TOWN COUNCIL WORK SESSION
Monday, April 15, 2019 @ 7:00 p.m.
Town Hall Council Chambers

Motion to Certify Closed Meeting at its Conclusion
Councilman Tewalt moved, seconded by Councilman Gillispie moved that Council add to the agenda a CLOSED ITEM regarding the Mayor's absence.

Vote: Yes – Gillispie, Holloway, Meza, Sealock, Tewalt and Thompson
No – N/A
Abstain – N/A
Absent – N/A

(By Roll Call)

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1. **<u>UPS Special Use Permit Application</u>** – *Director of Planning/Zoning*

See the attached Staff Report and associated documents for details on this Special Use Permit (SUP) application. The Planning Commission has recommended approval of the revised application with nine (9) recommended conditions.

STAFF RECOMMENDATION:
Approval with the nine (9) conditions recommended by the Planning Commission

From the STAFF REPORT:
This application is a request to obtain approval for a commercial parking lot for use by the UPS Distribution Center as an overflow parking lot. Commercial parking lots require a Special Use Permit (SUP) in the C-1 Zoning District. *Note: A use is a commercial parking lot when the parking is a stand-alone use, in comparison to accessory parking for permitted uses on the same lot.*
UPS leases the property from the property owner, Puja Properties LLC, and has been doing so for a long time – allegedly since the late 1980s. This application is a response of Town Staff notifying UPS that they were in violation of the Town Code by using the property for truck parking because they have no prior approval and the Town Code requires a Special Use Permit for both commercial parking lots and distribution centers in the C-1 Zoning District. A use can not be grandfathered unless it was originally legal when established.

The Town is authorized to require a special use permit for certain uses within any zoning district under Virginia Code §15.2-2286. Some specific uses are granted protection from regulation from localities by the Virginia Code, including agriculture uses, small scale conversion of biomass to alternative fuel, certain residential uses, private tents, farm wineries, assisted living facilities, and group homes. These exempted uses are not applicable with this application.

The issuance of a special use permit is subject to such conditions as are deemed necessary by the Front Royal Town Council after recommendations of the Front Royal Planning Commission. Prior to an action by Town Council or a recommendation by

the Planning Commission, a public hearing is required for special use permits. Town Code 175-136 requires that Special Use Permits meet the following requirements: (i) is not detrimental to the overall health, safety, and general welfare of the public, (ii) does not conflict with the Comprehensive Plan, (iii) is substantially compatible with surrounding land uses, and (iv) complies with laws of the Commonwealth of Virginia."

UPDATE:

The Planning Commission held a public hearing on March 20, 2019. After receiving public input, the Planning Commission discussed the need for a fence after the change that restricts tractor trailers. The Planning Commission did not believe a fence was necessary with the restriction of tractor trucks and trailers. In response to public input, the Applicant offered to not park the delivery trucks adjacent to the residential subdivision, which was agreed upon by the Planning Commission. A motion was unanimously passed that recommended approval of the Special Use Permit with the following nine (9) conditions:

1. This special use permit is only valid for the purpose of authorizing a commercial parking lot in the rear of 470 S Commerce Avenue.
2. Town Council, or other designated representative, may inspect the property at any reasonable time to ensure compliance with local regulations, including, but not limited to, the conditions placed on this special use permit.
Upon inspection of the property, if it is found that the property is not in compliance with local regulations, including but not limited to, the conditions of this special use permit, the Town may revoke this special use permit after notice to the applicant and public hearing.

EDITORIAL NOTE: Conditions 1-3 are typical conditions used for most Special Use Permit Applications.

4. Tractor trucks, also referred to as semi-trailer trucks, and their trailers/semitrailers, shall be prohibited on the parking lot, except when loading or unloading for short periods of time in association with the uses within the building of 470 S Commerce Avenue.

EDITORIAL NOTE: The exception noted in the last part of condition #4 does not apply to the applicant's proposed use. It only applies to existing uses within the business park building (example: Dollar General).

5. Loading or unloading of trucks on the parking lot is prohibited.
6. Inoperative or junk vehicles are prohibited.
7. The parking area shall be maintained in good condition at all times and each parking space shall be striped in accordance with Town Code specifications.
8. A travel lane shall be maintained through the parking lot at all times.
9. Delivery trucks shall be restricted from parking in the parking spaces that abut the storm drain ditch. These are the spaces closest to the homes within Beau Ridge Subdivision, located east of the proposed UPS parking lot.

Council Discussion:
Mr. Camp noted the Planning Commission also discussed fencing though they decided not to require the fencing, though the nine conditions as noted were included. Number four, he stated, related to Dollar General using unloading and loading times though UPS would be prohibited. Mr. Camp stated that UPS was agreeable to the nine items. Councilman Tewalt noted that he felt it should it move forward as presented.

Councilman Meza asked about restricting UPS from loading trucks, though allowing another business to continue. Mr. Camp stated that UPS was an industrial facility while the Dollar store was a retail use and a current business in place and a by-right use. Mr. Meza asked about the trucks parking against the fence and whether the delivery trucks were like F150s and about the same size, used the same size parking spot. He asked if it was an arbitrary rule being placed on the applicant and whether it was necessary. Mr. Camp stated that it came up from residents complaining about the fumes during the discussion. Council voiced their support of moving forward with the matter to the formal agenda.

2. **Renewal of Encroachment License for 125 W 4th St** – *Town Manager*
SUMMARY: An Encroachment License with Martin & Rachel McMahon for a portion of the front porch at 125 W 4th Street, was approved by Council on April 28, 2014 for a 5-year period. Since that time the front porch encroachment still exists; however, the new owner is James S. Bean. Council is requested to approve a Resolution that would authorize a new Encroachment License with James S. Bean for a period not to exceed five (5) years periods which may be extended by an additional five (5) years period executed by the Town Manager. Attached is the 2014 License and the Proposed Resolution that includes the new License.

STAFF RECOMMENDATION: Recommends approval of a new Encroachment License, as presented in attached proposed Resolution.

Council Discussion:
Council noted that it would be an indefinite encroachment (3 inches) into the right of way and Council voiced support of moving forward.

3. **Update on Comcast Franchise Agreement** – *Town Manager*
Staff report from the Town Attorney: Staff has been working with Comcast on establishing a new franchise and pole attachment agreement for services in Town. The existing agreements expired on May 13, 2018. At our April 2, 2019 meeting with Josh Brokee, Comcast, he informed the Town that they will be closing the Front Royal customer service center in 60 days (June 1st). He stated it was a business decision and they were closing a total of 5/6 locations. He has provided a summary sheet on how our citizens can still do business with Comcast in town through other vendors.

After reviewing the proposal and knowing the volume of customers that do business in the customer service center, I informed him that this was unacceptable to our citizens. I informed how important this customer service center is to our citizens and how we included specific language in our franchise agreement for the establishment of a center in Town.

Council Discussion:
Councilman Meza asked what the building is currently used for. Mr. Waltz noted that the customer service center was always packed and people are changing out their equipment and paying bills often. Councilman Tewalt noted that if Comcast was not happy they could take their cables and leave. Mr. Meza noted that the Town wanted to keep Comcast if at all possible. Mr. Waltz noted that they were interested in negotiating as soon as possible. He and Mr. Napier noted that there were a few other options to push the matter with Comcast, and also at Council's direction they could see if there were other options for providers available.

4. **West Main Street Extension Funding** – *Town Engineer*

SUMMARY: 2016 – At the suggestion of the EDA, the town agreed to build the first phase of the Main Street extension as an access road to the IT Federal lot and applied for an Economic Development Access Grant through VDOT. The grant, in the amount of $650,000 was awarded on the basis of IT Federal's proposed $40 million-dollar investment and their creation of 600 jobs. The estimated cost of construction for the first phase of Main Street was approximately $800,000. In exchange for the Town also constructing the sewer pump station to serve the northern end of the Royal Phoenix site, IT Federal agreed to pay the Town $150,000, essentially covering the remaining cost of the road construction.

2018 – Bids for the construction of Main Street came in higher than estimated, with the low bid coming in at nearly $1.1 million. Subtracting the expected funding from VDOT and contribution from IT Federal, the Town expected to pay approximately $300,000 toward the construction of the roadway.

2019 – Given the current uncertainty around IT Federal's construction plans and their public statements which seem to indicate a drastic reduction in their proposed investment, it is equally uncertain whether the Town will qualify for any reimbursement from VDOT or receive compensation from IT Federal.

Council Discussion:
Town Engineer Brown summarized the issues relating to the Resolution of the Commonwealth Transportation Board from December 2016, which noted that ITFederal must have a capital outlay of $3,250,000 on the site served by the project for example. Also noted, it was stated that the Town is currently carrying the bond and it cost about $5,000 annually to maintain the bond and the longer the Town to hold out on matters, the more it costs. Mr. Brown stated that the payback to VDot would also need to take place if the area would not be fulfilled as originally intended or with another use that lined up with the requirements of the Economic Development Access Fund Policy.

Council expressed his concern with the $650,000 that would need to be paid back. Mr. Waltz and Mr. Wilson noted that they would be meeting with Mr. Anzivino to determine what measures the EDA may be able to cover regarding the amount. Council also asked about potential insurance amounts for the embezzlement that apparently has taken place.

5. **Crooked Run West – Request for water & sewer service** – *Town Manager*

The Town has officially received the request from Warren County and the developer for water and sewer services for the development of Crooked Run West. They are currently proposing a combination of commercial and residential units which is a change in the comprehensive plan. They are requesting a change in the voluntary settle agreement in the

corridor to include the residential units in Crooked Run West. The agreement states only commercial water/sewer service for Crooked Run West.

CROOKED RUN WEST LLC

ANTICIPATED WATER AND SEWER DEMANDS

UNIT TYPE	NUMBER OF UNITS	WATER GPD EACH UNIT	GPD WATER	SEWER GPD PER UNIT	GPD SEWER
-ASSISTED LIVING	150	60 GPD	9,000	75	11,250
-COMMERCIAL	14 ACRES	1,500 GPD/AC	21,000	1800	25,200
-SINGLE FAMILY ATTACHED	125	100/GPD	12,500	120	15,000
-SINGLE FAMILY DETACHED	150	125/GPD	18,750	150	22,500
-MULTI-FAMILY	600	60/GPD	36,000	80	48,000
TOTAL	1,025		97,250		121,950

Council Discussion:
Mr. Waltz noted that the Planning Commission has denied the matter. Mr. Silek stated that the Town and County have an agreement regarding the water and the applicant is requesting that the agreement be amended to provide water and sewer for the residential portion. Councilman Tewalt noted that the Town is discussing a redundant water loop and Dominion contributed $3 million for the loop project. Mr. Tewalt explained that the Town does not need to add more connections unless they are adding to the loop project costs, to start, in his opinion. Mr. Tewalt added that the Town has allocated 1,900+ units in Front Royal that the Town has already pledged to, and if the Town adds 8 million more than it does too much to the water supply. He noted that the Town agreed to about 40,000 gallons and the applicant has noted that they plan to use over 120,000 gallons daily.

Mr. Waltz stated that the loop discussion was scheduled for the worksession of May 5th. Mr. Meza asked about the redundancy of the loop and wanting to understand the process of needing the loop, as there are currently commercial and residential in the Corridor. He stated that many in-town sites are planned for development eventually, though they may never be built. Mr. Meza stated that in-town developers may never build, and holding up commercial and residential in the Corridor should not be stopped for development that may never take place. Mr. Tewalt stated that more water can not go through the line without redundancy as the Town would be hurting the current Town and Corridor customers without the looping system.

Mr. Waltz stated that the Town cannot spend money until the Council directs Staff otherwise. Councilmen Thompson, Holloway, and Gillispie noted their concerns with extended water to the residential area in the Corridor. Mrs. Thompson expressed concern with schools at capacity as another issue that the community would face.

Councilman Meza stated that the Town sells water, as they were in the water business he noted, and the Town can figure out how to fix the redundancy issue. Vice Mayor Sealock noted that the applicant stated that there were other options they would like to go over and the Council should probably review their proposals. Mr. Tewalt stated that the Town does not have the water, the money, or the redundancy available; nor were they in the water business. He stated that the DEQ

stops the withdraw permit at a certain amount and that is the cap. Mr. Meza asked about not limiting the growth of the Town; he further asked if adding more homes would add more funds to the Town.

Mr. Napier stated that until the Board of Supervisors decides their response, there is no need to proceed or have the Town Council make decisions on the issue.

6. **Extension of due date for Personal Property & Real Estate Tax Bills** – *Director of Finance*

SUMMARY: Town Council is requested to approve a resolution to extend the due date of personal property & real estate tax bills due to the Town not being able to receive the tax books necessary to build the tax bills until after the Warren County Board of Supervisors approve Warren County's tax rates on May 7th.
The Commissioner of Revenue's Office provides the tax books to the Town after Warren County sets County tax rates to ensure that both Town & County tax books match. The Board of Supervisors are scheduled to approve Warren County tax rates later than usual due to a requirement to re-advertise Warren County tax rates.
If Warren County sets their tax rates on May 7th, the tax books will be built there after and the Town anticipates receiving the tax books the week of May 13-17th and having tax bills mailed sometime around May 21nd-28th. Staff anticipates requesting a due date for personal property & real estate tax bills of June 21st.

Council Discussion:
Council noted their understanding and agreement with the matter.

7. **Budget Discussion**

SUMMARY: Further discussion on regarding the FY20 Proposed Budget and possible reallocation of funds for funding of the debt service on the Police Department.

Figures based on Financing of $10,000,000		
	20 Year Term	**30 Year Term Tax Exempt Pooled Financing**
Estimated Interest Rate	3.92%	4.03%
Estimated Annual Payment	**$691,548**	**$563,822**
Additional Funding Required	$265,603	$137,877

FY19 Police Department Allocation	$	242,500
Reassessment @$0.135 R/E Rate	$	183,445
Current Total Allocation	**$**	**425,945**
FY20 Reallocation for Savings on General Liablity Insurance	$	42,000
FY20 Reallocation W Main Connector Funding*	$	84,000
Subtotal	**$**	**551,945**
FY20 Reallocation of Interal Loan for Town Hall**	$	150,000
FY20 Reallocation of Property Maintenance Funding	$	38,500
Total If All Listed Above Reallocated	**$**	**740,445**
**Reduced $90,000 to $84,000 for payment on letter of credit relating to Economic Access Grant*		
***Reallocation of Internal Loan Funding would require payoff of internal loan from fund balance*		

Councilman Tewalt noted that the numbers presented by Mr. Wilson were not sustainable. Mr. Wilson stated that it gets the Town through the first year, and then the Town would need to make

other arrangements. Mr. Waltz stated that many items are sustainable and they will continue the looking for other options.

Mr. Waltz noted that the Town could not sustain the Property Maintenance program on $38,000 annually so using those funds for something else would make sense. He recommended 30-year and Council expressed their agreement with Staff. Mr. Wilson noted that Staff would return at a later time with budget adjustments.

8. 2019 VML Policy Committee Nominations

SUMMARY: The Virginia Municipal League (VML) 2019 Policy Nominations are due April 25, 2019. All terms expire December 31, 2019. Below are the Policy Committee members nominated last year by Council and whose terms expired December 31, 2018. All nominations will be placed on the April 22, 2019 Regular Council meeting for a formal vote.

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

This Year:
Community & Economic Development Committee – Gillispie and Thompson
Environmental Quality Committee – Waltz and Holloway
Finance Committee –Wilson and Meza
General Laws Committee – Napier and Sealock
Transportation Committee – Just Tewalt

9. **Discussion of Outside Legal Counsel**

Councilman Meza noted that Council should must likely seek outside legal counsel related to EDA matters. He stated that he would like to follow the County's example of seeking collaboration to evaluate the Town's options with EDA. Mr. Meza stated that he meant zero disrespect to the Town Attorney and he just wants to make certain the Town is fully covered.

Gillispie asked if Mr. Napier felt the outside counsel, no Mr. Napier
Risk Manager of the Town noted that VML is fully briefed and if it is criminal

Councilman Tewalt asked where funds would be found to pay for legal counsel. Mr. Napier stated that he would be working on the FOIA materials with Messrs. Anzivino and Whitten, and he added that the Town can make a more informed decision on the matter. Mr. Meza noted that the County has all the forensic audit information and outside legal counsel.

Mr. Gillispie asked about filing a lawsuit and putting it on hold. Mr. Napier stated that it could be done.

Mr. Gillispie stated that the Town should put it on the the agenda to file a lawsuit for the forensic audit. Mr. Meza

10. Council Discussion/Goals

-none-

11. CLOSED MEETING – Consultation with Legal Counsel

Motion to Go Into Closed Meeting

Councilman Gillispie moved, seconded by Councilman Holloway that Council convene and go into Closed Meeting for the purpose of consultation with legal counsel employed or retained by a public body regarding specific legal matters, specifically, modification or renegotiation of the contractual provisions of FDR Services Corporation of Virginia, Inc., requiring the provision of legal advice by such counsel, pursuant to Section 2.2-3711. A. 8. of the Code of Virginia.

Vote: Yes – Gillispie, Holloway, Meza, Sealock, Tewalt and Thompson
No – N/A
Abstain – N/A
Absent – N/A

(By Roll Call)

Motion to Certify Closed Meeting at its Conclusion

Councilman Gillispie moved, seconded by Councilman 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 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 – Gillispie, Holloway, Meza, Sealock, Tewalt and Thompson
No – N/A
Abstain – N/A
Absent – N/A

(By Roll Call)

PRESENT: Councilman Tewalt, Councilman Gillispie, Councilman Holloway, Councilman Meza, Councilman Thompson, Vice Mayor 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, Director of Environmental Services Boyer, Community Development Director Hart, IT Director Jones, members of the public and members of the press.

ABSENT: Mayor Tharpe