

The regular meeting of the Town Council of the Town of Front Royal, Virginia was held on January 28, 2019, in the Warren County Government Center’s Board Meeting Room. Mayor Tharpe 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 Hollis L. Tharpe  
Councilman Gary L. Gillispie  
Councilman Chris W. Holloway  
Councilman Jacob L. Meza  
Vice Mayor William A. Sealock  
Councilman Eugene R. Tewalt  
Councilman Letasha T. Thompson  
Town Attorney Douglas W. Napier  
Town Manager Joseph E. Waltz  
Clerk of Council Jennifer E. Berry, CMC

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

*Councilman Gillispie moved, seconded by Councilman Tewalt to approve the Regular Council Meeting minutes of January 14, 2019 as presented.*

Vote: Yes – Gillispie, Holloway, Meza, Sealock, Tewalt and Thompson  
No – N/A  
Abstain – N/A  
Absent – N/A  
(Mayor Tharpe did not vote as there was no tie to require his vote)  
(By Roll Call)

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

There were no receipts or petitions from the public.

Town Manager, Joseph Waltz, noted that Staff was prepared for the potential snow tomorrow and the possibility for another storm this weekend.

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

**CONSENT AGENDA ITEMS**

- A. COUNCIL APPROVAL – Purchase of Water Meters/Antennas
- B. COUNCIL APPROVAL – NSVRC Hazard Mitigation Plan Renewal

*Councilman Gillispie moved, seconded by Councilman Meza that Council approve the consent agenda as presented.*

Vote: Yes – Gillispie, Holloway, Meza, Sealock, Tewalt and Thompson  
No – N/A  
Abstain – N/A  
Absent – N/A  
(Mayor Tharpe did not vote as there was no tie to require his vote)  
(By Roll Call)

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**PUBLIC HEARING – Request to Revise Proffers for Vacant Lot on John Marshall Highway – BMW Real Estate LLC (1st Reading)**

Summary: Council has received a request from BMW Real Estate LLC to revise the proffers for their vacant commercial property located west of 986 John Marshall Highway to assist with the selling and development of the land. The request is to amend the proffers for the property that were approved as part of a rezoning application in 2000. The Planning Commission approved the revisions in 2018. On December 3, 2018, Council requested the applicant revise the proffers to restrict evening hours for retail uses. The applicant revised the proffers and a new proffer statement includes the new language that restricts retail stores that are open between the hours of 9:00pm and 6:00am. On January 7, 2019 Council requested that at the time the property is developed, the existing evergreen trees along the rear of the property shall be removed and replanted with new trees that comply with the specifications of Town Code 156-5 and in addition, an opaque vinyl fence will be placed along the entire rear property line eight (8) feet in height. Council is requested to affirm on its first reading a revised proffer statement submitted by BMW Real Estate L.L.C., owner of 1.68 acres, which is a vacant lot located to the west of 986 John Marshall Highway, to include the last two conditions made on January 7, 2019.

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

*Councilman Thompson moved, seconded by Councilman Meza that Council affirm on its first reading a revised proffer statement submitted by BMW Real Estate L.L.C., owner of 1.68 acres, a vacant commercial lot located to the west of 986 John Marshall Highway, to include the following two conditions: 1) that at the time the property is developed, the existing evergreen trees along the rear of the property shall be removed and replanted with new trees that comply with the specifications of Town Code 156-5 and 2) an eight (8) foot opaque vinyl fence be placed along the entire rear property line.*

Vote: Yes – Gillispie, Holloway, Meza, Sealock, Tewalt and Thompson

No – N/A

Abstain – N/A

Absent – N/A

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

(By Roll Call)

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**PUBLIC HEARING – Special Use Permit - David Dixon to Build a Single-Family Detached Dwelling on a Nonconforming Lot on W. 18th St.**

Summary: Council is requested to approve a Special Use Permit submitted by David Dixon to build a single-family detached dwelling on an existing nonconforming lot on W. 18th Street. The property is zoned R-1 District and is located to the west of 114 W. 8th Street. The lot is nonconforming due to the lot width, which is 45 feet, rather than the minimum lot width of 75 feet. As required in the Town Code, a special use permit is required before a nonconforming lot can be developed in the R-1 District (when less than 80% of minimum standard). Planning Commission has recommended approval with the following conditions:

- 1) The applicant shall revise the application to increase the house size as specified in the Staff Report to comply with the Town Code minimum requirement for nonconforming lots
- 2) The applicant shall provide a complete grading plan and drainage calculations for the site
- 3) Development of the lot shall comply with all requirements of the Town Code, including, but not limited to off-street parking

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

*Vice Mayor Sealock moved, seconded by Councilman Tewalt that Council approve a Special Use Permit submitted by David Dixon to build a single-family detached dwelling on an existing nonconforming lot on W. 18<sup>th</sup> Street with the conditions recommended by the Planning Commission on November 28, 2018.*

Vote: Yes – Gillispie, Holloway, Meza, Sealock, Tewalt and Thompson  
 No – N/A  
 Abstain – N/A  
 Absent – N/A  
 (Mayor Tharpe did not vote as there was no tie to require his vote)  
 (By Roll Call)

**PUBLIC HEARING – Special Use Permit for VFW Post 1860 for Establishment of a VFW Lodge at 1847 N Royal Avenue**

**Summary:** Council is requested to approve a Special Use Permit submitted by Samuel R. Millar, VFW Post 1860, for establishment of a VFW lodge (Assembly Hall) to be built at the same location before it was destroyed by fire and demolished in 2015 at 1847 N. Royal Avenue. The portion of the property where the lodge will be located is within the I-1 Zoning District and Floodplain Overlay District. The proposed new lodge is designed to be elevated and designed to comply with current floodplain regulations. The Planning Commission recommend approval upon the following conditions:

- 1) The proposed lodge shall conform with all applicable Town Codes, including, but not limited to, zoning, noise, special event and floodplain regulations
- 2) Town Council, or other designated representatives, may inspect the property at any reasonable time to ensure compliance with local regulations, including, but not limited to, the conditions placed on this special use permit. Upon inspection of the property, if it is found that the property is not in compliance, with local regulations, including but not limited to, the conditions of this special use permit, the Town may revoke this special use permit after notice to the applicant and public hearing.

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

*Vice Mayor Sealock moved, seconded by Councilman Holloway that Council approve a Special Use Permit submitted by Samuel R. Millar, VFW Post 1860, for establishment of a VFW lodge (Assembly Hall) at 1847 N Royal Avenue with the conditions recommended by the Planning Commission on November 28, 2018.*

Vote: Yes – Gillispie, Holloway, Meza, Sealock, Tewalt and Thompson  
No – N/A  
Abstain – N/A  
Absent – N/A  
(Mayor Tharpe did not vote as there was no tie to require his vote)  
(By Roll Call)

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**COUNCIL APPROVAL – Request to Waive Curb and Gutter Requirement for VFW Post 1860 Lodge Construction at 1847 N Royal Avenue**

**Summary: Council has received a request from Samuel R. Millar VFW Post 1860 to waive the requirement for the installation of curb and gutter at the construction of their new VFW Lodge at 1847 N. Royal Avenue**

*Councilman Thompson moved, seconded by Councilman Gillispie that Council approve the waiver of curb and gutter for the Samuel R. Millar VFW Post 1860 for the construction of their Lodge at 1847 N. Royal Avenue.*

*Vice Mayor Sealock moved, seconded by Councilman Tewalt, that Council amend the motion to include curb and gutter along the N. Royal Avenue portion of the site of the VFW only to enhance the rebuild of the lodge.*

Councilman Meza noted that, as he had stated during the worksession, he was against requiring the VFW to make any additional requirements that they were not required to make prior to the structure building, and he would not support this requirement. He stated that he would not support the change, as it was only allowed due to the shortage of funding, as gathering the funding took longer and the VFW went over the two years to do so.

Vice Mayor Sealock stated that he was a recipient of items during Iraq, and he is a life member of Post, and he is very appreciative. He noted that to remind everyone of what the site looked like, he presented photos of the area surrounding the site. Mr. Sealock stated that the area with and without curb and gutter would make a large difference, and surrounding parcels have a lot of mud. He noted that the area also has a Civil War marker and it was quite muddy and becomes flooded at times with runoff water. Vice Mayor Sealock stated that with a new building, curb and gutter should be required – not waived.

Councilman Tewalt stated that the photos do not show the water standing that was about 4’ deep. He voiced his support with Vice Mayor Sealock. He noted that the Town should require the curb and gutter with a brand new building surrounded by a mudhole.

Councilman Meza asked about whether the Town could mandate the VFW to place curb and gutter if the structure had not burned and was now being rebuilt. Mr. Waltz stated that that was the Town could not do so. Councilman Meza stated that he may agree that there is a problem with the water in the area – though if the building had not burned to the ground, then the Town could not require them to install the curb and gutter, and he would not support the improvement.

Councilman Holloway asked about the curb and gutter installed along the roadway in the area currently in place. He noted that if the Town paid for the curb currently in place then the Town should pay for the improvements across the road as well. He voiced his support with Councilman Meza, that the Town was taking advantage of the situation since the building was destroyed by fire.

Councilman Tewalt noted that they were not taking advantage. He noted that the ordinance states that the curb and gutter is required at this stage and they were following that ordinance.

Councilman Thompson stated that it would be nice to have the improvements; however, the waiver is allowed and she disagrees with the request for curb and gutter.

Councilman Sealock stated that it has been an eyesore for many years, the VFW recognizes the issue, and the water has to go somewhere. He noted that if the building is being enhanced then they should have proper improvements of curb and gutter.

Councilman Gillispie noted that he would not vote for the amendment. He stated that if it had been rebuilt within the timeframe the curb and gutter would not have been required.

Vote: Yes – Sealock, Tewalt  
 No – Gillispie, Meza, Holloway and Thompson  
 Abstain – N/A  
 Absent – N/A  
 (Mayor Tharpe did not vote as there was no tie to require his vote)  
 (By Roll Call; On Motion to Amend for curb and gutter on N. Royal)

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Vote: Yes– Gillispie, Meza, Holloway and Thompson  
 No – Sealock, Tewalt  
 Abstain – N/A  
 Absent – N/A  
 (Mayor Tharpe did not vote as there was no tie to require his vote)  
 (By Roll Call; On Original motion to Waive C&G)

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**COUNCIL APPROVAL – An Ordinance Amendment to Chapter 70**

**ELECTRICITY (2nd Reading)**

**Summary: Council is requested to adopt on its second and final reading an Ordinance to amend Front Royal Municipal Town Code Chapter 70 pertaining to Electricity to bring it up-to-date and consistent with other areas of the Town Code, as presented.**

*Councilman Gillispie moved, seconded by Councilman Holloway, that Council adopt on its second and final reading an Ordinance to amend Front Royal Municipal Town Code Chapter 70 pertaining to Electricity to bring it up-to-date and consistent with other areas of the Town Code, as presented.*

Vote: Yes – Gillispie, Holloway, Meza, Sealock, Tewalt and Thompson  
 No – N/A  
 Abstain – N/A

Absent – N/A  
(Mayor Tharpe did not vote as there was no tie to require his vote)  
(By Roll Call)

**COUNCIL APPROVAL – An Ordinance Amendment to Chapter 156-3 Pertaining to Composition, Appointment and Terms of Office for UFAC (2nd Reading)**

**Summary: Council is requested to adopt on its second and final reading an Ordinance to amend Front Royal Municipal Town Code Chapter 156-3 pertaining to the Composition, Appointment and Terms of Office for the Urban Forestry Advisory Commission (UFAC), as presented. If approved, UFAC shall be made up of not less than five (5) members.**

*Councilman Meza moved, seconded by, Councilman Holloway, that Council adopt on its second and final reading an Ordinance to amend Front Royal Municipal Town Code Chapter 156-3 pertaining to the Composition, Appointment and Terms of Office for the Urban Forestry Advisory Commission (UFAC), as presented.*

Vote: Yes – Gillispie, Holloway, Meza, Sealock, Tewalt and Thompson  
No – N/A  
Abstain – N/A  
Absent – N/A  
(Mayor Tharpe did not vote as there was no tie to require his vote)  
(By Roll Call)

**COUNCIL APPOINTMENT – Joint Tourism Advisory Committee**

**Summary: Council is requested to consider an appointment to the Joint Tourism Advisory Committee to serve as the representative from a lodging property to an unexpired term expiring June 9, 2022.**

*Councilman Thompson moved, seconded by Councilman Meza, that Council appoint Mary Bayer as the lodging property representative to the Joint Tourism Advisory Committee to an unexpired term expiring June 9, 2022.*

Vote: Yes – Gillispie, Holloway, Meza, Sealock, Tewalt and Thompson  
No – N/A  
Abstain – N/A  
Absent – N/A  
(Mayor Tharpe did not vote as there was no tie to require his vote)  
(By Roll Call)

**CLOSED MEETING – Consultation with Legal Counsel**

**Motion to Go Into Closed Meeting**

*Vice Mayor Sealock moved, seconded by Councilman Thompson that Council go into a Closed Meeting for the purpose of consultation with legal counsel employed or retained by a public body regarding specific legal matters, specifically, legal mechanisms relating to handling debt service related to prior and current budget years, requiring the provision of legal advice by such counsel, pursuant to Section 2.2-3711. A. 8. of the Code of Virginia.*

Vote: Yes – Gillispie, Holloway, Meza, Sealock, Tewalt and Thompson  
No – N/A  
Abstain – N/A  
Absent – N/A  
(Mayor Tharpe did not vote as there was no tie to require his vote)  
(By Roll Call)

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**Motion to Certify Closed Meeting at its Conclusion**

*Vice Mayor Sealock moved, seconded by Councilman Tewalt, that Council certify that to the best of each 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 Action as were identified in the motion by which the Closed Meeting was convened were heard, discussed or considered in 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 – Gillispie, Holloway, Meza, Sealock, Tewalt and Thompson  
No – N/A  
Abstain – N/A  
Absent – N/A  
(Mayor Tharpe did not vote as there was no tie to require his vote)  
(By Roll Call)

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

APPROVED:

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Jennifer E. Berry  
Clerk of Council