

The regular meeting of the Town Council of the Town of Front Royal, Virginia was held on October 27, 2008, in the Warren County Government Center's Board Meeting Room. Vice Mayor Hrbek 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:** 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  
Temporary Clerk Nicole S. Stabile

**ABSENT:** Mayor Eugene R. Tewalt  
Clerk of Council Jennifer E. Berry

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

*Councilman Sayre moved that Council appoint Nicole S. Stabile as Temporary Clerk for the duration of the October 27, 2008 Regular Council Meeting.*

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

(By Roll Call)

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*Councilman Sayre moved that Council approve the Regular Council Meeting minutes of October 14, 2008 as proposed.*

Councilman Sayre requested that the word “stated” be changed to “thanked” on the first page in the beginning of the third paragraph of the October 14 minutes. Temporary Clerk Stabile indicated that she would revise the minutes as requested.

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

(On minutes as amended)

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**REPORT OF THE MAYOR, COUNCIL & STAFF**

Councilman Sayre mentioned a phone call he had received in which the resident explained that an unknown organization was falsely informing people that they were winners of a

lottery. He noted that the organization was located in Jamaica which was outside of the United States' jurisdiction and therefore not governed by United States laws. Councilman Sayre warned the citizens to be cautious in order to avoid being victimized and asked that any persons who receive such calls, press charges.

Councilman Conkey stated that a Police Ceremony had taken place prior to the current Council meeting where Officer Brian Courtney had been promoted, and named Officer of the Year. He further stated that citizens had been recognized for their efforts and their support of the community.

Councilman Conkey congratulated the officers who were present and expressed his gratitude and his hope that the officers realized how much the community relied on them and how blessed the Town was for the sacrifices the officers made for the community. Mr. Conkey stated that the Council appreciated the efforts of the citizens who were doing the same type of work and opined that the citizenry was what made the community very special. He requested that their names be entered into the record.

Councilman Sayre briefly mentioned a situation regarding a transformer located at the Samuel's Public Library. Mr. Sayre stated that the Town Electric Department was very tedious; he asked that Staff report back to Council on the matter to ensure that there had been fair treatment of the department.

Vice Mayor Hrbek informed the public that Mayor Eugene R. Tewalt was on vacation for the week and noted that he was honored to be filling in.

Vice Mayor Hrbek commented that the Police Officer Ceremony had been a very nice event and named the following individuals who were presented with awards; Mr. Brian Courtney was promoted to Sergeant and received the Officer of the Year Award, Ms. Cynthia Bailey was presented with the Citizen Employee of the Year award, and Mr. Jim Kenney was awarded the Citizen of the Year award.

Vice Mayor Hrbek stated that a variety of other awards were given, such as interoffice recognitions and Volunteers in Police Services (VIPS) awards. He thanked the Town's Officers and Volunteers on behalf of the Council and stated that the Police Department made the community safe. Mr. Hrbek explained that without a safe community the Town could not encourage businesses to build and thrive here, and they could not ask people to visit or spend time in Front Royal.

Vice Mayor Hrbek mentioned that he, Mayor Tewalt, Councilman Holloway and Town Manager Graham had attended the Virginia Municipal League (VML) Conference in Norfolk and noted that they had the opportunity to meet several Councils and members of staff from across the Commonwealth. He commented that Governor Gilmore, Former Governor Warner, and Governor Kaine all spoke and Mr. Hrbek felt all people that were present came away with quite a few good ideas.

Vice Mayor Hrbek referred to the 150<sup>th</sup> Anniversary Commemoration of the Civil War seminar that he attended while in Norfolk. He added that Virginia had an exciting

opportunity to promote the event while Front Royal had a wonderful opportunity to participate in the upcoming battle re-enactment.

Mr. Hrbek announced that Front Royal had become a certified Green Government and informed the public that the Town was recognized with a number of municipalities across the commonwealth. Vice Mayor Hrbek read the certificate for those present:

*“This certificate is presented to the Town of Front Royal for successfully implementing environmental policies and taking practical action to reduce carbon emissions. VML Green Government Challenge October 20, 2008 in Norfolk Virginia.”*

Town Manager Graham informed the public that sixty-eight (68) communities got involved in the Challenge and Front Royal placed twenty-six (26) out of the forty-one (41) that made it. He noted that the Town had been in the running for a cash prize and that the placing was much closer than what it appeared to be. Mr. Graham commended Staff and their efforts and stated that it was nice to know that Front Royal was now “green”; the community already did a lot of “green” things.

Mr. Graham expressed the Town’s concern with all of the negative news regarding the economy and mentioned that the Governor had informed all of the municipalities about what was happening in the government. He explained that there was no certainty about how long the recession would last or how deep it would go.

Mr. Graham informed Council that it was possible that thirty percent (30%) of the Town’s transportation funding could be cut this year. He noted that although Front Royal did have some dependency on State funding, it was not much. Mr. Graham assured Council that the Town was taking steps to be able to weather the storm and that the Town was getting prepared because there was no way to know how much it would be affected.

Mr. Graham stated that the Town had also been notified that next year Front Royal’s Inflow and Infiltration (I & I) funding would be cut by \$16,000. He assured the citizenry that the Town was currently in good standing and thanked the Staff for their quick response to his request for cost cutting ideas.

Mr. Graham explained that he had instructed Staff to provide him with different ways the Town could reduce costs and added that the Town was being financially responsible in preparation for possibly rough times. He mentioned that he had received numbers during the first quarter which indicated that the Town was right on track.

Councilman Sayre requested that Mr. Graham or Director of Energy Resource Management Joseph Waltz explain the electrical work that was taking place on Shenandoah Shores Road. Director Waltz explained that it was preparation work for the new substation that was being built and noted that it should be completed within four weeks time. Councilman Sayre mentioned that new poles had been placed next to the others and questioned why that was. Director Waltz explained that Staff wanted to continue service for the citizenry in the area; placing the new poles prior to removing the old allowed Staff to complete the work without

interrupting service. He further explained that Staff had moved a portion of the poles in preparation for future road improvement around the easement near Progress Drive.

Jennifer McDonald, Executive Director of the Economic Development Authority (EDA), referenced materials that were included in Council's packets and reported that in the month of October there were two expansions: one was a 50,000 square foot food manufacturer which was a \$15 million investment, and the other was a cold call for a \$30,000 retail distribution. She mentioned that the EDA had possibly found a location for the retail business which would be a distribution and sales center.

Ms. McDonald reported that the EDA had been working with the Small Business Development Center (SBDC) and the Chamber of Commerce to put together a series of seminars for businesses on how to survive during these economic times. She noted that the first seminar should be during the first week of December and that it was open to all small business owners in the counties of Warren, Clarke, Frederick and Shenandoah.

Ms. McDonald informed Council that the Board had voted Friday to partner with Director of Tourism, Jennifer Keck, on the DVD she was doing for the community.

Councilman Sayre questioned when the first seminar would take place and if there was a cost for the seminars. Ms. McDonald responded that there was not a cost and that they were hoping to have the first seminar during the first week of December. She mentioned that the seminars were organized by the SBDC, the EDA and the Chamber of Commerce.

Vice Mayor Hrbek asked if there had been an update on Royal Phoenix through the Environmental Protection Agency (EPA). Ms. McDonald replied that the EDA received a report during their Friday Board meeting that they were still four to five years out on the Conservancy Park and two years out on the Business Park. She explained that they were waiting on their attorney John Stillman to report back to the EDA as to what could go on the site. Ms. McDonald stated that the EDA had sent a list to the EPA and FMC attorneys and that it normally took six to eight months to receive a response from them.

Councilman Sayre questioned if there had been further news on the connector road from Royal Phoenix. Director McDonald responded that the connector road had been taken out of the equation quite a bit ago due to the uncertainty of how the development of Royal Phoenix would progress. She explained that the EDA had decided to wait to hear back from the EPA and FMC Corporation as to where things should be located prior to putting in a road.

Town Manager Graham added that he would like to encourage the public to attend the Transportation 2030 meeting tomorrow evening, at 6:00 p.m., at the Warren County Government Center.

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

Councilman Sayre requested that Council add a closed meeting.

*Councilman Sayre moved that Council convene in a Closed Meeting for consultation with the Town Attorney regarding Cracker Barrel and other restaurants, pursuant to Section 2.2-3711 (A)(7) of the Code of Virginia, 1950.*

Town Attorney Robinett stated that the motion should be corrected to read, “Town Attorney regarding probable litigation by Cracker Barrel and others”.

Vote: Yes – Conkey, Holloway, Hrbek, Lauder, Parker and Sayre  
No – N/A  
Abstain – N/A  
Absent – Mayor Tewalt  
(By Roll Call, to add a closed meeting.)

**CONSENT AGENDA:**

- A) COUNCIL APPROVAL – Full Release of Letter of Credit – Blanton, Lester & Mowery, LLC Pharmacy – 20 South Street
- B) COUNCIL APPROVAL – Waiver of Christmas Tree License Tax – First Assembly of God
- C) COUNCIL APPROVAL – Proclamation – National Hunger & Homelessness Awareness Week

*Councilman Sayre moved that Council approve the consent agenda as presented.*

Vice Mayor Hrbek 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 – Mayor Tewalt  
(By Roll Call, to approve the consent agenda as presented.)

**☞ PROCLAMATION: Hunger & Homelessness Awareness Week ☞  
Proclaiming November 16-22, 2008 as National Hunger & Homelessness Awareness  
Week in the Town of Front Royal, Virginia**

**WHEREAS**, for the past several years the National Coalition for the Homeless and National Student Campaign Against Hunger and Homelessness have sponsored National Hunger and Homelessness Awareness Week; and

**WHEREAS**, the purpose of the proclamation is to educate the public about the many reasons people are hungry and homeless including the shortage of affordable housing in Front Royal for very low income residents; and to encourage support for homeless assistance service providers as well as community service opportunities for students and school service organizations; and;

**WHEREAS**, there are many organizations committed to sheltering, providing supportive services as well as meals and food supplies to the homeless including the House of Hope, the Salvation Army, and C-CAP; and;

**WHEREAS**, the theme of National Hunger and Homelessness Awareness Week 2008 is: “Bringing America Home,” and;

**WHEREAS**, the Town of Front Royal Council recognize that hunger and homelessness continues to be a serious problem for many individuals and families in Front Royal and the surrounding areas; and

**WHEREAS**, the intent of National Hunger and Homelessness Awareness Week is consistent with the activities of the local organizations working for this cause;

**NOW THEREFORE BE IT RESOLVED** that the Front Royal Town Council hereby proclaims November 16-22, 2008 as National Hunger and Homelessness Awareness Week.

**BE IT FURTHER RESOLVED** that the Front Royal Town Council encourages all citizens to recognize that many people do not have housing and need support from citizens, and private/public nonprofit service entities.

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**PUBLIC HEARING – An Ordinance to Amend, Correct and Reduce the Assessments of Certain Specific Owners of Abutting Property on Commerce Avenue for the Installation of Sidewalk and Curb and Gutter (1<sup>st</sup> Reading)**

Vice Mayor Hrbek opened the public hearing.

Mr. Tony Crim, owner of Crim’s Trailers, stated that he had been present at the original public hearing and that, although his portion was being reduced, he was present because he was aware that Council had recently voted to not assess property owners for curb, gutter and sidewalk in another part of Town. He questioned why Council would charge one set of owners and not another. Mr. Crim expressed his belief that citizens paid taxes to pay for such infrastructural improvements as curb, gutter, and sidewalk and that the Town should be covering those costs rather than extending the charges to the citizenry.

Councilman Sayre commented that he had previously made a purchase from Crim’s Trailers and expressed his satisfaction with his purchase.

*Councilman Parker moved that Council affirm on its first reading an Ordinance to amend, correct, and reduce the assessments of certain specific owners of abutting property on Commerce Avenue for the installation of sidewalk and curb and gutter.*

Councilman Sayre explained that Council was not seconding on motions due to information they had received from Town Attorney Thomas Robinett which explained that a second was not required.

Councilman Lauder asked if there would be a second reading. Town Attorney Thomas Robinett confirmed that there would be.

Vice Mayor Hrbek questioned if Council were to not do anything with this ordinance would that mean that they were essentially overcharging the owners. He requested confirmation that this was not going to repeal the original ordinance but that it would amend the cost.

Town Attorney Robinett confirmed that Vice Mayor Hrbek was correct and explained that Town Code specified that the Council would make adjustments of such assessments based on the actual cost of the project rather than the estimated costs. Mr. Robinett mentioned that the ordinance also included an interest rate which was left blank and that the Director of Finance was also required, by Town Code, to fix the interest rate after the adjustments were implemented.

Vice Mayor Hrbek stated that his question stemmed from his desire to be consistent in the matter; he had previously voted against the assessments and would be voting to pass this reduction. He noted that he viewed this to be a housekeeping measure.

Councilman Holloway stated that he was firmly against the assessment of fees against the citizens for curb, gutter, and sidewalk and explained that the previous Council had passed the assessments. Mr. Holloway noted that he was pleased that the current Council was now able to eliminate a portion of the financial burden of the assessments.

Councilman Parker expressed his agreement with Councilman Holloway and Mr. Crim that the sidewalk was a piece of infrastructure; he added that he was also pleased that the Town was able to alleviate some of the cost.

Vote: Yes – Conkey, Holloway, Hrbek, Lauder, Parker and Sayre  
No – N/A  
Abstain – N/A  
Absent – Mayor Tewalt  
(By Roll Call, on the 1<sup>st</sup> Reading)

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**COUNCIL APPROVAL – Curb, Gutter, and Sidewalk Waiver – Campbell Apartments – Laurel Street**

*Councilman Conkey moved that Council deny a request, from Lenny Campbell, of a waiver for curb, gutter, and sidewalk for the Campbell Apartments on Laurel Street.*

Councilman Holloway stated that he wanted the citizenry to be aware of why the Council was rendering their decision; he opined that it was a piece of undeveloped property and that the owner wanted to install a parking lot. Mr. Holloway further explained that there was a requirement that all undeveloped property must have curb and gutter and that as a developer he had also installed quite a bit of curb and gutter throughout Town.

Councilman Parker shared that he had visited this piece of property and it was a narrow street that was not used extensively. He noted that everything east of Pine Street and Laurel

Street appeared to have curb and guttering and for the purpose of consistency he would be voting to deny the request for a waiver.

Councilman Sayre mentioned a waiver that the previous Council had approved, but noted that it had been due to the curb and gutter causing an encroachment upon the existing homes. He expressed his agreement of having curb, gutter and sidewalk installed.

Town Attorney Robinett apologized for having forgotten to mention, during the previous item, that the owners Mr. and Mrs. John Roles had paid their assessment in full and were entitled to a refund of three-hundred plus dollars.

Vote: Yes – Conkey, Holloway, Hrbek, Lauder, Parker and Sayre  
No – Hrbek  
Abstain – N/A  
Absent – Mayor Tewalt  
(By Roll Call, to deny a request for a waiver)

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**COUNCIL APPROVAL – An Ordinance to Amend and Re-enact Section 158-13 of the Town Code by Adding a New Subsection (C) Pertaining to Royal Avenue in said Town (2<sup>nd</sup> Reading).**

*Councilman Holloway moved that Council adopt on its second and final reading an Ordinance to amend and re-enact Section 158-13 of the Town Code by adding a new subsection (C) pertaining to Royal Avenue in said Town expiring November 1, 2010.*

Councilman Lauder stated that he had spoken to several individuals including a fire truck driver, a former Councilman and a retired big rig driver, among others who informed him that the big trucks were not able to navigate the turn onto South Street from Commerce Avenue. He explained that although he understood that Staff's position he felt it was a safety issue and that safety was much more important than convenience. Mr. Lauder suggested widening the right lane as a possible solution, but opined that the best solution, for the time being, was to allow the tractor trailers to continue straight through Town.

Vice Mayor Hrbek asked Councilman Lauder if he was making an amendment. Councilman Lauder confirmed that he was requesting an amendment to allow traffic to travel straight through from the north and south of Royal Avenue.

Councilman Conkey stated that he had witnessed tractor trailers unsuccessfully attempt to negotiate the left hand turn from South Street onto Commerce Avenue and mentioned that their inability to negotiate that turn and the right turn from Commerce Avenue onto South Street, were his main concern.

Councilman Holloway noted that he believed that the turn was a difficult one and suggested that the Town move the lane back further in order to rectify the problem. He expressed his desire to remove the truck traffic from traveling through Town and opined that the trucks belonged on a four (4) lane avenue; Commerce Avenue.

Councilman Parker voiced his agreement with Councilman Holloway; he suggested moving the turn lane back and also voiced his support of removing the truck traffic off of Royal Avenue and onto Commerce Avenue. Mr. Parker questioned how it was that the Town determined when a truck was a truck and asked if there was an axle or weight requirement. He stated that the Council needed clarification on the matter.

Town Attorney Robinett explained that if the full code section was in front of them then the truck determination would be clearer. He stated that the word "truck" was well defined in Section 46.2-100 in the Code of Virginia along with the definitions regarding highway laws. Mr. Robinett noted that the section was incorporated, by reference, into Town Code Section 158-6 and that it basically referred to axles and weights.

Councilman Holloway asked if the ordinance included emergency vehicles, to which Town Manager Graham indicated that it did not.

Mr. Graham questioned if fire trucks were the same length as the larger tractor trailers and noted that there were not any restrictions for emergency vehicles in any part of the Town.

Director of Environmental Service Stephen M. Burke explained that Route 522 was designated by the State as the truck route through Town and was intended to convey a 53 foot trailer on a tractor. He noted that he had personally seen drivers negotiate the turn as well as drivers who could not.

Mr. Burke stated that he would work with Director of Public Works Terry Seal to move the lane back and that Staff would make every effort to ensure it was a safe intersection in the event the Council passed the ordinance. He informed Council that they would be putting up signs that would clearly notify drivers that they were to follow a designated truck route and that they would be working with the Police Department to ensure compliance.

Councilman Sayre questioned if adding asphalt to the area, to provide for a less wide turn, was a possible solution to the problem. Director Burke explained that the Town was constricted in the northwest corner by Happy Creek and the existing bridge. He stated that should funds become available for future improvements they would be quite expensive.

Mr. Burke advised that adjusting the striping would be the least costly and the most pragmatic solution.

Mr. Burke noted that Staff would work with the Virginia Department of Transportation (VDOT) to see if they had additional suggestions for a solution.

Councilman Parker asked Captain Furr if he was aware of any accidents that involved tractor trailers at the intersection of South Street and Commerce Avenue. Captain Furr stated that he was not.

Vice Mayor Hrbek asked Mr. Robinett if Councilman Lauder's amendment was appropriate.

Town Attorney Robinett noted that it would be difficult to follow but that he would listen to the tape and would rewrite the motion accordingly.

Vice Mayor Hrbek questioned if it was permissible to which Mr. Robinett stated that it was.

Councilman Conkey expressed his reluctance to vote for an ordinance without knowing what the solution would be and asked if it would be more sensible to table the item until a solution was agreed upon.

Vice Mayor Hrbek asked if Councilman Lauder could remove his amendment. Councilman Lauder agreed and struck his previous amendment.

*Councilman Conkey moved to table the item.*

Town Attorney Robinett recommended that Council insert a date into the motion presented.

*Councilman Conkey moved to table the item for discussion at the next Council worksession and then presented at the next regular Council meeting.*

Vote: Yes – Conkey, Hrbek, Lauder, and Sayre  
No – Holloway, and Parker  
Abstain – N/A  
Absent – Mayor Tewalt  
(By Roll Call, to table the item for future discussion)

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**COUNCIL APPROVAL – An Ordinance to Amend Town Code to Extend Existing Electric Utility Base Rates for Residential and Commercial Customers to June 30, 2009 and to Add a New Subsection to Allow a Power Cost Adjustment Charge to be Added to Those Rates, and to Continue Existing Dusk-to-Dawn Light Rates to June 30, 2009, and to Re-number the Remaining Existing Subsections of Said Section (2<sup>nd</sup> Reading).**

*Councilman Holloway moved that Council adopt on its second and final reading an Ordinance to Amend Town Code to extend existing electric utility base rates for residential and commercial customers to June 30, 2009, and to add a new subsection to allow a Power Cost Adjustment or PCA charge to be added to those rates and to re-number the remaining existing subsections of said section effective 12:01 a.m. on November 1, 2008.*

Town Attorney Robinett noted that an amendment to the motion was necessary and explained that the Town Code sections that were affected by the motion needed to be included in said motion.

With the assistance of Town Attorney Robinett Councilman Holloway amended the motion: *Councilman Holloway moved that Council adopt on its second and final reading an Ordinance to Amend Front Royal Town Code section 70-23(A) and (B) to extend existing electric utility base rates for residential and commercial customers to June 30, 2009, and to add a new subsection 70-23(C) to allow a Power Cost Adjustment or (PCA) charge to be added to those rates, and to continue existing dusk-to-dawn light rates to June 30, 2009 and*

*to re-number the remaining existing subsections of said section effective 12:01 a.m. on November 1, 2008.*

Vote: Yes – Conkey, Holloway, Hrbek, Lauder, Parker and Sayre  
No – N/A  
Abstain – N/A  
Absent – Mayor Tewalt  
(By Roll Call, on the 2<sup>nd</sup> Reading)

**⌘ ORDINANCE – Electric PCA Charge ⌘**

**An Ordinance To Amend Front Royal Town Code § 70-23(A) And (B) To Extend Existing Electric Utility Base Rates For Residential And Commercial Customers To June 30, 2009, And To Add A New Subsection 70-23(C) To Allow A Power Cost Adjustment Or PCA Charge To Be Added To Those Rates, And To Continue Existing Dusk-To-Dawn Light Rates To June 30, 2009, And To Re-Number The Remaining Existing Subsections Of Said Section.**

**WHEREAS**, Section 15.2-2109 of the Code of Virginia (1950), as amended, and Section 18(17) of the Town Charter authorize the Town to own and operate an electric utility, including the periodic setting and establishment of electric rates; and

**WHEREAS**, the Town does not generate its own electric power, but purchases it from electric generating companies, transmitted through one or more regional transmission entities, as provided for under electric power deregulation law; and

**WHEREAS**, after public hearing, the Town Council desires to set and establish electric power rates within the Town’s system for the fiscal years July 1, 2007 through June 30, 2009;

**NOW, THEREFORE, BE IT ORDAINED** by the Town Council of the Town of Front Royal, Virginia, pursuant to Section 15.2-2109 of the Code of Virginia (1950), as amended, and Section 18(17) of the Charter of the Town of Front Royal, that Section 70-23 of the Front Royal Town Code is hereby amended to read as follows:

**SECTION 70-23 ELECTRIC CHARGES.**

A. The base rates for electric service for residential customers shall be as follows, effective for the electric meters read on or after July 1, 2007, and continuing as stated herein:

1. Effective from July 1, 2007 through June 30, 2008~~9~~, facilities charge per billing cycle, as established by the Town: six dollars and twenty-four cents (\$6.24).

2. Effective from July 1, 2007 through June 30, 2008~~9~~, charges for all kilowatt hours per billing cycle, as established by the Town: \$0.0849 per kilowatt hour.

B. The base rates for electric service for commercial customers shall be as follows, effective for the electric meters read on or after July 1, 2007, and continuing as stated herein:

1. Effective from July 1, 2007 through June 30, 2008<sup>9</sup>, facilities charge per billing cycle, as established by the Town: six dollars and forty cents (\$6.40).

2. Effective from July 1, 2007 through June 30, 2008<sup>9</sup>, charges for the first 700 kilowatt hours per billing cycle, as established by the Town: \$0.1151 per kilowatt hour.

3. Effective from July 1, 2007 through June 30, 2008<sup>9</sup> the charge for all kilowatt hours over 700 per billing cycle, as established by the Town: \$0.0756 per kilowatt hour.

(When a commercial customer requires capacity over 7.5 kilowatts, the first energy block shall be increased by 53 kilowatt hours for each 1/2 kilowatt required in excess of 7.5 kilowatts. The second energy block shall then include all kilowatt hours in excess of the first energy block as adjusted for such additional energy.)

C. Effective November 1, 2008, all customers billed on the rates described in subsections A and B, above, shall, in addition to the rates therein described, be subject to a Power Cost Adjustment (PCA) charge. The amount charged for each kilowatt hour of energy sold by the Town may be increased according to the following formula:

$$PCA = \frac{C - (B \times P)}{S}$$

S

C = The estimated cost of power in dollars to be purchased by the Town for the twelve –month period.

P = The estimated total kilowatt hours to be purchased by the Town for the twelve-month period.

S = The estimated total kilowatt hours to be sold by the Town for the twelve-month period.

B = The average cost of wholesale power per kilowatt hour purchased by the Town which is recovered in the Town’s retail rate schedules, currently \$0.06651.

The Power Cost Adjustment (PCA) will be computed according to the above formula for a twelve-month period beginning July 1<sup>st</sup> of each year. Should it appear at any time during the twelve-month period that continued use of the PCA then in effect for the remainder of the twelve-month period will result in a substantial under recovery of the cost of power purchased by the Town at wholesale, then the Town may modify the PCA, especially factor B, above, to recover the applicable power cost more accurately. The PCA will not be less than zero.

€D. Charges for Dusk to Dawn Lights.

1. Effective from July 1, 2007 through June 30, 2008~~9~~, the monthly rate for dusk-to-dawn lights shall be eleven dollars and seventy-eight cents (\$11.78).

2. There shall be no installation charge for dusk-to- dawn lights in the event that a utility pole is located in the immediate vicinity to which the dusk-to-dawn light can be connected.

3. In the event that no utility pole is available in the immediate vicinity on which a dusk-to-dawn light can be installed, there shall be a charge, as established by resolution, for the installation of said pole.

4. The customer requesting the dusk-to-dawn light service must maintain the service for at least one full year or pay at least a total of twelve (12) installments of the rates as described above.

DE. Charges for Electric Surge Protection Program.

1. The monthly charge for a single-phase four-jaw meter socket surge protector shall be five dollars (\$5.00).

2. The monthly charge for a single-phase five-jaw meter socket surge protector shall be five dollars and fifty-five (\$5.55).

3. The monthly charge for a hardwired panel protector shall be five dollars and fifty-five cents (\$5.55).

4. The first single outlet protection plug, which is used in conjunction with the above listed equipment, shall be free. The monthly charge for each additional single outlet protection plug shall be thirty cents (\$0.30).

5. The purchase price for an 8AC, 2 phone plug strip shall be fifty-four dollars and seventy cents (\$54.70).

6. The purchase price for an 8AC, 2 coax plug strip shall be fifty dollars (\$50.00).

7. The purchase price for an 8AC, 2 phones, 4 coax plug strip shall be sixty-four dollars (\$64.00).

8. The purchase price for a 2AC, 2 phone (wall) plug strip shall be thirty-nine dollars (\$39.00).

9. The purchase price for a 2AC, 2 coax (wall) plug strip shall be forty-two dollars (\$42.00).

This ordinance shall take effect at **12:01 a.m. on November 1, 2008.**

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**RECEIPT OF PETITIONS OR CORRESPONDENCE FROM THE PUBLIC**

There were no receipts or correspondence from the public.

**CLOSED MEETING – Consultation with Legal Counsel**

With the assistance of the Town Attorney for the accurate motion:

*Councilman Sayre moved that Council convene in a Closed Meeting for consultation with the Town Attorney regarding probable litigation by Cracker Barrel and other restaurants, pursuant to Section 2.2-3711(A)(7) of the Code of Virginia, 1950.*

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

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*Councilman Holloway moved that Council certify that, to the best of each Council member’s knowledge as recognized by each Council member’s affirmative vote, that only public business matters as were identified in the motion by which the preceding closed meeting was convened; were heard, discussed or considered during the closed meeting of the Council; and, that the vote of each individual member be taken by roll call and recorded and included in the minutes of this meeting.*

Vote: Yes – Conkey, Holloway, Hrbek, Lauder, Parker and Sayre  
No – N/A  
Abstain – N/A  
Absent – Mayor Tewalt  
(By Roll Call)

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**ADDITIONAL DISCUSSION**

Town Manager Graham stated that Councilman Sayre had requested he investigate the library transformer matter and then provide Council with an update. Mr. Graham briefly explained that he had met with the Library Board of Trustees who informed him that they felt the Town was responsible for the costs the library incurred when they had to move the transformer, per the direction of Town Staff, and that they wanted restitution.

Mr. Graham informed Council that he made a decision, after assessing the situation and speaking with Director Joseph Waltz, to absorb some of the cost the library had incurred. He noted that he was able to come to an agreement with the Library Board which satisfied their requests, but also worked out to save the Town money. Mr. Graham explained that he was able to fund the rebate by working to decrease the cost of the tree landscaping around the new substation.

Town Attorney Robinett informed Council that his office was carefully reviewing the Catlett Mountain issue. He explained that he had not yet been able to determine how, or why, DEQ was involved because they were not established until 1993.

Town Manager Graham informed Council that Mr. Robinett had a conversation with DEQ regarding the Catlett Mountain situation. He stated that during the conversation it was discovered that DEQ had assumed the County was informing the Town of its communications with DEQ, although that was not the case. Mr. Graham noted that such assumption was a mistake on DEQ’s part.

Mr. Graham stated that a request had come from the County for funds for swimming lessons. He explained that the request stemmed from a sum of money that had been willed to the Town by a citizen, Ms. Molly Denton. Mr. Graham further explained that the money had been placed in a restricted fund which could not be identified as the money that had been willed to the Town by Ms. Molly Denton.

Mr. Graham informed Council that in 1999 the Town had turned Parks and Recreation over to the County. He explained that the will directed the Town to fund children's swimming lessons with the interest accrued from the willed money. He further explained that the will stated that the Town was required to continue the lessons for a period of three years and if the service was not provided for that length of time the will stated that the money would then be given back to her heirs.

Mr. Graham mentioned that he would request Council release the funds for her heirs during a future meeting and that the heirs could then release the money to the County if they chose to do so. Councilman Sayre suggested appropriating the funds to the County so that they may utilize the funds for a swimming program.

Town Attorney Robinett advised that the Town was to appropriate the funds to Ms. Denton's children only in order to ensure compliance with her will.

Vice Mayor Hrbek asked if the Town was supposed to send the money to the County when Parks and Recreation was turned over to the County. Mr. Graham noted that the funds were listed as restricted and that Town Staff was not aware of the nature of those funds prior to receiving the request from the County.

There being no further business, the Vice Mayor declared the meeting adjourned at 9:00 p.m.

SIGNED:

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Nicole S. Stabile  
Temporary Clerk