

Mount Jackson  
Town Council Regular Meeting  
October 12, 2021

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The regular meeting of the Mount Jackson Town Council was held October 12, 2021 at 7:00 PM in the council chambers at 5901 Main Street. Roll call was taken with Mayor Pifer, and Councilmembers Rod Shepherd, Whitney Miller, Bonnie Good, Judy Fultz, Dennis Andrick, and Roger Rudy in attendance. Also, in attendance, Neil Showalter, Town Manager; Jeff Sterner, Police Chief; Jay Neal, Town Attorney; and Debbie Allen, Town Clerk. Visitors were Tommy Keeler with Northern Virginia Daily, Jim Hines, Keith Cowart, Randy Lonas, John Boor, and Tyler Hinkle.

Agenda Additions/Deletions/Changes: None

Hear from Visitors:

1. John Boor stated the Apple Harvest Festival will be held on October 30 from 9 AM to 4 PM. There are numerous craft and food vendors signed up, three bands performing, and live radio remote. The Halloween parade will begin at Mount Calvary Church at 11 AM, and will march through vendor's row, up to the Town Hall where they will be judged by their peers for prizes. Mr. Boor stated Joe Proctor graciously donated tickets to the haunted house for the adult winners. The partnership has scheduled the midnight ghost tour again, with people from out of town helping with that event. Mr. Boor stated he decided on a historical theme this year, with overwhelming response. All three museums will be open with assistance from high school students where needed. The Union Church will be open with Barb Pifer on site, and people dressed in periodic garb. The event will include the Shenandoah County Historical Society, Sons of the Confederacy, Daughters of the American Revolution, Wreaths Across America, and the main attraction will be John Adamson displaying his long rifles at Union Church from 10 AM to 1 PM. Mr. Boor stated he has been approached by different political parties regarding election propaganda, and has told them no, as this is a family community event.

2. Tyler Hinkle stated he wanted to follow up on the Fall Festival, which was very successful last year given the circumstances and hopes it will be even more successful this year. There will be radio spot on site to do a live podcast, and both cemeteries will be open (beside Union Church and across from Holtzman Corporation). The Sons of the Confederacy will open the cemetery gates on October 30, and may keep them open for the remainder of the year. Mr. Hinkle stated luckily this year the Shen Go buses are running up and down Route 11 and while there are no official stops downtown, people can flag the bus and take it to Holtzman's to see the cemetery, which is a great resource for this and future festivals. Mr. Hinkle stated secondly, the County is in the process of updating its Comprehensive Plan for the next 20 years, as the last one was done in 2005. The County is having a series of 12 meetings to let the public know about this plan. There will be a meeting tomorrow at 7 PM in the café of the main building at Shenandoah Caverns, and on Thursday at the New Market Fire Hall at 7 PM as well. Mr. Hinkle stated the County would love to have representatives from Mount Jackson there to talk with other members of the community about the future. Mr. Hinkle distributed flyers to the Councilmembers, regarding information and meeting dates.

Remarks & Recommendations from the Mayor: Mayor Pifer stated he appreciates everyone wearing a mask tonight to protect themselves and each other.

Remarks from Councilmembers:

Ms. Good stated she will be emailing Councilmembers a copy of research that Virginia Tech has put out regarding solar panels on farms. One section touches on reclaiming the farm land after the solar panels have been on site. Ms. Good stated Councilmembers should find it interesting and a topic that will come up in the future, so the more educated the Council is on it, the better. The study is headed by many professors at Virginia Tech, and one from Germany who is a specialist on this subject.

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Mr. Shepherd stated November 1 the feasibility study is scheduled to be released by the Virginia Department of Parks and Recreation, for the potential 50-mile bike trail.

Presentations: None

Chief of Police Report: Chief Sterner had no report.

Town Manager Report: Mr. Showalter stated the meeting tomorrow night at Shenandoah Caverns for the long range planning of Shenandoah County, is a time for people to give input to those that are formulating the plan, and he encouraged everyone to go. Mr. Showalter stated last month Robert Whitehurst introduced the OFW Solar project, and was anticipated to be present tonight, but is still working with Town staff on finalizing the application. There is a Zoom meeting scheduled for Thursday morning which may be the last one necessary before the application is complete, most likely introduced at the next Planning Commission meeting. That meeting was previously rescheduled from November 1 to November 3, because the assumption was there would be a public hearing, and staff did not to interfere with the election set up process on November 1, while trying to social distance. The Council will get its introduction at its regular meeting on November 9.

Mr. Showalter stated Halloween is approaching, and he and the Chief spoke today and compared with other towns in the county, and decided Mount Jackson's trick-or-treating will be on Sunday, October 31, between 5 PM and 8 PM. Mr. Showalter stated the ads are out, actively seeking applicants for the Planning and Development Administrator position, and the hope is to close the application submissions by October 31. Finally, Mr. Showalter thanked the staff and Council for support and handling extra things to help him out while he has been devoting his time to his wife with her medical issues the last month.

Committee Reports:

1. Finance Committee Chairperson, Rod Shepherd stated the auditors were here last month, and he spoke with Sadie for approximately one hour, and wanted to share a few things. She was praiseworthy of the Clerk who compiles a packet of every Council agenda and minutes for the previous 12 months, including any type of financial and supporting documents. The auditors said that is a fabulous tool during auditing. Mr. Shepherd stated Mr. Rosso in his 3<sup>rd</sup> audit season, was again praised by the auditing team, as being well organized and well detailed. Mr. Shepherd stated Sadie may have one correction, but that is not definite. Mr. Shepherd stated customary to tradition, the audit findings are then presented to the Council, possibly in time for the November meeting, but more likely for the December meeting. Some years the auditors present in person, some years they present via Zoom, and other times they have made the presentation to Mr. Shepherd, Mr. Showalter and Mr. Rosso, which is then summarized and presented to Council by Mr. Shepherd. It was decided on the latter option.

2. Ordinance Committee Chairperson, Dennis Andrick had no report.

3. Personnel Committee Chairperson, Roger Rudy stated Chief Sterner is retiring on November 30, and it is an unfortunate task upon the Personnel Committee to start the process of finding a replacement. The committee met this evening to start organizing the application forms and documents necessary to make that vacancy announcement, and discussed the selection process. Mr. Rudy stated some of that work will be under the advisement of Chief Sterner, as how best to find a good candidate. Mr. Rudy stated this led to a brief discussion on the process for reviewing applications for the Planning and Development Administrator. Mayor Pifer asked if there will be a deadline on accepting applications for the Police Chief, and Mr. Rudy stated no deadline was set at this time, and it will be advertised broadly, outside and inside.

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4. Public Safety Committee Chairperson, Judy Fultz reported September Police Department calls were 873, down 29 from August. There were 7 criminal offenses, 4 cleared by arrest, 1 under open investigation, 1 closed unfounded, and 1 closed victim declined prosecution. They conducted 642 extra patrols/property checks, and 29 foot patrols.

5. Public Services Committee Chairperson, Bonnie Good had no report.

6. Public Properties & Facilities Committee Chairperson, Whitney Miller had no report.

Consent Agenda: Approval – Minutes of September 14, 2021 Regular Meeting.

Councilmember Fultz MOVED, seconded by Councilmember Good to APPROVE the Consent Agenda above.

ROLL CALL VOTE:

<u>AYE</u>	<u>NAY</u>	<u>ABSTAIN</u>	<u>ABSENT</u>
Councilmember Fultz			
Councilmember Miller			
Councilmember Andrick			
Councilmember Shepherd			
Councilmember Rudy			
Councilmember Good			
6 AYES, motion carried			

Old Business: None

New Business:

1. Consideration of Council’s Employee Vaccine Policy Within the Structure of the Current Town Personnel Policies Manual Section IX.H Pertaining to Communicable Disease Policy.

Mr. Showalter stated as a follow up to the action Council took at the last meeting regarding the public entering the Town Hall, the employee vaccination status was pulled into the discussion. The Council approved a 4-2 motion, requiring all staff employees be vaccinated by November 1 unless the employee has a medical reason or doctor’s note, and the unvaccinated must wear a mask in enclosed areas. Mr. Showalter stated when he took a look at the directive he was given to execute this, he found it a tough one to apply to the staff. It was rather inflexible and also did not specify, or left to a lot of assumption, what would happen if someone did not mask or vaccinate. He felt he needed to come back to the Council with some suggestions for wording and also with some reports from supervisors who feel like they could lose personnel if the Town is not careful with the way it is handled.

Mr. Showalter stated 7 out of 20 staff employees are not fully vaccinated, and one of those has stated they could acquire a medical exemption from their doctor. Therefore, this would apply to 6 people, or one-third of the staff. Supervisors have expressed their concerns that if the Town pushes too hard it may lose staff making it hard on everybody else. Mr. Showalter stated he wanted to let Council know what he is hearing at the supervisor level, however, that does not mean the issue can’t be addressed. He posed these questions to Councilmembers in his staff memo in order to effectively enforce the new policy, asking Council to refine these points. 1) What, if any, alternatives to full vaccination are acceptable; 2) if testing is one of those alternatives, who bears the cost; and 3) what disciplinary steps are to be taken in the event of non-compliance with the policy. Mr. Showalter stated with those questions in mind, he drafted a more wordy policy about COVID vaccinations and would like to reopen the discussion about requirements for vaccination of staff.

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Ms. Good asked Town Attorney, Jay Neal, for some legal expertise on what is allowed, with respect to testing, masking requirements, etc. Mr. Neal stated it is extremely hard to say definitively because there are businesses all across the country who are adopting different policies. There has been lawsuits filed on everything from challenging masking to requiring the vaccine. Everything currently is in litigation, and has not worked its way through the court system yet, so there are no definitive answers, because it could well be proven wrong in the Virginia Supreme Court or the Court of Appeals. Mr. Neal stated there are policies that are fairly lenient, and some strict policies with many employees refusing the mandate and being fired. The firings result in sufferings, such as Southwest Airlines and amateur air traffic controllers guiding planes. Mr. Neal stated there are some tough decisions that have to be made but at this point it is almost impossible to give good guidance. Ms. Good asked if there is anything definitive about who pays the bill if testing is required. Mr. Neal stated some employers pay for the testing, and other employers have taken the position this expense can be avoided if the employee is vaccinated, and therefore require the employee to pay. Mr. Neal stated he thinks the better practice would be for the employer to pay, given the hope is COVID is not going to last forever, and the expense would not have to be budgeted over the next several years.

Ms. Good asked if anyone knew if the Town's insurance would pay for the testing. Mr. Andrick and Mayor Pifer stated they did not think so. Ms. Good stated she was tested twice and did not have to pay. Mr. Andrick stated it would be different if the Town is requiring the testing. Ms. Miller stated she was exposed at work and tested and did have a \$25 copay, because she chose Stephens City clinic, which had results immediately, instead of Walgreens, which is free but has a 2-day wait for results. Mayor Pifer asked if anyone knew what that test normally costs. Ms. Miller stated in the case with her employer, the take home tests are \$12, and the employee writes the date on it, sends a picture to the HR representative, and sends it off. Mayor Pifer stated he is fully vaccinated, but his opinion is not to require employees get vaccinated, however employees should be tested on their own time and pay for it. He also feels anyone not vaccinated should be required to mask in Town vehicles or Town property.

Ms. Miller stated she thinks even if the employee is fully vaccinated, if social distancing can not be maintained, a mask would be required. Her concern, much like Southwest Airlines, is she would not want a novice sewer plant operator working by himself, but she does agree the employee should pay for the testing and go on their own time if they choose not to vaccinate. Mr. Neal stated the least restrictive alternative is requiring a mask. He did however read a report from a study noting school age children have become ill from breathing in the mask all day, so there is a question as to whether the protection may be doing more damage than the illness would. However, COVID has not been around long enough for long term studies.

Mr. Showalter stated he believes the motion last month needs to be rescinded because it is not enforceable as it is, and Council would want to conduct business in a clean manner. He stated what he is hearing is while Councilmembers would like the staff to fully vaccinate, there are alternatives. Mayor Pifer stated the policy needs to include a consequence if not followed. Mr. Showalter stated fortunately the consequences are already spelled out in a gradual manner in the employee manual; being 1) the employee is reprimanded; 2) a written warning; 3) suspended without pay; and 4) dismissed. These steps are in place to make it an enforceable policy. Ms. Miller stated she agrees with testing, and does not think the employee should be given four strikes. Ms. Good stating masking should be defined, because some people do not wear them properly, that both mouth and nose need to be covered, and agrees four strikes are too many. Mr. Showalter stated those steps 4 steps are already defined in the employee manual, and the Town would not want to reinvent the discipline rules, as they are already in place for any infraction deemed to be a safety violation or of the personnel policies, and subject to a grievance procedure.

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Ms. Miller stated Councilmembers need to definitively decide on the specific details of this policy. Everyone agreed all staff must disclose vaccination status and if unvaccinated weekly testing is required. Mr. Andrick stated he feels the employer should pay. Ms. Fultz stated the employee should pay if they choose not to vaccinate. Mr. Rudy stated this would only involve 6 employees, and he has no problem with the Town paying. Ms. Miller stated options for free testing can be researched, and if an employee did have to pay they could turn in a receipt for reimbursement. Councilmembers discussed whether employees not vaccinated must wear a mask in enclosed areas. Ms. Miller would propose wearing a mask in Town buildings or Town vehicles, vaccinated or not, if social distancing can't be maintained.

Randy Lonas addressed the Council, asking if he has two crew members in an open ditch in 90 degree heat, would they be required to wear a mask. Ms. Miller stated yes, if they can't social distance. Mr. Andrick agreed with Mr. Lonas that wearing a mask in 90 degree heat is not feasible. Ms. Miller stated it is October 12 and that should not be an issue for a while, and this policy is about keeping employees safe. Mr. Lonas stated his crew worked unmasked all last year, and were in residences without being told if the customer had COVID or not due to HIPPA, and had no issues. He stated he could not enforce masking for his staff, as they sweat enough without trying to breathe through a mask. Ms. Miller stated she would not want to be in a ditch with a mask on either, but if she or a coworker made the choice not to vaccinate, that is the only option to keep people safe. Ms. Miller stated her opinion is she would not flex at all if the person is not vaccinated, but if other Councilmembers feel a vaccinated person does not need to wear a mask outside, she would agree to that. Ms. Good stated she would like to have an opportunity to think through this before a decision is made. Mr. Lonas stated there are thousands of jobs out there now that pay a lot more than the Town, and to try and enforce this may result in losing good people and crews. Ms. Miller stated as Councilmembers review what has been discussed so far, and would decide there is no flexibility in masking requirements, will that be an issue. She would not want to make it less restrictive if the people with the greatest risk are not willing to make those accommodations. In other words, are the people who need to be masked willing to mask, or are they gone anyway. Mr. Lonas stated employees can get a disease working in the sewer plant, a chance they take very day. Ms. Miller stated opinions that are not based on science, should not be discussed, but Councilmembers and staff will take time to review what has been decided so far, and decide how to handle this matter. Ms. Good stated another thing to consider for this policy is when can the restrictions be relaxed or removed, as there will come a time hopefully the number of cases will decrease in Shenandoah County.

Councilmember Andrick MOVED, seconded by Councilmember Good to RESCIND the Previous Employee COVID Vaccination Policy.

ROLL CALL VOTE:

<u>AYE</u>	<u>NAY</u>	<u>ABSTAIN</u>	<u>ABSENT</u>
Councilmember Fultz			
Councilmember Miller			
Councilmember Andrick			
Councilmember Shepherd			
Councilmember Rudy			
Councilmember Good			
6 AYES, motion carried			

Councilmember Good MOVED, seconded by Councilmember Fultz to APPROVE the Addition of the New Employee COVID Vaccination Policy to Next Months Agenda.

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ROLL CALL VOTE:

<u>AYE</u>	<u>NAY</u>	<u>ABSTAIN</u>	<u>ABSENT</u>
Councilmember Fultz			
Councilmember Miller			
Councilmember Andrick			
Councilmember Shepherd			
Councilmember Rudy			
Councilmember Good			
6 AYES, motion carried			

2. Update on Replacement of Route 11 Bridge #1011 Over North Fork of the Shenandoah River.

Mr. Showalter stated he has provided a picture of the newest design. He stated he was previously under the impression the design of the replacement bridge was not going to include sidewalk decks, despite two resolutions from this Council requesting that, however the design does include those decks. This picture is of the Cedar Creek Bridge between Strasburg and Middletown. He stated he forwarded Councilmembers an email from the VDOT historian for our area, who has been talking with one of the architects designing the bridge, and wanted the Town to provide any feedback on this anticipated change in the design. Mr. Showalter stated the previous design had a sandstone rock finish but the new design has Hokie stone. His understanding is the previous stone is more expensive or harder to get and maintain. The Hokie stone pictured on Cedar Creek Bridge is now what is proposed for this replacement bridge. Mayor Pifer passed out pictures of what was originally proposed (in 2014 and 2019), as a comparison to the new design. He does not have a preference in sandstone or Hokie stone, just wanted Councilmembers to see the difference. Mr. Andrick stated sandstone is not as good a quality, with a lesser life expectancy. Mr. Neal stated Hokie stone is on most of the buildings on Virginia Tech campus from a quarry in that area, and this may be a very nice imitation. Mayor Pifer stated Mark Obenshain's legislative assistant, Jennifer Aulgur, previously had a meeting with Randy Kiser with VDOT, who did approve the original design. Mr. Showalter stated if anyone had further feedback please email him and he will pass it along. Mayor Pifer stated he is glad the bike sidewalk deck is still on the design plans, and he feels the Town should stand firm on this.

Motion made by Councilmember Miller, seconded by Councilmember Good, that the Council of the Town of Mount Jackson convene a closed session under Virginia Freedom of Information Act state code section 2.2-3711(A)(8) to consult with legal counsel employed or retained by the Town of Mount Jackson regarding specific legal matters requiring the provision of legal advice by such counsel.

ROLL CALL VOTE:

<u>AYE</u>	<u>NAY</u>	<u>ABSTAIN</u>	<u>ABSENT</u>
Councilmember Fultz			
Councilmember Miller			
Councilmember Andrick			
Councilmember Shepherd			
Councilmember Rudy			
Councilmember Good			
6 AYES, motion carried			

Mayor Pifer adjourned the regular meeting at 8:03 PM to begin the closed session.

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The Council of the Town of Mount Jackson hereby certifies, by roll call vote, that to the best of each member's knowledge, (i) only public business matters lawfully exempted from open meeting requirements by Virginia Law were discussed in the closed meeting to which this certification resolution applies, and (ii) only such public business matters as were identified in the motion convening the closed meeting were heard, discussed or considered by the Council of the Town of Mount Jackson.

VOTE:

Councilmember Fultz	I So Certify
Councilmember Miller	I So Certify
Councilmember Andrick	I So Certify
Councilmember Shepherd	I So Certify
Councilmember Rudy	I So Certify
Councilmember Good	I So Certify
Mayor Pifer	I So Certify

7 AYES, 0 NAYS, 0 ABSENT

Motion made by Councilmember Rudy seconded by Councilmember Andrick to adjourn the meeting at 8:45 PM.

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Deborah "Debbie" L. Allen, Clerk

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Donald "Donnie" I. Pifer, Mayor