provisions of the Virginia Uniform Building Code, Part I, Construction Code, and Part II, Rehabilitation Code, including future amendments thereto, and all codes incorporated by reference therein.

Building Code Official means the person that is employed, contracted, or designated with an agreement from another county, municipality or other agency, that has been appointed by the Town to administer and enforce the applicable provisions of the Building Code, as defined herein.

Day means a calendar day.

Maintenance Code means the applicable provisions of the Virginia Uniform Building Code, Part III, Maintenance Code, and all codes incorporated by reference therein.

Maintenance Code Official means the person that is employed, contracted, or designated with an agreement from another county, municipality or other agency, that has been appointed by the Town to administer and enforce the applicable provisions of the Maintenance Code, as defined herein.

Owner, means the person or entity shown on the current real estate assessment books or current real estate assessment records of the Town or the fee simple owner of the property if ownership has changed since such tax assessment records were last updated.

Premises, a single lot of record under ownership, or multiple contiguous lots of record that are under the same ownership.

Violations. As applicable to the Maintenance Code, means conditions which affect safe, decent and sanitary living conditions of persons occupying a residential rental dwelling unit include items that violate fire safety; lack of or poor condition of sanitary facilities; absence of adequate heating systems or equipment; items which affect the safe operation of electrical and mechanical systems; items which affect structural integrity of the building and/or the ability of the building envelope to keep out weather, or one or more other conditions that, if not corrected, would be reasonably expected to become conditions that affect the safe, decent and sanitary living conditions of the occupants, or other conditions that violate the provisions of the Maintenance Code, or multiple Maintenance Code violations that indicate, in their totality, the dwelling unit is not being properly maintained. As applicable to the Building Code, means conditions which are in violation of the Building Code, as defined herein.

Chapter 145

STRUCTURES, DANGEROUS

Sections:

145-1 REMOVAL OR REPAIR BY OWNER**145-2 REMOVAL OR REPAIR BY TOWN UPON OWNER'S FAILURE TO DO SO****145-3 RESPONSIBILITY FOR COSTS**

Adopted by the Town Council of the Town of Front Royal 8-12-68. Amendments noted where applicable.

145-1 REMOVAL OR REPAIR BY OWNER

The owners of property within the Town shall, at such time or times as the Town Council may prescribe, remove, repair or secure any building, wall or any other structure which might endanger the public health or safety of other residents of the town.

145-2 REMOVAL OR REPAIR BY TOWN UPON OWNER'S FAILURE TO DO SO

The Town Council, through its own agents or employees, may remove, repair or secure any building, wall or any other structure which might endanger the public health or safety of other residents of the Town when the owner of such property, after reasonable notice and a reasonable time to do so, has failed to remove, repair or secure such building, wall or other structure.

145-3 RESPONSIBILITY FOR COSTS

The costs or expenses thereof shall be chargeable to and paid by the owner of such property and may be collected as taxes and levies are collected. Every such charge which remains unpaid shall constitute a lien against such property.

**(145-4) 9-2 REMOVAL, REPAIR, ETC., OF BUILDINGS AND OTHER STRUCTURES
HARBORING ILLEGAL DRUG USE****1. As used in this Section:**

"Affidavit" means the affidavit prepared by the Town in accordance with Subsection (2) hereof.

"Controlled Substance" means illegally obtained controlled substances or marijuana, as defined in 54.1-3401 of the Code of Virginia 1950, as amended.

"Corrective Action" means the taking of steps which are reasonably expected to be effective to abate drug blight on real property, such as removal, repair, or securing of any building, wall, or other structure.

"Drug Blight" means a condition existing on real property which tends to endanger the public health or safety of residents of a locality and is caused by the regular presence on the property of persons under the influence of controlled substances or the regular use of the property for the purpose of illegally possessing, manufacturing, or distributing controlled substances.

"Owner" means the record owner of real property.

"Property" means real property.

2. The procedures for corrective action with respect to property shall be as follows:

A. Any law enforcement officer, as such terms are defined in Section 9.1-101 of the Code of Virginia 1950, as amended, may execute and file an affidavit with the Council, citing this Section of the Town Code, to the effect that (i) drug blight exists on a particular property within the Town, specifying the location of the property and the nature of the blight; (ii) that the Town has used diligence without effect to abate the drug blight; and (iii) the drug blight constitutes a present threat to the public's health, safety or welfare.

B. The Council shall then cause a Notice to be sent to the owner of the property by regular mail to the last address listed on the Town's tax assessment records, together with a copy of the foregoing affidavit, advising that (i) the owner has up to thirty (30) days from the date of the Notice to undertake corrective action to abate the drug blight described in the affidavit and (iii) the Town will, if requested to do so, assist the owner in determining and coordinating the appropriate corrective action to abate the drug blight described in such affidavit.

C. If no corrective action is undertaken during such thirty (30) - day period, the Town Manager shall send by regular mail an additional notice to the owner of the property, at the address stated in the preceding subdivision, stating the date on which the Town may commence corrective action to abate the drug blight on the property, which date shall be no earlier than fifteen (15) days after the date of mailing of the Notice. Such additional Notice shall also reasonably describe the corrective action contemplated to be taken by the Town. Upon receipt of such additional Notice, the owner shall have a right, upon reasonable notice to the Town, to seek equitable relief, and the Town shall initiate no corrective action while a proper petition for relief is pending before a court of competent jurisdiction.

3. If the Town undertakes corrective action with respect to the property after complying with the provisions of Subsection (2) hereof, the costs and expenses thereof shall be chargeable to and paid by the owner of such property and may be collected by the locality as taxes are collected.

4. Every charge authorized by this Section with which the owner of any such property has been assessed and which remains unpaid shall constitute a lien against such property with the same priority as liens for unpaid Town real estate taxes and enforceable in the same manner as provided in Articles 3 and 4 of Chapter 39 of Title 58.1 of the Code of Virginia, 1950, as amended.

5. If the owner of such property takes timely corrective action pursuant to this Section, the Council shall, by Resolution, deem the drug blight abated, shall close the proceeding without any charge or cost to the owner, and shall forward a copy of such Resolution to the owner, thereby certifying that the proceeding has been terminated satisfactorily. The closing of the proceeding shall not bar the Town from initiating a subsequent proceeding if the drug blight recurs.

6. Nothing in this Section shall be construed to abridge or waive any rights of remedies of an owner of property at law or in equity.

This ordinance shall become effective upon passage.

APPROVED:

Hollis L. Tharpe, Mayor

ATTEST:

Jennifer E. Berry, Clerk of Council

THIS ORDINANCE was approved at the Regular Meeting of the Town of Front Royal, Virginia on its second reading, conducted _____ 2018, upon the following recorded vote:

Eugene R. Tewalt	Yes/No	Jacob L. Meza	Yes/No
William A. Sealock	Yes/No	Christopher S. Morrison	Yes/No
John P. Connolly	Yes/No	Gary Gillispie	Yes/No

A public hearing on the above was held on _____, 2018, having been advertised in the Northern Virginia Daily on _____, 2018, and _____, 2018. The Ordinance was enacted at the Regular Meeting of the Town Council held _____ 2018, to become effective immediately.

Approved as to form and legality:

Douglas W. Napier, Town Attorney

Date: ____/____/____

EXCERPT OF August 20, 2018 Work Session Minutes

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

SUMMARY: Staff has prepared various Property Maintenance Enforcement Options for Council.

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 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 4th.

EXCERPT of September 10, 2018 Regular Meeting Minutes

COUNCIL APPROVAL – Property Maintenance Code Enforcement Option

Summary: On January 8, 2018 Council voted NO unanimously to amend and re-enact Chapter 9 of the Front Royal Municipal Code to adopt a Property Maintenance Code and to Establish a Rental Inspection District. On June 4, 2018 Council asked for a discussion on addressing blighted and derelict structures in Town. A few more work sessions followed in which Council was given four options (A –D) by staff to consider. Tonight, Council is requested to approve Property Maintenance Enforcement Option B or Option C and authorize staff to advertise for public hearing on the selected Option.

OPTION B: Adopt Sections 104, 105, and 106 of the Property Maintenance Code only as presented.

OPTIONC: Adopt the Property Maintenance Code in full without a Rental Inspection Program as presented.

Councilman Meza moved, seconded by Councilman Morrison that Council approve Property Maintenance Enforcement Option C, to Adopt the Property Maintenance Code in full without a Rental Inspection

Program and authorize the advertisement of a public hearing on the amendment of the Town Code as presented.

Councilman Meza noted that this matter has gone on with discussion for many years, with Council speaking of various ways to address blighted buildings in the community. He stated that the matter went to Richmond and Delegate Collins obtained the approval and advocated for the Town in order to grant Front Royal the authority to proceed with these options. Mr. Meza stated the options have been greatly considered and much discussion has ensued on the matter. Councilman Meza stated that Council has discussed in detail whether the Town has the appetite to enforce rental inspection and property maintenance and the associated costs. He noted that every member of Council is clearly concerned with spending money for such a program.

Mr. Meza explained that option C would allow for the adoption of the property maintenance Code, in full, without putting a rental inspection program in place. He noted that was an important distinction because it was an important first step in the enforcement program that would not compel the Town to hire staff to enforce the program, but rather would allow the Town to address maintenance issues on a complaint basis; he noted that it was just a baby step. Mr. Meza opined that it would alleviate Council's fears of adopting a program without cost and is the most reasonable and least aggressive options.

Councilman Sealock noted that Council chose to unanimously change the Town Charter and he said that he was for stepping into a program. He stated that someone would have to be implementing the program and when there were Code issues there will be legal fees that will come forward; everything that the Town implements has a cost. Mr. Sealock noted that the reserve funds of Council were recently taken away and he would like to know the full cost of the program implementation.

Councilman Morrison noted that to be clear, this is not about property maintenance or rich verses poor. He stated it was a generational issue and related to taking ownership and having respect. He stated he wants people to be proud of Front Royal and have renters to have dignity, and for the Town to not just caring what the tourists think - but rather the Town care what the citizens think as well. Mr. Morrison spoke of sharing a part-time building official with Strasburg perhaps, using Police Officers for nuisance calls, and for Council to keep in mind that when property values go up, Town taxes increase as well.

Councilman Connolly noted that he has been swayed for option C, though he does not agree with anything Councilman Morrison just said. He noted that the health and well-being of the community is one of the best to use as justification for enforcement. Councilman Connolly urged Council to consider option C, noting that option B made little sense.

Councilman Gillispie noted that he would also be in support of option C tonight, adding that option B does very little.

Vice Mayor Tewalt noted that he petitioned the State repeatedly to give the Town the same rights of others to address blighted structures and up until Delegate Collins gave the Town the ability. He expressed concern with jumping forward with no one to enforce the issues. He stated that the Town needs to examine dilapidated buildings and re-examine the property maintenance code matter (option B), as option C is not enforceable and the funding is not available.

Councilman Gillispie noted that the matter is not going to be a quick fix, and the Town can not go into structures built many years ago and require them to be held to today's standards.

Councilman Sealock stated that you must crawl before you walk; and he wants to walk into the matter with clear eyes. Councilman Meza noted that it is important to clarify that the Town Council has had plenty of time and a vast amount of information to review for some time. Councilman Connolly noted that Councilman Hrbek referred the matter to Planning Commission about three years ago, noting that Council has discussed this for many, many years.

Vote: Yes – Connolly, Gillispie, Meza and Morrison

No – Sealock and Tewalt
Abstain – N/A
Absent – N/A

(Mayor Tharpe did not vote as there was no tie to require his vote)
(By Roll Call; for Option C)

COUNCIL MEETING MINUTES

January 24, 1983

The regular meeting of the Town of Front Royal, Virginia Town Council was held in the Town Hall on January 24, 1983, at 7:30 p.m.

PRESENT: Mayor John K. Marlow
 Councilman George E. Banks
 Councilman John W. Good
 Town Manager Walter M. Duncan
 Town Attorney David N. Crump, Jr.

ABSENT: Vice Mayor Albert G. Ruff, Jr.
 Councilman Francis D. Hall

The Mayor did not call the meeting to order due to the lack of a quorum.

February 8, 1983

A joint meeting of the Front Royal Town Council and the Warren County Board of Supervisors was held Tuesday, February 8, 1983, at 7:30 p.m. in the Law Library at the Warren County Court House.

PRESENT: Mayor John K. Marlow
 Councilman John W. Good
 Councilman Francis D. Hall
 Councilman George E. Banks

Councilman Hall moved, seconded by Councilman Banks, that the Master Plan for the Front Royal-Warren County Airport dated April 1983, revised August 1982, second revision October 1982, corrected revisions November 1982, be approved with the stipulation that Route 619, at the west end of the present runway, will not be closed when the runway is extended.

Vote: Yes - Unanimous

Councilman Hall moved, seconded by Councilman Good, to have the county perform the building inspection in town under the proposed agreement as follows:

PROPOSED AGREEMENT RE:

COUNTY PERFORMANCE OF BUILDING INSPECTIONS IN TOWN

The County of Warren agrees to enforce the Virginia Uniform Statewide Building Code within the Town of Front Royal as requested by the Town of Front Royal, as permitted under Section 36-105 of the Code of Virginia subject to the following provisions:

1. The County will be responsible for enforcement of all aspects of the Virginia Uniform Statewide Building Code within the Town including enforcement of the electrical code.
2. The Town Electrical Department will cooperate with the County by observing reasonable procedures established by the County to insure that electrical service is provided only after required inspections have been made. These procedures shall be similar to those currently in use between the County and Potomac Edison.
3. The County will not be responsible for insuring zoning compliance within the Town but will require a Town zoning permit as required by the Town prior to issuance of a building permit.
4. The Town will complete all inspections, issue proper certification and generally maintain full jurisdiction for any structure for which permits have previously been issued by the Town prior to the date of this agreement.
5. This agreement will become effective March 1, 1983. The agreement may be terminated by either party by providing sixty days written notice to the other party.

Vote: Yes - Unanimous

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Town of Front Royal, Virginia Council Agenda Statement

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Item No. 9

Meeting Date: October 9, 2018

Agenda Item: COUNCIL APPROVAL – Proclamation for World Polio Day

Summary: Council is requested to approve a Proclamation proclaiming Wednesday, October 24, 2018 as World Polio Day in the Town of Front Royal, as presented.

Budget/Funding: None

Attachments: Proclamation

Meetings: None

Staff Recommendation: Approval ✓ Denial _____

Proposed Motion: I move that Council approve a Proclamation proclaiming Wednesday, October 24, 2018 as World Polio Day in the Town of Front Royal, as presented.

*Note: Motions are the formal & final proposal of Council,
proposed motions are offered by Staff for guidance

*To be clear and concise, motions should be made in the positive

Approved By: JW

WORLD POLIO DAY

END
POLIO
NOW

ROTARY INTERNATIONAL PROCLAMATION



WHEREAS, Rotary International, founded on February 23, 1905 in Chicago, Illinois USA, is the world's first and one of the largest non-profit service organizations; and

WHEREAS, there are over 1.2 million Rotary club members comprised of professional and business leaders in over 35,000 clubs in 200 countries and geographic areas; and

WHEREAS, the Rotary motto "Service Above Self" inspires members to provide humanitarian service, encourage high ethical standards, & promote good will and peace in the world; and

WHEREAS, Rotary in 1985 launched PolioPlus and spearheaded the Global Polio Eradication Initiative, which today includes the World Health Organization, U.S. Centers for Disease Control and Prevention, UNICEF & the Bill & Melinda Gates Foundation to immunize the children of the world against polio; and

WHEREAS, polio cases have dropped by 99.9 percent since 1988 and the world stands on the threshold of eradicating the disease; and

WHEREAS, to date, Rotary has contributed more than US\$1.8 billion and countless volunteer hours to the protection of more than two and a half billion children in 122 countries; and

WHEREAS, Rotary is currently working to raise an additional \$50 million per year, which would be further leveraged for maximum impact by an additional \$100 million annually from the Gates Foundation.

WHEREAS, these efforts are providing much needed operational support, medical personnel, laboratory equipment and educational materials for health workers and parents; and

WHEREAS, in addition, Rotary has played a major role in decisions by donor governments to contribute more than \$8 billion to the effort; and

WHEREAS, there are over 140 Rotarians in two clubs in Front Royal & Warren County sponsoring service projects to address such critical issues as poverty, health, hunger, illiteracy, and the environment in their local communities, and abroad.

Therefore, the Front Royal Town Council do hereby proclaim Wednesday, October 24, 2018 as World Polio Day in Front Royal and encourage all citizens to join myself and Rotary International in the fight for a polio-free world.

APPROVED:

Hollis L. Tharpe
Honorable Mayor



ATTEST:

Jennifer E. Berry
Clerk of Council

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Town of Front Royal, Virginia Council Agenda Statement

Page 1
Item No. 10

Meeting Date: October 9, 2018

Agenda Item: COUNCIL APPROVAL – Reconsider Decision Pertaining to Waiver of Curb and Gutter at 419/423 Luray Avenue – Susan Wines

Summary: Council is requested to reconsider their decision pertaining to the waiver of Curb and Gutter at 419/423 Luray Avenue from owner of the two properties, Susan Wines. On August 27, 2018, Council *approved the waiver of curb and gutter at 419 & 423 Luray Avenue as requested for a period of five (5) years following the completion of construction with respect to each one of the homes on each lot, or upon the offer of sale of each home to another party, other than the current owners; and, that the current owners execute a written contract and recordable form suitable to the Town Attorney suitable to the terms hereof to the Town with respect to each lot and home as a condition of this waiver, otherwise this waiver could be null and void. Council amended the motion to include the filing of a lien at the courthouse (rather than a “recordable contract”) on both lots for the installation of the curb & gutter.* Mrs. Wines is currently requesting that the recorded contract/lien be placed on her current resident at 16 E. 17th Street so she can sell 419/423 Luray Avenue. The Town Attorney has concurred that by mutual agreement of all the owners of 16 E. 17th Street, Council can substitute 16 E 17th Street as security for the cost of the curb and gutter work at 419/423 Luray Avenue and not use the Luray Avenue as the security for the work. The Town Attorney has opined on how this could be accomplished in his attached email.

Note: Staff has given an estimate of approximately \$8,600 to complete the curb/gutter work in-house at 419/423 Luray Avenue. Mrs. Wines has been notified of this information.

Budget/Funding: None
Attachments: Town Code Section 158-850.C., Minutes and E-Mail from Town Attorney
Meetings: Work Session held August 20, 2018 and September 24, 2018 and August 27, 2018 Regular Meeting
Staff
Recommendation: Approval ✓ Denial _____

Proposed Motion: I move that Council rescind their decision made on August 27, 2018, pertaining to the waiver of Curb and Gutter at 419/423 Luray Avenue from owner of the two properties, Susan Wines. I further move that Council approve a mutual agreement between all the owners of the property located at 16 E. 17th Street and the Town of Front Royal, stating that the property owners enter into a promissory note to pay a sum for the cost of the curb and gutter work to be installed at 419/423 Luray Avenue, secured by a Deed of Trust (mortgage) lien on the 16 E. 17th Street property for which is due and payable in (5) years either monthly or annually, contingent upon the property owners ensuring, in writing, that if a mortgage currently exists on the 16 E 17th Street property that there would be no issues if a second Deed of Trust is issued on the property.

ROLL CALL VOTE REQUIRED

*Note: Motions are the formal & final proposal of Council,
proposed motions are offered by Staff for guidance
*To be clear and concise, motions should be made in the positive

Approved By: JW

Joe and Tina,

Long story short—my opinion is that by mutual agreement of all of the owners of the property on 17th Street (if that includes more than just Mrs. Wines) and Town Council, we can substitute the 17th Street Property as security for the cost of the curb and gutter work at 419/423 Luray Avenue, and not use the Luray Avenue property as the security for the work.

Just so you know the legal back ground of the enabling state legislation, it states “[s]uch *improvements may be ordered by the governing body and the cost thereof apportioned in pursuance of an agreement between the governing body and the abutting landowners, and, in the absence of such an agreement, the cost of improvements which is to be defrayed in whole or in part by such local tax or assessment*”, which I read to mean (1) the local government and the landowner agree how to pay for and secure payment of the curb and gutter work, or (2) in the absence of an agreement, the work should be paid for and payment secured by a tax lien. This indicates that the General Assembly contemplated with approval situations where there should be flexibility in arrangements between the local government and property owners to get these improvements done. I see nothing in the enabling statutes, and can think of no policy reason, that would not allow the parties to substitute security of equal value and soundness where it would benefit the landowner, and still protect the local government’s investment just as equally.

Mechanically, the way I would accomplish this would be to have the owners of the 17th Street property enter into a promissory note to pay a sum certain for the cost of the curb and gutter work, secured by a deed of trust (mortgage) lien on the 17th Street property, all of which is due and payable in five years (it could be paid in monthly or annual installments if the Wines and the Town preferred). There could also be another written agreement to spell out the terms, if there is anything additional that needs to be spelled out, although most, if not all, the terms can be set out in the promissory note and deed of trust. If there is already a bank loan on the 17th Street property, the Wines might want to check with the bank to make sure the bank has no problem with a second deed of trust to the Town, as sometimes a bank will have problems with that.

Let me know if you have questions with this, and I will be happy to try to answer or get you additional information.

Doug

Douglas W. Napier
Town Attorney
Town of Front Royal, VA
VSB No. 16136
P.O. Box 1560
102 E. Main Street
Front Royal, VA 22630
Tel. 540.635.7831
Direct 540.622.7732
FAX 540.635.4281

August 27, 2018

COUNCIL APPROVAL – Waiver of Curb and Gutter at 419/423 Luray Avenue– Susan Wines

Summary: Council has received a request from Susan Wines to waive curb and gutter at

419/423 Luray Avenue. Ms. Wines owns both lots on Luray Avenue with a single-family house under construction on each lot. Curb and gutter is required per Town Code 148-850.C. The Town Engineer can waive the requirement when there are no more than two dwellings and when curb and gutter is not present within 200 feet of the property. Curb and gutter are located across the street and is within 200 feet of the property; therefore, curb and gutter can only be waived by Town Council.

Councilman Gillispie moved, seconded by Councilman Connolly that Council approve the waiver of curb and gutter at 419 & 423 Luray Avenue as requested for a period of five (5) years following the completion of construction with respect to each one of the homes on each lot, or upon the offer of sale of each home to another party, other than the current owners; he further moved, that the current owners execute a written contract and recordable form suitable to the Town Attorney suitable to the terms hereof to the Town with respect to each lot and home as a condition of this waiver; otherwise this waiver could be null and void.

Vice Mayor Tewalt noted that he was not in favor of the waiver as it was not following the Town ordinance. He added that even with the proposed motion, if it is not recorded at the courthouse, it has no bearing on the matter. Mr. Tewalt stressed that it include a lien against the properties as well to require payment for the curb and gutter.

Vice Mayor Tewalt moved, seconded by Councilman Sealock, to amend the motion to include the filing of a lien at the courthouse (rather than a “recordable contract”) on both lots for the installation of the curb & gutter.

Vote: Yes –Morrison, Sealock, and Tewalt
No – Connolly, Gillispie, and Meza,
Abstain – N/A
Absent – N/A
Yes – Mayor Tharpe, to break the tie
(By Roll Call; On the Amendment to include the Lien)

Council and the Town Attorney discussed the matter briefly, surmising that a recorded contract would in essence be “a lien” on the property.

Vote: Yes – Connolly, Gillispie, and Meza
No – Morrison, Sealock, and Tewalt
Abstain – N/A
Absent – N/A
Yes – Mayor Tharpe, to break the tie
(By Roll Call; on Motion as Amended to now include the Lien)

September 24, 2018 ----- Immediately after Regular Meeting

1. Request to Reconsider Decision Pertaining to Curb/Gutter Waiver at 419/423 Luray Avenue – Susan Wines – *Councilman Gillespie*

Councilman Gillespie has requested that Council discuss the recent decision made by Council regarding the curb and gutter waiver at 419/423 Luray Avenue – Susan Wines, August 27, 2018.

Council Discussion:

Councilman Gillispie requested that the lien be placed on different property owned by the Wines, as to allow the property owner to proceed without holding up the loan on the Luray Avenue sites. Vice Mayor Tewalt expressed his displeasure with going against the Town Code. Councilmen Morrison, Meza and Connolly expressed their agreement in proceeding with the arrangement with proceeding with the lien placed on property different from the site where the curb and gutter is to eventually be installed. Vice Mayor Tewalt and Mr. Sealock expressed the concern that it could be violating the Town's ordinance. Assistant Town Attorney Sonnett noted that it would not be violating the Town's ordinance, noting that the Town can choose this route in order to accommodate the property owner's request. Mayor Tharpe noted that it would be on an upcoming agenda for vote.