

The regular meeting of the Town Council of the Town of Front Royal, Virginia was held on Monday, November 24, 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 *arrived at 7:15 p.m.*
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 that Council approve the Regular Council Meeting minutes of November 10, 2008 and the Special Council Meeting minutes of November 17, 2008.

Councilman Sayre noted that on the first page of the November 17th minutes, the wording should read, “Councilman Sayre stated,” rather than “asked”.

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

REPORT OF THE MAYOR, COUNCIL & STAFF

Vice Mayor Hrbek stated that a recent headline in The Warren County Report read that the Town Council had initiated the elected versus appointed issue with the Attorney General regarding Councilman Parker. Mr. Hrbek clarified that Delegate Athey had brought the matter to the attention of the Attorney General, not the Town Council.

Vice Mayor Hrbek announced that he participated in the Kettle Drive Kick-Off for the Salvation Army on Friday. He noted that the Warren County area raised \$60,000 last year and the Salvation Army hoped for more in 2008. Vice Mayor Hrbek stated that members of the Town Staff would be ringing the bells at various times and asked the community to be on the look out for the kettles as they shop this holiday season.

Mayor Tewalt stated that the Town’s 220th Birthday Celebration and dedication of the Luray Avenue Boat Landing was held on Saturday. He thanked those that participated in the event and those who contributed to the success of the boat landing renovation. Mayor Tewalt especially thanked the Eastham Family who graciously donated the land.

Mayor Tewalt announced that on Friday night the Christmas lights were turned on along the Front Royal downtown area. He encouraged the citizens to spend their time along Main Street and other businesses within the Town as they shopped this season.

Town Manager Graham stated that they were in Voluntary Water Conservation at this time.

Mr. Graham noted that increases would occur regarding the Refuse rates in January of 2009.

Mr. Graham thanked the Interact Club from Skyline High School for assisting with the roadside cleanup during the Town's 220th Birthday Celebration. He stated that several families came to assist in cleaning up the Criser Road area and the celebration along the river was a great success. Councilman Sayre noted that he was sorry that he had to miss the Town's Birthday Celebration when it was rescheduled.

Councilman Sayre stated that The Warren Sentinel had printed that he had spoken behalf of the Town Council when he spoke to the Board of Supervisors. He noted that another portion stated that he had not returned a phone call. Councilman Sayre commented that the Sentinel Reporter had called him to apologize for the errors and a clarification would be printed. He noted that he was speaking on his own behalf, and he had also returned the phone call.

Councilman Sayre asked about whether Martin's Grocery Store would be opening a gasoline station in Town. Mr. Graham stated that he was unsure if the comments he had heard were factual.

Jennifer McDonald, Executive Director of the Economic Development Authority (EDA), announced that on December 10th, the EDA would be sponsoring a class presented by Casey Wilson, "Retailing In Tough Times."

Ms. McDonald stated that the EDA was in touch with one retail prospect and three industrial prospects. She added that if one of the industrial prospects came to fruition, they would create roughly 500 jobs over a three year period with a high minimum hourly pay.

Ms. McDonald noted that at the last EDA Board Meeting they voted to partially fund the Town's Transportation Study. She stated that the next meeting would be held on December 19th, at 8 a.m. in the EDA Office at Royal Phoenix.

Ms. McDonald explained that the Downtown Front Royal group had sent out an email announcing that downtown merchants would be opening early, closing late and offering special sales the day after Thanksgiving.

Vice Mayor Hrbek stated at the joint meeting with the Town, the County and the EDA, the Mayor had requested that the EDA respond to the issues discussed. Ms. McDonald noted that the EDA Board reviewed the issues at their last board meeting and hopefully the second week of December she would be able to report back to the Council on their findings.

Councilman Sayre asked if Ms. McDonald had heard of plans to place a Martin's gasoline station in the Town. Ms. McDonald explained that she has heard rumors, though nothing concrete.

Councilman Lauder expressed his appreciation for the work completed by Ms. McDonald, adding that he had received many positive comments from those in the community.

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

CONSENT AGENDA:

- A) COUNCIL APPROVAL – Bond Release for Warren Memorial Hospital Ambulatory Care Center – Lantz Construction
- B) COUNCIL APPROVAL – 2009 Town Calendar
- C) COUNCIL APPROVAL – Bids – Two Dump Trucks – Public Works Department
- D) COUNCIL APPROVAL – Resolution – Affirmation of Authorization to Pickup Employee’s Contribution to Virginia Retirement System (VRS) for the Town

Vice Mayor Hrbek moved that Council approve the consent agenda as presented.

Vice Mayor Hrbek asked that Council remove item #6D – VRS Resolution, to discuss the matter separately.

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

COUNCIL APPROVAL – Resolution – Affirmation of Authorization to Pickup Employee’s Contribution to Virginia Retirement System (VRS) for the Town of Front Royal

Vice Mayor Hrbek asked if the Virginia Retirement System (VRS) was an annual housekeeping measure. Human Resources Director, Julie Bush, indicated that Mr. Hrbek was correct.

Councilman Sayre asked if the retirement program had a standard rate that is made, or did the program fluctuate with the market. Ms. Bush stated that it was a pension-type plan that was based upon contributing the funds into it, and the State invested said funds. She added that it was strictly based on years of service and the amount contributed.

Councilman Sayre asked if it was the only pension plan the Town employees had. Ms. Bush noted that the Town had a retirement savings plan as well, which was similar to a 401k, though there were no matching Town funds, as the Town pays for the VRS program. She added that everyone that was a full-time employee participated in the VRS program and it was a good stable program.

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

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

⌘ **RESOLUTION – VRS Authorization for Town Employees** ⌘

Affirmation of Authorization to Pickup Employee’s Contribution to the Virginia Retirement System (VRS) for the Town of Front Royal – 55226 Under §414(h) of the Internal Revenue Code

WHEREAS, the TOWN OF FRONT ROYAL provides its employees with tax deferral pursuant to § 414(h) of the Internal Revenue Code with respect to their member contributions to the Virginia Retirement System (referred to as VRS) by picking up member contributions to VRS; and

WHEREAS, VRS keeps track of such picked up member contributions, and treats such contributions as employee contributions for all purposes of VRS;

WHEREAS, the Internal Revenue Service in Notice 2006-43 has provided transition relief for existing pick-up arrangements provided that an authorized person takes formal action to evidence the establishment of the pick-up arrangement no later than January 1, 2009.

WHEREAS, in order to avail itself of the protection given under Notice 2006-43, the desires to affirm its intention to establish and maintain a pick-up arrangement through formal action by its governing body.

NOW, THEREFORE, IT IS HEREBY RESOLVED that the existing member contribution pick-up arrangement is hereby affirmed as it relates to salary reduction elections in effect prior to the date of this Resolution, and it is further

RESOLVED that effective the first pay day on or after November 24, 2008, the TOWN OF FRONT ROYAL shall pick-up member contributions of its employees to VRS, and such contributions shall be treated as employer contributions in determining tax treatment under the Internal Revenue Code of the United States; and it is further

RESOLVED that such contributions, although designated as member contributions, are to be made by the TOWN OF FRONT ROYAL in lieu of member contributions; and it is further

RESOLVED that pick-up member contributions shall be paid from the same source of funds as used in paying the wages to affected employees; and it is further

RESOLVED that member contributions made by the TOWN OF FRONT ROYAL under the pick-up arrangement shall be treated for all purposes other than income taxation, including but not limited to VRS benefits, in the same manner and to the same extent as member contributions made prior to the pick-up arrangement; and it is further

RESOLVED that nothing herein shall be construed so as to permit or extend an option to VRS members to receive the pick-up contributions made by the

TOWN OF FRONT ROYAL directly instead of having them paid to VRS:
and it is further

RESOLVED that notwithstanding any contractual or other provisions, the contributions of each member of VRS who is an employee of the TOWN OF FRONT ROYAL shall be picked up using the method under which the employer will pay the employees' statutorily required contributions to VRS and the salary will not be modified.

PUBLIC HEARING – Proposed Power Sales Contracts between the Town of Front Royal and American Municipal Power-Ohio, Inc. (1st Reading)

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

Vice Mayor Hrbek moved that Council affirm on its first reading a Resolution authorizing the Town Manager to sign a power sales contract between the Town of Front Royal and American Municipal Power-Ohio, Inc. and certain other localities. He further moved that Council schedule a Special Meeting for Monday, December 1, 2008 at 5:00 p.m. in the Town Hall Conference Room to adopt on its second and final reading the said Resolution.

Vice Mayor Hrbek thanked Joseph Waltz for bringing the Town's power portfolio, including the hydro power project, into form. He also thanked the Town Manager for facilitating the project. Vice Mayor Hrbek explained that the former Council had begun the process of pursuing greener technology, as concerns were previously presented concerning the Town's environmental footprint. He stated that the hydro plant participation was another measure put in place which would save the citizenry in the long run. Vice Mayor Hrbek commended Staff for their efforts and creative energy ideas.

Councilman Sayre thanked the Town Staff for their hard work. He noted that the Town was investing in hydro plants along the Ohio River now, adding that the previous Council had received backlash when they approved the coal power plant. Councilman Sayre stated that the investment into the Ohio River hydro plants would diversify the Town's energy portfolio. He noted that the Council had saved the Town over \$6 million dollars, and they were now happy to provide a green technology with the hydro plant.

Councilman Conkey arrived at 7:15 p.m.

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 – Resolution – Addition of Streets to the Virginia Department of Transportation (VDOT) Municipal Assistance Payment Program

Councilman Holloway moved that Council adopt a resolution requesting the addition of the following streets:

- Village Court from Shenandoah Shores Road to Dead End;*
- 14th Street from Shenandoah Avenue to Royal Avenue;*
- N. Royal Avenue from 14th Street to Commerce Avenue;*
- Picket Court from Imboden Drive to Dead End;*
- Imboden Drive from Ewell Street to Happy Ridge Drive; and*
- Happy Ridge Drive from Dead End to Stuart Drive;*

into the Virginia Department of Transportation’s Municipal Payment Assistance Program.

Vice Mayor Hrbek asked the Town Staff to explain the resolution. Director of Public Works, Terry Seal, stated that the streets had been approved by the Town and they were now asking the State to help fund the maintenance of the streets.

- 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 – Add Streets to VDOT Payment Program ⌘

Addition of Streets to the Virginia Department of Transportation (VDOT) Municipal Assistance Payment Program

BE IT RESOLVED, by the Town Council of the Town of Front Royal, Virginia, that the Virginia Department of Transportation is hereby requested to add the following street(s) to the Virginia Department of Transportation Municipal Assistance Payment Program, as set forth under Virginia Code Section 33.1-41.1 and to make payments to the Town of Front Royal for Maintenance of said streets as provided therein; to wit:

Street Name	Termini	R/W Width	Pavement Width	Centerline Miles	No. of Lanes	Lane Miles
Village Court	Shenandoah Shores Rd. to Dead End		33	.12	2	.24
14 th Street	Shenandoah Ave. to Royal Ave	63	63	.23	5	.23
N Royal Ave.	14 th St to Commerce Ave.	64	64	.36	5	.36
Picket Court	Imboden Dr to Dead End	36	36	.15	2	.30
Imboden Drive	Ewell St. to Happy Ridge Dr.	36	36	.34	2	.68
Happy Ridge Drive	Dead End to Stuart Drive	36	36	.50	2	1.00

COUNCIL APPROVAL – Resolution – Request of Modification in Virginia Department of Transportation (VDOT) Functional Classification System

Councilman Sayre moved that Council adopt a resolution requesting a modification in the Virginia Department of Transportation Functional Classification system to allow Happy

Creek Road from the Town Limits to 6th Street be changed from a collector street to an arterial street.

In response to Vice Mayor Hrbek’s questions, Mr. Seal defined a collector street as a side street within the Town, and an arterial street as a main road through the Town. Mr. Seal explained that VDOT does have to endorse the request once it was approved by Council. Mr. Graham stated that Mr. Seal had met with VDOT at times through the year and they reviewed the streets of the Town. Mr. Seal added that VDOT recommended the changes as stated in the resolution.

Councilman Parker asked why 14th Street and a portion of N. Royal Avenue between Commerce Avenue and 4th Street would not be considered an arterial street. Mayor Tewalt clarified that 14th Street was an arterial street at this time.

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 – Request VDOT Classification Modification

**Request of Modification in Virginia Department of Transportation (VDOT)
Functional Classification System (Collector Street to an Arterial Street)**

BE IT RESOLVED, by the Town Council of the Town of Front Royal, Virginia, that the Town of Front Royal is requesting a modification in the Virginia Department of Transportation’s Functional Classification System. Said street to be changed from collector to arterial is provided therein; to wit:

Street Name	Termini	Present Function Class	Proposed Function Class	Centerline Miles	No. of Lanes	Lane Miles
Happy Creek Rd.	Town Limits to 6 th Street	COL	ART	2.13	2	4.26

BOARD OF ARCHITECTURAL REVIEW APPEAL – Michael V. Greenan – 227 S. Royal Avenue

At the request of Mayor Tewalt, Town Attorney Robinett read the following ordinance:

§175-94 (A) HISTORIC DISTRICT - APPEALS

Any applicant aggrieved by a final decision of the Board of Architectural Review may appeal said decision to the Front Royal Town Council, provided that such appeal is filed, in writing, with the Town Clerk within ten (10) days after the final decision is rendered by the BAR. The Town Council will hear the matter at its next regularly scheduled meeting and will render its decision on the appeal at the following regularly scheduled meeting. The Council, in

its discretion, may consider additional evidence and submissions during the period between meetings and at the second regularly scheduled meeting prior to rendering its decision.

Mr. Greenan, the applicant, explained that he had removed the 1950's asphalt siding on the home and painted the German siding. He noted that the paint would not remain on the German siding for very long. Mr. Greenan stated that he had used the large yellow vinyl sided building at the corner of Stonewall and S. Royal Avenue as a guide in upgrading his home. He also presented an example of the siding he wished to use on his home, noting that the siding was thick and very well made. Councilman Lauder asked how long the siding would last; Mr. Greenan stated that the lifespan should be 30-40 years.

Mr. Greenan noted that he was not aware that he needed a permit to replace the windows and add the vinyl siding. He expressed that he was putting in expensive vinyl windows and doing more than what was required to maintain his home. He asked to be treated as everyone else within the community in relation to improving his property.

Councilman Holloway asked if the applicant had considered wooden windows with aluminum metal clad on the outside. Mr. Greenan explained that he could not afford such improvements. He stated that the windows he was going to install, were very nice Andersen Windows and the Board of Architectural Review had made the wrong decision.

Mr. Greenan stated that he could not keep paint on the German siding and did not want to repaint every three years. Councilman Parker asked if he removed the asphalt siding on the home; Mr. Greenan noted that he had. Councilman Parker asked if he planned to keep the front details; Mr. Greenan noted that he did plan to keep the details he was able to as long as it did not affect the possibility of the wood rotting underneath.

Vice Mayor Hrbek asked if Council had to wait until the December 15th meeting to render their decision. Mayor Tewalt noted that the ordinance stated that they did need to wait.

Councilman Sayre stated he recently repainted his home for the third time in ten years, and it could be difficult at times to have paint adhere to a structure for an extended period of time.

Vice Mayor Hrbek thanked Mr. Greenan for his work to improve said area of the Town, adding that Mr. Greenan would have his support at the December 15th meeting.

COUNCIL APPOINTMENTS – Board of Architectural Review

Councilman Holloway moved that Council reappoint Gregory A. Harold and appoint John Stann to the Board of Architectural Review; said terms to expire November 13, 2012.

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)

REFER TO PLANNING COMMISSION – Outreach Proposal for Comprehensive Plan Review and Request for Proposals (RFP) for Vision Statement

Vice Mayor Hrbek moved that Council refer to the Planning Commission the Outreach Proposal for Comprehensive Plan Review and Request for Proposals (RFP) for Vision Statement as recently presented to Council at the November 17, 2008 worksession.

Vice Mayor Hrbek highlighted that Council had moved to change a budget line item to fund the Vision Statement. He explained that his hope was that the plan would not be to impose what should be built in certain areas, but rather a guide to developers and entrepreneurs as they build or renovate within the Town. He expressed hope that that many citizens would offer feedback regarding the vision for the Town. Vice Mayor Hrbek thanked the Staff for their work on the project.

Councilman Conkey echoed the comments of Vice Mayor Hrbek. He explained that prior criticism noted that the Town had received little public input, and he asked the public to attend the meetings pertaining to the impending changes and advise the Town of their opinions. Councilman Conkey expressed hope that the press would place the matter into the papers many times in order to offer the community the ability to provide honest opinions and creative ideas. He encouraged citizens to spread the word on the project and he thanked the Planning & Zoning Department in advance for their hard work.

Councilman Sayre stated that when Council discussed the issue during their worksession it focused on the Royal Phoenix site and the surrounding area. He recalled that when islands were installed along Shenandoah Avenue in front of the hospital to slow traffic, some members of the prior Council asked if the road was still intended to take traffic to the Royal Phoenix area. Councilman Sayre noted that it was a good idea to have visions in print in order to define how the Town may look in the future.

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)

RECEIPT OF PETITIONS OR CORRESPONDENCE FROM THE PUBLIC

There were no receipts or correspondence from the public.

There being no further business, the Mayor declared the meeting adjourned at 7:48 p.m.

APPROVED:

Jennifer E. Berry
Clerk of Council