

The regular meeting of the Town Council of the Town of Front Royal, Virginia was held on September 14, 2015, in the Warren County Government Center’s Board Meeting Room. Mayor Darr and **Boy Scout Troop #52** 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  
Councilman John P. Connolly  
Councilman Bébhinn C. Egger  
Councilman Daryl L. Funk  
Councilman Bret W. Hrbek  
Councilman Eugene R. Tewalt  
Vice Mayor Hollis L. Tharpe  
Town Attorney Douglas W. Napier  
Town Manager Steven M. Burke, P.E.  
Clerk of Council Jennifer E. Berry, CMC

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

*Councilman Tewalt moved, seconded by Councilman Egger that Council approve the Regular Council Meeting minutes of August 24, 2015 as presented.*

Vote: Yes – Connolly, Egger, Funk, Hrbek, 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)

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

Betty Showers, of 11 E. 18<sup>th</sup> Street, read the following into the record:

I have recently started following activities of the town and have been surprised by the decision process that some of our elected officials have shown as they address critical issues. I have lived in this community for over 35 years and started a local business in 1992, and have seen elected officials come and go over the years.

I felt the need, however, to express my concerns at this time as it relates to the way the current majority of council has handled the County’s offer on the revenue sharing of 522. Watching the meeting, it appears that the County’s offer is not suitable or fair to the town. I think there are too many questions that should have been answered before the council vote. I observed that several of the elected officials never really gave a good explanation of why they voted in favor of the agreement. I heard justification that ranged from fulfilling election promises to several expressing they were just tired of dealing with this issue. The vice mayor did not even give an explanation of why he supported this agreement.

There was a statement from Councilperson Bébhinn Egger that the agreement violated the town’s water and sewer policy and that seemed to be completely ignored by the majority of Council. Troubling is the county’s ability to walk away from the agreement canceling all payments to the town at any time. It seemed unfair that the town must continue to provide water to the area without revenue if the county cancels the agreement, even after town citizens pay for the building of the water-sewer system.

I am confused about why the majority of council would not support having a public hearing or getting an opinion from the state Attorney General's Office to clarify any confusion regarding the water policy. When you add all of these factors together, it appears that something else is going on here that is overriding the common sense solution to the problem. The Council should reopen the discussion and revisit its decision on the issue to work for a better long-term solution for town taxpayers like myself.

Janice Hart, of 1120 Ashby Street, explained that for the last several months she has been attending Council meetings to learn more about the Town government and how it operates. She noted that she now realized that without community input, self-interests can take hold in critical situations that might not be beneficial to the long term interests of the Town. Mrs. Hart stated that she has followed the matters related to the 522 Agreement and the last offer from Warren County. She explained that she has listened to the concerns expressed by Councilmen Hrbek and Egger and their concerns seem to be completely ignored by other members of Council and the Mayor. Mrs. Hart noted that her concern was that she has yet to hear any response from those members of Council that have voted for the agreement, other than one member being tired of dealing with the issue and another that is fulfilling a campaign promise. Mrs. Hart requested that those voting for the agreement, as well as the Mayor, give their reasons as to why the agreement is good for the long term benefit of the Town citizenry.

Debra Siksay, 118 W. Stonewall Drive, noted that as a resident of the Town it is a latten show of disrespect to Town citizens and an act of political arrogance by Mr. Tharpe, Mr. Funk, Mr. Connolly, and Mr. Tewalt to refuse to hold a public hearing on a matter that very well may decide the fate of the Town: the Corridor Agreement with Warren County. Ms. Siksay stated that she has asked why they have refused to hold the public, and they have also ignored the Town's own water policy regarding water into the Corridor with their recent vote. Ms. Siksay stated that some politicians have little or no respect for citizens and their right to be heard on crucial matters and these individuals do not deserve to be in positions of leadership. Ms. Siksay stated that it was her hope that they would hold a public hearing on these matters, as they have nothing to fear in gathering the public's opinion on the issue.

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

When the original town-county agreement was made, one of the Councilmen then voiced concerns about the impact of development in the 522 corridor and the far reaching consequences the agreement could have.

We are dealing with the consequences now of that years ago action.

In a similar way, today, I voice concerns about the impact of the current town-county agreement.

With Council support to the County agreement, the next step is for the town to change the water policy to satisfy the County.

And, the town loses its right to boundary line adjust or annex.

At some point, construction starts on Crooked Run West—all within the current agreement as necessary or approved action.

The town pays for extending the water and sewer service to the expanded area.

The town must readjust its lodging tax in town limits to balance the competitive playing field.

The town loses revenue from the lodging tax re-adjustment totaling close to the projected revenue from the county.

After 18 months from the start of the agreement and when the first payment is due from the county to the town, the county decides that they either have to cancel the agreement or are forced to raise county taxes again to cover the deficit and money owed to the town. Tax increases enacted perhaps as much as 7% for each of two

years to cover that deficit—based upon comments from the county budget hearing this year.

The county chooses to cancel the agreement with the town.

The town then has to increase water and sewer prices to cover loss of revenue and infrastructure costs that occurred to town residents because the town honored the agreement.

The town cannot walk away from providing water to the area once it has provided water to an area.

The town is then sued by the County and businesses for the price of water and sewer because the rates are beyond reasonable.

The town must pay for a costly court battle to defend water and sewer rates outside of town limits.

The county continues to take advantage of the town's investment in water and sewer infrastructure by continuing to attract new commercial and industrial growth and in effect, creates a county controlled town while Front Royal continues to struggle and fights the ugly annexation battle to survive.

This isn't unlikely and an additional factor is that we have been warned a few years ago by NSVRC that finding new sources of water to meet growth is important to do. Council knows that and has looked into this to some extent. That also raises the cost of water and sewer.

I feel used and abused as a town resident by the Council when I know that historically the town has helped the county in earlier years to be financially solvent and thereby fostering county growth.

If you have information that would negate my remarks, it hasn't been told to the public. If I have listed possible consequences correctly, please let us explore the effects further. I am asking you to re-visit this agreement.

Tom Conkey, of 403 Greenfield Road, opined that the recent agreement passed by the Council was very good for the County and very bad for the Town. He stated that he did not understand what the Town was doing. He noted that he read that the Town intends to make the Town/County relationship better – he stated that giving into this agreement was not the way to do so. Mr. Conkey opined that Warren County finances were in poor shape, and they cannot afford to share the revenue from the Corridor. He stated that the Town is now required to provide the water to Crooked Run II and the County has no incentive to work with the Town on the matter. Mr. Conkey stated that the proposed maps that the County has, show roads and development all the way out to Reliance Road and the citizens need to understand what the Town is doing. He added that previously Vice Mayor Tharpe has stated that debates should not be in public; Mr. Conkey voiced his disagreement with that notion. He stated that the Town's water policy is actually a part of the Town Code – meaning that it is law. Mr. Conkey stressed that the citizens deserve all information about the Town/County deal.

Clare Schmitt, of 719 W 13<sup>th</sup> Street, noted that she was troubled after watching the last meeting. She stated that Council had fallen into arrogant ignorance. Mrs. Schmitt asked if it was more important to keep a campaign promise if new information has come to light on an issue. She noted that an unfair burden has been created, and the whole intent of the Corridor deal was to *not* create an unfair burden on Town businesses. Mrs. Schmitt stated that it was most insulting to her that the Town would have to continue to provide water to an area, even if the County chooses to not share the revenue from said area. She noted that moving forward as the Council has chosen to is in direct violation of the Town's water policy and she expressed hope that the Council will bring it back for more discussion. Mrs. Schmitt stated that she especially hoped to hear from the Vice Mayor on the matter.

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

Town Manager Steve Burke:

- Stated that the business owner survey was available online, adding that this was the final week to collect results;
- Announced that Hometown Halloween would once again be along Main Street and he encouraged area businesses planning to participate to sign up with the online information provided; and
- Noted that The Goonies would be shown Thursday evening for free at the Main Street gazebo sponsored by the Front Royal-Warren County Economic Development Authority.

Councilman Hrbek noted that the Gazebo Flicks had received very positive response and he would hope that next year they could begin in early summer for better attendance. Mr. Burke noted that was their intention, yes, in order to have more families and school children present at the events.

Councilman Connolly noted that many wish to revisit the Corridor matter. He opined that it seems that the current MOU is the best deal the Town can possibly obtain at this point and that opinion mainly stems from the Court decision calculating meals and lodging taxes. Mr. Connolly added that the Town Council had reviewed the matter extensively and they are not required to hold a public hearing and his support of the issue stems from all the data he has reviewed. He stated that from how he sees the issue, the Town is making a good deal of money from the contracts in the Corridor and the Town would benefit greatly from extending water to the area further. He noted that as for the Town Code; the Town's own legal counsel has advised that the Council has not violated the Code. Mr. Connolly explained that the Town has a good deal in place in the Corridor and he feels the matter is fair.

Councilman Hrbek thanked Boy Scout Troop 52 for being at the meeting this evening, noting that it was a great civics lesson for them to view.

Councilman Hrbek noted that he would be bringing the Corridor matter back for another vote, especially given the fact that this evening many factual statements about the MOA were made. Mr. Hrbek stated that the spirit of the original debate surrounding the water policy/code was violated and he voiced that it was Council's intent to allow the Town the option to bring land into the Town when granting water requests.

Mayor Darr announced that the United Way had their kick off dinner over the weekend. He encouraged the local residents to support the organization as they help so many in our community.

Mayor Darr stated that the Patricia Windrow Memorial dedication was held Saturday and there was great attendance and discussion regarding her work throughout the community. Ann Arena presented a frames print of a colorful Patricia Windrow painting to the Town and it was received by Mayor Darr.

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

**CONSENT AGENDA**

- A. COUNCIL APPROVAL – HEPTAD, LLC Request for Extension
- B. COUNCIL APPROVAL – Funding Request for ***“Royal Cruze-In”*** Event

- C. COUNCIL APPROVAL – Liaison Committee Meeting Items
- D. COUNCIL APPROVAL – SBDC Contract Renewal
- E. COUNCIL APPROVAL – Resolution for Public Power Week

Councilman Tewalt moved, seconded by Councilman Egger, that Council adopt the Consent Agenda as presented.

Vote: Yes – Connolly, Egger, Funk, Hrbek, 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)  
 (By Roll Call)

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**PUBLIC HEARING - An Ordinance to Amend Town Code Pertaining to Fines and Costs for Traffic and Parking Violations (1st Reading)**

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

*Councilman Connolly moved, seconded by Vice Mayor Tharpe, that Council affirm on its first reading an ordinance to amend Front Royal Town Code Sections 158-27 “Enforcement; Violation and Penalties”, and 158-53 “Uniform Fines and Costs for Traffic and Parking Violations”, as presented.*

To answer Council questions, Mr. Burke noted that it would reduce the nominal fee for the parking fees and this would establish an increase of time to pay and/or contest the fine. Councilman Funk noted that if individuals paid within 7 days, a prior \$50 ticket would only be \$25 for example due to the fee reduction.

Vote: Yes – Connolly, Egger, Funk, Hrbek, 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)  
 (By Roll Call)

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**COUNCIL APPROVAL – Bid and Vacation of Town Right-of-Way on South Fork Drive**

**Summary: On August 10, 2015, Council held a public hearing to receive comments from the public pertaining to the possible vacation of a 6,346 square foot public right-of way located on a portion of South Fork Drive at its intersection with Kesler Road. Council also approved, that evening, the sale of said property by means of bids with the return date of the bids as September 3, 2015. All bids remained sealed until this evening’s regular meeting of Town Council. Council is requested to open bids during this meeting and accept or reject any and all bid offers. If a bid offer is accepted Council is requested to approve the vacation of said property,**

**contingent upon the purchaser submitting a plat consolidating the lot purchased with an adjacent lot within sixty (60) days of bid award to finalize property transfer.**

Mayor Darr noted that the Town had received one bid only and he opened it at that time. He read it, and it stated:

I, William B. Murphy, 411 N. Royal Avenue, Front Royal Virginia 22630, wish to submit a bid of seven thousand dollars (\$7,000) for the 6,346 square foot portion of South Fork Drive (the property) at its intersection with Kesler Road, located in North River Magisterial District, Town of Front Royal, Warren County. This bid process authorized by Town Council of Front Royal, Virginia at its regular meeting, August 11, 2015 bid.

*Councilman Egger moved, seconded by Councilman Tewalt, that Council approve and accept the bid offer of \$7,000, from William B. Murphy for the purchase of 6,346 square foot public right-of-way located on a portion of South Fork Drive at its intersection with Kesler Drive, as presented, from the Town of Front Royal and declare the property as vacated, contingent upon the purchaser submitting a plat consolidating the lot purchased with an adjacent lot within sixty (60) days of bid award to finalize property transfer and upon the final payment of all additional costs associated with the vacation process.*

Vote: Yes – Connolly, Egger, Funk, Hrbek, 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)  
(By Roll Call)

**COUNCIL APPROVAL – Purchase of Tablets for Police Department**

**Summary: Council is requested to approve purchase of GeTac Tablets for use at the Police Department in the amount of \$35,000.**

*Councilman Connolly moved, seconded by Vice Mayor Tharpe that Council approve the purchase of GeTac tablets for the Police Department in the amount of \$35,000.*

Councilman Tewalt noted that this money was set aside in the budget. Mayor Darr stated these tablets were mounted computers in their police cars for the officers.

Vote: Yes – Connolly, Egger, Funk, Hrbek, 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)

**Deed of Easement for “as built” Town lateral water supply lines, meter vaults and meters located at 8498-8506 Winchester Road (“Cedarville Corners”)**

**Summary:** Upon determination that the existing water line easement did not reflect the “as built” location of the Town’s water supply lines, meter vaults and meters on the premises, is proposed that the Town acquire an additional 20’ easement from the owners of Cedarville Corners, conveying to the Town the right to own, inspect, operate, repair and maintain the Town’s lateral water lines, meter vaults and meters located “as built” and serving the improvements located at Cedarville Corners.

Councilman Funk noted that he would be recusing himself from this item.

*Councilman Egger moved, seconded by Councilman Tewalt, that Council accept the Deed of Easement from the owners of Cedarville Corners to be executed by the Mayor on behalf of the Town.*

Vote: Yes – Connolly, Egger, Funk, Hrbek, 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)

**COUNCIL APPROVAL – Lease Amendment Agreement for Front Royal Police Department from County of Warren**

**Summary:** Council is requested to approve a Lease Amendment Agreement for the Front Royal Police Department to continue to lease its current headquarters at 23 East Jackson Street from the County of Warren for a period of two (2) years, commencing October 1, 2015, and ending September 30, 2017, which an option to renew under the same terms and conditions for an additional one (1) year term to end September 31, 2018. This lease Amendment Agreement is in all respects identical to the original Lease Agreement, which was for a two (2) year term from October 1, 2013 to September 30, 2015, except for the annual rental, which increased according to the Lease Agreement’s Option to Renew terms, which call for rental to increase according to the following: *“During any Renewal Term hereof if exercised by the Lessee pursuant to the terms of paragraph 1.3 above, the Monthly Rent amounts shall be increased annually with the commencement of each renewal or extension in an amount equal to the increase in the Urban Consumer Price index (CPI-U) as published by the U. S. Department of Labor most nearly and following the January of the relevant year, but in no event to exceed three percent (3%) per year.”* This index for the CPI-U, Washington-Baltimore Region, which is the region applicable to Front Royal, indicates an inflation rate of a tad more than 1% for this time period, and so caused the rental to increase from the original rental of \$48,000 (\$4,000/month) per annum to \$48,768 per annum (\$4,064/month). The Police Chief has been consulted and the Town’s architect informs him this should be a sufficient time period to finish the new Police Department Headquarters. Council is also requested to authorize the Mayor and Town Manager to sign this Lease Amendment Agreement.

*Councilman Connolly moved, seconded by Councilman Funk, that Council approve the Lease Amendment Agreement as presented. He further move that Council authorize the Mayor and Town Manager to sign all necessary documents.*

Vote: Yes – Connolly, Egger, Funk, Hrbek, 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)  
 (By Roll Call)

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**COUNCIL APPROVAL – Budget Amendment for Westminster Drive Sidewalk and VDOT Project Administration Agreement/Resolution**

**Summary: Council is requested to approve a Budget Amendment in the amount of \$124,025 for Westminster Drive Sidewalk. Funding will be reimbursed through the MAP-21 Transportation Alternative Program Fund in the amount of \$83,024 and a local match of \$41,000. Council is also requested to approve the Virginia Department of Transportation (VDOT) Standard Project Administration Agreement and Resolution authorizing the Town Manager to enter into this agreement for this project.**

**Budget/Funding: \$124,025.00 4500-7909 [New sidewalk construction] expense  
 \$83,025 4500-3410206 [VDOT revenue sharing] revenue  
 \$41,000 4500-3510110 [Fund Balance – HWY] revenue**

*Councilman Egger moved, seconded by Councilman Tewalt, that Council approve a Budget Amendment in the amount of \$124,025 for Westminster Drive Sidewalk. Funding will be reimbursed through the MAP-21 Transportation Alternative Program Fund in the amount of \$83,024 and a local match of \$41,000. She further moved that Council approve the Virginia Department of Transportation (VDOT) Standard Project Administration Agreement and Resolution authorizing the Town Manager to enter into this agreement for this project.*

Councilman Hrbek stated that he lived in the neighborhood, though not on Westminster Drive. He noted that he was very happy to see this project move forward as there were so many in the area walking to the high school and it is a large safety concern. He reiterated that he was very pleased.

Vote: Yes – Connolly, Egger, Funk, Hrbek, 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)  
 (By Roll Call)

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**COUNCIL AUTHORIZATION TO ADVERTISE for Community Development Director**

**Summary: Town Council is requested to consider authorizing staff to advertise for the position of Community Development Director and listing the position as opened until filled with the first review date being November 1, 2015.**

*Councilman Tewalt moved, seconded by Vice Mayor Tharpe, that Council authorize staff to advertise for the position of Community Development Director and listing the position as opened until filled with the first review date being November 1, 2015.*

Councilman Hrbek noted that this position was a long time coming and he was pleased to see it move forward. He stated that he was not 100% behind the job description, though he was entirely behind the position. Mr. Hrbek noted that he would like economic growth spurred and matters addressed in the community with this position, besides tourism. He added that he had hopes that this individual would work with the EDA, FRIBA, the Chamber of Commerce and others to advance the needs of the area and he looked forward to seeing the position working out.

Councilman Egger noted that she was quite excited to see the position moving forward. She thanked everyone for working on the job description, and added that she was excited to see the applications come into the Town.

Councilman Connolly noted that he was skeptical at first though seeing the community members working together was very positive and he would be supporting the matter this evening.

Mayor Darr thanked former Councilman Conkey for his work on bringing the Community Development Director position to fruition.

Vote: Yes – Connolly, Egger, Funk, Hrbek, 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)

**CLOSED SESSION**

***Motion to Go Into Closed Session***

*Councilman Connolly moved, seconded by Councilman Egger, that Town Council convene and go into Closed Meeting for*

*1) 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, specifically, the legal interpretation, meaning, and associated impact of proffers made in relation to the rezoning of Front Royal Limited Partnership in RS09-02-64, and their potential legal impact in the future on the rezoning request of Front Royal Limited Partnership in the approximately 604 acres of land recently annexed into the Town of Front Royal, pursuant to Section 2.2-3711. A. 7. of the Code of Virginia, and*

*2) for the following purposes related to a proposal by Congressman Bob Goodlatte and the Economic Development Authority concerning the development of IT Federal in the former Antex site: 1) Consultation with legal counsel employed or retained by a public body regarding specific legal matters requiring the provision of legal advice by such counsel, pursuant to Section 2.2-3711. A. 7. of the Code of Virginia, 2) Discussion of the award of a public contract involving the expenditure of public funds, including interviews of bidders or offerors, and discussion of the terms or scope of such contract, where discussion in an Open Session would adversely affect the bargaining position or negotiating strategy of the public body, pursuant to Section 2.2- 3711. A. 29. of the Code of Virginia, 3) Discussion or consideration of the investment of public funds where competition or bargaining is*

*involved, where, if made public initially, the financial interest of the governmental unit would be adversely affected, pursuant to Section 2.2-3711. A. 6. of the Code of Virginia.*

Vote: Yes – Connolly, Egger, Funk, Hrbek, 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)

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

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

Vote: Yes – Connolly, Darr, Egger, Funk, Hrbek, Tewalt and Tharpe  
No – N/A  
Abstain – N/A  
Absent – N/A

(By Roll Call)

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**COUNCIL APPROVAL – EDA Loan for Lot Six at Royal Phoenix Site**

*Councilman Egger moved, seconded by Councilman Connolly, that Council approve the temporary loan of \$10,000,000 to the Economic Development Authority evidence by a promissory note secured a deed of trust for the development of Lot 6 at the Avtex site and authorize the Mayor, Town Manager, and Town Attorney to execute all necessary documentation to complete the loan.*

Vote: Yes – Connolly, Egger, Funk, Hrbek, 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)

(By Roll Call)

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There being no further business, the Mayor declared the meeting adjourned at 8:23 p.m.

APPROVED:

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Jennifer E. Berry  
Clerk of Council