

The regular meeting of the Town Council of the Town of Front Royal, Virginia was held on February 28, 2011, in the Warren County Government Center's Board Meeting Room. Mayor Darr 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 Timothy W. Darr
Councilman Thomas E. Conkey
Councilman Chris W. Holloway
Councilman Carson C. Lauder, Jr.
Councilman N. Shae Parker
Councilman Thomas H. Sayre
Councilman Hollis L. Tharpe
Interim Town Manager Steven M. Burke, P.E.
Town Attorney Thomas R. Robinett
Clerk of Council Jennifer E. Berry, CMC

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

Councilman Parker moved that Council approve the Regular Council Meeting minutes of February 14, 2011 as presented.

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

RECEIPT OF PETITIONS OR CORRESPONDENCE FROM THE PUBLIC

Leonard Sherp, of 214 E. Stonewall Drive, noted that he has received comments from renters in Front Royal and they were concerned with not receiving the citizen survey. Mayor Darr noted that the Clerk of Council or the Assistant to the Town Manager could be contacted at Town Hall for a copy. Mr. Burke added that the survey was available online and copies were always available at Town Hall as well.

REPORT OF THE MAYOR, COUNCIL & STAFF

Mr. Burke:

- Thanked the Public Works crew for their work during the recent ice storm;
- Thanked Electric Department for their dedication to the citizenry during the five power outages over the weekend;
- Announced that Bruce Drummond was retiring from his position as Planning & Zoning Director. He stated that Mr. Drummond had handled the Department well and would be sorely missed;
- Noted that the Town was hiring for number of employment openings. He encouraged those in the community to visit the Town website or come into Town Hall to obtain an employment application; and
- Stated that Jonathan McMahan was working to upgrade the Town's website and hopes to have it online in the coming days.

Jennifer McDonald, Executive Director of the EDA, noted that the conservancy side of Royal Phoenix was slated for release in 2014. She stated that the EDA had been working with some of the Route 522 Corridor businesses to assist their organizations with the struggling economy issues. Ms. McDonald announced that during February the EDA had four inquiries and one prospect visit the community.

Ms. McDonald noted that the local paper had a comment in January stating that the Town was 'giving away too much to new businesses locating in the community'. She shared responses which she received from area businesses regarding the comment; said responses referenced businesses being labeled as burdens on the water & sewer system and noting that the businesses could certainly take their organizations to another community where they would be welcomed. She explained that another business, with 300 jobs, noted that they would move to another community if they were not welcome in Front Royal. Ms. McDonald reminded Council that the Town was unable to give away something that they did not have. She stated that the incentives offered to incoming businesses for a certain number of years, not for the life of the business. Ms. McDonald opined that the locating new businesses to the area was about providing jobs to the citizens of the community. She asked Council to take note of the comments that are made regarding the businesses of the community, adding that area businesses were currently unhappy.

Councilman Sayre stated that the commercial and industry brings in tax revenue and jobs, which was the top priority. He noted that the Town had large upgrades to the water and wastewater plants which were requirements and there was a balancing effect to consider. Ms. McDonald noted that for each business recruited to the area, it takes a slight burden off of the tax paying and/or water & sewer rate paying citizen. Mr. Sayre stated that any commercial business or industry adds to the tax base, and were not burdens.

Councilman Conkey announced that Joe's Steakhouse of Woodstock had purchased Dean's, noting that EDA had some discussions with the organization. He noted that he was looking forward to them moving into Town and wished them every success. Mr. Conkey stated that that type of growth, particularly in that area of town was vitally important. He thanked Ms. McDonald and the EDA for their efforts to bring Joe's Steakhouse into the community. Ms. McDonald stated that they were shown places downtown, within the corridor and the Dean's site and they chose that site due to the numbers received by the Tourism Division of the Town.

Councilman Sayre noted that many enjoy Joe's Steakhouse in Woodstock, as it was a great restaurant in that community. He stated that they should be a great asset to Front Royal as well.

Councilman Sayre explained that the last meeting he sent an email to the Warren Sentinel, and read the text into the record:

Reporter Meghan Moeslein gave three false and misleading impressions about me in her Thursday, February 17, 2011 edition of the Warren Sentinel. On Monday, February 14, 2011, during the Town Council's regular meeting, I discussed some of the pros and cons of moving the May town elections to November.

She has me saying in quotes, '... , I actually wish it would become more partisan'. In fact, if one goes to the town's website and watches the video of the regular meeting, I clearly say the opposite, '**... ,but I actually wish it *wouldn't* become more partisan.**' Somehow Ms.

Moeslein completely left out the word 'but' and changed 'wouldn't to would.'

Further, Ms. Moeslein has in huge, bold type, my friend Mayor Darr saying to me, 'Are you done Mr. Sayre?' at the end of my speaking. Mayor Darr on tape says these words in a normal low voice and I answer back 'yes, thank you.'

Moreover, not as egregious she somehow writes that it appears I said Congressman Frank Wolf and 'other state level delegates' were present at the 10th District meeting in Warren County. I never said Congressman Frank Wolf was present nor did I ever say the word 'delegate' or 'delegates'. I appreciate that you print this in its entirety. Thank you.

Councilman Sayre noted that he looked over the correction policy of the Warren Sentinel, and he stated that perhaps the policy does not apply to him.

Councilman Sayre thanked the Staff and Interim Town Manager Steve Burke for addressing which arose on Sunday. He noted that the Staff was very helpful, and he thanked them for their quick attention.

Mayor Darr thanked Mr. Coats for facilitating the Council Goal Setting Session. He also thanked Staff for their reports to Council at Tuesday and Wednesday's budget presentations.

Mayor Darr congratulated Mr. Drummond for a job well done as Planning & Zoning Director. He thanked Mr. Drummond for his notable efforts in serving the Town.

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

CONSENT AGENDA - NONE

PUBLIC HEARING – Special Use Permit to Operate a Bed & Breakfast at 1418 Virginia Avenue – Wally & Kelly Martin

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

Councilman Conkey noted that he owns a bed & breakfast within the Town, and he had previously read his conflict of interest statement into the record at a worksession on the matter [February 7, 2011]. He asked Mrs. Berry to insert said statement into the minutes:

Pursuant to the requirements of Section 2.2-3711(A)(2) and 2.2-3115(G) of the Code of Virginia, 1950, as amended, I, hereby, declare that the discussion and potential approval of SUP-10-12-250, a Special Use Permit for a proposed Bed & Breakfast in an R-1 Zoning District, may have some affect on me as the Owner of such a business. Nevertheless, I am part of a group of individuals in Front Royal who own such businesses, as there are, to my knowledge, a total of four B&B's in the Town. I declare that I am able to participate

in this transaction fairly, objectively, and in the public interest.

[signed Thomas E. Conkey]

Vice Mayor Holloway moved that Council approve a Special Use Permit application request from Wally and Kelly Martin to operate a Bed & Breakfast in an R-1, Residential Zone at 1418 Virginia Avenue subject to the following conditions:

- 1) The maximum number of guest rooms shall be three (3);*
 - 2) The applicant shall comply with the requirements of 175.107.2 of the Zoning Ordinance, Bed and Breakfast Uses in Residential Zoning Districts by Special Use Permit; and*
 - 3) The applicant shall comply with all state requirements regulating Bed and Breakfast establishments.*
- (SUP10-12-250 - Tax Map 20.A2, Section 3, Block 62, Lot 1A)*

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

PUBLIC HEARING – Ordinance Amendment to Provide Definitions for Catering Service and Allow Catering Services in I-2 by Special Use Permit

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

Vice Mayor Holloway moved that Council adopt an Ordinance to amend and re-enact Front Royal Town Code Sections 175-3 and 175-65(B), to provide definitions for catering service and to allow catering services in the I-2 Zoning District by Special Use Permit.

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

⌘ ORDINANCE: Definitions for Recreation Facilities ⌘
An Ordinance To Amend And Re-Enact Front Royal Town Code Sections 175-3 And 175-65 B, To Provide Definitions For Catering Services And To Allow Catering Services In The I-2 Zoning District By Special Use Permit

WHEREAS, various Sections of Title 15.2 of the Code of Virginia, 1950, as amended, expressly authorize the Town Council to enact Ordinances which modify and amend its existing Zoning Ordinance regarding uses of real property within the Town; and

WHEREAS, the said Town Council has received requests and considered whether or not it should expand definitions and I-2 uses of such real estate, and decided that it is in the best interests of the Town to do so.

NOW THEREFORE, BE IT ENACTED by the Town Council of the Town of Front Royal, Virginia, that Sections 175-3 and 175-65 B of the Front Royal Town Code are hereby amended and re-enacted, as follows:

Section 175-3 DEFINITIONS

Catering Services - An establishment that prepares meals or food on premise with pickup/delivery for consumption off-site.

Section 175-65 B. USES PERMITTED BY SPECIAL PERMIT

12. Catering Services

PUBLIC HEARING – Special Use Permit to Operate a Catering Service in an Industrial Zone at 1190 Progress Drive – Kay Schroyer – Gourmet on the Go

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

Councilman Sayre congratulated Ms. Schroyer on her incoming business and welcomed them to the community.

Vice Mayor Holloway moved that Council approve a Special Use Permit Application from Kay Schroyer to Operate a Meal Assembly and Catering Service in an I-2, Industrial Employment District (Gourmet on the Go) at 1190 Progress Drive, subject to the following conditions:

- 1) *There shall be no food served to the public on-site and,*
- 2) *The business must comply with all state and local requirements for food preparation services. (SUP12-12-252 – Tax Map 20.A22, Section 1, Block 1B, Parcel 15).*

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

PUBLIC HEARING – Ordinance Amendment to Provide Definitions for Recreation Facility (Public) and Government Offices and Buildings

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

Vice Mayor Holloway moved that Council adopt an Ordinance to amend and re-enact Front Royal Town Code Section 175-3, to provide definitions for recreation facility (public) and government offices and buildings.

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

⌘ ORDINANCE: Definitions for Recreation Facilities ⌘
**An Ordinance To Amend And Re-Enact Front Royal
 Town Code Section 175-3, To Provide Definitions For**

Recreation Facility (Public) And Government Offices And Buildings

WHEREAS, various Sections of Title 15.2 of the Code of Virginia, 1950, as amended, expressly authorize the Town Council to enact Ordinances which modify and amend its existing Zoning Ordinance regarding uses of real property within the Town; and

WHEREAS, the said Town Council has received requests and considered whether or not it should expand definitions and decided that it is in the best interests of the Town to do so.

NOW THEREFORE, BE IT ENACTED by the Town Council of the Town of Front Royal, Virginia, that Section 175-3, of the Front Royal Town Code is hereby amended and re-enacted, as follows:

Section 175-3 DEFINITIONS

Recreation Facility (Public) - facilities and uses sponsored by the Warren County Parks and Recreation Department and/or the Warren County School Administration and/or other public entities.

Government Offices and Buildings - offices and structures used primarily for conducting the affairs of government. This definition shall include school maintenance shops and work areas.

For purposes of Section 4-4 (E) of the Town Code, this Ordinance is considered "routine", and shall be effective on its passage.

PUBLIC HEARING – Virginia Electric and Power Company Water & Sewer Services (Dominion Resources Services, Inc.) Contract

Mayor Darr opened the public hearing.

Jim Eck, Vice President of Business Development, Richmond, Virginia, for Dominion Power, thanked Council for the opportunity to participate in moving the project forward in cooperation with the Town. He noted that their intention was to reach a satisfactory arrangement for all involved. Mr. Eck noted that with the rate increase information from January, it affected their plan for the facility significantly and caused adverse impacts for Dominion to address. He voiced his appreciation regarding the submittal provided by the Town Attorney. Mr. Eck noted that they have represented that they would make the capital investments to the system and addressed the request made for the looping project. He explained that Dominion has, in recognition of the economic situation, presented an alternative arrangement in where they would commit to the tap fees, while asking for an adjustment of the rates for a ten year period. He expressed hope that Council would consider the resolution on the matter, adding that Dominion has provided the detailed information to the Town Manager and the Town Attorney.

Councilman Sayre noted that it was a wonderful discussion at the worksession. He asked about the portion of the project relating to the loop system. Mr. Eck noted that Dominion was committed to the pump station investments and they had received a request to participate in the looping system as well. He noted that Dominion would consider contributing \$3.5 million

towards the looping project under the agreement, with the ten year agreement at the lower utility rate.

Councilman Parker asked if the old rates, pre-January, would have worked for Dominion. Mr. Eck noted that the previously published rates, versus the current rates, vastly impacted the financial plan for Dominion's site on Kelly Drive. Councilman Parker noted that the life of the facility was fifty years. He asked how the water rate structure would work for the remaining forty years, if it would not work for the first ten years. Mr. Eck stated that when they do the net-present value of future payments, they consider the near-term rates as causing more economic harm, even though any water consumption they have in the outer years would be at a higher rate. He added that overall it would be achievable economics for Dominion. Mr. Eck stated that they were aware that the looping system was important for the Town and they would be contributed to the project in order to have it come to fruition.

Councilman Sayre stated that, during the worksession, Dominion had stated that the looping system, was not necessarily something that would be directly beneficial to their business. He then asked about the rates for the first ten years and whether the worksession discussion was still accurate. Mr. Eck noted that he had received a contract for the first five years at one times the rate; and one for one and one-half times the rate, with two times the rate beyond that period. He stated that they had been presented with the request for participation in the looping project, and Dominion had noted that could be done up to \$3.5 million. He stated that in response to that request to participate, they are asked for longer term at one times the rate.

Councilman Sayre stated that at one and one-half times the rate the Town would roughly be giving up about \$5 million. He expressed his agreement with Dominion's original proposal, leaving out the looping system. Mr. Eck noted that if the Town had a step rate process without the looping system, it would be something that would be considered.

Councilman Conkey stated that many people had painted the Council inappropriately on the rate increase matter. He noted that an upgrade requirement was placed on the community and Council has no control over said increases, as they are demanded by the requirements. Mr. Conkey explained that the Town has a water structure that they are required to support and the Town is not a for profit organization. He noted that they have a cost accounting system that requires them to sell the water for the amount it costs to create clean water. He stated that while it is currently painful for Dominion to process the new rates; however, it seems that Dominion was notified of the new rate structure sometime back. He expressed concern with discussing the matter further at the eleventh hour.

Mr. Ragone, Dominion's Director of Business Development, explained that they have been speaking with the Town on the matter for about a year. He noted that they contracted for their own water study of the Town's system, then they were told that the Town would have their own consultant on the issue; he added that Dominion had received the Town's consultant report last week. Mr. Ragone noted that they were not aware of the rates before they saw the notice in the paper.

Councilman Sayre stated that they had a sacred trust they must take care of the system for the citizenry. He noted that they owed said obligation to the citizenry and the industries, and it was a balance that Council takes seriously.

Vice Mayor Holloway noted that Dupont received a 20 year single rate many years earlier, and he was pleased that that was not the request of Dominion. He asked about the number of jobs during the construction process. Mr. Eck stated that there would be between 600-800 jobs during construction, with 45 permanent jobs in place at the plant. He noted that the total capital outlay will be about \$1 billion and the construction period would be about 30-36 months.

Councilman Lauder noted that the water and sewer capacity was in place, and residents need not worry about having enough water. Mr. Eck stated that said comment is consistent with the studies in place.

Councilman Conkey stated that he spoke with folks in St. Paul, Virginia, specifically the Mayor, who noted that there were a number of people there during construction. He added that St. Paul did have new restaurants and ancillary businesses related to the coal plant. Mr. Conkey noted that there were a significant number of specialty employees who would come from outside the area. Mr. Eck noted that they were encouraged to hire the right skills, though thirty percent will be local workforce.

Councilman Conkey noted that he recognized that the labor pool in Northern Virginia was significantly different from Wise County, Virginia and hopefully that will assist in the matter.

Mr. Eck thanked the Council, Mr. Burke and Mr. Robinett for their assistance during discussions, adding that Dominion wished to find a reasonable solution to the situation.

Mayor Darr thanked Dominion for their efforts in attempting to locate within the community. He voiced hope that with the help of the local media as well as the Town's website, hopefully the public would understand the project in full.

Ms. McDonald mentioned a member of Council had noted that they were 'giving up \$5 million'; she stated that Council was not giving up \$5 million, as they do not have that amount. She stated that if Council and Dominion could not reach an agreement then the Town was giving up 40 years of water and sewer fees and a billion dollars of capital outlay. Ms. McDonald noted that luckily the Town has the restaurants in place to support the workers and that gives comfort to the business owners that they will have those patrons.

Ms. McDonald noted that they had discussed the rate amounts and looping system contribution from the original discussion, adding that she was unaware of the worksession last week, or she would have attended. She added that they were not aware of the rate increases until they came out into the newspaper, noting that they immediately held a meeting with corridor users and Mr. Burke attended said meeting. Ms. McDonald stated that no one blames the Town for the increases, as everyone understands that the rate increases are the result of a mandate. She voiced the importance of 600-800 jobs for the community.

Leonard Sherp, of 214 E. Stonewall Drive, asked for clarification regarding the statement that the Town could assure the community that there was enough water for all. He referred to the water restrictions which take place several times annually. Mr. Burke explained the permit through the State for water withdraw that includes stipulations for when the flow in the river reaches certain levels. He added that Dominion recognizes that when there is any conservation measure, they would be included in said request.

Mr. Eck stated that when the consultant report's arrived recently, it indicated that the looping system was not required. He noted that at that point they discussed the five year one time rate, and then the five year one and one half time rate.

Councilman Sayre stated that Mr. Sherp had made a legitimate comment, noting that previous reports had shown that the river has lost 50% off the flow that it once had.

Councilman Lauder moved that Council postpone discussion on the Dominion utility agreement until March 14, 2011.

Mayor Darr noted that many ongoing comments have been made on the matter. He explained that the Town was working in every way possible to make this happen for the good of the Town and Warren County, and as a whole for the business community. Mayor Darr reminded everyone that the water system belongs to the Town citizenry, not the Council, and the Council must be cautious of working with large changes to the system. He noted that Council needed more time to discuss the issue, and that their discussion last week was an impromptu gathering at the worksession for discussion on the issue. Mayor Darr stated that they needed to continue to work towards a true agreement and true compromise that meets the needs of everyone. He noted that the request to postpone the matter, is a genuine request. He added that the Town was attempting to do the best for all involved, as they understood the economic impact and the long term effects of the project.

Councilman Conkey expressed his agreement with Mayor Darr. He noted that it would be good to the community and Council was only attempting to take the time make the right decision.

Councilman Sayre noted that Council has bonded well during the discussion with Dominion, added that Councilman Parker and others had made many good comments on the issue.

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

COUNCIL AUTHORIZATION – Sponsorship of Warren County’s 175th Anniversary Celebration

Councilman Parker moved that Council authorize the sponsorship of Warren County’s 175th Anniversary Celebration in the amount of \$1,000.

Councilman Conkey asked about where the budget amount would come from. Mr. Burke stated that it would be removed from the Town Manager’s section of the budget.

Councilman Conkey noted that due to some recommendations from the Blue Ribbon Committee, he had been reviewing budget items more intently. He stated that former Vice Mayor Hrbek would say that the County tax payers were asking the Town tax payers to pay for the County’s birthday party. He noted that he asked himself it was an appropriate and necessary request for a donation, though it was not a large amount. He stated that he had read the information provided and while he was unsure of what the celebration will encompass.

Mr. Burke noted that the Town had been assisting the County through use of the Town's infrastructure with banner advertisements on the light poles for example. He added that the Town's Tourism Coordinator had been attending their meetings to see where the Town could assist County, and he anticipates that when the Town has similar events, the County would reciprocate. Mr. Burke added that as part of their sponsorship, the Town employee's would have the availability of the pool for an event.

Councilman Lauder noted that he sees a direct connection with the Dominion matter. He stated that the Dominion Power project was a County project and the town will help with that matter as well, just as they do with small birthday celebrations for the County.

Councilman Sayre mentioned that every dollar spent brings in triple or more to the community. He noted that the citizens in the Town are also Warren County residents. He added that it was a small amount to assist in the celebration.

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

COUNCIL APPROVAL– Letter of Support for Allocation of Federal Housing Tax Credits for Royal Hills Apartments Phase I

Councilman Parker moved that Council approve a request from James M. Chandler, Director of Low Incoming Housing Tax Credit (LIHTC) Programs for a Letter of Support for the allocation of federal housing tax credits for Royal Hills Apartments Phase 1. (VHDA Tracking Number 2011-C-83 and VHDA Tracking Number 2011-C-71) ; and authorize the Interim Town Manager to send such Letter of Support by April 1, 2011.

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

There being no further business, the Mayor declared the meeting adjourned at 8:13 p.m.

APPROVED:

Jennifer E. Berry
Clerk of Council