



TOWN COUNCIL WORK SESSION MINUTES

Monday, June 17, 2013 @ 7:00pm
Front Royal Administration Building Conference Room

1. Front Royal Limited Partnership Discussion – *Planning/Zoning Director*

Summary: During a Special Meeting of the Planning Commission, held on May 29, 2013, the Planning Commission unanimously passed the attached resolution regarding FRLP's citizen initiated annexation petition. This resolution begins with a summary of the background behind the Town's review of FRLP's citizen initiated annexation petition and various development proposals. There were numerous meetings held by the Planning Commission at the direction of Town Council, Warren County and FRLP. In summary, the resolution concludes that the Planning Commission supports the annexation in general, but does not recommend acceptance to the Exemplar Proffers at this time, or any other similar form of conditions that would obligate the Town and/or vest development rights to FRLP, except that it may be reasonable to agree upon a maximum density of 2 units per acre and cash proffer amount to the County. The resolution also includes an appendix that summarizes the key issues with the Exemplar Proffers.

Staff Recommendations: Staff agrees with the Planning Commission's comments represented in the attached resolution.

Council Discussion:

Mr. Camp explained that the property be brought in as a-1 consistent with their original recommendation and that they go with no more than two residential units per acre

A key issue that made it impractical was that there was no VDOT review comments at this time

Camp added that he was recently able to obtain a copy of the voluntary settlement agreement, though PC did not get an opportunity to review this document

Tewalt asked about it being classified as agricultural language – camp noted that was the correct

Camp stated that he believed they were requesting a 30 day extension he believes
And it does not cost the Town any funding

Tewalt asked if Camp and the Town Attorney's office had reviewed the documents
That may go against the east west Connector Road

Camp stated that the applicant has always explained that he was looking for the Town to show support for the

Tewalt noted that he did not want the Town bound on funding or the Planning & Zoning ordinances

He expressed concern with voting on matters that would have the Town being liable to have the Town bound financially or on homes per lot, etc. that would bind the Town in any way

Camp noted that they were not at that point fully *yet*, though they were on the way

Funk stated that he had some questions on the matter
He noted that the extra time would be something he would support

Hrbek stated that the extension he would support
He noted that he would like to speak out as a group effort that the Town would be in support of bringing in the property into the Town limits

Burke noted that a resolution of that effect could be drafted for the 24th agenda

Sayre noted that a resolution would not be necessary at this point, in his opinion
Hrbek stated that FRLP should build the road and he had concerns with the road being built

Planning Commissioner Chairman Gushee noted that they like the idea of the project coming to fruition eventually

Sayre commended the Planning Commission for their studious work
Darr echoed those comments and extended his appreciation

Joe Silek explained the process thus far and the requested the extension from Council
He noted that any comments could be submitted to FRLP through the Town Attorney's office if they are not addressed at this meeting

Tewalt asked if 30 days would be enough time

Gushee noted that 30 days may not be enough time
Silek stated that he was unsure that it needed to return to the PC
Camp noted that 30 days may not be more time, though he was unsure it even needed to go back to the PC

Burke asked about what the County may wish to comment on
Silek - School proffer is their only interest most likely
Burke questioned that process of proffers regarding the County of Warren
Barnett noted that the project is not viable without the road and they would not agree to numbers that

Darr stated that they would be agreeing to matters three ways with FRLP and the County
Asked if the County was still pushing for the density numbers in the higher amount
Vazzana noted that he had been comfortable with the 800 quantity amount

Darr stated that Council has stated that they had expressed the desire to bring the property into the Town and also to have the extension as well
Sayre noted that he did not wish to support the portion of bringing the property into the Town

Agenda for vote - resolution

2. Happy Creek Trail Project Costs – *Directors of Electrical Services/Environmental Services*

Summary: Following the acquisition of the Right-of-Way and easements necessary to develop the Happy Creek Trail from South Street to Criser Road, staff have been developing construction cost estimates for review by Town Council.

Council is requested to consider the construction costs and options. Staff will provide costs at the Work Session.

Staff Evaluation: The construction of the Happy Creek Trail was not included in the FY13-14 Budget, and was not included in the work plan for our Department of Environmental Services and Energy Services. Staff will present the estimated costs and personnel time to construct.

Budget/Funding: Funding for construction of the Happy Creek Trail was not currently budget; funds will need to be brought forward from reserve funds. The Director of Finance will be available to address fiscal issues.

Staff Recommendations: Staff recommends Council review the construction cost estimates and provide direction towards the funding and construction of the Trail

Town Manager Recommendation: The Town Attorney recommends Council review the construction cost estimates and provide direction towards the funding and construction of the Trail.

Council Discussion:

Waltz and Hannigan explained the costs of the lighting

Noted that they would go from South Street to the library area

Sayre asked about getting solar panels that could gather electricity; waltz noted that the technology was not in place that he would be fully comfortable with for the solar lights

Waltz noted that the acorn lights deteriorate over time and the life expectancy does not work as well over time

The light he prefers is with a steel pole and the color upholds a lot better than the fiberglass poles

Parker asked if they could repurpose some of the lights in some areas around Town into the trail area

Tewalt stated that people prefer standard lighting all over Town

Hrbek asked about acorn lights on a steel pole

Waltz noted that was correct

Tewalt stated that he did not think LED was not necessary

Darr noted that having acorn lights would prevent having two types of lights in the Town's inventory

Tewalt – hope that Daryl Merchant oversee the project and have it completed at a third of the cost

Funk noted that he would hope to take away from the priorities that Mr. Merchant has within the Planning Office

Burke noted that in order to contract the work – we would still have to put it out to bid – backhoe, bobcat and a paver

Sayre asked about the LED lights

Waltz stated that they would need more lights if they used LED

Darr – the project was pretty straightforward

Sayre – only LED interest

On agenda in July

3. Ordinance Amendment Pertaining to Taxis Continued Discussion – *Town Attorney*

Summary: These ordinances, if adopted, would set out regulations for the licensing, fees, insuring, qualifications of taxicab operators, vehicle inspections and standards, rates for taxi services, accident reports, and taxicab operations in the Town of Front Royal.

The Town of Front Royal has not had in place any ordinances or meaningful regulations governing the permitting, vehicle standards, or operation of taxicabs in Town.

Staff Evaluation: Staff evaluation is based in part on Va. Code § 46.2-2067. A., which states that “[i]t is the policy of this Commonwealth, based on the public health, safety and welfare, to assure safe and reliable privately operated taxicab service for the riding public in this Commonwealth”, and to that end staff endeavored to fashion draft ordinances to regulate taxicab operations that would make taxicabs safer, more reliable, and a more enjoyable experience for the general public.

Budget/Funding: It is estimated about \$1,000 for various forms and supplies relating to regulating taxicabs would be needed.

Legal Evaluation: State law specifically permits localities to prescribe reasonable regulations as to filing of schedules of rates, charges, financial responsibility of operators, and general operation of taxicab vehicles. A copy of the state enabling statutes is attached.

Staff Recommendations: If taxicabs are to be regulated in Front Royal, staff recommends amendment and/or adoption of ordinances regulating taxicab driver’s permits; Certificates of Public Convenience & Necessity; and the operation of taxicabs, all as set forth in Sections 12-5, 98-72, and 158-60.

Council Discussion:

Councilman Funk stated that he had concerns about the matter. He described how it decriminalizes the process and simply had civil penalties and went through circuit court, with insurance requirements and a process for revocation.

Councilman Hrbek asked about taxi revenues brought into the Town. Mrs. Breeden noted that the Front Royal just received BPOL revenue. In response to additional questions, she added that as with any other business, they were required to carry liability insurance.

Councilman Sayre noted that he preferred the idea of going to court instead of the Town Council, and he asked about the State Code requirements. Mayor Darr suggested that Town Staff and the Town Attorney meet with the cab owners in order to answer any direct concerns they have.

Councilman Sayre noted that he agreed with the sex offender registry concerns, adding that he would like a flat out prohibition on sex offenders driving the cabs.

Mayor Darr noted that it was a work in progress obviously, and he would recommend that Staff and the Town Attorney meet with the companies to address their concerns and hear their comments clearly before it came to Council again. He asked if there were further questions to consider.

Councilman Hrbek asked about whether it dictated the number of people in a vehicle for transport. Mr. Sonnett noted that the number is already in the State Code section to address that. Vice Mayor Parker asked if we can we regulate the driver rather than the business. Councilman Sayre noted that there were different levels of felonies and we need to consider those levels.

Mayor Darr noted that the questions of Council and concerns of the drivers would be considered when Staff met with the companies and then it would return to Council.

4. Comcast Lease Renewal – *Town Attorney*

Summary: Comcast of California/Maryland/Pennsylvania/Virginia/West Virginia, LLC, dba “Comcast”, currently under lease with the Town for the use of a portion of the Town’s real property located at 15 North Royal Avenue, wishes to extend the lease term for one (1) year, with an option to renew annually, not to exceed three additional one (1) year periods, with an annual increase in rent of 3%. Comcast is offering annual rent of \$10,522.44, payable monthly, a 3% increase of current rent, as consideration. Under the terms of Comcast’s cable franchise agreement with the Town, Comcast is required to maintain a customer service office within the Town of Front Royal.

Town Council is asked to consider approving an amendment to the current Comcast office lease of Town property located at 15 North Royal Avenue..

Council Discussion:

Hrbek noted that it was the market rate

Tewalt noted that it should be left as it currently was

Darr noted that it would be on the regular agenda of the 24th

5. Comcast Pole Attachment Agreement Renewal – *Town Attorney*

Summary: Comcast of California/Maryland/Pennsylvania/Virginia/West Virginia, LLC, dba “Comcast”, currently under a ten (10) year, non-exclusive, pole attachment license agreement with the Town, terminating June 22, 2013, for the use of the Town’s utility poles, wishes to enter into a new pole attachment license for a term of five (5) years, with an option to extend for one (1) additional year. Comcast is currently paying \$13.00 per pole attachment, and is currently attached to 2,134 Town poles. It is believed that the current rate of \$13.00 per attachment was below the “industry rate” at the time of the execution of the current agreement in 2003. The Town exercised its option to terminate the current agreement and renegotiate terms to avoid continuing for another five (5) years at a rate which is now well below the “industry rate”. The Town seeks an increase in the per attachment rate from \$12.00 to \$25.00 per attachment, realizing additional annual revenue of \$25,600. A final draft of the agreement is expected from Comcast within the next week.

Town Council is asked to consider approving a new ***Pole Attachment Agreement*** with Comcast for a non-exclusive license for a period of five (5) years at the increased rate of \$25.00 per pole attachment.

Staff Recommendations: The Director of Energy Services recommends an increase in the pole attachment rate to \$25.00.

Town Manager Recommendation: The Town Manager recommends approval of a new ***Pole Attachment Agreement*** with Comcast. A new, non-exclusive, license agreement will provide for continuing revenue for an additional five (5) years, through the end the current cable television franchise agreement terminating in 2018.

Council Discussion:

Sonnet noted that Staff discovered that Comcast was getting a much lower rate than standard than industry rate

He stated that Comcast had asked for a little bit more time on this

Tewalt noted that it was a bit excessive to adjust by almost double in one year

Sonnett stated that it was a missed opportunity about ten years earlier and it placed the Town far behind the curve and the Town is now paying catch up

Funk – asked if they passed if through to the consumer

Hrbek asked about the money that is collected – Breeden noted that it was a pole attachment that goes into the electric fund

Darr – stated that it would go through negotiations and it would return to Council’s worksession

6. Special Events Electric Fee – Town Manager

Summary: Council requested that staff evaluate options in Town Code 72.2 - E to address requests for fee waivers associated with Special Events at the Gazebo. Staff recommend the changes below:

E. Permit requirements. The Town Manager or the Manager’s designee ~~may~~ **shall**

impose, as conditions to granting a permit, such further requirements and restrictions as will reasonably protect the public health, safety, welfare, peace and order. Such conditions may include, but are not limited to the following:

1. The payment of a reasonable fee for the use of Town utilities in connection with the proposed activity. Fees shall be as follows:

<u>Service</u>	<u>Fee</u>
Electric Service <u>(Gazebo Only)</u>	\$25.00 per day
<u>Electric Service (Gazebo & Village Commons)</u>	<u>\$150.00 per day</u>
Water Service	Current Metered Rate

Council is requested to consider the proposed Code Amendment to address issues raised during discussions. Council may consider adding additional language that prevents issuance of a waiver by the Town if they so desire.

Staff Evaluation: The proposed Code Amendment will mandate that these fees are to be assessed. The amendment will also establish an additional fee for larger events that require additional electric service needs. The fees are established to recover both staff time and electricity consumed during the event.

Staff Recommendations: Staff recommends that Council consider adoption of the proposed Code Amendment.

Council Discussion:

Tewalt expressed concern with grouping the Village and Gazebo together
Funk proposed amending portions of the document; Hrbek noted that it should be consistent and reduced portions of the funds

Sayre suggested reducing it down to lower amounts

Burke explained the larger users that use many outlets at the \$150 amount
Hrbek noted that \$150 was excessive

Burke noted that the fee was more to cover Staff fees to reset the circuits when they are overloaded
Parker – large events should be one amount; small amounts should be a different amounts

Funk suggested that those that abuse the electric outlets

Tewalt – all we talk about is collecting money
Why do we want to talk about charging people;
Darr - \$25 for gazebo - \$50 for commons; or discretion of Town Manager

Burke - \$75 technician fee
Tewalt – we are looking at costs, costs, costs – keep it simple
This is ridiculous

Will return to Council

7. Environmental Unfunded Mandates –Mayor Darr

Darr noted that due to the Federal Mandates the water treatment plant issue
Do not approve by July then the indication is that they will
Will have to put out notifications to our citizens if we do not move forward
Any members of those that did not vote for the matter could bring it back to the table in order to

Council discussed remedying the matter at the next meeting by vote of a member

8. Council Discussion/Goals

Discussed police department appraisals, finance department, and Town Hall briefly

Hrbek – vdot will advertise on the bridge – this year

Burke - Leach's run – completed interviews, will bring to board of supervisors and council for review with start in 2014 sometime, middle school slated to open in 2016

Parker asked about: burke noted that Tourism notification Benjamin moore link to be painted perhaps

Sayre – happy creek road – possibly get it to blend in with the Leach Run Parkway
Burke noted that they have spoken with VDOT on the matter to determine if there are sufficient funding

Lights on bridge to be maintained by the Town – yes per Burke – we will

Water loop = model has begun
Working on two alignments

9. Closed Meeting – 1) Community Development Consultant and 2) Consultation with Legal Counsel specific to Annexation

Motion to Go Into Closed Meeting

Vice Mayor Parker moved, seconded by Councilman Tewalt that Council convene and go into Closed Meeting for the purpose of 1) discussion, consideration or interviews of prospective candidates for employment, namely, Community Development Consultant, pursuant to Section 2.2-3711 A. 1. of the Code of Virginia and 2) for the consultation with legal counsel employed or retained by a public body regarding specific legal matters requiring the provision of legal advice by such counsel, specifically, Annexation, pursuant to Section 2.2-3711. A. 7. of the Code of Virginia.

VOTE INSERT HERE
VOTE INSERT HERE
VOTE INSERT HERE

Motion to Certify Closed Meeting at its Conclusion

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

VOTE INSERT HERE

VOTE INSERT HERE

VOTE INSERT HERE

Present: Mayor Timothy W. Darr, Vice Mayor N. Shae Parker, Councilman Hollis L. Tharpe, Councilman Bret W. Hrbek, Councilman Daryl W. Funk, Councilman Eugene R. Tewalt, Councilman Thomas H. Sayre, Town Manager Stephen Burke, Clerk of Council Jennifer Berry, Assistant Town Attorney George Sonnett, Chief of Police Shiflett, Director of Finance Kim Gilkey-Breeden, Director of Planning & Zoning Jeremy Camp, Director of Energy Resources Waltz, Director of Environmental Resources Jimmy Hannigan, Director of Tourism Tim Smith, members of the media and the public.

Jennifer E. Berry, CMC
Clerk of Council