

The regular meeting of the Town Council of the Town of Front Royal, Virginia was held on August 11, 2008, in the Warren County Government Center's Board Meeting Room. Mayor Tewalt led Council and those attending in the Pledge of Allegiance to the flag and a Moment of Silence. The roll was called at 7:00 p.m.

PRESENT: Mayor Eugene R. Tewalt
Vice Mayor Bret W. Hrbek
Councilman Thomas H. Sayre
Councilman Carson C. Lauder, Jr.
Councilman Thomas E. Conkey
Councilman Chris W. Holloway
Town Manager J. Michael Graham
Town Attorney Thomas R. Robinett
Clerk of Council Jennifer E. Berry

(The above listed members represent the full body of Council as authorized in the Town Charter.)

Vice Mayor Hrbek moved, seconded by Councilman Sayre, that Council approve the Regular Council Meeting minutes of July 28, 2008 as presented.

Vote: Yes – Conkey, Holloway, Hrbek, Lauder and Sayre
No – N/A
Abstain – N/A
Absent – N/A

(Mayor Tewalt did not vote as there was no tie to require his vote)

REPORT OF THE MAYOR, COUNCIL & STAFF

Councilman Lauder noted that recently many episodes of vandalism had occurred around Town, including the Blue Ridge Avenue and S. Shenandoah Avenue areas. He announced that he had spoken with Richard Rutherford about starting more Neighborhood Watch Programs in some areas through the Town to address the concerns of the citizenry.

Vice Mayor Hrbek noted that he attended the Prostate Cancer Awareness Group Ride, which began at the Hampton Inn. He stated that he looked forward to the Town hosting the event next year. Mr. Hrbek announced that Jeremy Bishop, a national cycling champion, participated in the ride.

Councilman Conkey noted that a response letter was sent to Mr. Fusaro regarding his Freedom of Information Act (FOIA) Request. He asked Town Manager Graham if Mr. Fusaro had requested an itemized list of documents from the Town pertaining to the Route 522 Corridor Agreement, including a summary of said items, dates, times and items discussed. Mr. Graham noted that Councilman Conkey summarized the request correctly, noting that the request was very broad. Councilman Conkey asked Mr. Graham if he had ever been in a situation where such summary lists were kept. Mr. Graham noted that the public sector kept many more records than the private companies, and the Town had the ability to go back several years to obtain minutes, etc. Mr. Graham stated that Mr. Fusaro

had requested any and all documents relating to the Route 522 Corridor. Mr. Conkey noted that in all his work relating to government contracts, there was never such a summary list kept. Councilman Conkey asked if Mr. Fusaro had ever met with Mr. Graham; Mr. Graham noted that he had not. Mr. Conkey asked if Mr. Fusaro had requested a meeting with Mr. Graham; Mr. Graham stated that he had not. Councilman Conkey asked if a meeting with Mr. Fusaro would be granted, if requested. Mr. Graham stated that the Town received many FOIA requests, and should the information be relatively easy to access, then the documents were copied and given at that very moment. Mr. Graham noted that at times more research would need to take place to gather all requested records.

Councilman Sayre asked if Mr. Fusaro had phoned Mr. Graham. Mr. Graham noted that he had never spoken to Mr. Fusaro, except once just after a Council meeting.

Councilman Sayre noted that many crimes had been and were presently being committed at and around the gazebo area. Mr. Sayre stated that on his way to the present meeting he saw a man with a blood covered face, and observed a gang of boys walking away from the area. He opined that a fight seemed eminent and he dialed 911 immediately. Councilman Sayre expressed hope that the area could soon come under control, hopefully with set hours and a code of conduct for the area.

Mayor Tewalt thanked the Police Department for the good work they are doing at the gazebo and the surrounding area.

In response to Councilman Lauder's earlier statement, Town Manager Graham explained that the Town would most likely go into mandatory water conservation, unless several days of upstream rain water was received.

Mr. Graham noted that the Police Department's activity had increased in the gazebo area, and the Town was on top of the matter. He stated that many arrests had occurred and routine surveillance was ongoing.

Mr. Graham stated that no right turn signs had been removed at Royal Avenue and Main Street, and Westminster as well. He noted that the signs were no longer necessary.

Mr. Graham thanked the owner of the property at Commerce and Stonewall who recently removed three dilapidated buildings from said site. He noted that the owner worked closely with the Town and the County on the removal, and had plans to rebuild a nice complex on the property.

Mr. Graham stated that the alleys within Town would soon be tar and chipped, with the work to begin on Wednesday, August 13th.

Mr. Graham noted that the Town began two new programs. He stated that the first would be with Blue Ridge Opportunities, who would be maintaining the downtown landscaping. Mr. Graham stated that the Town would also be working with the House of Hope. He explained that the residents of the House of Hope would be tending to the foreclosed properties throughout Town.

Mr. Graham congratulated the Police Department on their Law Enforcement Challenge Award (3rd Place); and the HEAT Award.

Mr. Graham noted that when business owners were polled in the area, they noted that business was not great, though it was “holding”. He stated that the Town looked forward to a strong season with the influx of leaf season tourism.

Mr. Graham stated that the day prior a large storm came through and knocked out power in one area of Town. He noted that it was restored as soon as possible.

Mayor Tewalt asked if there were any proposals for additions or deletions to the agenda.

CONSENT AGENDA:

- A) COUNCIL APPROVAL – Budget Amendment
- B) COUNCIL APPROVAL – Norfolk Southern Railway Underpass Painting Agreement for Underpass near Luray Boat Landing
- C) COUNCIL APPROVAL – Contract Renewal with Waste Management of Virginia/Maryland for biosolids container rental and disposal services

Vice Mayor Hrbek moved, seconded by Councilman Lauder, that Item #6B – Norfolk Southern Railway Underpass Painting Agreement for Underpass near Luray Boat Landing, be tabled until another meeting.

Vote: Yes – Conkey, Holloway, Hrbek, Lauder and Sayre
 No – N/A
 Abstain – N/A
 Absent – N/A
 (Mayor Tewalt did not vote as there was no tie to require his vote)

Vice Mayor Hrbek moved, seconded by Councilman Sayre, that Council approve the consent agenda as amended.

Vote: Yes – Conkey, Holloway, Hrbek, Lauder and Sayre
 No – N/A
 Abstain – N/A
 Absent – N/A
 (Mayor Tewalt did not vote as there was no tie to require his vote)
 (On Consent, sans Item #6B)

COUNCIL APPROVAL – Elected Councilmember has the Same Voting Rights as Every Other Member of Council

Councilman Sayre moved, seconded by Vice Mayor Hrbek, that the item be tabled.

Vote: Yes – Conkey, Holloway, Hrbek, Lauder and Sayre
 No – N/A

Abstain – N/A
Absent – N/A
(Mayor Tewalt did not vote as there was no tie to require his vote)

COUNCIL APPROVAL – Councilmember

Vice Mayor Hrbek moved, seconded by Councilman Holloway, that Council appoint N. Shae Parker to fill the vacancy on Town Council, said term to expire June 30, 2010.

Councilman Sayre noted that all five candidates interviewed were excellent. He stated that the decision was a difficult one to make and he would have been pleased with any of those that interviewed.

Councilman Sayre moved, seconded (for discussion) by Vice Mayor Hrbek, to amend the motion to have the Town Attorney petition the Circuit Court to make the same Council appointment (N. Shae Parker).

Town Attorney Robinett opined that the amended motion was not consistent with the motion before Council. He stated that the amendment was not necessary, as Council had made their intention known from the beginning – to appoint an individual to the balance of Mayor Tewalt’s unexpired term according to Section Six of the Town’s Charter. Mr. Robinett noted that the Council had not unduly delayed the appointment, but rather acted quite diligently to fill the vacancy.

Councilman Sayre stated that the Attorney General would be issuing a formal opinion, which may come back with an opinion different than the Town Attorney. Mr. Sayre noted that Delegate Athey had received an informal opinion on the matter. He added that a 1996 opinion stated that the Council may fill any vacancy that occurs in the membership of Council for an unexpired term, and also that Section Six of the Charter does not divest the Circuit Court of authority pursuant to Section 24.2-228, regarding the matter should Council not act within thirty days, which is now 45 days. Councilman Sayre stated that the opinion also stated that vacancies in local offices should be filled within a limited time period. He commented that the Council should have a Circuit Court judge make the appointment, as should an official Attorney General’s opinion arise that muddies the water, then the judge appointment would be a safeguard in place.

Mr. Robinett expressed his disagreement with Councilman Sayre. He noted that Section 24.2-226 stated that a vacancy in any elected local office shall be filled by Special Election, unless provided otherwise by statute or charter – and the Town’s charter provided for such instance. Town Attorney Robinett responded that the matter was very clear in the Town Charter.

Councilman Sayre stated that to be on the safe side he had hoped to go through with the simple procedure contained within the amendment.

Vote: Yes – Sayre
No – Conkey, Holloway, Hrbek and Lauder

Abstain – N/A

Absent – N/A

(Mayor Tewalt did not vote as there was no tie to require his vote)

(On motion to amend to request the Circuit Court to appoint Mr. Parker)

Vice Mayor Hrbek and Councilman Conkey underscored the comments of Councilman Sayre regarding the difficult choice the Council faced with the five interviewees.

Vote: Yes – Conkey, Holloway, Hrbek, Lauder and Sayre

No – N/A

Abstain – N/A

Absent – N/A

(Mayor Tewalt did not vote as there was no tie to require his vote)

(By Roll Call, to appoint N. Shae Parker to the Town Council)

RECEIPT OF PETITIONS OR CORRESPONDENCE FROM THE PUBLIC

There were no petitions or correspondence from the public.

There being no further business, the Mayor declared the meeting adjourned at 7:24 p.m.

APPROVED:

Jennifer E. Berry
Clerk of Council