



TOWN COUNCIL WORK SESSION

Monday, December 3, 2018, 7 p.m.

Town Hall Council Chambers

1. CLOSED MEETING – UFAC Interviews and Planning Commission Vacancy

Motion to go Into Closed Meeting

SUMMARY: Council is requested to go into closed meeting to interview a candidate for the Urban Forestry Advisory Commission (UFAC) to a (4) four-year term, expiring December 20, 2022 and discuss a Planning Commission Vacancy.

Councilman Sealock moved, seconded by Councilman Gillispie that Town Council go into closed meeting to discuss and consider prospective candidates for the Urban Forestry Advisory Commission and Planning Commission Vacancy, pursuant to Section 2.2-3711.A.1 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)

Motion to Certify Closed Meeting at its Conclusion

Councilman Gillispie moved, seconded by Councilman Sealock that Council certify that to the best of each member's knowledge, as recognized by each Council member's affirmative vote, that only such public business matters lawfully exempted from Open Meeting requirements under the Virginia Freedom of Information Act as were identified in the motion by which the Closed Meeting was convened were heard, discussed or considered in the Closed Meeting by Council, and that the vote of each individual member of Council be taken by roll call and recorded and included in the minutes of the meeting of Town Council.

Vote: Yes – Connolly, 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)

2. BMW Real Estate LLC Proffer Revision Request – Director of Planning/Zoning

SUMMARY: BMW Real Estate LLC has submitted a request to revise the proffers for their vacant piece of commercial property located on John Marshall Highway. The attached Staff report provides more general information about the property, legal requirements, and the specifics of the applicant's request. In general, the Applicant is requesting the changes so they may better market the property for a new commercial use.

BUDGET/FUNDING: No direct impact.

STAFF RECOMMENDATION: As noted in the Staff Report in more detail, the Planning Commission recommends approval of the current version of the proposed proffers. Overall,

the changes allow a few more uses than currently but also restrict some additional uses that the Planning Commission did not feel was appropriate in the location. The Planning Commission and Applicant believe that the revised proffers will assist the owner while also meeting the intent of the original rezoning application to plan for a compatible use on the property.

Mr. Camp presented the following to Council:

BMW REAL ESTATE LLC – PROFFER AMENDMENT REQUEST

Requested Use Changes to Proffers

New Uses Allowed:

Appliance stores and repair services
Barber and beauty shops
Hardware stores
Laundries, laundromats and dry cleaners
Retail stores with no hour restrictions
Radio/TV broadcasting stations
Restaurants over 2,000 square feet
Churches
Public utilities
Boarding houses, clubs and lodging homes w/

SUP

More than 2 apartments w/ SUP

New Uses Restricted:

Machinery sales and service
Commercial parking lots
Distribution facilities
Wholesale establishments
Outdoor amplified sound

Other Requested Changes

- Removal of several minor proffers related to design considerations that are already required by Town Code or where the new proffers exceed the requirements of the current proffers.
- Removal of the proffer that requires dedication of land for a trail since that was already done.
- Remove the proffer that requires a bond for curb and gutter and sidewalks since that is already done.
- New language regarding the building exterior requirements so that the new building must conform to the adjacent building (Holly Hill) if a simulated stucco material is used. Otherwise, masonry, brick or stone is required.

Council Discussion: Vice Mayor Tewalt expressed concern with retail stores listed with “no hour restrictions” backing up to a residential area. Mr. Camp noted that it could be addressed by speaking with the applicant to address the stores hours. Mayor Tharpe stated that they are attempting to remove part of the restrictions in order to bring back some more viable uses of the property. Mr. Camp noted that new Town Codes have addressed some of the requirements and the trail area along the front of the property has already been dedicated as well.

Council discussed the design requirement changes, the by right allowances, and the two readings that would be required of the property. Mayor Tharpe spoke highly of the applicants, adding that he felt the use of the property would be an asset to the Town. Vice Mayor Tewalt noted that he had concern with a business parcel near a residential area with noise. Mr. Camp noted that he would work with the applicant to address the concern brought forth by Mr. Tewalt. Mr. Meza noted that it was similar to McDonald’s downtown and other area residents that about property that is commercial (C-1). It was noted that having Mr. Camp gather a brief summary of businesses that about residential areas downtown would be helpful to Council.

3. WWTP Phase II Presentation – *Manager of Waste Water Treatment Plant*

SUMMARY: This presentation will explain why Phase II Waste Water Treatment Plant (WWTP) upgrade may be required in future by DEQ (Department of Environmental Quality) to stay in compliance with permit(s). In order to have Phase I completed, there were components removed from Phase I to reduce costs so the project could move forward. By removing these processes, the Town saved \$16,920,000. Presentation will review and explain these components and why they may be necessary or what can be done to delay Phase II Upgrade.

BUDGET/FUNDING: The current estimated cost for this upgrade is \$21,000,000--\$3,000,000 for Design and \$18,000,000 for Construction. 9801-Future Project

Timothy Fristoe, Wastewater Treatment Plant Manager, presented the following report to Council:

TOWN OF FRONT ROYAL WASTEWATER TREATMENT PLANT - PHASE II

What is the Phase II Wastewater Treatment Plant Upgrade Project?

Didn't we just complete an Upgrade?

- **Phase II Wastewater Treatment Project is items removed from the current design of the facility.**
- **Why were these items deleted from the current design?**

COST: GHD the design engineers in the upgrade project which began in 2012 put a lot of costly processes that the Town did not need or could not afford at the time.

- Original Cost Estimates For GHD's Design Exceeded \$60,000,000
- Guidance From The Town Manager & Director of Environmental Services Requested The Cost Of The Project Be Reduced to \$40,000,000 Or The Upgrade Project Would Be Postponed
- The Town Was Challenged To Make This Much Needed Project Happen!

Processes To Be Removed And Slated For The Phase II Project How This Decision Was Made

1. Eliminate the unnecessary items from the project and have a facility to meet it's future needs & meet the DEQ's Regulations
2. What other factors were taken in consideration to how to reduce the cost of the Upgrade Project

Why Not Consider The I & I Consent Order Into the Design?

- Previously in the past especially the Plant Upgrade in 1992 increased the Plant's pumping capacity from 8.0 MG to 12.0 MG
- This extra pumping capacity met the DEQ's requirements and keep the Town in compliance for a short while. But as time went on the sanitary sewer system continue to grow and age.

How Do You Do That?

- If the Town could significantly reduce the I & I coming to the Wastewater Plant some of the costly processes originally proposed could be postponed or eliminated if the Town could finally address the cloud hanging over them associated with the I & I.
- Reducing this flow not only cuts down on operational costs such as chemical & electrical usage and but keeps the Town in compliance with its Discharge Permit with the DEQ.

- Money spent on I & I rehabilitation of the sanitary collection system would reduce the compliance and treatment problems rather than spending nearly an additional \$18 million dollars just to treat ground and surface water that has plagued the Town for years

Factors To Determine What Processes to Eliminate

(Prior and during the design of this project the Town had already been placed in Consent Order of the Virginia Department of Environmental Quality to resolve it's current I & I issues with the sanitary sewage collection system)

Processes To Be Removed And Slated For The Phase II Project

- Keep the existing Influent Pumping Station as it currently is that can pump 12.0 MGD and eliminate the proposed piggyback Pump Station which would have increased the facility's Pumping Capacity to 17.0 MGD. In 2012 the Daily Average Flow was 3.25 MGD.
 - Flow Equalization Capacity Improvements
 - 3.75 MG Storm Lagoon to be used in High Flow Events
 - #2 Grit Removal Unit. Each Grit Removal Unit is capable of handling 12.0 MGD. So only 1 Grit Removal Unit would be constructed
 - Parallel Effluent Line & Effluent Pump Station
 - The existing Effluent Line of the Waste Water Plant could not handle 17.0 MG
 - A Effluent Pump Station would be needed when a 100 year flood event would ever happen

Total Cost Savings Eliminated From Phase I Of The Project

- By removing these processes saved the Town \$16,920,00 that made the upgrade project take place!
- Note: None of these processes were WQIF Grant Eligible.

Wastewater Treatment Plant Final Cost

- Total cost of the Upgrade Project was \$44,500,00
- Warren County funded the Septage Receiving Station at \$2,450,000
- The facility received a WQAF Grant that funded over \$13,000,000 of debt that did not have to be repaid for the Nutrient Removal & Related Processes.
- The recent Wastewater Plant Upgrade final cost came to \$29,000,000 & the DEQ provided a 20 Year Interest Free Loan.

95% OF 5.300 MG IS 5.035 MG: If this happens in a 3 month period we will required to have a plan!

PHASE II COST ESTIMATES

- In the 2019-20 Capital Improvement Budget \$3,000,000 was proposed to do the Phase II Design.
- The 2020-21 Capital Improvement Budget \$18,000,000 is proposed to implement the Phase II Construction.

How To Avoid Phase II

- Continue to seek out and eliminate sources of I & I of the sanitary collection. Repairing and maintaining this infrastructure will save the Town money in from costly Plant Upgrades and keep the Wastewater Plant operating effectively in a cost effective manner

Council Discussion: Vice Mayor Tewalt noted that I&I (inflow and infiltration) work would always be an ongoing issue. He stated that the Town is receiving more water flow out of house laterals and

in order to address the matter, the houses must be looked into. Mr. Tewalt stated that the Town abated water with the Insituform process previously, and the water was back in a matter of days. He added that the DEQ is addressing localities across the state and Front Royal must address the clay lines that are cracking and leaking and seriously rehabilitate the manholes. In response to Mayor Tharpe's questions, Mr. Tewalt noted that smoke testing addresses the homes that need repairs.

Town Manager Waltz stated that the Town is spending a great deal with CHA to address the I&I issue. He noted that the wet season may trigger the Town with the WWTP Phase II. Mr. Tewalt noted that the Town should be more aggressive with I&I abatement, and the Town should raise rates perhaps and move forward with I&I planning. Mr. Waltz noted that I&I would be brought to an upcoming worksession to update Council. He stated that the hope would be that Council would avoid the WWTP Phase II issue if possible.

4. Proposed Amendments to Town Code Chapter 70 (Electricity) – *Director of Energy Services*

SUMMARY: The Energy Services Department is requesting to make recommended changes to the Town Municipal Code Chapter 70 (Electricity) to bring it up-to-date and consistent with other areas of the Town Code.

Mr. Jenkins presented the following to Council (some highlights of the presentation below):

70-1 –70-8 CONTRACTORS; FEES; RESPONSIBILITIES; EXCEPTIONS

70-1INSTALLATION OF WIRING TO BE BY ELECTRICAL CONTRACTOR OR OWNER •“...requiring the use of electrical current shall be done by an electrical contractor qualified by the Town, in accordance with the provisions of this chapter, to do such work.”

•CHANGE TO •“...requiring the use of electrical current shall by done by an electrical contractor and inspected by an electrical inspector, hereinafter defined, (hereinafter, an “Electrical Inspector”) being an individual meeting the following criteria according to the Code of Warren County, Virginia, Chapter 76, Building Construction, Electrical Inspections, as being certified by the Virginia Board of Housing, Office of Uniform Statewide Building Code, to perform electrical inspections of electrical conductors, wiring and equipment and to properly determine whether they conform to the requirements of the code; who has been designated by the Middle Department Inspection Agency, hereafter referred to as "MDIA," from among its personnel who are available to perform the duties of Electrical Inspector as provided in this the Warren County Code, in accordance with an agreement between Warren County and MDIA; and a person who bears the credentials designating them as an inspector for Warren County issued by the Warren County Building Official. There may be more than one Electrical Inspector and where the word "the" is used in the Warren County Code with reference to an Electrical Inspector, it shall refer to any Electrical Inspector as defined in the Warren County Code in accordance with the provisions of that Code to do such work.”

70-2 BOND TO BE GIVEN BY ELECTRICAL CONTRACTOR –D. •“The Electrical Inspector and the Town Manager shall have authority to declare such bond forfeited”

•CHANGE TO•“The Electrical Inspector and the Town Manager shall have authority to declare such bond forfeited. Upon declaration of forfeiture, the electrical contractor shall have the right of appeal within thirty (30) days to Town Council to determine whether such expense and damage was caused by any negligent, defective or inadequate work done in the Town under any contract with

such electrical contractor and whether such electrical contractor complied with the faithful performance of, and compliance with, all of the provisions of this chapter. Town Council shall have the authority to determine the admissibility of evidence without regard to the burden of proof, or the order of presentation of evidence, so long as a full and equal opportunity is afforded to all parties for the presentation of their evidence. All evidence shall be presented in the presence of the Town Council and the parties, except by mutual consent of the parties. Documents, exhibits and lists of witnesses are to be exchanged between the parties at least three (3) days in advance of the appeals hearing. The appearance of witnesses before the Town Council at the appeals hearing is strictly voluntary. A majority decision of the Town Council acting within the scope of the appeals hearing is final and binding on the parties.”

70-9 –70-13 ELECTRICAL INSPECTOR

REMOVE–Entire “Electrical Inspector” Section, with the exception of 70-12 CUTTING OFF ELECTRICITY IN AN EMERGENCY which will be moved into the above section “Contractors; Fees; Responsibilities; Exceptions”

•**70-59CHARGE FOR REINSPECTION OF METER** •“A charge of as established by resolution, shall be added to the electric bill of each consumer who, by his request, has the Town test and inspect an electric meter, when said electric meter has been tested and inspected by the Town at the request of the consumer within a previous twelvemonth period...”

•**CHANGE TO** •“A charge of as established by resolution, shall be added to the electric bill of each consumer who, by his request, has the Town test and inspect an electric meter, when said electric meter has been tested and inspected by the Town at the request of the consumer **twice** within a previous twelvemonth period...”

•**70-63 MINIMUM ALLOWABLE AMPERAGE AND CHANGES IN LINE SERVICE FOR THE CONVENIENCE OF THE CUSTOMER** –B. •“...including labor, vehicle usage and materials used, **less and except the value of any salvageable and re-usable materials recovered during such service change.**”

•**CHANGE TO** •“...including labor, vehicle usage and materials used.”

Council Discussion: Vice Mayor Tewalt noted that this was a “boiler plate” matter that was basic changes. Mr. Jenkins noted that was correct. He stated that for example it cleared up matters such as requiring a backup item from businesses, which is no longer required, as the Town has plenty. Council chose to move forward as it was mainly housekeeping to clear up the Code language.

5. FY2019 Budget Amendment for Community Development Block Grant (CDBG)

SUMMARY: Council is requested to approve a FY2019 budget amendment in the amount of \$700,000.00 for the Community Development Block Grant (CDBG) These funds will be used to facilitate the façade improvement program, administration of the projects, public improvements, signage, and branding/marketing.

BUDGET/FUNDING:

9130-3310113 Community Development - Grant Revenue – CDBG \$700,000.00

9130-43026 Community Development – Admin Expense \$70,000.00

9130-47983 Community Development – Façade Improvement \$357,500.00

9130-47984 Community Development - Public Improvements \$130,000.00

9130-47019 Community Development – Signage \$127,500.00

9130-43080 Community Development – Branding & Marketing \$15,000.00

STAFF RECOMMENDATION: Staff recommends Council move forward with a public hearing on this item, an increase of greater than 1% of the original budget requires a public hearing.

Council Discussion: To answer Mr. Tewalt's language, Mr. Wilson explained that the totals were in-kind and some were actual financial (\$130,000 budgeted, the rest was quantified) Mr. Camp stated that Staff time, refurbishing refuse cans, all the way to Director time with meetings, etc.) To answer Mr. Tewalt's question, Mr. Camp noted that the Town is responsible for \$130,000 (which is already set aside in the budget). He noted that about \$400,000 was "in kind" and there would not be another large amount in the budget coming forward.

6. Consideration of a request from Shentel Communications, LLC to amend prior franchise agreement for telecommunications services to extend term through August 14, 2019 – Town Attorney

SUMMARY: In 2011, Shenandoah Telephone Company ("Shentel") entered into a five-year franchise agreement with the Town to use the public ways to construct, operate and maintain a fiber optic telecommunications system, the term of which was extended through August 14, 2017. The franchise was limited in scope to individual fiber build projects, with the scope of the franchise to be expanded for additional fiber builds on a case-by-case basis pursuant to administrative review and approval.

Shentel Communications, LLC now seeks to extend the term through August 14, 2019, allowing Shentel to continue servicing customers while the Town considers advertising for bids for new, fifteen (15) year, Town-wide, fiber optic telecommunications franchise(s).

Town Council is asked to consider an amendment to Shentel Communications, LLC's prior fiber optic telecommunications franchise with the Town, extending the term through August 14, 2019. Shentel provides telecommunications services via its installed fiber optic cable system to limited customers in limited areas of the Town. The proposed amendment would extend the franchise term through August 14, 2019. The Town is desirous of having high speed internet services be of wider availability in Town. Shentel and other fiber optic telecommunication providers seek ten (10) year to fifteen (15) year Town-wide franchises. Franchises for a term in excess of five years must be advertised for bids pursuant to Virginia Code §15.2-2100 (B).

Council Discussion: Mr. Napier explained that they continued to operate and pay the Town even though they did not have an active franchise agreement. He stated that the increase of fees would be noted and as Mr. Waltz noted that the Town is intending to get Shentel back at the table with Town.

7. Property Maintenance (Chapter 9 - Building and Maintenance Code) Update

SUMMARY: Adoption of the Virginia Maintenance Code was the first necessary step in order to implement a property maintenance program within the Town. As described within this new ordinance of the Town Code, and as required by the Virginia Maintenance Code, enforcement of the new maintenance code ordinances requires the Town to appoint a Maintenance Code Official and Board of Appeals.

Below is the simplified language from Town Code 9-200.B. and C that describes these requirements.

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.

STAFF RECOMMENDATION:

The possible options for appointment of a building code official include the following:

a) Hire a new employee as the Code Official. The benefit of this approach is that the employee would work exclusively for the Town which would be more effective in regards to productivity and implementation of policies for administration.

b) Sharing an Employee. Continue discussions with the Town of Strasburg and NSVRC to determine if cost sharing for a new Code Official position is possible. This approach would be less costly than a) but the employee would not work for the Town exclusively.

c) Outsourcing. Outsource the position to a business firm with the property credentials. This position has the potential to be the least costly or most costly, depending on the volume of work. For example, if Town Council only wants to focus on derelict structures at first, this may be the best option in the short term. Ultimately, if a full-scale program is implemented, an employee of the Town would likely be more efficient and effective for the Town.

d) Warren County. Warren County Building Inspections could also be used to administer/enforce the Town's maintenance code.

In regards to appointment of a Board of Appeals. Staff would recommend having discussions with Warren County to see if an agreement can be reached to use their existing Board of Appeals for the Town's Property Maintenance Code purposes.

Council Discussion: Councilman Morrison noted that the Town can implement some matters now, such as the appointment of an individual. He added that the Town could outsource the matter in order to not delay the issue and attack the blighted properties. He stated that eventually another employee could be added at another time.

Vice Mayor Tewalt asked about the appointed individual and the required individuals. He noted that starting with a large-scale operation would not be in the best interest of the Town. Mr. Wilson noted that there is about \$40,000 in the bank in order to assist the matter. Mr. Sealock stated that he wanted the Town's people in place, not use Warren County individuals; Mr. Morrison expressed his agreement with Mr. Sealock. Mr. Camp stated that should the Town outsource the matter, once the volume of buildings increases, it would make more sense to have an employee. Mr. Camp stated that outsourcing would be appropriate at this point; though the Town should continue to look into sharing an employee with Strasburg.

Mr. Camp noted that the Town has to legally address complaints brought forward of derelict structures. Mr. Meza asked about offering the County Building Inspector

Mr. Gillispie asked about speaking with the Town of Leesburg individual who does this work and he encouraged Council to speak with the Leesburg gentleman. Mr. Tewalt noted that it is his understanding that the Town can write a letter to the property owner of blighted structure. Mr. Napier noted that the letter could be written, though if the property is not tended to then the costs are incurred by bringing in testimony. Mr. Napier stated that if there is a complaint, then the Town must take some action on the dilapidated structure. Mr. Morrison stated that the Council should understand when a structure is dilapidated and a complaint is made; a process should be in place. Mr. Sealock noted that Mr. Waltz needs time with his Staff to make a plan for the complaints. Mayor Tharpe stated that Mr. Waltz was working on the matter adding, that Council would like it returned as soon as possible.

8. Liaison Committee Meeting Items for January 17, 2019 Meeting

SUMMARY: Council is requested to add items to the Liaison Committee Agenda for January 17, 2019. The Agenda from October 18, 2018 is attached.

Council Discussion: Councilman Sealock is due to serve in January with Mayor Tharpe at the meeting. An item to add to the agenda would be Property Maintenance discussion.

9. Council Discussion/Goals

Mr. Waltz stated that the Town is aware of the wreath light issue on Main Street and they will be addressing the short in the underground wire.

PRESENT: Mayor Tharpe, Vice Mayor Tewalt, Councilman Gillispie, Councilman Morrison, Councilman Meza and Councilman Connolly, 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.