

The regular meeting of the Town Council of the Town of Front Royal, Virginia was held on September 22, 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
Councilman N. Shae Parker
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 September 8, 2008 as presented.

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)

REPORT OF THE MAYOR, COUNCIL & STAFF

Councilman Lauder stated that the Neighborhood Watch Program was successful in some areas, adding that Community Relations Specialist with the Police Department, Janice Hart, had done a great job expanding the program. He expressed hope that there would eventually be a Town wide Neighborhood Watch Program and he proposed that the Town have a meeting to promote said program.

Councilman Lauder noted that the Northern Virginia Daily article reported that drugs which were not used were being flushed into the sewer system. He stated that he hoped the Town of Front Royal, and perhaps the State of Virginia, would pursue education to the public and other actions to cease the practice. Councilman Lauder noted that many problems were associated with the inappropriate disposal of the pharmaceuticals into the water system.

Vice Mayor Hrbek noted that he was quite frustrated to be in a position as a member of Council, where he had been advised of information that others may not have. He expressed concern with former leaders of the community distorting words of the Town Council and others. Vice Mayor Hrbek noted that it was disturbing that others had failed to read contracts and documents pertaining to their businesses. He stated that recently Mr. Matthew Tederick, a former County Supervisor, accused the Town Council of meeting secretly and plotting to

annex the community. He added that earlier in the day Council received a letter from Mr. Tederick which accused Mayor Tewalt and the Vice Mayor of contradicting themselves and therefore insinuating that one or the other was lying. Vice Mayor Hrbek noted that Mayor Tewalt had correctly stated matters relating to Carter Glass, an annexation attorney from Richmond. He added that he has been the only member of the Council who had advocated annexation discussion, and had explained said issue to the members of the press. Vice Mayor Hrbek stated that if the press chose not to use the quotes given to them, it was out of his control. He noted that he welcomed the televised meetings as it allowed Council a chance to clearly state their positions on important matters to the public. Vice Mayor Hrbek noted that Council had spoken of annexation to some limited extent, as well as the 522 Corridor Agreement and potential litigation. He clarified that those were not secret meetings, but legal closed meetings under the law of the Commonwealth of Virginia. He reiterated that he had suggested annexation, though the other Councilmembers had not spoken of such measures. Vice Mayor Hrbek noted that although issues were not aligning the way Mr. Tederick preferred they go, it did not translate that Council was conspiring to have businesses close in the corridor. He stated that he clearly knew that his fellow Councilmen were not in favor of annexation, and he was disturbed that the Town was being accused of being anti-business. He explained that the Town extended water into the corridor in order for businesses to grow in said area, for the good of the community, which included paying for two more high schools. Vice Mayor Hrbek added that the Town had the water extended in order to grow the community and provide the services the public expects. He voiced his preference in having more cordial dialogue as opposed to the constant mudslinging which was so common in political circles.

Councilman Sayre introduced his sister and his brother-in-law who were visiting from Chicago, Illinois.

Councilman Conkey expressed his agreement with Vice Mayor Hrbek's comments. He noted that the Council was making great efforts to perform appropriately for the community, despite the accusations of others. Councilman Conkey noted that the allegation that Council had conducted illegal secret meetings was absurd. He stated that it is shocking and disturbing that false claims can be made in such a way.

Councilman Conkey noted that the Visitor's Center had a great display case on site which contained many products available from area merchants. He stated that he was passionate about the downtown area of Front Royal and expressed hope that all the stores and restaurants were very successful.

Councilman Sayre stated that there was asphalt missing from the Happy Creek Road area near Shenandoah Shores Road. Mr. Graham stated that the Town was aware of the asphalt issue.

Councilman Sayre noted that it was his hope that comments could remain about the issues, rather than becoming personal. He stated that a letter from Mr. Tederick detailed that "it was Graham's way or no way," which was inaccurate in Councilman Sayre's opinion. He stated another accusation noted that those who speak out against the Town would have reprisals against them, which was untrue.

Vice Mayor Hrbek requested that Staff look into an area along 18th Street where there was a crest on a hill. He noted that a stop sign may need to be installed to assist with those traveling through the area.

Mayor Tewalt congratulated Councilman Parker, and his wife, Lisa, on the birth of their baby boy.

Mayor Tewalt thanked the Town employees for the great open house held on Saturday. He noted that many in the community attended the event.

Director of Energy Resources Joseph Waltz gave an introduction regarding the Power Cost Adjustment (PCA) which would soon affect the citizenry. He explained that the wholesale power contract with American Electric Power (AEP) was renegotiated in 2007 which will save the Town over \$6 million over the next three years. Mr. Waltz stated that the Town had eliminated an 18% rate increase.

Mr. Waltz explained that the transmission charges were delivery charges, and that the Town had congestion charges as well, which were variable. He showed a presentation noting that the estimated transmission charges over the next twelve months at a cost of over \$400,183. He stated that the transmission charges accounted for over 16% of the Town's wholesale power bill. Mr. Waltz explained that the RPM (Reliability Pricing Model) charges created a market environment for investment in new generation and retention of existing plants – basically it entices generation.

Mr. Waltz noted that the PCA charges was a good business practice due to the transmission charges and the RPM, as they were not all recovered in the base rate. He stated that the PCA was a means of adjusting the retail rates on an annual or more frequent basis to reflect the differences between the Town's actual cost of purchasing electric power to serve the citizenry and the cost currently included in the customer rates.

Mr. Waltz announced a Public Information Meeting to be held on October 7, at 7 p.m. at the Town Hall Conference Room. He noted that a public hearing on the issue would be held on the 14th of October at the Government Center.

Councilman Sayre asked about the Council's previous discussion regarding light bulbs. Mr. Waltz stated that the light bulb issue would be on a coming worksession, adding that lighting accounted for 20% of a home's energy costs. Mayor Tewalt noted that the item should be on the agenda sometime in November.

Patricia Wines, Chairman of the Economic Development Authority (EDA), stated that the Virginia Tech Wine & Culinary Institute project was still a priority, noting that they would be going to Virginia Tech on October 8th to meet with representatives on the issue.

Ms. Wines noted that the EDA was continuing their work with the County on the Workforce Housing Survey which would be distributed to the employees of the Warren Memorial Hospital, Town and County.

Ms. Wines stated that the Downtown Property Owners Association and the Technology Consortium continued to work very hard on their missions. She added that the regular EDA Board meeting would be this coming Friday at 8 a.m. at the Royal Phoenix.

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

CONSENT AGENDA:

- A) COUNCIL APPROVAL – Bid – Road Salt
- B) COUNCIL APPROVAL – Bid – Budget Amendment
- C) COUNCIL APPROVAL – Bid – SCADA System Upgrade – Electric Department

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

Mayor Tewalt asked if any item on the Consent Agenda should be removed for discussion and a separate 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)

PUBLIC HEARING – An Ordinance to Amend and Re-Enact Town Code Sections 175-74 through 175-84 Pertaining to the Establishment of Floodplain Districts by Requiring the Issuance of Permits for Development, and by Providing Factors and Conditions for Variances to the Terms of the Ordinances (1st Reading)

Mayor Tewalt opened the public hearing. As no one came forward to speak, the public hearing was closed.

Vice Mayor Hrbek moved, seconded by Councilman Conkey, that Council affirm on its first reading an Ordinance to amend and re-enact Town Code Sections 175-74, 175-75, 175-76, 175-77, 175-78, 175-79, 175-80, 175-81, 175-82, 175-83 and 175-84 pertaining to the establishment of Floodplain Districts by requiring the issuance of permits for development, and by providing factors and conditions for variances to the terms of the ordinances.

Planning Director Andrew Conlon explained that the most significant change in the ordinance was that the floodplain was divided into two subcomponent areas; the floodway and the flood fringe. He stated that the floodway regulations would continue much as they had in the past, while the flood fringe area would no longer require a special use permit for development.

Vice Mayor Hrbek clarified that when the floodplain map was reviewed, Council discussed the option of opting out of the floodplain program through the Federal Emergency Management Agency (FEMA). He added that the homeowners and the business owners would not be eligible for flood insurance if the Town did not participate in the program. Mr.

Hrbek noted that the ordinance would lessen the regulations for development and redevelopment along the flood fringe. Mr. Conlon agreed with Vice Mayor Hrbek's explanation. Mr. Conlon stated that the only objective of the regulations was geared towards public safety. He noted that any activity which would not adversely affect public safety was not the intent of the regulations, as it was focused only on the line above the flood level.

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)

COUNCIL APPROVAL – An Ordinance to Amend Town Code Section 85-3(A) Pertaining to the Collection Charge of Garbage, Rubbish, Refuse and Solid Waste (2nd Reading)

Councilman Conkey moved, seconded by Councilman Sayre, that Council adopt on its second and final reading on Ordinance to amend Town Code Section 85-3(A) pertaining to the collection charge of garbage, rubbish, refuse and solid waste, said ordinance effective January 1, 2009.

Vice Mayor Hrbek asked if the Town would be passing along the actual cost of the solid waste collection service to the citizens. Town Manager Graham noted that he was correct.

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)

☞ ORDINANCE: GARBAGE, REFUSE & RUBBISH INCREASE ☞

An Ordinance To Amend Front Royal Town Code § 85-3(A) Pertaining To The Collection Charges Of Garbage, Rubbish, Refuse And Solid Waste

WHEREAS, Sections 15.2-927 through 15.2-939 of the Code of Virginia, and Section 18 of the Front Royal Town Charter authorize the Town Council to regulate the collection and disposal of garbage and other refuse; and

WHEREAS, the Town is providing all customers with heavy-duty plastic containers for the placement of garbage and refuse at curbsides for collection and disposal, and desires to establish certain rules for the use of such containers and disposal of solid waste materials; and

WHEREAS, after public hearing, the Town Council desires to amend Chapter 85-3(A) of the Front Royal Municipal Code to establish collection fees;

NOW, THEREFORE, BE IT ENACTED by the Town Council of the Town of Front Royal, Virginia, pursuant to Sections 15.2-927 through 15.2-939 of the Code of Virginia (1950), as amended, and Section 18 of the Charter of the Town of Front Royal that Chapter 85, Section 85-3(A) of the Front Royal Town Code is hereby amended and re-ordained to read as follows:

85-3 COLLECTION CHARGES.

- A. The owner or occupant of each residential unit, office, retail and wholesale business, church, public building, and any other building or unit, provided such structure is connected to the Town’s water and sewer system, whether using or not, shall pay a charge to the Town for its collection of solid waste. The owners or occupants of such structures which are not so connected to the water and sewer system may request and pay for refuse collection services from the Town. The collection charge shall be **two hundred thirty dollars and 00/100 dollars (\$230.00)** per month for every customer having each week **an eight (8) cubic yard container** ~~more than thirty-six (36), but not more than seventy-two (72) thirty-two (32) gallon garbage cans or the equivalent volume;~~ **one hundred eighty and 00/100 dollars (\$180.00)** per month for every customer having each week **a six (6) cubic yard container** ~~more than eight (8), but no more than thirty-six (36) thirty-two (32) gallon garbage cans or the equivalent in volume each week;~~ **twelve and 00/100 dollars (\$12.00) twenty-three and 00/100 dollars (\$23.00) per month for each ninety-six (96) gallon container per customer each week** ~~for having a more than three (3), but not more than eight (8) thirty-two (32) gallon garbage cans or the equivalent in volume each week;~~ **and eleven and 00/100 (\$11.00) dollars ten dollars and 69/100 dollars (\$10.69) per month for each thirty-two (32) gallon container per customer each week.** ~~having three (3) or fewer thirty-two (32) gallon garbage cans, or the equivalent in volume each week. Where the customer has three (3) or fewer thirty-two (32) gallon garbage cans or the equivalent in volume each week, the Town shall, if practical, require that volume to be placed in one container.~~

This ordinance shall become effective upon passage.

COUNCIL APPROVAL – Ordinance to Amend and Re-enact Section 170-2 of the Town Code Pertaining to Removal of High Grass and Debris Near Dwellings (2nd Reading)

Councilman Conkey moved, seconded by Councilman Holloway, that Council adopt on its second and final reading on Ordinance to substantially amend and reenact Section 170-2 of the Town Code pertaining to removal of high grass and debris near dwellings.

Vice Mayor Hrbek voiced his opposition to the ordinance, adding that he did not want to see high grass or debris around structures in the Town; however, he stated his concern with entering onto private property without the approval of the Town Council.

Councilman Sayre asked if the language had been changed since the last reading. Mr. Graham noted that the language had not been altered.

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

No – Hrbek

Abstain – N/A

Absent – N/A

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

(By Roll Call)

ORDINANCE: HIGH GRASS & DEBRIS NEAR DWELLINGS

An Ordinance To Amend And Reenact Section 170-2 Of The Town Code Pertaining To Removal Of High Grass And Debris Near Dwellings

WHEREAS, the Town Council has learned recently that various changes to the Code of Virginia require that Section 170-2 of the Town Code, relating to removal of high grass and debris near dwellings, as currently titled, needs to be re-titled and restructured so as to more closely match the language of Sections 15.2-901 and 15.2-1115 of the said Code of Virginia; and,

WHEREAS, the said Council also finds it desirable and in the public interest to add additional material to said Section of the Town Code so that it will be less cumbersome to administer and, therefore, more efficient, cost-effective, and easier to use and understand for both its Staff and for the General Public.

NOW, THEREFORE, BE IT ENACTED AND ORDAINED by the Town Council of the Town of Front Royal, Virginia, that Section 170-2 of the Front Royal Town Code is hereby amended as follows:

170-2 REMOVAL OF HIGH GRASS, WEEDS, AND FOREIGN GROWTH. DEBRIS NEAR DWELLINGS; TOWN ACTION ON FAILURE OF OWNER TO REMOVE.

A. Between May 1st and September 1st of each year, it shall be unlawful for the owner of any vacant or undeveloped property within the Town, including such property upon which buildings or other improvements are located, land or lot in the town to permit shall cut the grass, weeds, and other foreign growth on such property or any part thereof. standing more than fifteen (15) inches in height to remain on so much of his property as lies within one hundred (100) feet of any dwelling house or other building, a Any such owner person failing, refusing, or neglecting to cut or remove such grass, weeds, and other foreign growth, after ten (10) days reasonable notice shall be in violation of this Section and, upon conviction, shall be subject to a fine civil penalty not to exceed fifty dollars (\$50) for the first such violation. Each business day during which the same violation is found to have existed shall constitute a separate offense, however, the total amount of civil penalties arising from the same set of operative facts in a 12-month period shall not exceed \$3,000.

B. Whenever the grass, weeds or other foreign growth attains the height of fifteen (15) inches or more, whether such property is vacant or occupied, it

shall be presumed to threaten the health, safety, and general welfare of the residents of the Town. Under such circumstances, the Town Manager may, after reasonable ten (10) days notice to the owners or occupants thereof, have such grass, weeds, and other foreign growth cut by its agents, contractors or employees, and the costs and expenses thereof shall be charged to and paid by the owner of such property, and may be collected as taxes and levies are collected, and shall constitute a lien upon such property until such the charges are paid. Any owner of property who is aggrieved by the decision of the Town Manager under this subsection may note an appeal of the herein described notice within ten (10) days of the date of its receipt, in which case, all efforts to cause said grass, weeds, etc., to be cut by the Town shall cease until the appeal has been decided by the Town Council.

THIS ORDINANCE shall be effective on the date of its passage on Second Reading.

COUNCIL APPROVAL – An Ordinance to Amend and Re-enact Section 46-2 Relating to Drinking in Public Places and to Add a New Section 154-9 Concerning Trespassing, to the Town Code (2nd Reading)

Councilman Holloway moved, seconded by Councilman Lauder, that Council adopt on its second and final reading an ordinance to substantially amend and reenact Section 46-2 to Drinking in Public Places and to add a new Section 154-9 concerning Trespassing, to the Town Code.

Councilman Sayre asked about an individual who may wish to go fishing and bring beer within a cooler. Mr. Graham noted that the individual could do so, as long as they were not on Town property. He added that along the Luray Avenue Boat Landing they would need to follow the strict rules of the State of Virginia, which does not allow drinking on a public boat landing. Mr. Graham clarified that individuals out on their boat who would like to consume alcohol could do so; however, when they pulled ashore the alcohol needed to be put away.

Councilman Sayre noted that the penalty was a Class IV misdemeanor, which was the least strict of any misdemeanor and was not a jailable offense.

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)

❧ ORDINANCE: DRINKING IN PUBLIC & TRESPASSING ❧

An Ordinance To Substantially Amend And Reenact Section 46-2, Relating To Drinking In Public Places, And To Add A New Section 154-9 Concerning Trespassing To The Town Code Of The Town Of Front Royal, Virginia

WHEREAS, the Town Council has found it desirable and in the public interest to regulate the consumption and possession of alcoholic beverages in certain public places, to include the Town-owned real estate located at the western end of Luray Avenue on the Shenandoah River, which, in part, comprises a public Park in Warren County, Virginia, more popularly known as the “Boat Landing”; and,

WHEREAS, the said Council has, furthermore, found it desirable and in the public interest to regulate the hours of operation of the “Boat Landing”, and to provide that such hours should correspond with those hours prescribed by Ordinance for Park and Recreation facilities owned by Warren County, Virginia.

NOW, THEREFORE, BE IT ENACTED AND ORDAINED by the Town Council of the Town of Front Royal, Virginia, that Section 46-2 of the Front Royal Town Code is hereby substantially amended and re-enacted, and that a new Section 154-9 of the said Code, is hereby enacted, as follows:

46-2 DRINKING IN PUBLIC.

~~It shall be unlawful for any person to drink any intoxicating beverages on the streets or alleyways of the town or in any public place or building which is not licensed to sell and dispense alcoholic beverages, and upon conviction thereof, he shall be fined not less than one dollar (\$1.) nor more than ten dollars (\$10.).~~

A. If any person takes a drink of alcoholic beverages or is found to possess same or offers a drink thereof to another, whether accepted or not, at or in any public place, he shall be guilty of a Class IV misdemeanor, as defined by Section 1-15 of this Code. The terms “alcoholic beverages” and “public place” are defined in Section 4.1-100 of the Code of Virginia, 1950, as amended, and said definitions are incorporated herein by reference.

B. Nothing in this Section shall prevent any person from drinking alcoholic beverages or possessing same or offering a drink thereof to another in any rooms or areas approved by the Virginia Department of Alcoholic Beverage Control in an establishment licensed by said Department or the person who operates the same is licensed to sell alcoholic beverages at retail for on-premises consumption and the alcoholic beverages drunk or offered were purchased therein.

C. This section shall not prevent any person from drinking alcoholic beverages or possessing same or offering a drink thereof to another in any room or area approved by the Virginia Department of Alcoholic Beverage Control at an event for which a banquet license or mixed beverage special events license has been granted. Nor shall this section prevent, upon authorization of the licensee, any person from drinking his own lawfully acquired alcoholic beverage or offering a drink thereof to another in approved areas and locations at events for which a coliseum or stadium license has been granted.

154-9 TRESPASSING AT THE BOAT LANDING.

A. The hours of operation for the town-owned property located at the western end of Luray Avenue, commonly known as the “Boat Landing” shall be each day from 7:00 A.M. to 7:00 P.M. from November through March of each year, and from 7:00 A.M. to 11:00 P.M. from April through October of each year. Any person who shall go upon such real estate without lawful reason or excuse at times which are outside of the said hours of operation shall be charged with a violation of Section 154-1 of this Code, and shall, upon conviction, be punished as therein provided.

B. Nothing in this Section shall apply to persons or organizations who have obtained a Permit under Chapter 72 of this Code while such permit is in effect.

THIS ORDINANCE shall be effective on the date of its passage on Second Reading.

COUNCIL APPROVAL – An Ordinance to Amend and Reenact Town Code Section 134-81 Pertaining to Conservation of Water (2nd Reading)

Councilman Holloway moved, seconded by Councilman Conkey, that Council adopt on its second and final reading an Ordinance to amend and reenact Town Code Section 134-81 pertaining to Conservation of Water.

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)

⌘ ORDINANCE: WATER CONSERVATION ⌘

An Ordinance to Enact Front Royal Town Code Section 134-81 Pertaining To Conservation of Water

WHEREAS, § 15.2-924 of the Code of Virginia authorizes any locality to restrict the use of water for the duration of a water supply emergency; and

WHEREAS, after public hearing, the Town Council desires to amend § 134-81 of the Town Code to amend said Section pertaining to conservation and use of water.

NOW, THEREFORE, BE IT ENACTED by the Town Council of the Town of Front Royal, Virginia, pursuant to § 15.2-924 of the Code of Virginia (1950), as amended, and the Charter of the Town of Front Royal, that § 134-81 of the Front Royal Town Code is hereby amended and re-enacted as follows:

SECTION 134-81 CONSERVATION OF WATER.

A. DEFINITIONS; EQUATIONS.

1. Definitions. For the purpose of this Article, the following definitions shall apply:

- ~~MAF – Mean Annual Flow.~~
- ~~MGD – Million Gallons per Day.~~
- ~~CFS - Cubic Feet per Second.~~

~~2. The MAF of the South Fork of the Shenandoah River is one thousand thirty four and seven hundred fifty two thousandths (1,034.752) MGD or one thousand six hundred one (1,601) CFS.~~

~~3. Equations. For the purposes of this Article, the following equations shall apply:~~

- ~~30% MAF = 301 MGD or 480 CFS~~
- ~~17% MAF = 176 MGD or 272 CFS~~
- ~~15% MAF = 155 MGD or 240 CFS~~
- ~~13% MAF = 134 MGD or 208 CFS~~

B. VOLUNTARY WATER CONSERVATION.

Whenever the fourteen-day average stream flow of the South Fork of the Shenandoah River, measured from Point 0163100 (South Fork of the Shenandoah River at Front Royal: Latitude 384150; longitude 0781240), drops below 400 CFS thirty per cent (30%) of the MAF for fourteen (14) days, the Front Royal Town Manager shall declare voluntary water conservation measures to be in effect. The Town Manager, through appropriate means, shall inform the public to voluntarily conserve water. During periods of voluntary water conservation, all users of the Front Royal municipal water system are requested to cease the following:

- 1. The watering of shrubbery, trees, lawns, grass, plants, or any other vegetation from Town water supplies (except indoor plantings, greenhouse and commercial nursery stocks, and new plantings less than one year old) between the hours of 9:00 a.m. and 4:00 p.m.
- 2. The outdoor washing of automobiles, trucks, trailers, boats, airplanes, or other types of mobile equipment between the hours of 9:00 a.m. and 4:00 p.m., except from a bucket or other container not exceeding three (3) gallons or at a commercial vehicle wash facility.
- 3. The washing of private streets, driveways, parking lots, service station grounds, or other paved outdoor surfaces between the hours of 9:00 a.m. and 4:00 p.m.
- 4. The operation of any ornamental fountains, unless the water is recycled.
- 5. The filling of swimming and/or wading pools, except that filled pools may be topped off to maintain the appropriate levels for use.
- 6. Serving drinking water in restaurants, except on request.

C. MANDATORY WATER CONSERVATION.

Whenever the fourteen-day average stream flow of the South Fork of the Shenandoah River, measured from Point 01631000, drops below 340 CFS

~~seventeen per cent (17%) of the MAF for fourteen (14) days~~, the Front Royal Town Manager shall declare an emergency exists and declare mandatory water conservation measures to be in effect and shall implement enforcement thereof. The Town Manager shall notify the Department of Environmental Quality that mandatory conservation measures have been imposed. During periods of mandatory water conservation, all users of Front Royal municipal water system shall be prohibited from the following:

1. The watering of shrubbery, trees, lawns, grass, plants, or any other vegetation from Town water supplies (except indoor plantings, greenhouse and commercial nursery stocks, and new plantings less than one year old) between the hours of 9:00 a.m. and 4:00 p.m.
2. The outdoor washing of automobiles, trucks, trailers, boats, airplanes, or other types of mobile equipment ~~between the hours of 9:00 a.m. and 4:00 p.m.~~, except in a commercial vehicle wash facility.
3. The washing of private streets, driveways, parking lots, service station grounds, or other paved outdoor surfaces ~~between the hours of 9:00 a.m. and 4:00 p.m.~~
4. The operation of any ornamental fountains, unless the water is recycled. Municipal ornamental fountains shall be cleaned and closed within two (2) days of the mandatory water conservation restriction declaration.
5. The filling of swimming and/or wading pools, except that filled pools may be topped off to maintain the appropriate levels for use.

D. EMERGENCY WATER CONSERVATION.

Whenever the fourteen-day average stream flow of the South Fork of the Shenandoah River, measured from Point 01631000, drops below 240 CFS ~~fifteen percent (15%) of the MAF for fourteen (14) days~~, the Front Royal Town Manager shall declare an emergency exists and declare emergency water conservation to be in effect and shall implement enforcement thereof. During periods of emergency water conservation, all users of the Front Royal municipal water system shall be prohibited from the following:

1. The watering of shrubbery, trees, lawns, grass, plants, or any other vegetation from Town water supplies (except indoor plantings, greenhouse and commercial nursery stocks, ~~and new plantings less than one year old~~) at any time through the use of a hose and/or sprinkler system. ~~Plantings may only be watered between the periods of 9:00 p.m. and 9:00 a.m. through the use of a bucket or other container when using new potable water.~~ This time restriction prohibition shall not apply when individuals are watering plantings through the use of recycled household water.
2. The outdoor washing of automobiles, trucks, trailers, boats, airplanes, or other types of mobile equipment except in a commercial vehicle wash facility.
3. The washing of all streets, driveways, parking lots, service station grounds, office buildings, home of apartment exterior or other outdoor surfaces, including windows. Restaurants and other food preparation type businesses

shall be allowed to wash their exterior garbage cans/dumpsters three (3) days per week, on Mondays, Thursdays and Saturdays. The Town Manager may authorize exterior washings for specific purposes whenever the health or safety of the public may be affected.

4. The operation ~~of~~ of all ornamental fountains.
5. The filling of swimming and/or wading pools, ~~except for the topping off of said pools.~~
6. All residential and recreational outdoor use shall be prohibited, unless and exception is otherwise granted in this Chapter.
7. All non-essential municipal water use shall be eliminated.

E. WATERING RATIONING.

Whenever the fourteen-day average stream flow of the South Fork of the Shenandoah River, measured from Point 01631000, drops below 200 CFS ~~thirteen percent (13%) of the MAF for fourteen (14) days,~~ the Front Royal Town Manager shall declare an emergency exists and declare water rationing to be in effect and shall implement enforcement thereof. During periods of water rationing, users of the Front Royal Municipal Water System shall be prohibited from the following:

1. The watering of shrubbery, trees, lawns, grass, plants, or any other vegetation, except indoor plantings, greenhouse and commercial nursery stocks. This prohibition shall not apply to waterings ~~that are~~ done through the use of recycled household water.
2. The washing of automobiles, tucks, trailers, boats, airplanes, or other types of mobile equipment. During periods of water rationing, the operators of commercial car wash facilities shall be notified of the imposition of water rationing through service y a law enforcement officer and appropriate radio and television advertisements and notices published in the newspapers of local circulation. The operators shall likewise be notified of the cessation of water rationing.
3. The hauling of water beyond the Town's municipal limits except to customers with existing twelve-month hauling contracts.
4. The operation of outdoor water spigots in any municipal park, playground, or recreation facility.
5. Commercial clothes washing facilities shall be required to reduce water usage by 50% of the average use of the previous twelve (12) months. Users with less than twelve months previous water use shall not exceed fifty-percent of their previous use for all water service shall not be restricted until they have established at least one (1) month's service in a period when water rationing is not in effect. During periods when water rationing, operators of commercial clothes washing facilities shall be notified of the imposition of water rationing through service by a law enforcement officer and appropriate radio and television advertisements and notices published in the newspapers

of local circulation. The operators shall likewise be notified of the cessation of water rationing.

F. NOTIFICATION REQUIREMENTS.

The public shall be notified of the imposition of mandatory water conservation, emergency water conservation, and watering rationing through appropriate radio and television announcements and notices published in newspapers of local circulation. The public shall likewise be notified of the cessation of mandatory conservation, emergency water conservation, and water rationing.

G. LIFTING OF RESTRICTIONS.

Mandatory water conservation, emergency water conservation, and water rationing periods shall cease at such time as the fourteen-day average stream flow recovers and rises above the MAF flow rate needed for the imposition of mandatory water conservation, emergency water conservation, or water rationing.

H. VIOLATIONS.

Violation of the mandatory water conservation, emergency water conservation, and water rationing prohibitions set forth in Subsection C, D, and E during periods of water conservation or rationing may be punished by a fine not to exceed one thousand dollars (\$1,000). Each day that a violation occurs may be punished as a separate offense.

~~I. DROUGHT RESTRICTIONS.~~

~~*During the statewide emergency and drought as declared by Executive Order 33 issued by Governor Mark R. Warner on August 30, 2002, and continuing in effect until June 30, 2003, or until such earlier date as the Governor rescinds Executive Order 33, at which time this subsection shall cease to be effective, users of the Front Royal Municipal Water System shall be prohibited from the following, and punished for violations thereof in the same manner as described in Sub-Section 134-81 (H):*~~

- ~~1. The watering of lawns at anytime; provided, however, that newly seeded or sodded or refurbished lawns may be watered for a period not to exceed thirty (30) days.~~
- ~~2. The washing of automobiles, trucks, trailers, boats, airplanes, or other types of mobile equipment at anytime; provided, however, that this sub-Section shall not apply to such washing at commercial car wash or at automotive-related industries such as auto dealers, body shops, and car rental agencies.~~
- ~~3. The filling or topping off of swimming pools; provided, however, that this sub-section shall not apply to pools used by health care facilities for patient care and rehabilitation; and further provided that new or repaired swimming pools may be filled as needed to maintain the structural integrity of the pool, and indoor pools may be filled as necessary to ensure swimmer health and safety.~~

~~4. The washing or rinsing of streets, driveways, or parking lots; provided, however, that this sub-section shall not apply to emergency clean-ups of such streets, driveways, or parking lots in the event of a toxic or hazardous spill which requires such clean-up.~~

This ordinance shall be effective upon passage.

COUNCIL APPOINTMENTS – Planning Commission

Vice Mayor Hrbek moved, seconded by Councilman Sayre, that Council appoint Douglas J. Jones to fill an unexpired term to the Front Royal Planning Commission, said term to expire August 31, 2010 and appoint Deborah Langfitt to fill a full term on the Front Royal Planning Commission, said term to expire August 31, 2012.

Councilman Sayre mentioned that three highly qualified people interviewed for the appointment and the decision was a difficult one to make. He noted that the candidates did state that they were willing to attend certification classes.

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)

COUNCIL APPOINTMENT – Northern Shenandoah Valley Regional Commission (NSVRC)

Councilman Lauder moved, seconded by Councilman Sayre, that Council appoint Town Manager J. Michael Graham as the NSVRC non-elected representative, said term to expire June 30, 2011.

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)

COUNCIL APPOINTMENT – Library Board

Councilman Sayre moved, seconded by Councilman Holloway, that Council appoint Councilman Thomas E. Conkey as the ex-officio Library Board Member, said term expires June 30, 2012.

Vice Mayor Hrbek opined that the Library invited a member of Council to become an ex-officio member of the Library Board as a result of him speaking out regarding the Town’s budget item for the Library. He stated that some sort of representation pleased him;

however, he continued to feel uncomfortable with granting funds to an organization without some type of official appointment. Vice Mayor Hrbek expressed his appreciation to the Library regarding the appointment, while adding that it was his hope that the Library would either be a true private library, or become a public library with an official voting appointee.

Councilman Sayre asked if the ex-officio member could vote. Mr. Graham indicated that Councilman Conkey would not be able to vote. Councilman Conkey noted that he would be certain to make his view points known while serving on the board.

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)

COUNCIL APPROVAL – Special Assessment Procedure for the Installation of Sidewalk on North Royal Avenue from 8th Street to Commerce Avenue and from Commerce Avenue to 8th Street

Councilman Conkey moved, seconded by Councilman Sayre, that Council approve moving forward with the special assessment procedure for the installation of sidewalk on North Royal Avenue from 8th Street to Commerce Avenue and from Commerce Avenue to 8th Street by directing the Town Attorney to prepare the usual Resolution setting the amount of the assessment for each abutting property owner.

Vice Mayor Hrbek encouraged the Council to vote against the motion as if Council chose to vote in line with the previous assessment at the public hearing, the Staff would have wasted a great deal of funds to notify the public through advertisements and certified letters.

Councilman Holloway stated that he would not vote in favor of the current assessment or any other assessment, as such improvements should be handled through tax dollars. Vice Mayor Hrbek reiterated his opposition, adding that Council could direct the Town Manager to complete the project using the General Fund.

Councilman Sayre noted that it came down to who pays for improvements. He noted that if the assessment did not go through, then every Town citizen would be paying for the upgrade and improvements in one certain area.

Vice Mayor Hrbek noted that if the Town tells a property owner that improvements would be placed on their property without a resident requesting said improvements, the Town had the obligation to pay for the curb, gutter and/or sidewalk. Vice Mayor Hrbek added that the improvements were desired by the whole community and they benefited the entire community. He noted that individual property owners should not be saddled with an extra tax for improvements which they may or may not want.

Vice Mayor Hrbek stated that he felt bad for the other property owners along Commerce Avenue who were assessed, adding that now there were new members on Council that had a difference of opinion.

Councilman Lauder asked the preliminary figures for the project. Mr. Graham noted that the project had been funded, and the total could be gathered, though he estimated it to be \$25,000 for the small section in question. Mr. Graham stated that the Town began the Commerce Avenue project to attain the goal of having citizens and visitors walk along Royal Avenue and Commerce Avenue safely. He added that there was a small section along Royal Avenue that would complete the sidewalk goal.

Councilman Lauder expressed concern with moving forward with the resolution, when the Town would be spinning their wheels moving towards an assessment.

Councilman Holloway stated that he recently spoke to a resident along Brown and Cherrydale who asked that thanks be given to the other Councilmen that voted against assessing the area, as he was an elderly gentleman who is unemployed. Mr. Holloway noted that whether the Town thought of assessing a resident or a business owner, his vote would be against moving forward on any assessment.

Councilman Sayre stated that when the Town conducted maintenance or upgrades the issue remained who paid for the improvements. He opined that the Town was thinning their budget and they would not be able to do as many other projects as the funding was not available. Councilman Holloway opined that maintenance should be done with tax dollars, not special assessments.

In response to a question from Vice Mayor Hrbek, Town Attorney Robinett explained that the Town Manager had the authority to begin construction of the sidewalk. Mr. Graham added that the item was in the budget for road maintenance, which also issued his authority to construct the sidewalk; Mr. Robinett expressed his agreement.

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

RECEIPT OF PETITIONS OR CORRESPONDENCE FROM THE PUBLIC

Dennis Fusaro, of Warren County, noted that part of the problem with the dumping of pharmaceuticals by health care providers, was that it was very difficult to get rid of the drugs through standard permitting procedures.

Mr. Fusaro noted that he was not advocating that the speed limits were too high along Route 55 east towards Linden, he was merely pointing out the issue. He urged the Town to examine the State statutes related to the lowering of speed limits.

Mr. Fusaro addressed the closed meetings held by Council. He noted that Council did not have to hold the meetings behind closed doors, and could share the matters with members of the public. He added that Council was under no obligation to share the information with one member of the citizenry, while denying the information to another. Mr. Fusaro urged the Town Council to stop charging the meals tax under the Payment In Lieu of Taxes (PILOT) fees.

Walter Duncan, of 928 S. Marshall Street, noted that a recent article in the Northern Virginia Daily quoted Matthew Tederick, a former County Supervisor, with saying that Cracker Barrel would have a \$200,000 annual water bill. Mr. Duncan stated that said figure was inaccurate, as the actual cost to commercial users to receive in-town water and sewer included a fee in lieu of Town taxes and licenses in addition to the in-town utility rate. Under Mr. Duncan's estimate Cracker Barrel would pay about \$164,000 annually, which included \$6,000 for water and sewer and \$158,000 for the PILOT fees.

Mr. Duncan read an excerpt from the 1998 voluntary settlement agreement between the County of Warren and the Town of Front Royal, regarding the provision of water and sewer service by the Town in the State Route 522/340 North Corridor and the assumption of full service funding and responsibility by the County of Fire/Rescue, Parks & Recreation operations and Animal Control Services. He explained that the County and Town jointly funded and cooperated in extending water and sewer mains outside of Town limits and into the corridor serving new industries. Mr. Duncan added that the Town permitted connections to the mains in the corridor by commercial users under certain conditions, including the contracts relating to the PILOT fees which would be in addition to the in-Town utility rates. He noted that the agreement was approved by a three judge panel and acts of the General Assembly.

Matthew Tederick, of 21 Edgewood Street, congratulated Councilman Parker on the birth of his son.

Mr. Tederick thanked Mr. Duncan for the clarification regarding the water bill amount, adding that he respected Mr. Duncan tremendously for his service to the Town. He added that he took Mr. Duncan at his word that the correct amount was about \$164,000. Mr. Tederick noted that of that \$164,000, was the meals tax portion which was \$12,334. He stated that the Town had a policy which was hurting businesses within the community. He stated that he was passionate about all areas of the Town, including the corridor. Mr. Tederick stated that he had not attacked anyone personally, and he would continue to uphold his promise not to do so. He noted that he would attack policy. Mr. Tederick commented that that Council had stated that there had been no secret meetings, though his Freedom of Information (FOIA) Request would prove otherwise. He read three definitions of the word "secret". Mr. Tederick stated that Council had been going into Executive Session meetings and discussing annexation policy. He explained that the policies of the water and sewer fees and the Route 522 Corridor had also been discussed behind closed doors. Mr. Tederick stated that his FOIA request would challenge Council to determine if those meetings had taken place. He noted that whether he, or his group, was against annexation was not the point, but rather such discussions on annexation should be held in public and the whole community should be part of the dialogue.

Mr. Tederick stated that James McManaway, Bret Haynes and he had all confirmed that the Town's interpretation of the Route 522 Policy was incorrect. He indicated that he was not blaming the Council for the advice given to them by the Town Manager and the Town Attorney. Mr. Tederick asked Council to admit their mistake, change their policy, and bring business into the community. He noted that the Town was a forgiving Town and he encouraged the Council to admit their mistakes.

Carter Foulds noted that he voted against the agreement ten years earlier. He stated that he no longer lived in the Town; however, he cared about the Town immensely. Mr. Foulds commented that the discussions which took place at the time the 522 Corridor Agreement was enacted, explicitly provided that the Town perform the actions that they were presently doing. He added that one of principal proponents of the agreement was Mr. Tederick. Mr. Foulds stated that one of the reasons he spoke against the agreement at the time was because people's interests would change and the rules would be challenged.

Mr. Foulds explained that the Town was promised every nickel that they would have received had they annexed the property. He noted that the Council needed to do what was in the best interest of the Town today, and not base decisions on the conveniently altered memories of those that say that was not what they meant ten years ago. Mr. Foulds reiterated that to accuse the Town of greed was obscene, as the Town was not doing anything wrong.

There being no further business, the Mayor declared the meeting adjourned at 8:14 p.m.

APPROVED:

Jennifer E. Berry
Clerk of Council