TOWN COUNCIL WORK SESSION

Monday, December 2, 2019 @ 7:00pm at Town Hall
Beginning in Lobby for Unveiling of a Plaque
then to Upstairs Conference Room

1. Unveiling of Dr. Joseph Warren Plaque

2. CLOSED METTING – BAR Interview and Council Vacancy
Motion to Go Into Closed Meeting
Councilman Meza moved, seconded by Councilman Holloway, that Town Council go into closed meeting for discussion, consideration, or interviews of prospective candidates for, appointment, promotion, performance, demotion, salaries, disciplining, or resignation of specific public appointees of Town Council to the Board of Architectural Review AND to discuss, consider, and/or interview prospective candidates for appointment to fill the vacancy on Town Council occasioned by the resignation of former Town Council Member Eugene R. Tewalt by reason of his election as Mayor of the Town of Front Royal, pursuant to Section 2.2-3711.A.1 of the Code of Virginia.

Vote: Yes – Gillispie, Holloway, Meza and Thompson
No – N/A
Abstain – N/A
Absent – Sealock
(Mayor Tewalt did not vote as there was no tie to require his vote)

Motion to Certify Closed Meeting at its Conclusion
Councilman Meza moved, seconded by Councilman Gillispie, 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, Tewalt and Thompson
No – N/A
Abstain – N/A
Absent – Sealock

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3. Bad Debt – 4th Quarter – *Director of Finance*
SUMMARY: Town Council approved a revision to the Bad Debt Policy in March 2019 and requested to review/approve write-off of bad debt quarterly. Town Council is requested to approve the removal of 5 years or older of outstanding accounts receivable (bad debts) on the Town's ledger for the fourth quarter of 2019 totaling $11,141.46 which is comprised of 34 utility accounts. All possible recourse of attempting to collect these amounts has been completed and the accounts have no activity for at least 5 years.

HISTORY: The Town of Front Royal had a large dollar value of uncollectible "bad debt"

recorded yearly on the Town's ledger, due to non-payment of utility bills which had not been addressed for over 30 years until 2012. The Town's auditing firm, Mitchell & Company, requested that Town Council approve a policy that would allow the Department of Finance to review outstanding uncollectable debt annually and abate the bad debt from ledgers after all avenues for collection had been exhausted. Town Council adopted a bad debt policy on November 13, 2012 that deemed an uncollectible account as having no activity for a period of 7 years. Town Council adopted a revision to the bad debt policy on March 11, 2019 that deemed an uncollectible account as having no activity for a period of 5 years to coincide with the Code of Virginia. Code of Virginia § 8.01-246 allows action to be taken to collect on written contracts for a period of 5 (five) years. Written agreements are used for Town of Front Royal Utility Accounts. Based on the Code of Virginia, a Town of Front Royal Utility Account would be deemed uncollectible after there has been no activity from the account holder for a period of 5 (five) consecutive years.
Based on the utilities billed & bad debt written off during FY2018, the Town of Front Royal Department of Finance collected approximately 99% of the amounts billed annually before accounts were deemed uncollectible and written off.

BUDGET/FUNDING: No funding is required, journal entry will be done effecting balance sheet only.

STAFF RECOMMENDATION: Staff has determined that the accounts presented meet the criteria for uncollectible as determined by the Town's bad debt write off policy:
1) No activity on closed account for at least 5 years
2) All other methods of collection have been exhausted
The amount of bad debt approved to be removed by Council is as follows:
Dec 2013 - $848,191 – approved for removal
Dec 2014 - $144,049 – approved for removal
Feb 2016 - $225,318 – approved for removal
Feb 2017 - $203,808 – approved for removal
Nov 2017 - $175,999 – approved for removal
Oct 2018 - $166,191- approved for removal
Mar 2019 - $277,974.34 – approved for removal along with revision to policy
June 2019 - $27,755.98 – approved for removal
Sept 2019 - $15,915.71 -approved for removal
Dec 2019 - $11,141.46

The FY20 budgeted revenue for the sales of electric, water, sewer, & refuse totals approximately $31.2 million. The amount of $11,141.46 represents approximately 0.04% of the budgeted sales.

Staff recommends to approve the removal of bad debt as presented.

Council Discussion:
Council voiced their pleasure that the amount was low. Mr. Wilson stated that it was the holiday time of year and the amounts would return to the normal amount next quarter most likely.

4. Comprehensive Water and Sewer Utility Cost of Service Fee/Rate Study – *Director of Finance*

SUMMARY: Council requested a detailed review of the Town's water and sewer rates, connection fees, and other service fees. A Request for Proposals (RFP) was issued from qualified firms for this study. The Purchasing Department received four proposals in response to this solicitation. The Evaluation Team scored each of the proposals and reached a consensus to recommend Stantec Consulting Services, Inc. to conduct the study in the amount of $45,000.
Attached is a letter from Stantec and Scope of Services

BUDGET/FUNDING: 9601-43002 $45,000
STAFF RECOMMENDATION: Staff recommends awarding Stantec $45,000 at the December 9th, 2019 Regular Town Council meeting.

Council Discussion:
Councilman Meza asked why the study was going forward. He noted that he did not think the change in the tap fees did not think a change in tap fees equated to a rate study. Mr. Wilson noted that the study cost had been placed in the budget for several years, as the I&I amounts have been an ongoing problem and the redundant water line is coming online. Mr. Meza noted that the redundant water line was approved with the understanding that it would not affect the rate.

Mr. Tederick stated that the government cannot arbitrarily set rates and they must have legal justification for the rates they set. He noted that it is typically completed every five years and the Town has not done a study since 2012. Mr. Meza noted that if they must move forward then they must.

Mr. Holloway noted that in 2008 the Town performed the tap work until 2008; it was done administratively. He stated that the Town installed the taps up to that point and then administratively the Town changed the tap installations. Mr. Napier distributed the connection code wording regarding the taps. He noted that the cost will be bore by the Town; according to the code. Mr. Napier stated that the change was apparently performed administratively. Mr. Holloway asked if it was performed legally and asked if Public Works made this change without Council's input. Mr. Holloway stated that the change occurred in November 2008 and prior to that the Town installed the taps for citizens.

Mr. Napier stated that the Town has the ability to make the installations according to Public Works; and Mr. Tederick expressed his agreement. Mr. Tederick stated that the liability would be discussed during the closed session at the next regular meeting. Mr. Tederick stated that the installations should immediately be completed by the Town Staff in order to reaffirm the Town installation of the taps. Mayor Tewalt stated that the Council should reaffirm the installation. Councilman Meza noted that it was extremely embarrassing that the Council was that far off from the Town Code.

5. Consideration of Resolution to Request General Assembly to Allow Town to Establish its Own EDA Separate from Existing EDA – *Town Attorney*
SUMMARY: Va. Code § 15.2-4905 states that if a locality has created an industrial development authority, no other such authority, not created by such locality, shall finance facilities, except pollution control facilities, within the boundaries of such locality, unless the governing body of such locality in which the facilities are located or are proposed to be located, concurs with the inducement resolution adopted by the authority, and shows such concurrence in a duly adopted resolution.

To translate this into our situation, this means: If a locality [TOWN AND COUNTY] have created an industrial development authority [EXISTING EDA], no other EDA [TOWN EDA], not created by such locality [TOWN AND COUNTY], shall finance facilities, within the boundaries of such locality [TOWN], unless the governing body of such locality in which the facilities are located or are proposed to be located [DEFINITELY COUNTY, BUT AS WILL BE SHOWN, COULD ALSO MEAN THE TOWN AS WELL], concurs with the inducement resolution adopted by the authority [EXISTING EDA], and shows such concurrence in a duly adopted resolution.

Both the Town and the County of Warren have created, by mirror ordinances, the existing EDA (the "existing EDA"). Va. Code § 15.2-1800. C. provides, "*A city or town may also acquire real property for a public use outside its boundaries."* **In addition, Va. Code § 15.2-1802 provides that** *"A town may acquire pursuant to § 15.2-1800, but not by condemnation, land within its boundaries or within three miles outside its boundaries, for the development thereon of business and industry***."**

The Town no longer appoints any of the members of the Board of Directors of the existing EDA, nor does it fund the existing EDA. However, under current State Code, even if the Town rescinds its EDA creation ordinance, because the existing EDA was jointly created by the Town with the County, the Town will be unable to create a separate Town EDA which can finance facilities outside the Town, unless the County concurs with this financing by a Board of Supervisors' resolution. There may well be times when it would be advantageous for the Town to consider facilities outside its boundaries, such as if its water supply facilities or waste disposal facilities, need to be expanded, or if the Town wanted to consider the addition of facilities of higher education, the expansion of additional medical facilities, or simply wanted to expand its tax base.

In fact, as the next paragraph will show, there may well be an argument that as long as there are outstanding EDA bonds whether the Town can even rescind its ordinance co-creating the existing EDA at all, in which case the Town would not even be able to create a separate Town EDA which could fund Town EDA facilities in Town.
This is the potential vexing legal issue of the meaning of Va. Code § 15.2-4914, which states that "*Whenever the board of directors of the authority by resolution determines that the purposes for which the authority was formed have been substantially complied with and all bonds theretofore issued and all obligations theretofore incurred by the authority have been fully paid, the then members of the board of directors of the authority shall thereupon execute and file for record* **with the governing body of the locality which created the authority** *, a resolution declaring such facts.* **If the governing body of the locality which created the authority** *is of the opinion that the facts stated in the authority's resolution are true and that the authority should be dissolved, it shall so resolve and the authority shall stand dissolved. Upon such dissolution, the title to all funds and properties owned by the authority at the time of such dissolution* **shall vest in the locality creating the authority and possession of such funds and properties shall forthwith be delivered to such locality ."**
There is no case law or Attorney General's Opinions interpreting this last statute. A strong argument can be made that until all the debts and bonds of the existing EDA are paid, the existing EDA must remain in existence. Additionally, even if the Town could rescind its

ordinance which created its part of the existing EDA, would the Town wish to give up its rights to its legal one-half of the EDA's property and other assets? Keep in mind that Va. Code § 15.2-4913… *"if the board of directors of the authority determines that sufficient provision has been made for the full payment of the expenses, bonds and other obligations of the authority then any net earnings of the authority thereafter accruing shall be paid to the locality with respect to which the authority was created"***, which is in full agreement with the 1991 Agreement between the Town and the County that the two localities split the profits from the EDA's sale of its properties. That potentially could be a lot for the Town to consider walking away from.**

What Town Council might wish to consider is a State Code amendment along these lines:

PROPOSED: Va. Code § 15.2-4905. Powers of authority. — The authority shall have the following powers together with all powers incidental thereto or necessary for the performance of those hereinafter stated:
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If a locality has created an industrial development authority pursuant to this chapter or any other provision of law, no other such authority, not created by such locality, shall finance facilities, except pollution control facilities, within the boundaries of such locality, unless the governing body of such locality in which the facilities are located or are proposed to be located, concurs with the inducement resolution adopted by the authority, and shows such concurrence in a duly adopted resolution.

Notwithstanding the foregoing, nothing contained herein shall be deemed to invalidate or otherwise impair any existing financing by an authority or the financing of any facilities for which application has been made to an authority prior to July 1, 1981. *And further, notwithstanding the foregoing, nothing contained herein shall be deemed to impair the authority of the Town Council of the Town of Front Royal from creating its own independent industrial development authority, separate and apart for all purposes from any currently existing or future industrial development authority, which Town of Front Royal solely-created independent industrial development authority shall have all powers granted industrial development authorities generally as set forth in Chapter 49, Industrial Development and Revenue Bond Act, §§ 15.2-4900 — 15.2-4920 of the Code of Virginia, 1950, as amended.* **[PROPOSED WORDING** *ITALICIZED AND UNDERLINED.***]**
It is my understanding that the Town if the Town proposes to have State Code amended to allow this legislation, it will need to get this to its representatives in the General Assembly very promptly if Town Council wants this amendment to be considered at the upcoming Session of the General Assembly.

BUDGET/FUNDING: None additional at this time.

STAFF RECOMMENDATION: If Town Council wishes to consider creating its own EDA, and would like to do it at the upcoming Session of the General Assembly, it should consider adoption of this proposed amendment to the State Code, or something similar, in the very near future.

Council Discussion:

Councilman Meza asked about the Town would still be entitled to half the assets; Mr. Napier noted that was correct. Mr. Tederick noted that the General Assembly meets in early January and he had already spoken with members working with the General Assembly who is confident they can obtain a sponsor for the bill. He noted that the timing of the change is quite pertinent.

Mayor Tewalt and Council voiced their support of moving forward.

6. Facilitator for Gazebo Events – *Interim Town Manager*
SUMMARY: At the Front Royal Town Council meeting on October 28, 2019 several business owners discussed with Council issues involving events and parking in and around the Gazebo/Downtown Area (aka Village Commons), as well as, road closures for events and parades. After meeting with several business owners in the downtown area and other community leaders, the Interim Town Manager is planning to retain the services of a professional facilitator/mediator to garner not only a greater understanding of the issues involving the aforementioned but to ultimately find and build a consensus with downtown business owners.

Town staff solicitated a quick quote under the Virginia Procurement Act and has identified a facilitator who is most proficient in running meetings such as the one envisioned. The Interim Manager does not require Council's approval, nor a budget amendment. The purpose of this Agenda Item is for informational purposes and to gather Council's input as to ideas for the meeting and desired outcome.

BUDGET/FUNDING:
Estimated cost is $2,000 which equates to 20 hours at $100.00/hour.
Exact Budget line item will be discussed at the Work Session

Council Discussion:
Mr. Tederick noted that they have identified a facilitator to assist with the gazebo events and the individual has worked with groups similar to the stakeholders affected downtown. He noted that the goal would be to hold the first meeting after the holidays. Council voiced their support of the facilitator.

7. Update Goals for FY19-20 – *Interim Town Manager*
a. Subdivision Committee Report – *Director of Planning/Zoning*
b. Blighted Buildings – *Director of Planning/Zoning*

Council Discussion:
Mr. Tederick explained that the subdivision committee is thoroughly analyzing the ordinances at hand. Mr. Camp noted that they were reviewed the blighted policy for structures in the community and their intent is to develop policies and recommendations to address the buildings throughout Town. He noted the minimal costs was important and it should function independently from the maintenance code. Mr. Camp stated that the Code, Chapters 107 and 9, nuisances and not active, were are not consistent with procedural requirements of the statutes within he Virginia Code for blighted buildings.

Mr. Camp noted that Staff would inspect the property and if the owner did not comply with suggestions with the plan to abate the blight, then the locality would review the structure and if it was approved after a public hearing then it could be carried out by the locality. He noted that the costs could be recovered by a lien on the government body if need be.

Mr. Camp stated that they would start with the spot blight abatement plan and evaluate the plan annually; then re-evaluate the maintenance code in conjunction of review. Mr. Tederick suggested briefing Council quarterly on the program.

Mr. Napier stated that the majority of property owners will probably comply voluntarily and the Town will most likely not need to invest a lot of time and energy. He noted that once a couple of properties end up in court, then other property owners then the others would most likely fall in line.

Mayor Tewalt voiced support of the Staff moving forward with the ordinance; Council expressed their support.

8. Liaison Committee Meeting Items for January

Ms. Berry noted that Mr. Holloway was the Town's representative for the next agenda. Mayor Tewalt noted that Staff and Council will compile a list and return and to Council for a vote.

9. "Pride in Our Town" – *Mayor Tewalt*

Mayor Tewalt and Mr. Tederick talked together and they have suggested, that once the Town Staff contact community members that can coordinate volunteers from churches and the community to update their property when needed. Council voiced their support of the community activity.

10. Open Discussion

Mr. Tederick noted that electric, water and sewer sales dipped in November though there is nothing to be concerned with. He stated that on December 11th the Town Employee Holiday luncheon would be at 11 a.m. at the Front Royal Fire Department. He added that Mr. Wilson, Mr. Napier and he discussed the electric deposit policy and they are reviewing the problems with the deposits with the account. Mr. Tederick stated that the current policy is causing a lot of angst and a letter of credit would perhaps assist with the matter.

Councilman Meza asked that Staff review the Commerce and 6th Street turning lane as the area is becoming blocked easily. He noted that the area is backing up significantly and causing traffic flow issues.

Mayor Tewalt asked that Council reaffirm the water policy that is on the books currently. He noted that it was previously reviewed and needs to be reiterated. Ms. Thompson asked if the study should be completed first. Mr. Holloway noted that he would prefer to wait until the study was reviewed and perhaps consider review annexing the Corridor to Rockland Road, with the pros and cons of the annexation area. Mr. Gillispie and Mr. Meza voiced their agreement with Mr. Holloway to have Mr. Napier report back to Council sometime in February.

PRESENT: Mayor Tewalt, Councilman Gillispie, Councilman Holloway, Councilman Meza, Councilman Thompson, Town Manager Tederick, 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: Councilman Sealock