

The regular meeting of the Town Council of the Town of Front Royal, Virginia was held on August 25, 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 Conkey, that Council approve the Regular Council Meeting minutes of August 11, 2008 as presented.

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

REPORT OF THE MAYOR, COUNCIL & STAFF

Councilman Sayre noted that he recently visited Ocean City, New Jersey and was very impressed with their bike and trail paths. He voiced hope that such a program would be fully in place in the Town.

Councilman Sayre noted that he was glad that the signs to curb rowdy behavior were placed at the gazebo. He commented that hopefully citizens would eventually return to the area. Councilman Sayre did express concern with the wording “11 and under”, regarding children of said age who may be in the gazebo area. He explained that legally children who were 11 were able to baby-sit. He also expressed concern with the ball or Frisbee issue noted on the sign. Councilman Sayre added that the problems at the gazebo tended to be unruly behavior, drug use and immoral activities. He noted that the sign was placed for a temporary time (six months) and the Town would be reviewing the area at said time

Mayor Tewalt welcomed Councilman Parker to his first Council Meeting.

Town Manager Graham explained that the Town was still in voluntary water conservation.

Mr. Graham complimented the Front Royal Police Department for their efforts in apprehending two separate groups of juveniles who were breaking into vehicles through the Town. Mr. Graham stated that he was proud of the Police Department for their work.

Mr. Graham stated that the atmosphere at the gazebo was much improved, adding that the Town wanted the area to be safe and enjoyable for all citizens.

Mr. Graham stated that Town Attorney Robinett's brother had passed away, as had the husband of the Town's Director of Human Resources, Julie Bush. Mr. Graham expressed his condolences on behalf of the Town.

Mr. Graham announced that the Director of Energy Resources, Joseph Waltz had been elected to the Participant Committee for the American Municipal Power Generation Station (AMP American Coal Generation Project). He noted that the committee would be making decisions regarding financing, construction and operation of the Ohio facility.

Mr. Graham noted that the Cherrydale Avenue construction of curb and gutter would begin in the coming week.

Mr. Graham stated that the first day of school for area children seemed to go successfully.

Vice Mayor Hrbek asked about the John Marshall Highway project. Mr. Graham noted that the project would be finalized, with the subcontractor, at any time.

Councilman Lauder congratulated Mr. Waltz on his appointment to the AMP Ohio Participant Committee.

Councilman Sayre asked about prior prepayment of curb and gutter to the Town. He explained that he had received telephone calls regarding a program in which citizen's paid for their curb and gutter at a certain rate. Councilman Sayre added that apparently some citizens had purchased curb and gutter and it had never been installed. Mr. Graham noted that there was a program as Councilman Sayre described, though it was several years earlier and had ended. He added that such programs changed from Council to Council. Councilman Holloway asked if those that had prepaid had their curb and gutter installed; Mr. Graham noted that they had.

Councilman Sayre asked if the Cherrydale Avenue assessment vote was the majority of Council elected to assess property owners for 50% of the curb and gutter costs. Mr. Graham explained that such an assessment required a 2/3 vote, therefore the assessment had "died". Councilman Sayre noted that the vote of the new councilmember would make a difference in such a program. Mayor Tewalt stated that the item could be brought to a worksession agenda if a member of Council desired to do so.

Jennifer McDonald, Executive Director of the Economic Development Authority (EDA), thanked the Town Manager for being very proactive in sending businesses to the EDA. She noted that Council had received the draft business plan for the Virginia Wine & Culinary Institute. Ms. McDonald showed Council a drawing of the exterior of the institute, which was 120' feet wide. Per questions from Council, she added that the brick building would be placed to the right of the EDA Administration Building and would face Kendrick Lane. She also stated that a contractual agreement would hopefully result from the September 15th meeting.

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

CONSENT AGENDA:

- A. COUNCIL APPROVAL: Acceptance of Utility Facilities into Town's Inventory – Riverton Commons
- B. COUNCIL APPROVAL – Renewal of Contract with RJ Merkel Line Painting of Streets
- C. COUNCIL APPROVAL – Resolution Regarding Regional Water Supply Planning and Letter of Intent Submission – Northern Shenandoah Valley Regional Commission
- D. COUNCIL APPROVAL – nTelos Fiber Optic Franchise Agreement and Pole Attachment Agreement
- E. COUNCIL APPROVAL – Norfolk Southern Railway Underpass Painting Agreement for Underpass near Luray Boat Landing

Vice Mayor Hrbek moved, seconded by Councilman Holloway, that Council approve the consent agenda.

Vice Mayor Hrbek asked that Item #6C, Northern Shenandoah Valley Regional Commission, be removed for separate discussion and vote.

Vote: Yes – Conkey, Holloway, Hrbek, Lauder, Parker 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)

(To approve the Consent Agenda, sans Item #6C)

COUNCIL APPROVAL – Resolution Regarding Regional Water Supply Planning and Letter of Intent Submission – Northern Shenandoah Valley Regional Commission

Vice Mayor Hrbek moved, seconded by Councilman Conkey, moved that Council approve a Resolution regarding Regional Water Supply Planning and Letter of Intent to participate in the Regional Water Supply Planning effort that the Northern Shenandoah Valley Regional Commission is conducting.

Vice Mayor Hrbek asked Director of Environmental Services, Stephen M. Burke, to come forward to brief Council on the issue. Mr. Burke explained that when the State had a drought a number of years prior, the State mandated that a State-wide water assessment take place. He noted that individual municipalities could choose to develop their own water assessment, or they could join with other localities to develop a program for identifying water resources. Mr. Burke stated that the NSVRC elected to take on the task for the municipalities located within the valley. He added that the resolution before Council saved the Town in the long run, as it grouped the Town with other localities to share the expense. He noted that the cost to the Town was approximately \$1,000, while the individual cost may have run \$10,000-12,000, if the Town had not joined with the Commission. Mr. Burke noted that the resolution directed the Commission to move forward with collecting water data. Councilman Sayre clarified that the amount of the Town's contribution was \$2,748.

Councilman Sayre expressed concern that the planning could be used to encourage massive development in the area. Mr. Burke noted that it provided the State with tools regarding capacity in area localities. Councilman Lauder added that the matter was under a State-wide mandate, and was not limited to the Shenandoah Valley. Mr. Burke explained that it was not intended to provide a roadmap for development.

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

No – Sayre

Abstain – N/A

Absent – N/A

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

**≈ A Resolution Regarding Regional Water
Supply Planning and Letter of Intent Submission ≈**

WHEREAS the Virginia General Assembly has mandated the development of water supply plans by all local governments of the Commonwealth and the State Water Control Board has developed regulations to implement this planning process; and

WHEREAS, based upon these regulations, the Town of Front Royal is required to complete a water supply plan that fulfills the regulations by deadlines based on population, specifically:

- November 2, 2008 for local governments with populations in excess of 35,000
- November 2, 2009 for local governments with populations between 15,001 and 35,000
- November 2, 2010 for local governments with populations 15,000 or less

WHEREAS, local governments may elect to join one or more other local governments to develop a regional water supply plan for which a deadline of November 2, 2011 has been established.

WHEREAS, the following elements must be included in all local or regional water supply programs:

- A description of existing water sources in accordance with 9VAC25-780-70;
- A description of existing water use in accordance with the requirements of 9VAC25-780-80;
- A description of existing water resource conditions in accordance with the requirements of 9VAC25-780-90;
- An assessment of projected water demand in accordance with the requirements of 9VAC25-780-100;
- A description of water management actions in accordance with the requirements of 9VAC25-780-110 and 9VAC780-120;
- A statement of need in accordance with the requirements of 9VAC25-780-130;

- An alternatives analysis that identifies potential alternatives to address projected deficits in water supplies in accordance with the requirements of 9VAC25-780-130;
- A map or maps identifying important elements of the program that may include existing environmental resources, existing water sources, significant existing water uses, and proposed new sources;
- A copy of the adopted program documents including any local plans or ordinances or amendments that incorporate the local program elements required by this chapter;
- A resolution approving the plan from each local government that is party to the plan; and
- A record of the local public hearing, a copy of all written comments and the submitter's response to all written comments received, and

WHEREAS, a regional water supply planning process is a sensible approach to developing and integrating local water supply utilization, given that watershed boundaries and ground water flows in the Shenandoah Valley are independent of local political boundaries, and in consideration of staff and financial savings that accrue through joint participation; and

WHEREAS, it is reasonable and prudent to for the local governments of Planning District 7, the Northern Shenandoah Valley Regional Commission, specifically the Counties of Clarke, Frederick, Page, Shenandoah, and Warren; Winchester City; and the Towns of Berryville, Boyce, Edinburg, Front Royal, Luray, Middletown, New Market, Mt. Jackson, Shenandoah, Stanley, Stephens City, Strasburg, Toms Brook, and Woodstock, to continue to coordinate and collaborate in the development and long term maintenance of a regional water supply plan and planning committee utilizing the Regional Commission which has historically provided water planning resources and which established the local government based Regional Water Resources Policy Committee in 2002 to respond to water supply planning requirements and the need for coordinated drought onset monitoring and the likelihood of the need for future coordinated responses;

NOW, THEREFORE BE IT RESOLVED that the Town of Front Royal agrees to participate with the Counties of Clarke, Frederick, Page, Shenandoah, and Warren; Winchester City; and the Towns of Berryville, Boyce, Edinburg, Luray, Middletown, New Market, Mt. Jackson, Shenandoah, Stanley, Stephens City, Strasburg, Toms Brook, Woodstock in the development, adoption and funded maintenance of a regional water supply plan that complies with mandated regulations, as determined by the Water Resources Policy Committee; and

that the State Water Control Board and the Department of Environmental Quality should consider this resolution along with those from each of the participating localities as their Letters of Intent to participate in a regional water supply plan for the Northern Shenandoah Valley jurisdictions with a completion due date of November 2, 2011, in accordance with 9VAC25-780-50.B.4.

COUNCIL APPROVAL – Liaison Committee Mission Statement, Policies and Formal and Informal Meeting Discussions

Councilman Lauder moved, seconded by Councilman Conkey, that Council resume the Liaison Committee Meetings with the Warren County Board of Supervisors. He further moved that those in attendance would be: the Mayor, the Town Manager, the Town Attorney, two members of Council, the Board of Supervisors Chairman, the County Administrator, the County Attorney, and two members of the Board of Supervisors.

Vice Mayor Hrbek noted that he preferred that the Mayor and the Chairman of the Board of Supervisors meet on an informal basis, and he would not vote for the motion as presented.

Councilman Lauder stated that informal meetings were important, as well as structured, formal meetings. He noted that the public meetings would be a time for information gathering, while conducting business in the open and advising the public where Council stood on issues.

Vice Mayor Hrbek noted that much had been accomplished between the Town and County during the last 18 months, without formal meetings. He expressed concern with conversations conducted in front of the press where there was a presumption that the comments and opinions of one or two members of Council may represent the full Council. Vice Mayor Hrbek opined that a time may come where some members of Council voice support of an item during a liaison meeting, and then he may be put in the position of arguing against an issue which was already perceived as being “Council supported.” Vice Mayor Hrbek reiterated his position, adding that the Supervisors Chairman and the Mayor should hold conversations in a casual setting as it would be a much better use of everyone’s time.

Councilman Sayre stated that he had some concerns which mirrored those of Vice Mayor Hrbek. He noted that while the interactions between the Town and County were important, he expressed concern with individuals who may use the liaison committee meetings as a time to grandstand on certain issues. Councilman Sayre gave an example regarding the Route 522 Corridor and meetings that occurred many years earlier.

Councilman Conkey voiced his support of the informal meetings, adding that such gatherings were generally much more effective and productive. He noted that the Town and County should work together; however, he agreed that an informal meeting would be the best route. Councilman Conkey suggested reviewing the matter in several months to see what had been accomplished with informal meetings.

Discussion ensued regarding clarification of the motion. Councilman Lauder and Mrs. Berry re-read the motion noting who would be present. Vice Mayor Hrbek asked if the County had approved their Mission Statement. Town Manager Graham noted that the County Administrator had commented that the Supervisors were proposing the Mission Statement to the Town. Vice Mayor Hrbek asked County Supervisor Tony Carter, who was present in the audience, if the County Supervisors had approved the Mission Statement. Supervisor Carter

indicated that the County was awaiting a response from the Council. He noted that it was a work in progress.

Mayor Tewalt stated that in conversation with Chairman Archie Fox, Mr. Fox had indicated that it would be preferred to have just a few members on the actual committee. Mayor Tewalt stated that the motion before Council was a large change from what he and Mr. Fox had discussed.

Vice Mayor Hrbek moved, seconded by Councilman Parker, to amend the motion that the Town Council must approve the Town's portion of the Liaison Committee Meeting agenda at a formal Council Meeting.

Councilman Sayre confirmed Mayor Tewalt's comments about the number of members desired by the Chairman of the Board of Supervisors. Mr. Sayre stated that he would be voting against the motion. He noted that he trusted Chairman Fox and Mayor Tewalt to meet informally and properly report back to their respective groups.

Vote: Yes – Conkey, Holloway, Hrbek, Lauder, Parker 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, on the amendment to approve the agenda)

Vote: Yes – Lauder
No – Conkey, Holloway, Hrbek, Parker and Sayre
Abstain – N/A
Absent – N/A
(Mayor Tewalt did not vote as there was no tie to require his vote)
(By Roll Call, to resume formal Liaison Committee Meetings)

COUNCIL APPROVAL – Moving Economic Development Authority Funds Placed into Contingency Fund back to Economic Development Fund

Vice Mayor Hrbek moved, seconded by Councilman Lauder, that Council move \$30,917 from Reserve Contingency #9790-49999 to Economic Development #8105-45608.

Vice Mayor Hrbek noted that he had been vocal in the past regarding issues relating to the Economic Development Authority (EDA). He stated that the Town moved to place the funds in contingency in order to take time to determine the direction that the EDA was moving towards. Vice Mayor Hrbek opined that Ms. McDonald and the Staff had made great strides in the EDA's direction and he was very excited about their efforts. He added that he looked forward to working with the EDA on the new traffic study for Front Royal.

Councilman Conkey voiced his agreement with Vice Mayor Hrbek, and added that he would support the motion.

Councilman Sayre asked about the conditions placed in the resolution approved by the Town Council regarding the EDA. Mr. Graham stated that the resolution Councilman Sayre was referring to included a notation to allow the Town to have one additional member on the EDA Board, and the Town would also provide more funding. Vice Mayor Hrbek noted that if the Town and County agreed on the member change, then the EDA would accept that change. Mr. Graham noted that the Town and County were to meet on the issue, though the meeting had yet to be scheduled.

Mayor Tewalt explained that the conditions Councilman Sayre was referring to was a separate item from the funding placed into contingency. He stated that the issue before Council related to the funding placed into contingency only; he asked that Council remain on the issue before them. Councilman Sayre voiced his disagreement with Mayor Tewalt, adding that the Town had placed the funds into contingency and were awaiting the changes in the conditions put forth to the EDA. Mayor Tewalt stated that the conditions were passed by the Town Council; however, the EDA was never asked to comply with the conditions at this point.

Vice Mayor Hrbek voiced support of the motion to release full funding to the EDA for their efforts and work in the community.

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

COUNCIL APPROVAL – Resolution of Support Pertaining to County of Warren’s High Speed Internet Issue

Vice Mayor Hrbek moved, seconded by Councilman Parker, that Council approve the high speed internet resolution of support.

Councilman Parker offered a friendly amendment to the motion to insert the words, “and/or any other broadband service provider,” to be placed after the word “Comcast,” (in the fourth and in the fifth paragraph); and to replace the words “citizens he is” with “citizens as he has” in the fifth paragraph. Vice Mayor Hrbek noted that he accepted the friendly amendments.

Vice Mayor Hrbek stated that this was a matter of importance to the Town; the EDA continued to attempt to attract potential business to the Royal Phoenix site and the employees of such businesses may want to reside in the County. He noted that the employees would desire high speed internet for telecommunication along with other needs.

Councilman Sayre asked the Town’s IT Technician, Jonathan McMahon, if Councilman Parker’s amendment was appropriate language. Mr. McMahon noted that the language was appropriate as it included the words “high speed”.

Councilman Lauder noted that there were perhaps individuals in the audience who may wish to speak. Mayor Tewalt noted that generally the Council did not permit comments on such agenda items, though he invited those who may wish to speak to the podium.

Bill Barnett, a founder of the EDA Technology Consortium, explained that they had been attempting to increase the cell phone service area and the high speed internet options for Warren County for many years. He stated that Front Royal had a great deal of density, while the County had much less and therefore much less leverage. Mr. Barnett stated that the Town would have very little leverage in their talks with Comcast to provide coverage in areas known as “the last mile”. He explained that they also had no leverage with Embarq. Mr. Barnett stated that the Technology Consortium recommends that whenever possible the Town and County negotiate jointly on their communication needs. He added that commercial satellite coverage was only at a fraction of the speed of what cable or other high speed connectivity would be.

Councilman Sayre asked if the program they viewed in Manassas, Broadband Over Power Lines (BPL), could assist with the high speed internet issue. Director Energy Resources, Joseph Waltz, noted that it would not be cost effective at this time and added that the carrier that had approached the Town with the BPL program had withdrawn their proposal.

Vote: Yes – Conkey, Holloway, Hrbek, Lauder, Parker 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)

**⌘ Resolution of Support Pertaining to
High Speed Internet
to Warren County Residents ⌘**

WHEREAS Internet access and high speed Internet access has become an essential component of the lives of Americans;

AND WHEREAS the Town of Front Royal and Warren County continue to attract new businesses, employers and employees who require high speed Internet access;

AND WHEREAS most residents of Warren County do not have access to high speed Internet access in their homes;

THEREFORE BE IT RESOLVED that the Front Royal Town Council joins the Warren County Board of Supervisors in requesting Comcast, and/or any other broadband service provider, to offer high speed Internet to County residents;

AND BE IT FURTHER RESOLVED that the Front Royal Town Manager strongly encourage Comcast, and/or any other broadband service provider, to offer high speed Internet access to County citizens as he has regular

conversations with Comcast company officials and especially during the renegotiation of the franchise contract and agreement.

COUNCIL DISCUSSION – Gazebo Code of Conduct Discussion

Mayor Tewalt asked the Assistant Town Attorney to explain the gazebo matter. Assistant Town Attorney George Sonnett explained that one issue was the Town’s ability to control the use of Town property versus a criminal ordinance. Mr. Sonnett stated that one of the primary functions of the Council was to oversee the Town’s property, and the Town Code provided that said duty was delegated to the Town Manager (Section 4-34). Mr. Sonnett noted that if the rules for use of the property were not abided by, then the permission to use the property was taken away.

Councilman Sayre noted that if a sign said that a child 11 and under needed to be accompanied by an adult, what would be the case if a child, who was over 11 but not over 18, was walking down Main Street to the St. John the Baptist Catholic Church escorting a child under 11 and stopped at the gazebo. Mr. Sayre noted that the children would be in violation with the code of conduct posted at the gazebo. He voiced concern with citing one group of individuals, while not enforcing the rules on another group.

Councilman Lauder noted that perhaps there was some confusion on playgrounds versus the gazebo area.

RECEIPT OF PETITIONS OR CORRESPONDENCE FROM THE PUBLIC

Mike McCool, noted that he was contacted by the Town’s Code Enforcement Officer, Richard Kurzenknabe, regarding some storage containers in the parking lot of his business. He voiced concern with the Town harassing business owners about small storage bins while larger, more important issues were at stake. He gave the example of issues in the floodplain and a house at the corner of 6th and Commerce which needed to be addressed. Mr. McCool noted that the Town was anti-small business and the Economic Development Authority was the worst example of a small business friend in Front Royal.

Steve Garner, a representative with nTelos, thanked the Assistant Town Attorney for his work on the contract, adding that nTelos was pleased to be working with the Town to meet their fiber optic needs for the business community.

There being no further business, the Mayor declared the meeting adjourned at 8:12 p.m.

APPROVED:

Jennifer E. Berry
Clerk of Council