PRESENTATION PERTAINING TO SLUDGE AT 6:00PM

REGULAR TOWN COUNCIL MEETING

Monday, May 24, 2021 @ 7:00pm
Warren County Government Center

1. MOMENT OF SILENCE

2. PLEDGE OF ALLEGIANCE

3. ROLL CALL

4. APPROVAL OF MINUTES –Regular Meeting of April 26th and Work Session May 10th, 2021

5. ADDITION/DELETION OF ITEMS

6. RECOGNITIONS/AWARDS–
   A. Award of Town Scholarships

7. PUBLIC COMMENTS (COMMENTS NOT RELATED TO PUBLIC HEARINGS)

8. PUBLIC HEARINGS
   A. An Ordinance Amendment to Town Code Chapters 170-2 and 170-3 Pertaining to Adding the Word "Designee" throughout the Chapter.

   B. An Ordinance Amendment to Town Code Chapter 12-3 (Finance Fees) to Remove the Credit Card Fees from any Payments Due to the Town if Tendered by either Credit Card or Debit Card and a FY2022 Budget Amendment

   C. An Ordinance Amendment to Town Code Chapter 158-6 pertaining to Adoption by Reference of the State Motor Vehicular Laws.

9. REPORTS
   a. Report of Town Manager
   b. Report of Councilmembers
   c. Report of the Mayor

10. CONSENT AGENDA ITEMS
   A. Bid - Various Sizes of MJ Gate Valves
   B. Board of Zoning Appeals (BZA) Nomination
   C. Encroachment License Agreement for 1516 N. Royal Avenue – Aaron Hike

11. BUSINESS ITEMS - None

12. CLOSED MEETING – Consultation with Legal Counsel and Personnel

TOWN COUNCIL REGULAR MEETING MINUTES

April 26, 2021 @ 7:00PM in Warren County Government Center

The following minutes are a summary of items on the agenda. This meeting may be viewed in its entirety by accessing the video of the same date online via the Town's website at www.frontroyalva.com.

Moment of Silence
Pledge of Allegiance was led by Vice Mayor Cockrell

ROLL CALL PRESENT: Mayor Chris W. Holloway
Vice Mayor Lori A. Cockrell
Councilman Gary L. Gillispie
Councilman E. Scott Lloyd
Councilman Joseph E. McFadden
Councilman Jacob L. Meza

ABSENT: Councilman Letasha T. Thompson

APPOINTED STAFF PRESENT: Town Manager Steven W. Hicks (ABSENT)
Town Attorney Douglas W. Napier
Clerk of Council Tina L. Presley
Finance Director BJ Wilson filling in for Mr. Hicks

APPROVAL OF MINUTES – *Councilman Gillispie moved seconded by Councilman McFadden that Council approve the minutes of Regular Meeting of March 22nd and Work Session of April 7th, as presented.*

Vote: Yes – Unanimous

ADDITIONS/DELETION OF ITEMS FROM THE AGENDA – None

RECONITIONS/AWARDS – Proclamations for Arbor Day & National Public Works Recognition Week
(Proclamations read by the Mayor available in the Clerk of Council's Office)

PUBLIC COMMENTS (COMMENTS NOT RELATED TO PUBLIC HEARINGS)
(comments may be heard in their entirety on the Town's website by accessing video of the same date)

Melody Hotek, Catlett Mountain Road, President of the Front Royal/Warren County Tree Stewards conveyed to Council her concerns regarding a letter sent to Council from the Tree Stewards which there was no response. She proceeded to give Council the highlights of the letter: vacancy of the horticulturist position, destruction of the riparian buffer zone along Front Street, resignation of Urban Forestry Advisory Commission (UFAC) members; Tree City USA renewal application; Annual Arbor Day Celebration. She

encouraged Council to hire a qualified arborist to serve as the Tree Stewards liaison, reinstate a Tree Board, replant the buffer zone along Happy Creek and remove the historic marker along Front Street. She expressed hope that the Council would continue seeking the services of qualified professionals. She gave a handout to Council that included a timeline of events and a presentation from the Front Royal/Warren County Tree Stewards.

Fred Andreae, 367 Overall Road, Bentonville, VA, Vice President of the Beautification of Front Royal Committee, gave a history of the start of the Committee and the costs into the community over the years through trees, landscape and flowering baskets. He asked that Council replace all the trees that were removed along Happy Creek. He advised that planting would not continue if the Town did not hire a horticulturist. He gave a handout to Council named "The Beautification of Front Royal Committee (BFRC)."

Susan Tschirhart, 327 Skyline Place, Chairperson of the Warren/Front Royal Appalachian Trail (AT) Community Committee advised that the Committee decided unanimously to support the Tree Stewards by suspending AT community operations in the Town for the coming year. The following reasons were noted for the suspension: failure for Town Staff to follow through on stated commitments regarding Arbor Day, Tree City USA application process and destruction of a riparian buffer. She encouraged Council to act on recommendations given by the Tree Stewards and Beautification Committee. She gave a handout to Council that included a press release "Warren County-Front Royal Appalachian Trail Community joins with Local Civic Groups to Oppose Town of Front Royal Inaction" and a presentation "Front Royal/Warren County Appalachian Trail Community – Who's Who – March 11, 2021"

David Means, 210 W. 1st Street, advised Council that he had knowledge about stream design and construction and the laws and regulations involved. He noted that during his visits to the Happy Creek construction site he observed that Town Staff lacked specialized training and knowledge. He opined that what happened to Happy Creek was a level of devastation and the design engineer failed to provide a detailed plan for removal and retention. He encouraged Council to fund professional development and training to work crews to maintain public land resources.

Chris Anderson, Luray, VA, Page and Warren County Coordinator of the Alliance for the Shenandoah Valley noted that streams that flow naturally through a greenway create a natural environment. She voiced concern over the removal of trees and shrubs along Happy Creek. She encouraged Council to consider replanting a majority of the native trees and shrubs that were removed between Prospect Street and South Street and repair the riparian buffer.

Sonja Carlborg, 210 W. 1st Street, read excerpts from the Virginia Conservation Network website. She voiced concern over the many permit violations regarding Happy Creek. She expressed hope that the Public Works Department will seek assistance on how to properly install a cofferdam preventing damage to the Town Arboretum during the upcoming sewer line replacement across Happy Creek at the Stonewall Drive bridge.

Kelli Hart, W. 15th Street, voiced concern over Council ignoring the UFAC's expert advice on the restoration of Happy Creek. She reminded Council that the "Save Happy Creek Coalition" had reached out to Town Staff and elected officials in an effort to mitigate damage and inform the public about the environmental and financial costs of the Happy Creek Project. She encouraged the Town Manager and Council to offer respect and recognition to all the outstanding community partners.

Sheila Smith, 706 Parkview Drive, advised Council that she has lived in her residence for 45 years and voiced concern about her neighbor's yard at 704 Parkview Drive. She noted that in the last eight months her neighbors started accumulating debris, trash, and junk, that has attracted rodents. She also noted that their dogs bark constantly. She advised that she called the Assistant Town Attorney regarding any ordinances that her neighbors may be in violation of. She asked that the Town take action.

Lillian Sloane, 468 Acton Street, reiterated the conditions at 704 Parkview Drive. As a taxpayer for over 70 years and the owner of two rental properties behind 704 Parkview Drive, she voiced fear of losing her tenants because of the conditions at 704 Parkview Drive. She asked that Council take their requests seriously and take appropriate action to make conditions better.

Mayor Holloway confirmed that Ms. Smith and Ms. Sloane had met with the Town's Deputy Zoning Administrator/Code Enforcement Officer Chris Brock. Vice Mayor Cockrell asked Town Attorney Napier about the dog barking time limit in the Town ordinance. Councilman Gillispie asked that an item be placed on an upcoming work session regarding the ordinances in question (trash, debris, dog barking).

Councilman Meza thanked everyone who spoke and noted that he had read through the correspondence from the Tree Stewards and AT community that came through Town email and apologized if it was construed as being ignored. He pointed out that Town Manager Hicks reached out to state agencies and confirmed that the Town did not have any current permit violations or illegal actions related to the restoration of Happy Creek. He stated that he was glad to hear that the AT Community had linked up with the Joint Tourism Committee and that the Town has advertised for an arborist. Mr. Meza advised that Council was preparing to move into Comp Plan Planning Sessions, where one of the goals was to develop a sustainable and urban forestry plan that would address environmental concerns as well as social and economic issues. He expressed hope that action requested tonight would be seen in the near future.

PUBLIC HEARING

A. To receive Comments/Concerns from the Public and Approve an Ordinance Pertaining to the Vacation of a 50-foot Strip of Land Approx. 6,268.3 Sq.Ft. (0.1439 acres) on Commonwealth Drive – Robert Williams and James Williams

Mayor Holloway opened and closed the public hearing. There were no speakers.

Vice Mayor Cockrell moved seconded by Councilman McFadden that Council approve an ordinance pertaining to a request from Robert Williams and James Williams to vacate a 50-ft Strip of Land Approximately 6,268.3 Sq Ft (0.1439 Acres) located between 1663 Commonwealth Drive and 1669 Commonwealth Drive allowing Robert Williams and James Williams to maintain the property properly and to direct the Town Manager and Town Attorney to execute all documents to finalize the vacation.

Vote: Yes – Vice Mayor Cockrell, Councilmen Gillispie, Lloyd, McFadden and Meza
No – N/A
Absent – Councilman Thompson
Abstain – N/A ROLL CALL

Public Hearing

B. Rezoning Application Requesting to Reclassify Parcels Approximately 0.45 acres from R-3 District to C-1 District Located on the West Side of Pine Street Near the Intersection of South Street, to Allow for Additional Employee and Customer Parking, Accessory Storage and Office Use for Spelunkers Restaurant

Mayor Holloway opened the public hearing.

Angela Hess/William Plumstead, 356 Pine Street, voiced various concerns regarding the proposed rezoning. Ms Hess advised that they have lived at 356 Pine Street for 20 years and it sits directly behind the Spelunker's Restaurant; however, the last few years they have endured increased and excessive noise that has led to the excessive barking of her dog. She noted that the street currently has one way traffic with parking on one side for residents and noted that employees were supposed to be towed if they parked there but this had not happened. They also commented on the natural sound barrier that is currently being removed. She asked that Council do something to protect them as a homeowner and as a resident so that they have more privacy, peace and quiet.

Steven Antonelli and Joe Knechtel of Podesta Associates (owner/representatives of Spelunkers Restaurant) advised Council that their restaurant currently has inadequate parking for customers and employees. The rezoning and the two purchased lots would relieve that issue, noting that Pine Street is residential parking. He noted that he would investigate the neighbor's concern of the noise as it should be just the cleaners inside the restaurant after closing. Mr. Antonelli advised Council that Spelunkers' was a busy restaurant thus needing more space and parking.

Vice Mayor Cockrell confirmed that the two purchased lots would be overflow and employee parking and would that change the traffic pattern on Pine Street. Mr. Antonelli advised that there are cars currently stacking on South Street; therefore, the new pattern would be one way entering the parking lot and a two-way exiting the parking lot. She encouraged Mr. Antonelli to work with the neighbors on their concerns. Mr. Antonelli advised that he has spoken to them about the tree limbs and has begun the process with a landscaper of possible removable since the trees no longer provide coverage they once did.

Mayor closed the public hearing.

Councilman Gillispie moved seconded by Councilman McFadden that Council approve the rezoning application requesting to reclassify two parcels (approximately 0.45 acres) from R-3 District to C-1 District located on the West Side of Pine Street near the intersection of South Street, to allow for additional employee and customer parking, accessory storage and office use for Spelunkers Restaurant.

Vote: Yes – Vice Mayor Cockrell, Councilmen Gillispie, Lloyd, McFadden, and Meza
No – N/A
Absent – Councilman Thompson
Abstain – N/A ROLL CALL

Public Hearing

C. An Ordinance to Amend Town Code Chapter 16 "Industrial Development Authority" to Include Residents of Warren County Who Owns a Business in Town, as Directors of the Front Royal Economic Development Authority (FREDA)

Mayor Holloway opened and closed the public hearing. There were no speakers.

Councilman Gillispie moved seconded by Councilman McFadden that Council approve an ordinance amendment to Town Code Chapter 16-4 (E) "Board of Directors: Terms and Qualifications of Office" to include residents of Warren County who own a business in Town, as Directors of the Front Royal Economic Development Authority (FREDA)

Councilman Meza commented that approving the ordinance opens it up to a wider audience.

Vote: Yes – Vice Mayor Cockrell, Councilmen Gillispie, Lloyd, McFadden, and Meza
No – N/A
Absent – Councilman Thompson
Abstain – N/A ROLL CALL

Public Hearing
D. An Ordinance to Amend and Re-Enact Town Code Chapters 134-22.1, 134-22.4, 134-30, 134-31.1 and 134-31.2 To Increase Water and Sewer Rates

Mayor Holloway opened and closed the public hearing. There were no speakers.

Councilman McFadden moved seconded by Councilman Meza that Council approve an Ordinance to Amend and Re-Enact Town Code Chapter 134-22.1, 134-22.4, 134-30, 134-31.1 and 134-31.2 to Increase Water and Sewer Rates, as presented and effective July 1, 2021.

Vote: Yes – Vice Mayor Cockrell, Councilmen Gillispie, Lloyd, McFadden, and Meza
No – N/A
Absent – Councilman Thompson
Abstain – N/A ROLL CALL

Public Hearing
E. Annual Appropriation Ordinance for FY2021-2022. Budget effective July 1, 2021 through June 30, 2022

Mayor Holloway opened and closed the public hearing. There were no speakers.

Vice Mayor Cockrell moved seconded by Councilman McFadden that Council approve the Town's Annual Appropriation Ordinance for the FY2021-2022 Budget effective July 1, 2021 through June 30, 2022, as proposed.

Councilmen Gillispie and Lloyd thanked staff for their hard work and being fiscally responsible.

Vote: Yes – Vice Mayor Cockrell, Councilmen Gillispie, Lloyd, McFadden, and Meza
No – N/A
Absent – Councilman Thompson
Abstain – N/A ROLL CALL

REPORTS
a. Report of Town Manager Steven Hicks (ABSENT). Mr. Wilson gave no report.

b. Report of Councilmembers
Vice Mayor Cockrell advised that she attended the ribbon cutting for the pavilion at the Town Commons and participated in planting a tree at the Arbor Day Celebration. She noted that Prom 2021 would be held on May 22nd and if anyone wanted to sponsor a senior let her know.

Councilman Gillispie reminded the public that the Town Scholarship Applications would be accepted until April 29th and that there would be three awarded at $1,000 each.

Councilman Meza gave an update on the most recent incident involving the Sheriff of Warren County and the Town's Sanitation Staff last week and voiced his disappoint and concern over employees being harassed. Mr. Meza stated that a press release was recently issued regarding his appointment and noted that the case has been dismissed. He encouraged everyone to treat people with respect.

c. Report of the Mayor – Mayor Holloway reiterated what Councilman Meza stated regarding the mistreatment of Town employees last week. He also noted that the Community Vaccination Center needed volunteers and asked that it be posted to the Town's website.

PROPOSALS FOR ADDITION/DELETION OF ITEMS – None

CONSENT AGENDA ITEMS
A. New Agreement for the Use of Federal Care Coronavirus Relief Funds
Council approved a new Agreement with the County of Warren pertaining to the amount of $88,109.00 COVID-19 Relief Funds as presented; and the agreements signed by Council for December 2020 and February 2021 be rescinded.

B. Resolution Initiating Proposed Ordinance Amendments to the Regulations of Chapter 148 and Chapter 175 Pertaining to Permitting and Approval Authorities of the Planning Commission
Council approved a resolution that would initiate proposed text amendments to the regulations of the Town's Subdivision and Land Development Ordinance (Chapter 148) and the Town's Zoning Ordinance(Chapter 175) Pertaining to the Permitting and Approval Authorities of the Planning Commission. Once approved, the resolution shall be sent to the Planning Commission for recommendation of Chapter 148 and Chapter 175 ordinance amendments and then sent back to Council for final approval.

C. Sole Source Purchase of a Water Treatment Plant Valve
Council approved the sole source purchase of a Dezurick PEC plug valve to duplicate an existing valve at the Water Treatment Plant from Commonwealth Engineering & Sales of Ashland, Virginia in the amount of $29,609.00.

D. Bid Award for Milling and Paving Services
Council approved a multi-year contract for milling and paving services with the first term of this five-year contract to include the scope of services for Commerce Avenue from Happy Creek Bridge to 2nd Street, N. Royal Avenue from Commerce Avenue to 14th Street, all of Wine Street, Evelyn Court, Leach Street, Northview Street and Parkview Drive in the amount of $449,316.00.

Councilman Gillispie moved seconded by Vice Mayor Cockrell to approve the Consent Agenda as presented.

Vote: Yes – Vice Mayor Cockrell, Councilmen Gillispie, Lloyd, McFadden, and Meza
No – N/A
Absent – Councilman Thompson
Abstain – N/A ROLL CALL

BUSINESS ITEMS

A. Resolution to Delay Charges for Real Estate and Personal Property Taxes Penalty and Interest
Councilman Meza moved second by Vice Mayor Cockrell to approve a Resolution to delay charges for penalties and interest related to 2021 Real Estate and Personal Property Taxes by a period of 16 days due to a delay of receiving the assessment files from the County of Warren.

Vote: Yes – Vice Mayor Cockrell, Councilmen Gillispie, Lloyd, McFadden, and Meza
No – N/A
Absent – Councilman Thompson
Abstain – N/A ROLL CALL

This portion of the meeting ended at 8:36 PM.

CLOSED MEETING

Vice Mayor Cockrell moved, seconded by Councilman Gillispie that Council convene and go into Closed Meeting for the purpose of consultation with legal counsel employed or retained by Town Council to discuss specific legal matters requiring the provision of legal advice by such counsel, pursuant to a Memorandum of Agreement between the County and the Town, pursuant to Section 2.2-3711. A. 8. of the Code of Virginia.

Vote: Yes – Vice Mayor Cockrell, Councilmen Gillispie, Lloyd, McFadden, and Meza
No – N/A
Absent – Councilman Thompson
Abstain – N/A ROLL CALL

Councilman Thompson joined the Closed Meeting after Roll Call by telephone.

Councilman McFadden moved seconded by Councilman Meza 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 Act 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 – Vice Mayor Cockrell, Councilmen Gillispie, Lloyd, McFadden, Meza and Thompson
No – N/A
Absent – N/A
Abstain – N/A ROLL CALL

Mayor adjourned the meeting at 9:20pm.

Approved by Town Council
Date: _____

TOWN COUNCIL WORK SESSION MINUTES

Monday, May 10th, 2021 at 7:00 PM
Town Hall Conference Room

The following minutes are a summary of items on the agenda. This meeting may be viewed in its entirety by accessing the video of the same date online via the Town's website at www.frontroyalva.com.

Closed Meeting – Personnel, Consultation with Legal Counsel, Disposition of Publicly Held Property

Councilman McFadden moved, seconded by Vice Mayor Cockrell, that Town Council go into Closed Meeting pursuant to Section 2.2-3711, of the Code of Virginia for the following purposes:

(A) The discussion, consideration, or interviews of prospective candidates for appointment to various Boards, under subsection A. 1.

(B) The purpose of assignment, appointment, promotion, performance, demotion, salaries, discipling or resignation of specific public officers, appointees, or employees of a public body, under subsection A. 1

(C) for the purpose of consultation with legal counsel employed or retained by Town Council regarding specific legal matters requiring the provision of legal advice by such counsel, specifically, the legalities and potential legal liability exposures of the Town regarding its Town-owned Town Commons under Subsection A. 8.

(D/E) The disposition of publicly held real property, specifically, the use and the sale or vacation of a Town right of way, being an alley (Carter Street and N. Royal Avenue) where discussion in an open meeting would adversely affect the bargaining position or negotiating strategy of Town Council under subsection A.3.

(F) consultation with legal counsel employed or retained by a public body regarding specific legal matters requiring the provision of legal advice by such counsel, under subsection. A. 8.;

(G) Regarding claimed or potential financial obligations, whether legal or moral, consultation with legal counsel employed or retained by Town Council and briefings by staff

members or consultants regarding specific legal matters, including actual and probable litigation, requiring the provision of legal advice, under subsections A. 7 and 8.

(H) With respect to an MOA, consultation with legal counsel employed or retained by Town Council regarding specific legal matters requiring the provision of legal advice by such counsel, under subsection A. 8.

Vote: Yes – Councilmen Cockrell, Gillispie, Lloyd, McFadden & Thompson
No – N/A
Abstain – N/A
Absent – Councilman Meza
ROLL CALL

Councilman McFadden moved, seconded by Vice Mayor Cockrell, 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 Act 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 – Mayor Holloway, Councilmen Cockrell, Gillispie, Lloyd, McFadden & Thompson
No – N/A
Abstain – N/A
Absent – Councilman Meza
ROLL CALL

Mayor temporarily adjourned the Closed Meeting at 10:20 P.M. after discussions of items A, C, F & H, so Council could proceed with their Public Work Session.

Blighted Building Process and Blighted Properties on Non-Conforming Lots – Town Code Enforcement Officer, Chris Brock, gave a presentation regarding amendments to the Town Code that would help Town Staff make progress on blighted buildings that are located on non-conforming lots. He suggested that if Council and Town Staff deemed a property 'blighted,' based on specific criteria, then Council could pass an ordinance to require demolition. Additionally, the non-conformity could be grandfathered in, giving the property owner an incentive to rebuild. He added that prior to a required demolition, he would attempt to work with building owners to assist them in creating an effective management plan.

Update on Proposed Special Events Policy and Procedures – Purchasing Manager, Alisa Scott, explained that the Town had created a sub-committee for future Special Events. She recommended removing the section of Town Code related to Special Events and creating a separate document that would be kept in the Town Managers Office. This would allow Town Staff

to make necessary changes to Special Event Policies and Procedures more quickly and efficiently. Council agreed to move forward with a Public Hearing to remove Special Event Policies and Procedures from the Town Code.

Proposed Amendment to Town Code Chapter 158-6 Adoption by Reference of the State Motor Vehicle Laws – Council all agreed.

Continuation of Closed Meeting

Councilman McFadden moved, seconded by Councilman Gillispie, that Town Council go into Closed Meeting pursuant to Section 2.2-3711, of the Code of Virginia for the following purposes:

(B) The purpose of assignment, appointment, promotion, performance, demotion, salaries, discipling or resignation of specific public officers, appointees, or employees of a public body, under subsection A. 1

(D/E) The disposition of publicly held real property, specifically, the use and the sale or vacation of a Town right of way, being an alley (Carter Street and N. Royal Avenue) where discussion in an open meeting would adversely affect the bargaining position or negotiating strategy of Town Council under subsection A.3.

(G) Regarding claimed or potential financial obligations, whether legal or moral, consultation with legal counsel employed or retained by Town Council and briefings by staff members or consultants regarding specific legal matters, including actual and probable litigation, requiring the provision of legal advice, under subsections A. 7 and 8.

Vote: Yes – Councilmen Cockrell, Gillispie, Lloyd, McFadden & Thompson
No – N/A
Abstain – N/A
Absent – Councilman Meza
ROLL CALL

Councilman McFadden moved, seconded by Vice Mayor Cockrell, 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 Act 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 – Mayor Holloway, Councilmen Cockrell, Gillispie, Lloyd, McFadden & Thompson
No – N/A
Abstain – N/A
Absent – Councilman Meza
ROLL CALL

Mayor adjourned the work session at 11:49 P.M.

PRESENT: Mayor Holloway, Vice Mayor Cockrell, Councilmen Gillispie, Lloyd, McFadden and Thompson, Town Manager Steven Hicks, Deputy Clerk of Council Mary Ellen Lynn, Clerk of Council Tina Presley Finance Director BJ Wilson (remotely), Purchasing Manager Alisa Scott, Information Technology Director Todd Jones, members of the public and press.

Approved by Town Council

Date: ----------

Council Agenda Statement

Item # 8A

Meeting Date: May 24, 2021

Agenda Item: PUBLIC HEARING - An Ordinance Amendment to Town Code Chapter 170-2 and 170-3 Pertaining to Adding the Word "Designee" throughout the Chapter

Summary: Council is requested to amend Town Code Chapters 170-2 (Removal of High Grass, Weeds, and Foreign Growth) and 170-3 (Removal of Trash; Town Action on Failure of Owner to Remove) to add the word "designee" throughout. The amendment, if approved, would save the Code Enforcement Officer time with property owner notification and response to complaints.

Budget/Funding: None

Meetings: Work Session held April 12, 2021

Proposed Motion: I move that Council approve the amendment to Town Code Chapters 170-2 (Removal of High Grass, Weeds, and Foreign Growth) and 170-3 (Removal of Trash; Town Action on Failure of Owner to Remove) to add the word "designee" throughout, as presented.

Moved _____ ***Seconded*** _____

Cockrell _____ ***Gillispie*** _____ ***Lloyd*** _____ ***McFadden*** _____ ***Meza*** _____ ***Thompson*** _____

AN ORDINANCE TO AMEND FRONT ROYAL TOWN CODE CHAPTER 170 WEEDS AND DEBRIS

WHEREAS, Town Council on April 12, 2021 directed Town Staff to move forward on amending Town Code Chapter 170 "Weeds and Debris" specifically Chapters 170-2 and 170-3 to add the words "or designee", and;

NOW THEREFORE, BE IT ENACTED, by the Town Council of the Town of Front Royal, Virginia, that Chapters 170-2 and 170-3 of the Front Royal Town Code hereby be amended as follows:

170-2 REMOVAL OF HIGH GRASS, WEEDS AND FOREIGN GROWTH

A. The owner of any developed or undeveloped property located within the Town shall, whenever any such growth exceeds a height of ten inches (10"), cut the grass, weeds and foreign growth on such property, excluding areas that are farther than one hundred (100) feet from the principal building on such property, and from any building situated on an adjacent property. Nothing herein shall apply to property zoned for or in active farming operation. Any such owner failing, to cut such grass, weeds andforeign growth, shall be in violation of this Section and shall be subject to a civil penalty of fifty dollars ($50) for the first such violation or violations arising from the same set of operative facts, and a civil penalty of $100 for subsequent violations not arising from the same set of operative facts occurring within 12 months of the first violation.

Each business day during which the same violation is found to have existed shall constitute a separate offense. In no event shall a series of violations arising from the same set of operative facts result in civil penalties exceeding $3,000 in a twelve (12) month period. Alternatively, the Town Manager or designee, should they deem it necessary, may, after ten (10) days' written notice to the owner of record, with one such notice being sufficient notice for the entire growing season, have such grass weeds or foreign growth cut by the Town's agents or employees, in which event the costs and expenses thereof shall be chargeable to and paid by the owner of such property, and any such charges may be collected by the Town as taxes are collected. Every charge authorized by this Section with which the owner of such property shall have been assessed and which remains unpaid shall constitute a lien against such property ranking on a parity with liens for unpaid taxes and enforceable in the same manner as provided in Articles 3 (§58.1-3940 et seq.) and 4 (§58.1-3965 et seq.) of Chapter 39 of Title 58.1.

B. Any owner aggrieved by the decision of the Town Manager or designee under paragraph A above may appeal the herein described notice within ten (10) days of the date of its receipt, in which case, all efforts to cause said grass, weeds, or foreign growth to be cut by the Town shall cease until the appeal has been decided by Town Council.

170-3 REMOVAL OF TRASH; TOWN ACTION ON FAILURE OF OWNER TO REMOVE

A. The owner of property located within the Town shall, when the Town Manager or designee, acting asagent for the Town Council, determines that trash, garbage, litter, debris and/or other substances exist on the property, which might endanger the health or safety of other residents of the Town, after ten (10) days' notice, remove therefrom any and all such trash, garbage, refuse, litter, debris and other substances in a manner authorized by law. Any such owner failing to comply with the notice shall be subject to a civil penalty of fifty dollars ($50) for the first such violation or violations arising from the same set of operative facts, and a civil penalty of one hundred dollars ($100) for subsequent violations not arising from the same set of operative facts occurring within twelve (12) months of the first violation. Each business day during which the same violation is found to have existed shall constitute a separate offense. In no event shall a series of violations arising from the same set of operative facts result in civil penalties exceeding three thousand dollars ($3,000)

in a twelve (12) month period. Alternatively, the Town Manager or designee, should they deem it necessary, may, after ten (10) days' notice, have such trash, garbage, refuse, litter, debris and other substances, which might endanger the health of other residents of the Town, removed by Town's agents or employees, in which event the costs and expenses thereof shall be chargeable to and paid by the owner of such property and any such changes may be collected by the Town as taxes are collected. Every charge authorized by this Section with which the owner of such property shall have been assessed and which remains unpaid shall constitute a lien against such property ranking on a parity with liens for unpaid local taxes and enforceable in the same manner as provided in Articles 3 (§58.1-3940 et seq.) and 4 (§58.1-3965 et seq.)of Chapter 39 of Title 58.1.

B. Any owner aggrieved by the decision of the Town Manager or designee, under paragraph A above, may appeal the herein described notice within ten (10) days of the date of its receipt, in which case, allefforts to cease removal of said trash and debris until the appeal has been decided by Town Council.

This ordinance shall become effective upon passage.

APPROVED:

_____
Chris W. Holloway Mayor

ATTEST:

_____
Tina L. Presley, Clerk of Council

THIS ORDINANCE was approved at the Regular Meeting of the Town of Front Royal, Virginia conducted _____2021, upon the following recorded vote:

Lori A. Cockrell	__Yes __No	Jacob L. Meza	__Yes __No
Gary L. Gillispie	__Yes __No	Letasha T. Thompson	__Yes __No
E. Scott Lloyd	__Yes __No	Joseph E. McFadden	__Yes __No

A public hearing on the above was held on _____, having been advertised in the Northern Virginia Daily on May 8 and May 15, 2021.

Approved as to form and legality:

_____
Douglas W. Napier, Town Attorney Date: ____/____/_____

Council Agenda Statement

Item # 8B

Meeting Date: May 24, 2021

Agenda Item: PUBLIC HEARING - An Ordinance Amendment to Town Code Chapter 12-3 (Finance Fees) to Remove the Credit Card Fees from any Payments Due to the Town if Tendered by either Credit Card or Debit Card and to Approve a FY2022 Budget Amendment

Summary: Council is requested to amend Town Code Chapter 12-3 (Finance Fees) to remove fees when payment of any Town transaction is tendered by either credit card or debit card or any other means of payment by which the Town incurs a charge, as presented. If approved, Council is requested to approve a FY22 Budget Amendment in the amount of $140,000 due to the FY2022 Budget being already approved.

NOTE: The ordinance amendment, if approved, would be effective July 1, 2021.

Budget/Funding: PROPOSED REVISION TO FY22 PROPOSED BUDGET

GENERAL FUND		
1000-3120101	General Fund Revenue Sales Tax	+$43,780.00
1000-3510102	Transfer from Electric Fund to G/F	+$59,300.00
1000-3510101	Transfer from Water Fund to G/F	+$15,680.00
1000-3510107	Transfer from Sewer Fund to G/F	+$18,080.00
1000-3510104	Transfer from Solid Waste Fund to G/F	+$3,160.00
1215-43076	Finance Customer Service Credit Card Fees	+$140,000.00
ELECTRIC FUND		
9499-49004	Transfer to General Fund	+$59,300.00
9499-49999	Reserve for Contingency	<$59,300.00>
WATER FUND		
9699-49004	Transfer to General Fund	+$15,680.00
9699-49999	Reserve for Contingency	<$15,680.00>
SEWER FUND		
9899-49004	Transfer to General Fund	+$18,080.00
9899-40005	Sewer Fund Interest on Debt Service	<$18,080.00>
SOLID WASTE FUND		
4203-49999	Transfer to General Fund	+$3,160.00
4203-40005	Reserve for Contingency	<$3,160.00>

Meetings: Work Sessions held March 8 and April 12, 2021

Proposed Motion: I move that Council approve an amendment to Town Code Chapter 12-3 (Finance Fees) to remove fees when payment of any Town transaction is tendered by either credit card or debit card or any other means of payment by which the Town incurs a charge, as presented. I further move to approve a FY22 Budget Amendment in the amount of $140,000.00.

Moved _____ ***Seconded*** _____

Cockrell _____ ***Gillispie*** _____ ***Lloyd*** _____ ***McFadden*** _____ ***Meza*** _____ ***Thompson*** _____

AN ORDINANCE TO AMEND FRONT ROYAL TOWN CODE CHAPTER 12-3 PERTAINING TO FINANCE FEES SPECIFICALLY CREDIT CARD FEES

WHEREAS, Town Council on April 12, 2021 directed Town Staff to move forward on amending Town Code Chapter 12-3 Finance Fees to remove reference of adding a credit card fee when payment is tendered by either credit card or debit card; and,

NOW THEREFORE, BE IT ENACTED, by the Town Council of the Town of Front Royal, Virginia, that Chapter 12-3 of the Front Royal Town Code hereby be amended as follows:

12-3 FINANCE FEES

A. FEE FOR RETURNED CHECK: If any check or other means of payment tendered to the Town in the course of its duties is not paid by the financial institution on which it is drawn, because of insufficient funds in the account of the drawer, no account is in the name of the drawer, or the account of the drawer is closed, and the check or other means of payment is returned to the Town unpaid, the amount thereof shall be charged to the person on whose account it was received, and his liability and that of his sureties shall be as if he had never offered any such payment. A penalty of $35.00 or the amount of any costs, whichever is greater, shall be added to such amount, and said penalty shall be in addition to any other penalty provided by law.

~~**There is hereby added to any amount due to the Town a fee of 2.35% when payment of such amount is tendered by either credit card or debit card or any other means of payment by which the Town incurs a charge.**~~

This ordinance shall become effective July 1, 2021.

APPROVED:

_____
Chris W. Holloway Mayor

ATTEST:

_____
Tina L. Presley, Clerk of Council

THIS ORDINANCE was approved at the Regular Meeting of the Town of Front Royal, Virginia conducted _____2021, upon the following recorded vote:

Lori A. Cockrell	__Yes __No	Jacob L. Meza	__Yes __No
Gary L. Gillispie	__Yes __No	Letasha T. Thompson	__Yes __No
E. Scott Lloyd	__Yes __No	Joseph E. McFadden	__Yes __No

A public hearing on the above was held on _____, having been advertised in the Northern Virginia Daily on May 8 and May 15, 2021.

Approved as to form and legality:

_____
Douglas W. Napier, Town Attorney Date: ____/____/_____

TOWN OF FRONT ROYAL

DEPARTMENT OF FINANCE
102 E. MAIN STREET
P.O. BOX 1560
Front Royal, Va. 22630

B.J. Wilson
Director of Finance
bwilson@frontroyalva.com

(540) 635-7799
(540) 635-2298 fax

DATE: **MARCH 10, 2021**

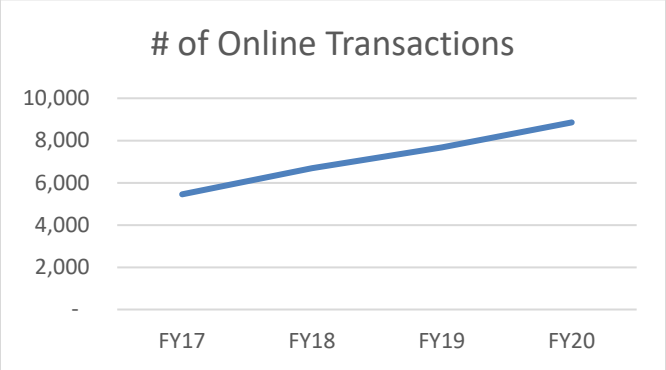
TO: **FRONT ROYAL MAYOR & TOWN COUNCIL**

FROM: **B. J. WILSON, DIRECTOR OF FINANCE**
CC: **STEVEN HICKS, TOWN MANAGER**

RE: **CREDIT CARD FEES**

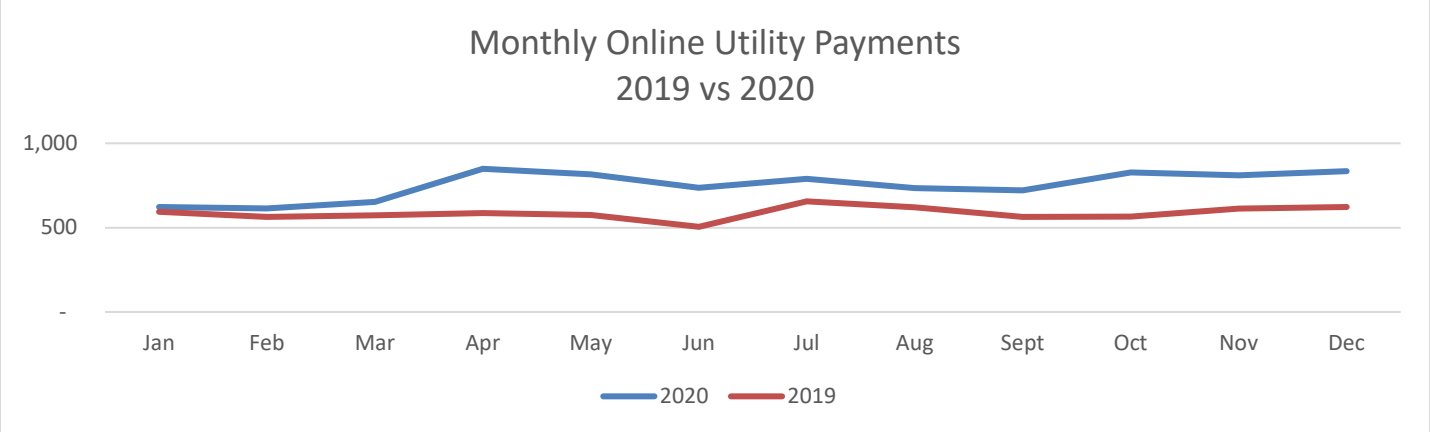
During the March 8th, 2021 work session, Council requested staff to research, provide information, and provide a recommendation regarding the removal of credit card fees charged to citizens for payment transactions. There are valid reasons for both removing and charging credit card fees; as well as many unknown variables that could have a material impact in the future. The information provided below should help provide a better understanding of historic values and potential impacts moving forward.

The amount of payments collected via credit card from the Town of Front Royal's website have increased year over year for the last three years on average of 17.6% and appears to be continuing into FY21.



	# of Online Transactions	% Increase
FY17	5,453	
FY18	6,690	22.7%
FY19	7,668	14.6%
FY20	8,857	15.5%

From March to April 2020, during the beginning impacts of COVID-19 the Town's online utility payments increase roughly 30%; from December 2019 to December 2021 online utility payments increased 34%.



Although the number of online credit card payments have increased, the number of credit card payments received in the Town Hall lobby and drive thru continue to be greater.

Jan-Dec 2020					
	# Credit Card Payments Online	# Credit Card Payments from Lobby/Drive Thru	# Total Credit Card Payments	Total # Receipts	% of Credit Card Payments of Total Receipts
Utility Payments	10,972	11,377	22,349	86,338	26%
Tax Payments	1,024	1,277	2,301	66,917	3%

As seen above, roughly 26% of utility payments received are from a credit card transaction and only 3% of tax payments are received from a credit card transaction. Majority of tax payments are and most likely will continue to be paid by check. Mortgage companies pay real estate taxes by check and majority of businesses pay for business licenses by check.

Currently, the Town has 8,481 active utility accounts and $30,814,005 represents utility sales for the FY22 Proposed Budget. If all utility account customers were to pay with a credit card and be charged a 2.35% credit card fee, plus a $0.25 transaction fee; the Town would receive $726,822.00 in credit card fees. Although this is an unrealistic scenario, this figure provides an idea of a worst case scenario for credit card fees related to utility payments.

The Town's expense for credit card fees for calendar year 2020 was $103,433.46; if we anticipate a 30% increase as seen from Dec 2019 to Dec 2020 the credit card fees would equate to approximately $135,000. If the Town were to continue with the same merchant service with current rates and anticipate an additional 30% increase in credit card users the expense would be approximately $180,000. If the $180,000 expense were able to be disbursed equally across the 8,481 active utility accounts; each account would be charged an additional $1.77 per month; if broken down by service (electric, water, sewer, & garbage) the charge would be approximately $0.44 per month for each service.

Pros of Waiving Credit Card Fees

1. Ability to procure merchant services at a lower rate, thus reducing the Town's credit card fees incurred.
    a. Software vendors limit the merchant services that are able to interface with their software, finding a merchant that can interface with both the Town's tax and utility software as well as willing to pass along convenience fees without having multiple convenience fees/tiers or requiring users to pay convenience fee separately, severely limits competition.

2. The Town pays approximately $12,000 annually for custom software to be able to accept online payments and charge the convenience fee; this custom could be eliminated, thus reducing expense by $12,000.

3. Will make software conversion easier when Town upgrades utility billing & financial software; and potentially allow more options for vendors and online modules for our citizens.

4. May assist citizens that are unable to pay their monthly utility bill by regular cash/check payments

4. Convenience of paying online without fee

5. Perception from some citizens; even after staff provides explanation. Some citizens feel the charge is unfair because other businesses do not charge a fee

6. Common practice of electric utilities is to absorb credit card fee; closer to a standard process

Cons of Waiving Credit Card Fees

1. Expense would be absorbed by the Town thereby being passed on to all citizens/accounts

2. Expense will continue to increase year over year, as utility rates increase expense will increase

Unknown Variables

1. Potential increase in amount of payments received by credit card thereby increasing expense?

2. Potential reduction of bad debt/delinquent accounts?

3. Potential reduction of staff time due to less payments being mailed or in-person payments?

4. Several years ago, the Town was challenged on the charging of convenience fees; and temporarily stopped accepting certain credit card payments. At the time, a fairly major court case was on-going in New York which provided a ruling that convenience fees were allowed. The case was appealed and spanned over several years, at one point went to the Supreme Court which sent it back to Second Circuit Court; the outcome permitted the charging of convenience fees. Similar cases continue to be filed. Some states have banned the charging credit card fees.

OTHER SCENARIOS DISCUSSED

Waiving Credit Card Fees for Utility Payments and Charging Credit Card Fee on Taxes – Not Recommended

A. Credit card fees for tax payments make up a small portion of credit card fees, currently around $5,000.
B. Explaining to citizens which transactions require credit card fees would be a bit confusing.
C. Handling of Payment In Lieu Of Tax (P.I.L.O.T.) utility payments would need to be further researched because the intention of PILOT is to charge based upon if the business were to be taxed; so would a credit card fee be charged only on the PILOT and remaining utilities not receive a credit card fee?
D. Town's ability to procure lower credit card fees would continue to be limited; or the Town would need to use two separate merchant services with multiple subsidiary accounts due to in-lobby payments & online payments for each.

Incentive for paying via cash or check – Not a viable solution

Providing an incentive for paying by cash or check is a violation of the bylaws for credit card companies; so the Town would lose all capabilities to process credit cards

Reduction of credit card fees – Not recommended, unless implementing for a long period

A. Custom programs would need to be updated, causing additional expense and likely delay on implementation
B. Many Town forms would need to be updated, involving multiple vendors
C. Will not enable more competition for merchant services to obtain lower rates
D. Would not be a significant savings to citizen

Council Agenda Statement

Item # 8C

Meeting Date: May 24, 2021

Agenda Item: PUBLIC HEARING - An Ordinance Amendment to Town Code Chapter 158-6 Pertaining to Adoption by Reference of State Motor Vehicular Laws

Summary: Council is requested to approve an amendment to Town Code Chapter 158-6 pertaining to the adoption by reference of state motor vehicular laws, as presented. Annually the Town must readopt Section 158-6 of the Town Code, which legally allows the Town to incorporate all the changes to the State Code traffic laws that have been made during the year.

Budget/Funding: None

Meetings: Work Session held May 10, 2021

Proposed Motion: I move that Council approve an amendment to Town Code Chapter 158-6 pertaining to the adoption by reference of state motor vehicular laws, as presented.

Moved _____ ***Seconded*** _____

Cockrell _____ ***Gillispie*** _____ ***Lloyd*** _____ ***McFadden*** _____ ***Meza*** _____ ***Thompson*** _____

STATE STANDARDS
(Adopted 5-14-84)

158-6 ADOPTION BY REFERENCE OF STATE MOTOR VEHICULAR LAWS

Pursuant to the authority of Section 46.2-1313, Code of Virginia, 1950, as amended, all of the provisions and requirements of the laws of the State as of July 1, ~~2020~~ 2021, contained in Title 46.2, Code of Virginia, 1950, as amended, and Article 2 of Chapter 7 of Title 18.2, Code of Virginia, 1950, as amended, except those provisions and requirements the violation of which constitutes a felony and except those provisions and requirements which, by their very nature, can have no application to or within the Town, are adopted and incorporated by reference and made applicable within the Town. References to "highways of the state" contained in such provisions and requirements hereby adopted shall be deemed to refer to the highways and other public ways within the Town. Such provisions and requirements are hereby adopted, mutatis mutandis, and made part of this chapter as fully as those set forth at length herein; and it shall be unlawful for any person within the Town to violate or fail, neglect or refuse to comply with any provision of Title 46.2, Code of Virginia, and Article 2 of Chapter 7 of Title 18.2, Code of Virginia, which is adopted by this section, provided that in no event shall the penalty imposed for the violation of any provision or requirement adopted exceed the penalty imposed for a similar offense under Title 46.2, Code of Virginia, and Article 2 of Chapter 7 of Title 18.2, Code of Virginia.

This ordinance shall become effective July 1, 2021.

APPROVED:

_____
Chris W. Holloway Mayor

ATTEST:

_____
Tina L. Presley, Clerk of Council

THIS ORDINANCE was approved at the Regular Meeting of the Town of Front Royal, Virginia conducted on _____ __2021, upon the following recorded vote:

Lori A. Cockrell	__Yes __No	Jacob L. Meza	__Yes __No
Gary L. Gillispie	__Yes __No	Letasha T. Thompson	__Yes __No
E. Scott Lloyd	__Yes __No	Joseph E. McFadden	__Yes __No

A public hearing on the above was held on _____, having been advertised in the Northern Virginia Daily on May 8 and May 15, 2021.

Approved as to form and legality:

_____
Douglas W. Napier, Town Attorney Date: ____/____/_____

Council Agenda Statement

Item # 10A

Meeting Date: May 24, 2021

Agenda Item: Bid for Various Sizes of MJ Gate Valves

Summary: Council is requested to approve the bid from L-B Water Service, Inc. for the purchase of various sizes of MJ Gate Valves in the amount of $31,554.70

Budget/Funding: Budgeted and available in line item 9602-47530

Meetings: None

Should Council wish to remove this item from the consent agenda, the following motion would allow approval of this request:

Proposed Motion: I move that Council approve the bid from L-B Water Service, Inc. for the purchase of various sizes of MJ Gate Valves in the amount of $31,554.70

Moved _____ ***Seconded*** _____

Cockrell _____ ***Gillispie*** _____ ***Lloyd*** _____ ***McFadden*** _____ ***Meza*** _____ ***Thompson*** _____

Town of Front Royal, Virginia

Purchasing, Department of Finance

MEMORANDUM

Date: **May 13th, 2021**

To: **Tina Presley, Senior Executive Assistant**

From: **Alisa Scott, Purchasing Manager**

RE: **Request to add action item to Town Council Agenda**

Purchasing received a request from the Department of Public Works to competitively bid out firm fixed pricing for various sizes of MJ Gate Valves. MJ gate valves are a good that is procured for water and sewer maintenance crews to replace existing broken MJ gate valves. On May 11th, 2021, I held a public bid opening and received four (4) bids in accordance with the Virginia Public Procurement Act.

Town staff has reviewed the submitted bids and recommends awarding the purchase to L-B Water Service, Inc. from Chester, VA for $31,554.70. the lowest responsive and responsible bidder.

Please find attached the bid tabulation and recommendation letter from Robert Boyer, Public Works Director. Please add this consent item to Council's May 24th, 2021 Regular Town Council Meeting.

Funding has been budged for and is available in the following line items: 9602-47530.

Purchasing, Department of Finance
102 E Main Street
Front Royal, VA 22630
Website: www.frontroyalva.com
Phone 540-636-6889

Memo

Town of Front Royal Public Works

TO: **Alisa Scott, Purchasing Manager**

FROM: **Robert Boyer, Public Works Director**

CC: **Megan Clark, Purchasing Agent**

DATE: **May 13, 2021**

RE: **Recommendation of purchase for various size MJ Gate Valves**

Public Works Department has reviewed the four bids received on Tuesday, May 11, 2021 from vendors for various size mechanical joint gate valves. We have determined after reviewing the lower bidders submitted information that their Mechanical Joint gate valves meet all Town construction standards & specifications. We recommend moving forward with awarding this bid to the low bidder L-B Water Services Inc. at a total cost of $31,554.70. This funding is available in the current water maintenance budget line item under capitol inventory 9602-7530.

The purchase of these various size mechanical joint gate valves will allow the Water & Sewer maintenance department to work on replacing broken gate valves currently in our aging water infrastructure over the next few months to keep the system operating smoothly and efficiently.

	L-B WATER SERVICE INC	Core & Main LP	Fortiline Inc	Ferguson Enterprises Inc
Lot 1 : Lot 1				
1 - 4" MJ GATE VALVE	**$2,641.56**	$2,674.14	$2,879.94	$3,301.44
2 - 6" MJ GATE VALVE	**$5,617.90**	$5,690.40	$6,122.30	$7,018.30
3 - 8" MJ GATE VALVE	**$10,737.72**	$10,867.08	$11,701.08	$13,413.48
4 - 10" MJ GATE VALVE	**$12,557.52**	$12,705.12	$13,683.24	$15,685.65
Total For Lot 1 : Lot 1	**$31,554.70**	$31,936.74	$34,386.56	$39,418.87
Total Bid	**$31,554.70**	$31,936.74	$34,386.56	$39,418.87

Council Agenda Statement

Item # 10B

Meeting Date: May 24, 2021

Agenda Item: Board of Zoning Appeals (BZA) Nomination

Summary: Council is requested to send a nomination to the Judge of the Circuit Court for a position on the Board of Zoning Appeals (BZA) to a five-year term ending May 1, 2026.

Budget/Funding: None

Meetings: Work Session held May 10, 2021

Should Council wish to remove this item from the consent agenda, the following motion would allow approval of this request:

Proposed Motion: I move that Council nominate Katherine Snyder to the Judge of the Circuit Court for appointment to the Board of Zoning Appeals to a five (5) year term ending May 1, 2026.

Moved _____ ***Seconded*** _____

Cockrell _____ ***Gillispie*** _____ ***Lloyd*** _____ ***McFadden*** _____ ***Meza*** _____ ***Thompson*** _____

Council Agenda Statement

Item # 10C

Meeting Date: May 24, 2021

Agenda Item: License and Encroachment Agreement for a Fence at 1516 N Royal Avenue – Aaron Hike

Summary: Staff received a request from Aaron Hike, 1516 N. Royal Avenue to allow a fence in a public alley. Mr. Hike had originally wanted to vacate the alley in which the 10-year-old fence is located; however, after much review the Town Manager agreed that it was not in the best interest of the Town to vacate the alley. Council is requested to approve a License and Encroachment Agreement for a fence in a public alley for an initial (5) five-year period and the Town Manager will administratively approve the agreement thereafter, as presented.

Budget/Funding: None

Meetings: Work Session held May 10, 2021

Should Council wish to remove this item from the consent agenda, the following motion would allow approval of this request:

Proposed Motion: I move that Council approve an License and Encroachment Agreement for a fence in a public alley for an initial five-year period and the Town Manager administratively approving the agreement thereafter, as presented.

Moved _____ ***Seconded*** _____

Cockrell _____ ***Gillispie*** _____ ***Lloyd*** _____ ***McFadden*** _____ ***Meza*** _____ ***Thompson*** _____

THIS LICENSE AND ENCROACHMENT AGREEMENT, is made and entered into this _____ day of _____, 2021, by and between the **TOWN OF FRONT ROYAL, VIRGINIA,** a municipal corporation, hereinafter referred to as the "Town", and **AARON L. HIKE,** a married man**,** hereinafter referred to as "Hike".

WHEREAS, Hike, the owner of improved real property located at 1516 North Royal Avenue, Town of Front Royal, Warren County, Virginia (the "Property"), which Hike acquired by Deed dated August 8, 2019, from Hike Properties, LLC, in Warren County Circuit Court Clerk's Office Instrument No. 190004078, has requested that the Town Council of the Town of Front Royal, Virginia, authorize the existing encroachment of a portion of an improvement, being a fence (the "Fence") located near Hike's Property, into, on and over the Town's unimproved alley and right-of-way located adjacent and just to the North of Hike's Property (the "Alley") (the Town's grant of Hike's use of the encroachment and encroachment area of the Fence unto the Alley being the "License and Encroachment Area"); and,

WHEREAS, the Town of Front Royal, Virginia, is willing to authorize the said License and Encroachment upon the Alley on the Encroachment Area **SUBJECT** to the following terms and conditions.

That for and in consideration of the sum of **ONE DOLLAR ($1.00) per annum,** paid by Hike to the Town , the parties do hereby agree as follows:

1. **PREMISES** - The Town agrees to license to Hike so much of its unimproved Alley for Hike's existing Fence, being the Encroachment Area, as shown on the attached drawing, titled "JOB W20-80, PAPER SIZE 8.5"x 14", SHEET 1 OF 1, CLIENT:

TOWN OF FRONT ROYAL, DRAWING FILE: TOWN ALLEY.dwg", said Encroachment of the Fence unto the Alley being approximately six feet (6') at its widest, said Fence running in an approximate West-East direction roughly parallel to Hike's Property.

2. TERM OF LICENSE AND ENCROACHMENT - The term of the License and Encroachment is for a period of **Five (5)** years, commencing on the **_____ day of _____, 2021**, and ending on the **_____ day of _____, 2026**.

3. PAYMENT OF LICENSE FEE - Hike shall pay to the Town an annual license fee payment of **One Dollar ($1.00)**. The license fee payment shall be paid in advance beginning on the 1st day of _____, 2021, and on an annual basis thereafter for the term of this License and for each extension hereunder.

5. RELEASE AND HOLD HARMLESS – Hike hereby agrees to hold the Town, its officers, employees, agents, and invitees harmless from any liability pertaining to Hike, Hike's guests, invitees, employees, agents, officers, contractors and subcontractors use and/or occupancy of the Fence and Encroachment Area.

6. USE OF PREMISES – Hike shall not assign or sublease this License and Encroachment Agreement or the Encroachment Area without the prior written consent of the Town. Hike shall not permit or allow any dangerous practice or hazardous condition to occur on the Encroachment Area , shall not violate any State, Federal, or local law concerning the use of the Encroachment, or permit any illegal activity to occur thereon. Hike shall not create or allow any nuisance to be or remain upon the Encroachment Area, except as set forth herein.

7. <u>ALTERATIONS OR IMPROVEMENTS</u> - Any alterations, additions, or improvements to the Fence and Encroachment Area shall not be permitted without the written consent of the Town, except as set forth herein. Any permitted alterations, additions, or improvements to the Fence and Encroachment Area shall be performed at the sole expense of Hike by reputable workmen and contractors approved by the Town. All alterations, additions, or improvements to the Fence and Encroachment Area shall be and remain the sole property of the Town, except as permitted in writing by the Town.

8. <u>MAINTENANCE</u> – Hike shall maintain the Fence and Encroachment Area in a safe condition of good repair. Hike shall surrender the Encroachment Area to the Town at the conclusion of the License and Encroachment Agreement free and clear of the Fence and the Encroachment. Hike accepts the Alley and Encroachment Area **"as is", "where is"**. It is specifically understood that the Town has no obligation to Hike to make any repairs, improvements, or replacements whatsoever to the Alley or to the Fence or to the Encroachment Area during the period of the License Agreement. The Town does not warrant or guarantee as to the suitability of the Alley or Encroachment Area for any particular purposes.

9. <u>TERMINATION</u> - This License and Encroachment Agreement may be terminated by either party for any reason six (6) months from the date of mailing or hand delivery a written notice of termination to the other party. For the purposes of this License and Encroachment Agreement, all notices shall be made in writing and shall be delivered by first class mail or hand delivered to the parties at the addresses stated herein, to-wit:

TOWN OF FRONT ROYAL
C/O Front Royal Town Manager

102 East Main Street
Front Royal, Virginia 22630

AARON L. HIKE
1516 North Royal Avenue
Front Royal, Virginia 22630

In the event of termination by the Town prior to the scheduled expiration of the License and Encroachment Agreement, Hike shall be given a reasonable time to remove his Fence and supporting infrastructure from the Alley and Encroachment Area, not to exceed sixty (60) days. In the event that public necessity requires an immediate recovery of the Alley and Encroachment Area by the Town, and Hike is unable to immediately remove his Fence and supporting infrastructure from the Alley and Encroachment Area, the Town may remove the Fence and supporting infrastructure for Hike, without liability therefor.

Except as provided herein, any fixtures or personal property which remains upon the Alley and Encroachment Area upon termination or expiration of the License and Encroachment Agreement shall become the sole property of the Town at the sole option of the Town.

10. AUTHORITY- All parties and signatories hereto affirmatively represent that by signing this License and Encroachment Agreement and all Exhibits hereto, that they have all necessary and appropriate authority to do so and legally bind themselves hereto.

11. INTERPRETATION - The interpretation of the provisions of this License and Encroachment Agreement shall be in accordance with the laws of the State of Virginia.

12. MODIFICATION AND EXTENSIONS - Modification of the terms and conditions of this License and Encroachment Agreement and extensions or renewals of

this License and Encroachment Agreement shall not be permitted, unless agreed to in writing and executed with the same formality as this License and Encroachment Agreement.

GIVEN under our hands this _____ day of _____, 2021

TOWN OF FRONT ROYAL, VIRGINIA (SEAL)

BY: _____
Steven Hicks, Town Manager

ATTEST:

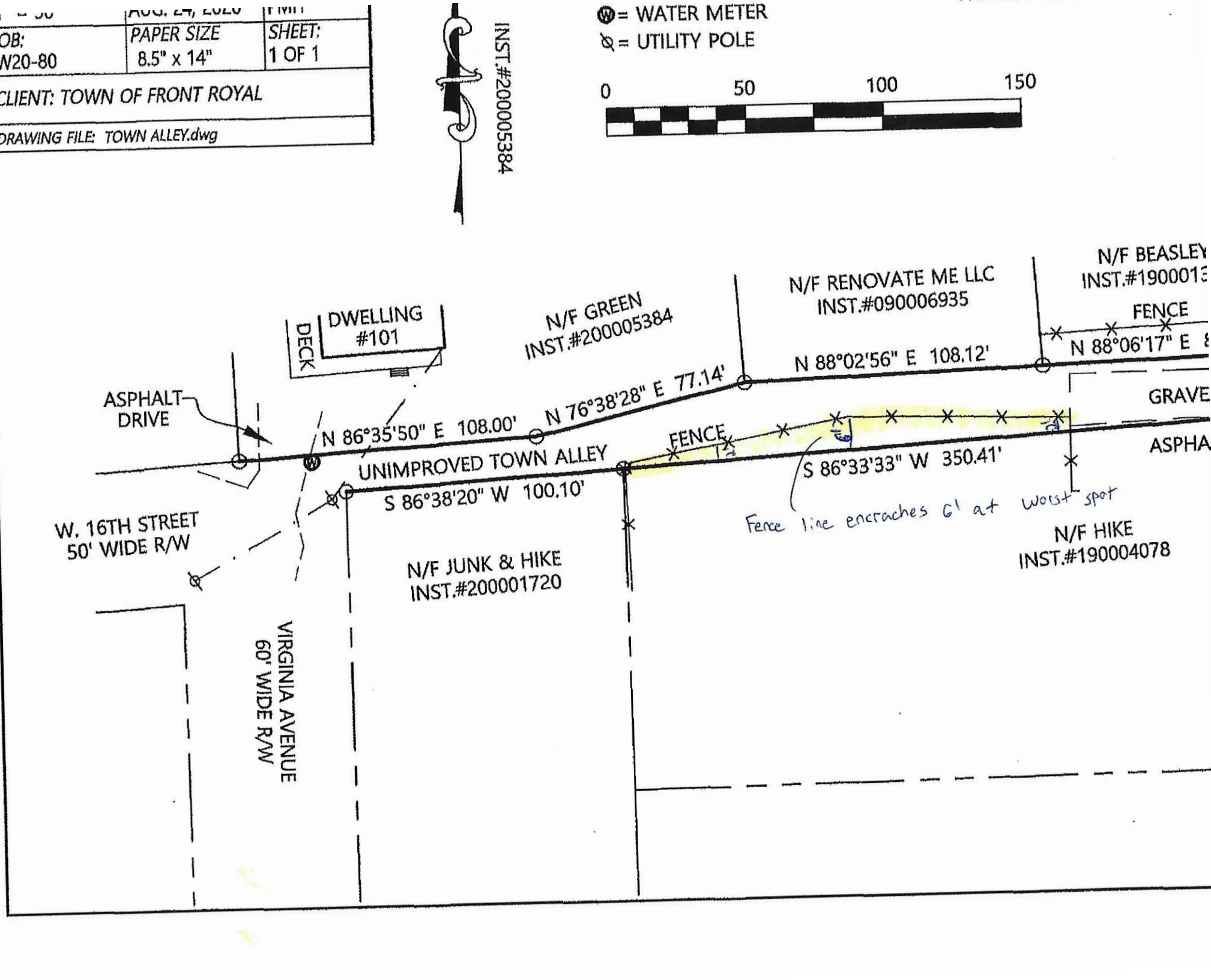
_____
Tina L. Presley
Clerk of Town Council

_____
Aaron L. Hike

APPROVED AS TO FORM:

_____
Douglas W. Napier, Town Attorney

JOB: W20-80	PAPER SIZE 8.5" x 14"	SHEET: 1 OF 1
CLIENT: TOWN OF FRONT ROYAL		
DRAWING FILE: TOWN ALLEY.dwg		




ALLEY RUNNING BETWEEN
VIRGINIA AVE. & N. ROYAL AVE.
101
TO N. ROYAL AVE.
FENCE ENCROACHMENT INTO ALLEY.
1516
1505
VIRGINIA AVE
TO W. 14TH ST.
MAP KEY
PROPERTY LINES
40 20 0 40
Feet
N
PREPARED BY DEPT. OF PLANNING & COMM. DEV.
MAY 5, 2021 | CARTOGRAPHER: AGV
IMAGERY DATE: APRIL 2018

Council Agenda Statement

Item # 12

Meeting Date: May 24, 2021

CLOSED MEETING

Motion to Go Into Closed Meeting

I move Town Council go into Closed Meeting pursuant to Section 2.2-3711, of the Code of Virginia for the following purposes:

(A) The purpose of assignment, appointment, promotion, performance, demotion, salaries, discipling or resignation of specific public officers, appointees, or employees of a public body, under subsection A. 1

(B) For the purpose of consultation with legal counsel employed or retained by a public body regarding specific legal matters requiring the provision of legal advice by such counsel, under subsection A. 8.

Motion to Certify Closed Meeting at its Conclusion *[At the conclusion of the Closed Meeting, immediately re-convene in open meeting and take a roll call vote on the following:]*

I move 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 Act 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.

Moved _____ ***Seconded*** _____

Cockrell _____ ***Gillispie*** _____ ***Lloyd*** _____ ***McFadden*** _____ ***Meza*** _____ ***Thompson*** _____