

**ROCKY MOUNT TOWN COUNCIL
REGULAR COUNCIL MEETING
OCTOBER 8, 2007**

The October 8, 2007 regular Council meeting of the Rocky Mount Town Council was held in the Council Chambers of the Rocky Mount Municipal Building located at 345 Donald Avenue, Rocky Mount, Virginia at 7:00 p.m. with Mayor Steven C. Angle presiding. The following members of Council were present:

Vice Mayor Roger M. Seale and Council Members Stephen F. Agee, Posey W. Dillon, Jerry W. Greer, Sr., John H. Lester, and Sadie W. Tuning

The meeting was called to order by Mayor Angle.

The Town Clerk read for the record the following being present: All members of Town Council as noted: Town Manager C. James Ervin, Town Attorney John T. Boitnott, Chief of Police Erik Mollin, Finance Director Linda Woody, Planning & Zoning Administrator Paul Stockwell, Fire Chief Posey W. Dillon, and Town Clerk Patricia H. Keatts.

Also attending the meeting as a representative of the Roanoke Valley-Alleghany Regional Commission was Jeremy Holmes.

The Mayor led the *Pledge of Allegiance*.

APPROVAL OF AGENDA

Prior to the meeting, Council had received the agenda for review and consideration of approval.

The Mayor requested that an item be added to the agenda under *Closed Meeting*:

Section 2.2-3711(A).3 - Discussion or consideration of the acquisition of real property for a public purpose, or of the disposition of publicly held real property, where discussion in an open meeting would adversely affect the bargaining position or negotiating strategy of the public body. Council so noted.

- Motion was made by Council Member Dillon to approve the agenda with the requested amendment by Mayor Angle, with motion on the floor being seconded by Council Member Greer and carried unanimously.

SPECIAL ITEMS

Mr. Matthew C. Hankins was introduced to Council by the Town Manager as the Town's new Assistant Town Manager/Community Development Director. It was noted that Mr. Hankins will begin working for the Town on October 18, 2007. The Mayor and Council welcomed Mr. Hankins to the Town.

PUBLIC HEARING

Let the record show the Mayor recessed the meeting to hold the following public hearing:

Notice of Public Hearing for the Consideration of Real Property

After being duly advertised, a public hearing was held by the Town Council to consider the disposition of real property known as a portion of Parcel Number 375.01 and Tax Map Number 207 for property, fifteen feet (15') in width adjoining and located to the west side of that common boundary line between property owned by the Town of Rocky Mount and Landon M. Arrington which boundary line begins at a PK nail and runs S. 31° 41' 43" W. 28.14 feet to an iron, thence with a curved line to the left, with a radius of 402.89', a tangent of 61.54', a length of 122.14', a delta of 17° 22' 12", and a chord bearing and distance of S. 21° 36' 32" W. 121.68' to a rod in the common boundary line.

The Mayor opened the floor to anyone wishing to come forward to speak regarding the request.

- Ann Cook of 265 Maple Avenue, Rocky Mount, Virginia came before Council and stated her comments were for the record, being:
 - Do you remember the downtown business district before revitalization? Underground pipes with a 50-year life expectancy replaced by the Town after more than 70 years; water runoff from High Street flooding businesses in the area; sidewalks cracked and unsafe; no crosswalks; no handicap parking; no trees; empty and run down buildings; and very little pride in a dying town.
 - With the foresight of many civic leaders, the dilapidated depot was restored; the Farmers' Market was developed; green spaces were designed and planted; store fronts were upgraded; the old Peebles building became a state-of-the-art library; businesses expanded; new shops opened; and new investments occurred in downtown; and pride was restored in the now thriving Town.
 - The Town Council has invested a great deal of money to provide ample parking behind businesses on both sides of Franklin Street. Over an acre of land was given to the Wrays for additional parking to encourage the development of the old Perdue Lumber Company property. The Wrays knew that parking was limited on their property, but additional parking was just across the street. They

also had two (2) entrances to their shops and an exit. Additional parking could be used on Maynor Street if Town Council would take down the "No Parking" signs. Now the Wrays want more by going through the greenway area to add parking and another exit by going over the Arrington Flowers & Gift Shop's right-of-way.

- In order to help with the water runoff problem during the downtown revitalization project, the Arringtons agreed to give land in front of their business to help with the development of curbs and sidewalks. This reduced the access entrance to their business. They also gave up land on the side of the building, causing a few less parking spaces. The only access for large delivery trucks and other delivery trucks was through the rear entrance. The Town gave an easement of land there in exchange for the Arrington's property. Now the Wrays are insisting that Town Council take away from another shop owner (the Arringtons) and give to them.
- This is wrong and the Town should honor its agreement with the Arringtons. I served with Community Partnership and as a member of Town Council and know first hand of these arrangements and agreements with both parties. The Town should deed the easement to the Arringtons and get out of the middle of what has now become a problem. The Wrays should work with the Town to open Maynor Street for parking and encourage their customers to use the ample parking nearby.
- The Town should honor the spirit of the downtown revitalization, and not take away what has already been done.

In conclusion, Mrs. Cook stated that in talking about the depot, the market, and the greenway, and anything else that the Town has done, she can't wait until the uptown project starts.

- James Wray of 1860 Riverbend Circle, Rocky Mount, Virginia came before Council and stated the following:
 - Came before Council last month regarding his concerns.
 - He is not feuding with the Arringtons, as mentioned in *The Franklin News-Post*.
 - He sees that there is a problem that the Town has created.
 - Went over history of approaching the former Town Manager, Interim Town Manager and present Town Manager regarding his concerns of egress from behind his places of business located on Franklin Street.
 - Went over history of the Arringtons wanting, and then not wanting him, to use their easement onto their property for an egress. Mentioned several times that he cannot trust the Arringtons' word.
 - Was told by someone on the Town's Street, Sidewalk & Sanitation Committee not to rock the boat and let the matter take its course, and by listening to that, he

- found out that the Arringtons were asked to come before Council to request the deed to the property.
- He wants the easement also so his businesses can use the same easement as the Arringtons.
 - It has been since April since he has requested to use the easement as an egress from his property and now there is this public hearing to deed the land to the Arringtons, when he has yet to get an answer to use it as an easement.
 - Hopes Town Council's decision is not based on giving the land to the Arringtons as it will restrict the growth of his two businesses with no easement for egress.
 - He cannot get anyone to rent his properties because of parking and egress.
 - The decision should be about economic development growth. He has no problem with the Arringtons, but if the Town gives them the piece of property, Council is cutting his throat for economic growth.
- Vice Mayor Seale stated the following:
 - When the Town gave the Wrays the property in back of their business located on Franklin Street, Council did what the Wrays requested by putting no restrictions on the land that the Town gave them, with the land being given to the Wrays at no fee from the Town.
 - Doesn't understand how deeding the land to the Arringtons is going to cut the Wrays' throats, with the agreement being between the Wrays and the Arringtons.

Mr. Wray commented that he doesn't feel like he could work with the Arringtons and went over history again about his relationship with the Arringtons and not being able to use the easement for egress from his property, and also trying to buy a piece of pie-shape property from them when he purchased the old mill.

- Council Member Dillon questioned Mr. Wray about the agreement in 2001 that was reached between Mr. Wray and the Town on how the land was to be laid out, with Mr. Wray then purchasing the old mill.

Mr. Wray stated that he first came to the Town in 2006 requesting that the land the Town owned, which was situated behind land he was planning to build on be given to him for parking behind his building; and, after the Town gave him the land, he purchased the property. During the process of the Streets, Sidewalks & Sanitation Committee looking at the egress through the easement across Arringtons' property, he purchased the old mill.

- Marc Arrington, owner of Arrington Flowers & Gifts, home address of 1920 Sherwood Avenue, Roanoke, Virginia, came before Council stating the following:
 - The Town and the Arringtons had a legal document in 2001 to close the front of their business so stormwater could be controlled to help prevent flooding during the downtown revitalization project.
 - In exchange, the Town agreed to give them an easement for egress/ingress to

- their property located in the back of their property. This was a business necessity for their business for trucks to be able to make deliveries.
- In the Wrays' original plan to buy the land beside the Arringtons, it did not include the purchase of the Hudson property (old mill) by the Wrays.
 - Although he understands Mr. Wray's concern for future growth, they are also concerned about their entrance being free and clear for deliveries, and for their employees' safety.
 - They will continue to work with the Wrays for a one-way egress on their property from the back of the Hudson property. They want safety first for not only their business, but for the Wrays' property as well.
 - They will work with the Wrays for egress and have their attorney draw up legal documents, but it is up to the Wrays to work with them also.
 - Mentioned that they have another flower business in Roanoke where there is very limited parking, and they have learned that in a downtown atmosphere, you learn to get along with the parking situation, with customers not always having a parking spot right at the doorstep of the business they want to shop at.
 - Still feels that the land should be deeded to them.

Vice Mayor Seale questioned if Mr. Arrington could work with the Wrays, with Mr. Arrington stating they could. Vice Mayor Seale stated that he has heard several stories about that, and questioned Mr. Arrington if he has shown the conceptual plan to Mr. Wray for the use of the property for egress if the land is given to Mr. Arrington. Mr. Arrington relayed that he has not shown Mr. Wray the plan, but the Town Manager has. Mr. Arrington confirmed to Vice Mayor Seale that he has no problem with working with Mr. Wray and will have the conceptual plan drawn up as a one-way egress/exit from the Wray property. Mr. Arrington also confirmed to the Town Manager that he will work with his attorney if the Town deeds the property over to them.

Mr. Wray asked to come back before Council to speak, with the Mayor giving him permission to do so. Mr. Wray informed Council that he has seen the three options that were shown to him by the Town Manager, but he is still adamant that the property should not be deeded to the Arringtons. He further stated that if he agrees to the easement, somewhere down the road some type of legality may take it away from him. He also stated that he is willing to work with the Arringtons on whatever they can come up with for the egress and he is willing to help pay for the widening.

There being no further discussion, the Mayor reconvened the meeting back into regular session.

It was expressed by the Mayor that this was a perplexing problem, with the Town having three options:

1. Do nothing at all.
2. Keep the property as is and either give to the Wrays an easement or not.
3. Grant an easement in some shape or fashion and, hopefully, give the Arringtons

and the Wrays what they need and could encumber.

Council Member Lester stated that in looking and trying to break down the elements of this matter, the physical condition of the properties of the Wrays and Arringtons have changed, with it all coming back to the property that is owned by the Town. The Town has already given property to the Wrays for their parking and he fails to see why the Town cannot give the other piece of property in question to the Arringtons. He further mentioned that he would like to see them work together and that government should be out of this. He thinks also that the Town has developed parking across the street from the Wrays' business to help them. He would also like to see the Town look into developing parking along Maynor Street for convenient parking for the Wrays' business. He reiterated again that the Town should get rid of the property as it is a liability.

Council Member Dillon questioned if there was an exposure of an easement across a piece of property on behalf of the Town, with the Town Attorney stating that the Town encounters this all the time, with the Town having risk insurance; and he further suggested that Council not consider risk as an element in their decision on this piece of property. Council Member Dillon questioned why this could not be considered, with the Town Attorney stating that the risk is not a factor that carries sufficient weight.

Council Member Agee relayed that he agrees with Council Member Lester's statement and that it is time for the Town to act as stated by Council Member Lester.

Vice Mayor Seale stated that he thinks that everyone on Council wants the end result to be conducive for the good of businesses for everyone and that everyone's concern be taken care of. He further stated that he believes strongly that the Town needs to protect the greenway that was put in by grant money during the downtown revitalization project, and that the option several months ago that was suggested to consider creating an egress from the Wrays' property through the greenway should not be considered. He also relayed that he agrees with Council Member Lester that the Town needs to get out of the middle of this and let the two businesses work something out, and he thinks both businesses will prosper once it is settled. He concluded by stating that this was a tough issue because Council wants to see businesses thrive.

Council Member Lester stated that he would like to insist that both parties get this matter resolved and that by doing so, it would be in their best interest. He further stated that it was not in the Town's best interest for the Town to stay in the middle of it.

Council Member Greer stated that it was his understanding that the easement would go the Arringtons. The Mayor mentioned that this would depend on action from Council. Council Member Greer then asked that when the committee had met on site, was it not mentioned to widen the site? The Town Manager answered that it was if the Town retains the property. Council Member Dillon stated that as he understands it, this is what transpires there now, and ownership has no bearing on it, with the Town Manager replying that it may seem that way, but both parties probably feels that it

does.

There being no further discussion regarding this portion of the public hearing, the Mayor entertained a motion.

○ Motion was made by Council Member Lester to deed the property to the Arringtons where the easement exists, with motion on the floor being seconded by Council Member Agee. Discussion ensued:

- The Town Attorney relayed to Council that before they discuss anything, they need to make sure that if the Town deeds the easement area to the Arringtons, the property would have to be surveyed and the deed would require that the area being surveyed would become a part of the Arringtons' property, with it being added to the existing parcel. He further questioned if conveying the property to the Arringtons was contingent upon prior agreement with the Wrays, and if so, Town staff will assist in obtaining language to do so.
- The Mayor informed the Town Attorney that he already had the answer to his first two questions, but regarding the third one, it would be a question of the Arringtons and Wrays working out an agreement; and furthermore, he understood from Mr. Arrington that they will work this out with the Wrays.
- The Town Attorney questioned that if they have agreed on whatever they are going to do, does this come before the conveyance or after the conveyance? The Town Manager stated that this would be a good time to codify the agreement.
- Vice Mayor Seale stated that he senses that there is no trust with the Arringtons by Mr. Wray, and if deeded, Mr. Wray feels there would be no guarantee between them. He further stated that he understands this, but he understands by what Mr. Arrington had said that they will work it out by a reasonable manner.
- Council Member Dillon stated he believes there needs to be a substitute motion for prerequisite before transaction will take place.
- Council Member Lester thinks both parties can work this out and hopes that they do. He further stated that the government part should get out of it.
- The Mayor questioned Council Member Lester if he wanted to amend his motion on the floor, with Council Member Dillon questioning Council Member Lester also if he wanted strings attached to his motion on the floor.
- Council Member Lester asked that the motion on the floor be read back to him, with the Mayor stating that the motion on the floor was that the Town convey the property to the Arringtons and leave the Arringtons and Wrays to work out a

suitable agreement for his business.

- The Town Attorney confirmed to Council that the Town will have to do the survey and do whatever is legal.
- Council Member Dillon asked if there was anything to restrict any type of addition to the Arringtons' building and if they build onto their existing business, will they need another easement. He further asked that if the property changes hands, will whatever agreement is made between the Arringtons and Wrays still be valid. The Mayor stated that the agreement would be between the Arringtons and Wrays.
- Council Member Lester questioned if the agreement should be attached to the property. The Town Attorney informed Council that once the boundary line changes, the use of the property will fall under the Town's zoning requirements; and once the Town deeds the property, the Town has no longer any say on what can be done unless Council puts it in as a prerequisite.
- The Mayor confirmed to Council Member Greer that the Arringtons will own the property and the easement will have to be between them and the Wrays.

As there was no further discussion, the Mayor confirmed the motion on the floor again, being: The Town will deed the property to the Arringtons, and the Town will do the surveying and whatever needs to be done from the Town's perspective.

- The Mayor requested that the Town Manager get with the Town Attorney to do what needed to be done as outlined in the motion on the floor. The Town Manager and Town Attorney so noted.

After confirming the motion on the floor, the Mayor called for a roll call vote to be taken. Voting in favor of the motion on the floor were Vice Mayor Seale and Council Members Agee, Lester, and Tuning. Voting in opposition to the motion on the floor were Council Members Dillon and Greer. Let the record show that the motion on the floor passed four to two.

The Mayor closed this portion of the meeting by stating that he knows that the Arringtons will work out an agreement with the Wrays so traffic can come out from behind the Wrays' property.

APPROVAL OF MINUTES

Prior to the meeting, Council had received for consideration of approval the following draft minutes:

- September 10, 2007 Regular Council Meeting Minutes

- September 20, 2007 Special Council Meeting Minutes
- Motion was made by Council Member Agee to approve the draft Council meeting minutes as presented with motion on the floor being seconded by Council Member Tuning. There being no further discussion, let the record show that the motion on the floor passed unanimously.

APPROVAL OF CONSENT AGENDA

The approval of the *Consent Agenda* consists of approving the bill list and monthly departmental reports that were submitted prior to the meeting for Council's review and consideration.

Let the record show that under "Miscellaneous Resolutions/Proclamations", the following draft resolutions were reviewed and considered by Council for approval:

- "Proclamation for National Business Women's Week by the Rocky Mount Town Council"
- "Resolution of the Rocky Mount Town Council, Rocky Mount, Virginia, for a 457 Deferred Compensation Plan"
- "Town of Rocky Mount Supplemental Appropriation Resolution for the Fiscal Year Ending June 30, 2008" regarding the Wal-Mart Foundation Grant to the Town of Rocky Mount.

Let the record show that under "Miscellaneous Action", the following requests were reviewed and considered:

- Request of West Piedmont Planning District Commission's Regional List of Desired Transportation Projects (Six-Year Improvements Projects), which consisted of:
 1. Replace existing bridge on South Main Street (US 220 Business) over Pigg River.
 2. Widening and street improvements (including curb, guttering, and sidewalks) on Route 40 West from intersection of Floyd Avenue to west corporate limits, to include safety improvements at the intersection of Floyd Avenue/Franklin Street, and include replacement of bridge over Furnace Creek.
 3. The creation of a commercial grade connector road from VA. Rt. 40 East to U.S. 220 North.
 4. Support the efforts to upgrade Route 220 in order to make it a safer highway.
 5. Support of development of Interstate 73 from Roanoke to Virginia/North Carolina line.
 6. Support for Franklin County proposal to study and design a Route 40

East/40 West bypass to lessen large volume truck traffic through the central business district.

7. Altering Franklin Street alignment at intersection of High Street to improve sight visibility and elimination of safety hazard.
 8. Safety improvements/sidewalks along Scuffling Hill Road.
 9. Extension of Diamond Avenue to future Route 40 bypass.
- Request for street closure by Community Partnership for Revitalization for their annual Community Christmas Tree Lighting program that will be held on November 23, 2007 from 5:00 p.m. at the Franklin County Courthouse, which consisted of:
 - 1) East Court Street to Orchard Avenue
 - 2) One block of South Main Street from the intersection at Floyd Avenue to the intersection at East Court Street.

Their request included closing the streets from 5:00 p.m. to 6:30 p.m.

- Motion was made by Vice Mayor Seale to approve the draft *Consent Agenda*, with motion on the floor being seconded by Council Member Lester. There being no further discussion, let the record show that the motion on the floor passed unanimously.

HEARING OF CITIZENS

Let the record show that no citizens came before Council at this time.

OLD BUSINESS

Let the record show that there was no old business to discuss at this time.

NEW BUSINESS

A) Review and Consideration of Request for Waiving Water Tap Fee

Council was informed by the Town Manager that Council Member Lester had been approached by Mrs. Marion Hart, who lives at 185 Circle Drive (located at the intersection of Cromwell Drive and Oxford Circle), to see if Council could help solve her problem regarding her water line that crosses an above ground storm water management ditch that was developed when the subdivision was created that she lives in. The ditch has eroded to the point that it has exposed Mrs. Hart's water line. Prior to the meeting, Council had received photographs that showed images of the pipe. Mrs. Hart has applied heat tape to prevent the line from freezing during the winter.

The Public Works Director has looked into the situation, and his recommendation to Council was that Mrs. Hart needed to abandon the water tap on Cromwell Drive and obtain a new one on Oxford Circle. This would require Mrs. Hart to pay a \$1,000 fee for a new water tap, as well as hire a plumber to connect her existing household service to the new tap. Due to this, Mrs. Hart has requested that this fee be waived, given that she has paid for a water connection previously that now must be abandoned due to the poor design of the storm water management facilities for the subdivision.

The Mayor conveyed that he agrees that this was certainly not Mrs. Hart's fault that the erosion took place and sees no harm in Council considering waiving the fee. Due to this, the Mayor called for a motion.

- Motion was made by Council Member Lester to waive the tap fee for Mrs. Hart, with motion on the floor being seconded by Council Member Greer. Discussion ensued. Vice Mayor Seale stated that the Town may want to do something to control the erosion coming down the street, with the Town Manager stating that this was before the current storm water management was in affect to prevent such erosion. Vice Mayor Seale questioned if the Town could do something to look into this from the standpoint of the storm water cutting down through the ditch line. Council Member Dillon stated that all the water from Green Oaks Estates runs down the ditch line. The Mayor requested that the Public Works Department crew look at this matter to see if it can be stabilized and to also see if anything else can be addressed regarding this matter. The Town Manager confirmed that he will coordinate with Mrs. Hart and whoever she contracted with. There being no further discussion, let the record show that the motion on the floor passed unanimously.

B) Consideration of Rescheduling November Regular Council Meeting Date

It was reported by the Town Manager that due to the Town holiday being scheduled for Monday, November 12, the Town offices will be closed. This is the second Monday in the month, and traditionally, if a Council meeting is scheduled when a Town holiday occurs, the date is usually moved to the next day. In this case, the date will be Tuesday, November 13. It was the recommendation of the Town Manager for Council to consider holding the regularly scheduled November meeting on Tuesday, November 13, instead of Monday, November 12, due to it being a Town holiday.

- Motion was made by Council Member Greer to approve the recommendation of the Town Manager to move the regularly scheduled Council meeting from Monday, November 12, to Tuesday, November 13, due to the Town offices being closed for a holiday on November 12, with motion on the floor being seconded by Council Member Tuning. There being no discussion, let the record show that the motion on the floor passed unanimously.

COMMITTEE REPORTS

- Council Member Lester requested that the Town Manager have the Streets, Sidewalks & Sanitation Committee look into what it would cost for design and additional parking behind the Wrays and Arringtons, and for any other subsequent parking that may be needed on Maynor Street. The Town Manager so noted.
- Council Member Dillon requested that the Town Manager have the Streets, Sidewalks & Sanitation Committee look at the speed limits coming into the four main corridors of Town, especially North Main Street near MW Manufacturers, and also at Perdue Lane coming down to the intersection at the Franklin County High School. He further stated that he wants to make sure the set speed limit is justifiable for those areas. The Town Manager informed Council Member Dillon that this item is already on the Public Safety Committee agenda set for October 22 at 4:00 p.m., and if any recommendation comes out of this meeting, it will go before Council during their November meeting for review and consideration.

COUNCIL CONCERNS

Let the record show there was none at this time.

CLOSED MEETING

At 8:15 p.m., motion was made by Council Member Lester to go into *Closed Meeting*, and seconded by Vice Mayor Seale and carried unanimously to discuss the following:

- Section 2.2-3711(A).3 - Discussion or consideration of the acquisition of real property for a public purpose, or of the disposition of publicly held real property, where discussion in an open meeting would adversely affect the bargaining position or negotiating strategy of the public body. Council so noted.

At 8:50 p.m., motion was made by Council Member Agee to come out of *Closed Meeting* and to reconvene the meeting back into open session, with motion on the floor being seconded by Council Member Tuning and carried unanimously.

CERTIFICATE OF CLOSED MEETING

Whereas, the Town of Rocky Mount Council has convened a *Closed Meeting* on this date pursuant to an affirmative recorded vote and in accordance with the provisions of the Virginia Freedom of Information Act; and

Whereas, Section 2.2-3712 of the Code of Virginia requires certification by this

council that such *Closed Meeting* was conducted in conformity with Virginia Law;

Now, Therefore, Be It Resolved that the Rocky Mount Town Council hereby certifies that, to the best of each members' knowledge: (1) only public business matters lawfully exempted from open meeting requirements under this chapter and (2) only such public business matters as were identified in the motion by which the *Closed Meeting* was convened were heard, discussed, or considered in the meeting by the public body.

Steven C. Angle, Mayor

- Motion was made by Council Member Lester certifying that nothing was discussed in *Closed Meeting* other than what was stated. Motion was seconded by Vice Mayor Seale. The Mayor swore to adopt the motion on the floor by Council Member Lester that this was all that was discussed as defined in Section 2.2-3412 Code of Virginia. Voting yes were Vice Mayor Roger M. Seale and Council Members Stephen F. Agee, Posey W. Dillon, Jerry W. Greer, Sr., John H. Lester, and Sadie W. Tuning.

The Mayor reported that no action was taken.

ADJOURNMENT

At 8:55 p.m., motion was made by Council Member Dillon to adjourn, seconded by Council Member Greer and carried unanimously.

Steven C. Angle, Mayor

ATTEST:

Patricia H. Keatts/Town Clerk

/phk

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