

The regular meeting of the Town Council of the Town of Front Royal, Virginia was held on December 12, 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  
Vice Mayor Chris W. Holloway  
Councilman Thomas E. Conkey  
Councilman Carson C. Lauder, Jr.  
Councilman N. Shae Parker  
Councilman Thomas H. Sayre  
Councilman Hollis L. Tharpe  
Town Manager Steven M. Burke, P.E.  
Town Attorney Douglas W. Napier  
Clerk of Council Jennifer E. Berry, CMC

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

Town Attorney Napier submitted this memo at the beginning of the meeting:

Pursuant to Virginia Code §2.2-3115. E., I disqualify myself from participation in matters involving Heptad, LLC, or the proposed Swan Farm development, currently pending before the Front Royal Town Council. I further disqualify myself from the matter of proposed amendments to the Town’s Zoning Ordinance concerning the Planned Neighborhood Development (PND) District. Since being reasonably certain that I would be offered employment as Front Royal’s Town Attorney, but before being actually employed in that position, I had a personal interest in Heptad, LLC, so its proposed development in Swan Farm. The real estate involved is owned by Heptad, LLC. I was formerly registered agent for Heptad, LLC, so its former address, 195 Park Ridge Court, Front Royal, Virginia, was listed as the business address of record for Heptad, LLC. However, before being employed as Town Attorney, I resigned as registered agent for Heptad, LLC. To the best of my knowledge, the current business address for Heptad, LLC, is 905 Virginia Avenue, Front Royal, Virginia 22630. The real estate involved belonging to Heptad, LLC, is the Swan Farm property located north of and near Route 55 (John Marshall Highway) in the east side of the Town of Front Royal, consisting of two parcels, identified as Tax Map Nos. 20-A2-02-11 and 20-A2-12-1, both LR 20090004959. *Signed Douglas W. Napier*

*Vice Mayor Holloway moved, seconded by Councilman Parker that Council approve the Regular Council Meeting minutes of August 22, 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)

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

Linda Allen, of 416 Salem Avenue, explained to Council that the Power of Partnership workshop was successful, and they would like to continue their work with the Chamber of Commerce as well as Downtown Front Royal, Inc. She noted that they would hope for an enlarged list of invitees, adding that there were many town businesses that desired to form a business association to assist the economic drivers in the community. Ms. Allen stated that she reviewed the revenue and job situation in Front Royal regarding tourism, adding that a chart had been developed which noted the days and hours that businesses were open. Ms. Allen explained to Council that the Virginia Tourism Corporation had a very informative website.

Bill Pierceall, of 1380 Reliance Road, Middletown, read the following comments into the record:

Mr. Town Attorney Napier, I continue to wait for your answers to the 6 questions I placed before you at Councils public meeting November 28th. Silence is not a viable strategy to solve any problem.

Mr. Napier, don't you find it troubling not a single Councilman rose during that November 28 meeting to speak in your defense? More troubling is this continued silence. Most troubling is your conflict of interest statement in the matter of Ron Llewellyn and his company, Heptad. Your statement was not dated. What kind of attorney prepares a document declaring a conflict of interest and fails to date it?

Worst of all, Mr. Napier, you were expected to provide proof the Warren County Board of Supervisors gave you their written permission to violate your written employment agreement to become employed by private sector clients during your tenure as full-time Warren County Attorney. May I expect this written permission will be dated and part of the Warren County Board of Supervisor's meeting minutes?

Tied for the honor of 'most troubling' is lack of leadership in this matter by Mayor Darr, whose campaign rhetoric promised if elected Mayor he would get the Town Council under control, support the Town Manager, and not be influenced by outside special interests.

Which of you Councilmen will admit to being under the control of Mayor Darr? Which of you can rise to defend the leadership of Mr. Darr and the allegations against Mr. Napier? With regard to the circumstances surrounding Mr. Napier's abrupt resignation in 2006 as Warren County Attorney, if those circumstances were sufficient to motivate demands for Napier's resignation from public office, certainly they weigh against hiring him for another? Do the members of the Town Council consider these circumstances of past ethical lapses have no bearing on his employment as Town Attorney?

Mayor Darr, which Good Old Boy's special interests have you ignored? Mr. Burke, as Town Manager you have my deepest sympathy for being caught between a rock and a hard place. Mr. Holloway, on the recent occasion of your conversion to the Democratic Party, would you take the opportunity of giving us your views concerning the principles of ethics and how they apply to the issues I raise concerning Mr. Napier's qualifications to the position he now holds?

Mr. Lauder, will you make a campaign promise to create and follow a Code of Ethical Conduct to guide town employees, other Councilmen, and yourself? Mr. Tharpe, will you be the first to tell us your views concerning

employment agreement violations by Mr. Napier? Mr. Mayor and Councilmen, as bad as things stand today, the silence of crickets guarantee it can only get worse.

Timothy Ratigan, of 241 Church Street, stated that he would like to invite the Mayor and members of Council to the American Legion Community Band at 7:30 p.m. for a performance tomorrow evening at Boggs Chapel on the grounds of Randolph Macon Academy. He noted that they would also be gathering items to benefit CCAP.

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

Mr. Burke:

- Stated that the IT Manager and Director of Finance have brought online tax payment for the citizenry and they were addressing the online bill payment for utility accounts;
- Announced that the Business Forum would be at Samuels Library at 6:30 p.m.;
- Noted that Criser Road work would affect the lanes of traffic from December 27-28<sup>th</sup>;
- Stated that the Town would be closed during various dates for Christmas and New Year's Day. He reminded the citizens of the refuse and recycling changes and the Christmas Tree collection for residents; and
- Wished Council and the citizens a very Merry Christmas and a Happy New Year.

Councilman Parker read the following into the record:

Tw'as the middle of December in the Royal Frontier,  
As we await a jolly elf and his reindeer.  
The power is on, the water is flowing,  
So all of our citizens can be ho-ho-ho'ing.  
No drama this season, it's actually quite calm,  
I hope it stays that way all winter long.

Councilman Conkey noted that a local paper noted that the Board of Supervisors members regarding the tourism industry being not the best use of County funds and perhaps it was taken out of context. Mr. Conkey stated that the Board of Supervisors most likely understood that funding for tourism was an investment in the community. He noted statistics from the Virginia Tourism Department, adding that the Town's auditor's report stated the financial impact of the spending on sales, lodging, meals and PILOT amounts. Councilman Conkey stated that tourism was vitally important to the Town.

Councilman Conkey stated that he visited the boat launch on Luray Avenue and walked upon the trail along the river. He noted that paving work was in place up to the Town line and it seemed to end at said point. Mr. Conkey stated that he has spoken with the Town Manager and he challenged the County to do better next time.

Councilman Lauder noted that he paid his respects to Ralph Murphy's family this evening at the funeral home. He praised Mr. Murphy for his many years of service to the Town of Front Royal.

Councilman Sayre stated that it was the season of Advent, and he wished everyone a very Merry Christmas and a Happy New Year. He also noted that there had been a fatality along Happy Creek Road this morning and he extended prayers to the family.

Councilman Sayre noted that he would be at the Randolph Macon Academy event that Mr. Ratigan mentioned, adding that he would also be on site at the St. John's soup kitchen at times.

Chief Furr stated that due to the national news matters regarding the sexual abuse of children, he would like to note the mandatory reporting requirements under some employment positions. He added that #800-552-7096 was a 24/7 toll free number for Social Services for child protective services and the information presented can be given anonymously.

Mayor Darr stated that the Christmas season brings many events that he was pleased to attend on behalf of the Town. He noted that he was fortunate to be a part of the Christmas Tree Lighting event at the hospital for example. Mayor Darr thanked Steve and Maggie Sill for their outstanding Christkindlmarkt this season, adding that the parade was also very successful and it was appreciated greatly by the community. He stated that he was able to attend the Building Association Dinner and the Salvation Army Bell Ringing opportunities as well. Mayor Darr noted that he and Councilman Conkey participated in the Stuff the Truck Campaign also.

Mayor Darr stated that the Town employees embraced two notable outreach projects, the Salvation Army and Toys for Tots this season. He explained that in the tough economic times many hands were needed, and he encouraged those to participate with Toys for Tots and the Salvation Army if they are able. Mayor Darr stated that he was also pleased to attend the RMA Christmas Concert at Boggs Chapel.

Mayor Darr wished everyone a Merry Christmas and a Happy Holiday Season on behalf of the Town Council.

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

**CONSENT AGENDA:**

- A. COUNCIL APPROVAL: Residential Sewer Backup Protection Program Submission from Rigoberto Hernandez of 64 Walker Avenue
- B. COUNCIL APPROVAL: Acceptance of Funds Collected through the Division of Motor Vehicles' Friendly License Plate Program
- C. COUNCIL APPROVAL: Repairs to Projector at the Warren County Government Center Boardroom
- D. COUNCIL APPROVAL: Bid – Various sizes of Fire Hydrants, Gate Valves and Ductile Iron Pipe for Water & Sewer Maintenance Department
- E. COUNCIL APPROVAL: Bid – Fuel for 2012 Calendar Year
- F. COUNCIL APPROVAL: Bid – Concrete for 2012 Calendar Year

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)

(By Roll Call)



*Councilman Parker moved, seconded by Vice Mayor Holloway that Council affirm on its first reading an ordinance amendment to Code Section 175-3, "Definitions" and 175-47.A, "Uses Permitted by Right" that would add definitions of Public Events and Public Property, as well as allow public events, as defined as a use that is permitted "by right" in the Downtown Business District (C-2).*

Mr. Burke stated that the changes would allow an event that comes to the Town as a "special event" if it was held on public property. Councilman Parker asked if the changes would remove some of the redundancy in the process; Mr. Burke noted that it would.

Councilman Sayre asked if there was a cost for the permit. Mr. Burke noted that there was not.

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)  
(By Roll Call)

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**COUNCIL APPROVAL – Amendments to Town’s Zoning Ordinance re: Planned Neighborhood Development (PND) District (2<sup>nd</sup> Reading)**

*Councilman Parker moved, seconded by Councilman Conkey that Council adopt on its second and final reading an amendment to Sections 175-37.11; 175-37.13.B; 175-37.17.A; 175-37.17.B [including letter reference changes to 175-37.17.C-G]; 175-37.18.A.; 175-37.18.D; 175-37.19.C and 175-37.19.F that would modify some of the existing regulations of the Planned Neighborhood Development (PND) District, as presented.*

Councilman Sayre noted that he would vote against the matter due to the high growth rate it would allow.

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

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**COUNCIL APPROVAL – Resolution to Reclassify Tourism Department Positions**

*Vice Mayor Holloway moved, seconded by Councilman Sayre, that Council approve a Resolution reclassifying the position of Visitor Center Coordinator from part-time to full-time at a pay grade of 18; and, reclassifying the position of Marketing Coordinator from full-time to part-time at a pay grade of 14, effective upon approval of Resolution.*

Councilman Conkey stated that the Town Manager needs to have a bit more flexibility with the matter. He noted that the talents of the individuals needed to be considered and should the Town Manager feel that the resolution needed to be rewritten, he would certainly be supportive of the his recommendation.

Councilman Conkey noted that he would support the resolution as presented, adding that he wanted to assure the Town Manager that amendments would be well received.

Councilman Parker echoed Councilman Conkey's comments, adding that perhaps though the applicants should be reviewed before the Town chose to amend the matter. He noted that given the current state of tourism, the issue should be further reviewed. Councilman Parker opined that the Marketing Coordinator should be full-time perhaps, with just the Visitor's Center Coordinator listed as part-time. He clarified that changing matters within the Tourism Division seemed untimely, seeing as there were changes in personnel and even potential funding sources may change.

Mr. Burke suggested that Council could hold off on the resolution and just authorize the Staff to advertise for two full time positions, which would afford Staff the opportunity to review the applications submitted. Mr. Burke explained that the advertisements currently note "pending Council approval." He further explained the pay grade levels and rates of pay and how it would affect the opportunity to obtain a well-qualified applicant. Mr. Burke noted that advertising both positions at full-time, pay grade 18 would better suit the Town in reviewing the applicants.

*Councilman Parker moved, seconded by Councilman Conkey, that Council amend the motion to strike "and reclassifying the position of Marketing Coordinator from full-time to part-time at a pay grade of 14."*

Councilman Parker and Mayor Darr clarified that the motion to amend would effectively have the Marketing Coordinator slot remain as it currently is (full-time).

Councilman Conkey noted that the resolution needed to be amended. He added that he did not feel the Town had funding for two full-time positions.

*Councilman Parker withdrew his motion to amend. Councilman Conkey withdrew his second to amend.*

*Vice Mayor Holloway withdrew his original motion. Councilman Sayre withdrew his second.*

*Councilman Parker moved, seconded by Councilman Conkey, that Council authorize the Town Manager to advertise for a full-time Visitor's Center Coordinator (Grade 18) and a full-time Marketing Coordinator (Grade 18).*

Vice Mayor Holloway asked if the matter was discussed at a worksession. Mayor Darr noted that it was. Mrs. Bush stated that they had been advertising the Visitor's Center Coordinator position and the response had been positive. She noted her recommendation of reviewing the applications under the current advertisement, see if the position needed to be amended, also review the Marketing Coordinator position. She opined that she does not see the need for two grade 18 positions.

Councilman Conkey pointed out that the motion did not require the Town Manager to advertise at said grades, though it did allot him the authority, if he so chose.

Mr. Burke noted that they do not have funding at this time for both positions, though they could see what applications come in and then review which direction the Town would like to move.

*Councilman Sayre moved, seconded by Councilman Tharpe, to postpone the matter until the next worksession.*

Mr. Burke noted that there was some urgency to fill the void within the Tourism Division. He stated that a single person could provide both marketing and visitor center oversight, though they were not looking for more funding and should someone suit both positions then another position reclassification may be preferred.

Vice Mayor Holloway noted that Mrs. Bush stated her opinion on the matter

Mr. Burke noted that the Marketing Position probably has a higher price tag attached, however; he was unsure of what the applicant pool would bring. He asked that Council allow Staff to attract and secure the positions once the applications were reviewed.

Councilman Conkey stated that they would be delaying the matter significantly if the matter was postponed.

Councilman Sayre noted that he did not want the matter postponed either, adding that he had children that had looked at the advertisements and have interviewed and he was not comfortable placing an ad without honesty on the positions. Councilman Sayre noted that he was confused as to what matter was to be voted on.

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

Vote: Yes – Conkey, Holloway, Lauder and Parker  
No – Sayre and Tharpe  
Abstain – N/A  
Absent – N/A  
(Mayor Darr did not vote as there was no tie to require his vote)  
(Two Full-Time Positions to be Advertised at Grade 18)

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**COUNCIL APPROVAL – Resolution to adopt the “Adopt-A-Street” Program in the Town of Front Royal**

*Councilman Conkey moved, seconded by Councilman Sayre that Council approve a Resolution to adopt the “Adopt-A-Street” Program for the Town of Front Royal to allow local residents and groups to provide community service by cleaning the Town’s right-of-ways.*

Councilman Sayre noted that it was a great program and groups can assist with the litter matters through the community. He noted that the County would not manage the program within the Town.

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)

**RESOLUTION: Street Adoption**  
**“ADOPT-A-STREET” PROGRAM**

**WHEREAS**, the County of Warren no longer oversees the “Adopt-A-Street” Program through the Anti-Litter Council for Town streets, and,

**WHEREAS**, the Town of Front Royal Staff has developed an “Adopt-A-Street” Program to allow local residents and groups to provide community service by cleaning right-of-ways in the Town of Front Royal; and,

**WHEREAS**, the “Adopt-A-Street” Program is to be administered by the Town Manager’s Office; and,

**NOW THEREFORE BE IT RESOLVED**, that the Mayor and Town Council of the Town of Front Royal, hereby approve the following:

**“ADOPT-A-STREET” PROGRAM**

1. Citizens or groups can adopt a section of a Town arterial or collector street for two years with a minimum of four (4) clean-ups per year. Groups or members less than fifteen (15) years of age must be supervised by adults with a ratio of one (1) adult per seven (7) students. Large groups should be divided into teams of eight (8) or less members with each team supervised by at least one (1) adult.
2. Adopting citizens and groups will be responsible to schedule their own clean-up dates and coordinate dates with the Town. The Town shall provide garbage bags, roadside “Cleanup Crew Working” signs, and safety vests to participants prior to clean-up activities. The individual or group is responsible to place the roadside signs in their activity areas. Vests must be worn by all participants at all times. Vests and roadside signs must be returned to the Town within one (1) week of the clean-up. Bags shall be placed within the right-of-way, but outside vehicle and pedestrian travel areas for collection by the Town
3. Following each clean-up, the adopting group or individual will complete the Activity Report detailing the names of individuals involved, number of bags collected for litter and recyclables, and the hours spent during the clean-up. Forms may be dropped off, e-mailed, mailed or faxed to the Town Manager’s address listed on the form.
4. Two (2) clean-ups are encouraged to be conducted in April and October to coincide with the state litter control and recycling events.
5. The Town shall place an “Adopted Street” sign that includes the name of the adopting group or individual. No slogans, logos, advertisements, or phrases will be allowed on the sign.

**CLOSED MEETING: Performance of the Town Manager**

*Vice Mayor Holloway moved, seconded by Councilman Parker that Council convene a Closed Meeting to discuss the performance of the Town Manager, pursuant to Section 2.2-3711(A)(1) of the Code of Virginia.*

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)

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*Vice Mayor Holloway moved, seconded by Councilman Parker that Council certify that to the best of each Council member’s knowledge as recognized by each Council member’s affirmative vote, that only such public business matters lawfully exempted from Open Meeting requirements under the Virginia Freedom of Information Act as were identified in the motion by which the Closed Meeting was convened; were heard, discussed or considered during the Closed Meeting by Council; and that the vote of each individual member of Council be taken by roll call and recorded and included in the minutes of the meeting of Town Council.*

Vote: Yes – Conkey, Darr, Holloway, Lauder, Parker, Sayre and Tharpe  
No – N/A  
Abstain – N/A  
Absent – N/A

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*Councilman Parker moved, seconded by Councilman Tharpe, that Council approve the purchase back of forty hours of vacation time from the Town Manager per his contract for employment, said funds to be provided from salaries in the Town Manager budget.*

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)

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There being no further business, the Mayor declared the meeting adjourned at 8:20 p.m.

APPROVED:

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Jennifer E. Berry  
Clerk of Council