

The regular meeting of the Town Council of the Town of Front Royal, Virginia was held on February 10, 2014, in the Warren County Government Center’s Board Meeting Room. Mayor Darr led Council and those attending in the Pledge of Allegiance to the flag and a Moment of Silence. The roll was called at 7:00 p.m.

**PRESENT:** Mayor Timothy W. Darr  
Vice Mayor N. Shae Parker  
Councilman Daryl L. Funk  
Councilman Bret W. Hrbek  
Councilman Thomas H. Sayre  
Councilman Eugene R. Tewalt  
Councilman Hollis L. Tharpe  
Town Manager Steven M. Burke, P.E.  
Town Attorney Douglas W. Napier  
Clerk of Council Jennifer E. Berry, CMC

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

*Vice Mayor Parker moved, seconded by Councilman Tewalt that Council approve the Regular Council Meeting minutes of January 27, 2013 as presented.*

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

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

Joe Swiger, of 119 Gloucester Road, noted that personal history is important. He stated that it is important to also know who is pulling the strings. Mr. Swiger stated that Council sunk development in the northern portion of the County and now they planned to give away the Town Hall. He noted that they also refused to make improvements on South Street and in Royal Village.

Linda Allen, of 416 Salem Avenue, read the following into the record:

My efforts to present facts, noting both pros and factual cons at the public hearing, thus, persuade others to speak favorably toward this proposed swap met with critical remarks. It seems that the private citizen who revealed his advance knowledge of the proposal before Town Council made it public takes away confidence in the Council. Similarly, Council is implicated in the radical misinformation that caused another citizen to write for the public against the proposal. That means the person was used in a denigrating manner. It is not amusing to discover one or more chronological adults whose standards of behavior are not in the best interests of the town. And it is not fair to the rest of Council who are and have been trying to develop and protect our best interests.

With the public hearing, the Town Council chose to tweak the Memo of Understanding for the swap. The negatives have been brought under control

by both time and financial obligations placed upon the current owner of the Afton Inn. He can find himself owning the Inn again if he does not comply.

Therefore, I continue to advocate the swap as a worthwhile business decision. Rather than repeat all the pros for the decision. I will let it suffice that I hope Town Council will choose to pass the proposal, thus giving a chance for economic development of both the old Town Hall and the Afton Inn through private interests and ownership.

Rhonda North, of 1019 Goodview Drive, noted that she would not repeat her comments that she expressed in letter to the editor. She stated that the commentary in the newspaper seems to be in response to her letter though. She expressed concern that under paragraph two Mr. Barros would set the price if the Town were to repurchase the Town Hall. Mrs. North stated that she has received calls and emails which did not support the swap of the properties. She added that had encouraged those individuals to contact Council. She noted that the Town Hall was constructed for the people and it was should not be disposed of. Mrs. North opined that the building decision rests with the people and the Town should renovate and reuse the buildings they have before they purchase new ones.

Matt Tederick, of 21 Edgewood Street, stated that he has asked many questions of Council, none of which have been answered. He questioned whether Council was legally bound to tell the public who the developer is that has been speaking with the EDA thus far. He asked if it was People, Inc. and whether the building would be used for subsidized or low income housing. Mr. Tederick questioned the effect of Peyton Street parking lot and whether the Town would grant a demolition permit to the EDA. He noted that Council owed it to the people to gain their trust back.

Craig Laird, of 203 E. Main Street, stated that they will discuss a Community Development position soon and should anyone applying for this position see that Council voted the matter down, it would show Council's lack of support for moving the community forward. Mr. Laird stated that the Town was trying to be commercially viable with this MOU. He noted that the Town does not pay taxes on the Town Hall. He stated that the Afton Inn needs to be redeveloped. He noted that as soon as people see the building boarded up, they walk the other direction. He stated that Town needed to do something and public chose the Council to make the decisions for the community. Mr. Laird noted that the public expects the Council to make the right choices to further the needs of the community.

Timothy Ratigan, of 1476 Canterbury Road, stated that the citizens of Front Royal gathered to vote for the Council and the Mayor and in doing so, we said that your vote is speaking for us, you make decisions for us and we trust us to make us. He thanked Council for the work they do and the due diligence on the matter at hand. Mr. Ratigan stated that Council is fully aware of the issue they are voting on, as they have spent many months on the Afton Inn matter and agreement. He stated that the agreement would put the Town Hall on the tax roll and turn the Afton Inn and let the EDA do their job. He noted that there was a slim chance that the Afton Inn could be saved, and he encouraged Council to vote on matter for the betterment of the community.

Robert Athey, of 33 Peyton Street, noted that when he purchased his building where he runs his office and also resides, there were strict requirements for parking in place. He expressed concern about item six of the agreement saying that parking would not be a problem. He voiced

objection to the parking matter, noting that he struggled to obtain the eight parking spots he has, and he has concerns with parking privileges around the building at the Afton Inn spot.

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

Town Manager Steve Burke:

- Stated that on February 17<sup>th</sup> the Town would observe President’s Day and he noted the changes in the refuse schedule;
- Noted that contractors would be on John Marshall Highway and 16<sup>th</sup> Street working and there would be lanes closures at times; he noted that there would also be sewer line work along Fletcher Street as well in the coming days;
- Reminded the citizenry that the Planning Commission public hearing would soon be held for the Vision Statement and invited everyone to attend;
- Aired the Tourism Video for members of the public and Council; and
- Stated that VML/VACO Local Government Day was held in Richmond recently and the Town and Warren County met with the elected representatives regarding pending issues and everyone looks forward to ongoing discussions.

Councilman Hrbek stated that he was unaware of any South Street requests Mr. Swiger mentioned in his comments. He also noted that the Town has spent over \$1 million on roads and water infrastructure in the Royal Village area. Mr. Hrbek stated that while Mr. Swiger has stated that the Town has *stopped* development in the Corridor area, it is actually the opposite – with a new customer signing on for Town services just last week in that area.

Councilman Sayre stated that he had concerns with the Morgan Ford low water bridge hearing being pushed back by the Governor.

Mayor Darr thanked Vice Mayor Parker for leading the meeting last week.

Mayor Darr congratulated Investigator Crystal Cline for being honored as Officer of the Year. He noted that it was a well-deserved honor and he thanked her for her work and service to the community.

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

*Vice Mayor Parker moved, seconded by Councilman Tewalt, that Council remove Item 9, CLOSED – Personnel Matter/Community Development Position.*

Vote: Yes – Funk, Hrbek, Parker, Sayre, Tewalt and Tharpe

No – N/A

Abstain – N/A

Absent – N/A

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

**CONSENT AGENDA ITEMS**

A. COUNCIL APPROVAL – Proclamation for “Youth Art Month”

B. COUNCIL APPROVAL – Resolution – First Day Introduction Requirement for Bills with Local Fiscal Impacts

- C. COUNCIL APPROVAL – Authorize the Director of Energy Services to Pursue Turbine Study with GHD
- D. COUNCIL REFER TO PLANNING COMMISSION – Development of Tourism Zone and Other Tax Incentives

*Vice Mayor Parker moved, seconded by Councilman Tewalt that Council approve the Consent Agenda as presented.*

Vote: Yes – Funk, Hrbek, Parker, Sayre, Tewalt and Tharpe  
No – N/A  
Abstain – N/A  
Absent – N/A  
(Mayor Darr did not vote as there was no tie to require his vote)  
(On Consent Agenda)

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**COUNCIL APPROVAL – Resolution and Memorandum of Agreement with EDA that Incorporates a Land Exchange Agreement between the EDA and Afton Inn, LLC**

**Summary: Council is requested to approve a Resolution and Memorandum of Agreement (MOA) with the Economic Development Authority (EDA) that incorporates a Land Exchange Agreement between the EDA and Afton Inn, LLC as presented**

*Councilman Funk moved to refer the matter to the Planning Commission.  
Motion failed for lack of a second.*

*Vice Mayor Parker moved, seconded by Councilman Hrbek, that Council approve a Resolution and Memorandum of Agreement (MOA) with the Economic Development Authority (EDA) that incorporates a Land Exchange Agreement between the EDA and Afton Inn, LLC as presented.*

*Councilman Funk moved to postpone the matter until the meeting of February 24<sup>th</sup>.*

Councilman Sayre asked which revision Mr. Parker’s motion pertained to. Mr. Napier stated that one version Council reviewed included suggestions that Mr. Sayre presented, and one does not contain Mr. Sayre’s suggested revisions.

Vice Mayor Parker clarified that he was referring to the handout without any of Mr. Sayre’s suggestions.

*Without the lack of a second, Mr. Funk’s motion to postpone failed.*

*Councilman Sayre moved, seconded by Councilman Hrbek, that Council amend the motion to use the edited version of the MOA/Land Swap agreement.*

Councilman Sayre clarified that there were historic notations he suggested, including having a plaque placed at the Town Hall at the expense of Afton Inn, LLC, within control of Town Council, with an easement granted to the Town. He stated that the easement would allow Town Staff onto the property to maintain the plaque as needed. Mr. Napier noted that was correct.

Mr. Napier explained the second change pertained to the wording shown about the owner of Afton Inn, LLC and if they chose to sell within five years.

Mr. Napier stated that by passing the agreements the restrictive covenants would be recorded with the land records and they would be a matter of public record and if the building should be sold, then the Town would have the right to acquire by the same conditions.

Mr. Napier noted that the EDA could only be reimbursed by extraordinary marketing expenses, not normal marketing expenses they generally incur for properties.

Vote: Yes – Funk, Hrbek, Parker, Sayre, Tewalt and Tharpe

No – N/A

Abstain – N/A

Absent – N/A

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

(On Motion to Amend)

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Councilman Hrbek read comments into the record from various individuals within the community, including:

Mike Tanner of the Happy Creek Knolls area who supported the property swap; Jim Wells who noted that the Council had done their due diligence and he supports the project; Tim Freese of the Downtown Business Association, who support the efforts for the swap of the buildings; John Eulich, a Main Street business owner, who expressed strong support of the project; and George McIntyre, also a Main Street business owner, who noted that the Inn had stood empty for many years and to make this change would improve the quality of life in the community.

Councilman Sayre stated he did not take the matter lightly and he highly respect the people he had spoken with, including: Rhonda North, Lynwood Athey, Matt Tederick, Arnold Williams, Prudence Mathews, Harold Rappaport, Daryl Funk, Patty Wines, Homer Funk, Sharon Smith, Christian Failmezger, Rick Novak, Tom Conkey, David Downes, Chris Holloway and more.

Councilman Sayre asked about whether project would be going outside the scope of the Town. Mr. Napier noted that State Code section expressly permits the EDA to do this type of project. To further answer Mr. Sayre's questions, Mr. Napier stated that a locality may acquire real property in this manner and that Towns do not have the ability regarding blight, as it is not permitted by the General Assembly, and therefore, it is expressly why the Town is joining with the EDA in this process.

Councilman Funk read the following into the record:

Mr. Mayor, as the father of a three year old, I am forced to watch a lot of children's television and read more than my share of children's books, and I'm sure the other fathers on Council can relate to that as well.

Well, while I've watched this extremely abbreviated public debate over the fate of our Town Hall, a line from a Dr. Suess book has kept coming to mind. I don't know how many of you have read the Lorax or seen one of the movies about that book, but one of the most famous lines from that movie is "I am the Lorax, and I speak for the trees." Well, Mr. Mayor, I am Daryl Funk, and I speak for the Town Hall.

And just like the Lorax felt about the trees, I am worried that I am watching the gradual destruction of one of our community's most important assets. I have insisted that Council include many of the provisions that have been placed in the legal documents surrendering our Town Hall, but ultimately, I do not believe that any legal document is sufficient to protect the Town Hall.

Once we surrender possession of the building, it will be incumbent on the Council to take action to hold the owner of the Afton Inn or his successors in interest to maintain the property. The Town has little protection to guarantee that the Town Hall will not end up as a pay day lender or some other inappropriate commercial enterprise. Any attempt to intervene in the condition of the Town Hall in the manner provided before in these documents will involve an extended legal fight in our local Circuit Court.

While I am a younger attorney, and my experience is much more limited than Mr. Sayre's and Mr. Napier's—I believe that any Court is going to be hesitant to involve itself in a running battle to force a faceless corporation to maintain the Town Hall or to force its sale. Wouldn't you agree?

My concerns are not simply based on the unknown. After this matter was made public, I was made aware of certain allegations concerning our Town Hall's new owner, but I will not repeat them as part of this debate. However, the Council has been provided public court records concerning these allegations. I believe they are serious enough that they warrant a full investigation prior to surrendering our Town Hall.

Mr. Mayor, I do not know if this Council is familiar with Stockholm Syndrome, but as best as I understand it, it is a condition in which a hostage begins to sympathize with his or her captors and even to begin to defend them. We seem to have developed that condition concerning the Afton Inn and its owner. We have perceived ourselves to be hostage to the condition of that building for so long that we believe that if we simply give up our Town Hall that the owner will instantly take interest in Front Royal and give the Town Hall the attention that he has failed to give the Afton Inn. Further, some have made comments that there are tenants waiting to move in to that building, but if there is any evidence that there are prospective tenants for the Town Hall, I have not been provided it.

As for the Afton Inn, we have also heard claims that we have a "prospective buyer" for the Afton Inn. Mr. Mayor, the status of these negotiations has not been provided to Council as a whole beyond the identity of the firm. As a councilman, I am not aware to what extent that this entity has actually been able to inspect the Afton Inn or the nature of this firm's interest in the project. Unless some very significant information has been withheld from Council as a whole, I think we are misleading the public by using this allegation as the support for this project.

Further, many of the people who spoke in favor of this swap at the public hearing last week stated that they believed that the Afton Inn would be renovated and would provide a commercial hub at that end of Main Street to attract business. Mr. Mayor, I do not believe that the community nor this

Council will support the huge investment necessary to save that building if a private investor cannot be located.

In addition, the statement that no public money will be spent on the Afton Inn is unsupportable. Our Memorandum with the EDA states that the Town will be responsible for expenditures to maintain the Afton Inn. We are a public entity, and we are not going to be able to allow that building to remain in any hazardous circumstance. We will be responsible for the costs to maintain it, and many on council have expressed the desire to demolish the building, whatever the cost to the Town. I would like to see the Afton Inn saved and remodeled, but if the choice is between spending millions of taxpayer money to save that building and demolishing it for substantially less, I think anyone listening can figure out how that conflict will be resolved.

Mr. Mayor, I could be wrong, and if this passes, I hope that I am. Mr. Mayor, as a Christian, I am called to love each and every member of this Council, and I do. I speak these words out of concern and an abiding belief that Front Royal is a great place to live already, and we need to preserve our heritage while working to build a brighter future. Our Town Hall is not replaceable and should be protected for future generations.

Councilman Hrbek asked if previously the EDA had worked with developers and not had a specific plan. Mrs. McDonald noted that at times the EDA has invested in properties and worked with tenants and developers with just a general plan, without specifics. She gave examples, noting the Corridor and the Happy Creek technology Park.

Councilman Hrbek asked about parking related to the Afton Inn site. Mr. Camp detailed that the properties fronting Main Street were exempt from the parking requirements per Town Code.

Councilman Hrbek stated the portion within the agreement pointed out by Mrs. North pertaining to fair market value and three appraisals were actually two separate items entirely.

Councilman Tewalt noted that the Town had previously met with Mr. Barros numerous times and discussed the Afton Inn repeatedly; only to strike a rock wall at every turn. He noted that the height of structure issue was very bad experiences with the Town with regard to the Afton Inn and Mr. Barros even had told Town representatives to not ever contact him again at one point. Mr. Tewalt stated that once the Town Hall situation came forward, and since the Town no longer needs the structure it seems possible that this project could work well. He added that as Public Works Director for over 25 years, he could testify to the derelict condition of the Town Hall's interior condition, noting that the building is in horrible shape for the Town and not in workable use for a Police Department. Councilman Tewalt stated that the structure would deteriorate and the Town would have no use for it, and then it too will stand empty for numerous years.

Councilman Tewalt stated that when Council was elected, they were chosen to make decisions and this is one of the best decisions that has come before the Council since he has been sitting in his current term. He noted that there are other structures that the Town may need to get rid of in the future, and perhaps the Town will not have to go through such a process in order to do so.

Councilman Funk stated that so many individuals feel that the Town Hall resembles the Courthouse. He showed a picture of the Town Hall and noted that the structure was what was being traded for the Afton Inn. Mr. Funk noted that he could be in favor of the trade if it went to the Warren Heritage Society to ensure that it would be taken care of, though he could not support the motion as presented. He added that the Town would be remodeling the Afton Inn, but rather the Town could end up with a hole in the ground.

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

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There being no further business, the Mayor declared the meeting adjourned at 8:05 p.m.

APPROVED:

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Jennifer E. Berry  
Clerk of Council