

**ROCKY MOUNT TOWN COUNCIL
REGULAR COUNCIL MEETING
MAY 12, 2008**

The May 12, 2008 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, Assistant Town Manager/Community Development Director Matthew C. Hankins, Town Attorney John T. Boitnott, Chief of Police Erik Mollin, Finance Director Linda Woody, Planning & Zoning Administrator Paul Stockwell, Fire Chief Posey W. Dillon, Public Works Director Cecil R. Mason, Code Inspector/GIS Technician Nathan Wright, and Town Clerk Patricia H. Keatts.

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 to add to the agenda under *Old Business* an item in order to address the Arrington Flowers easement.

- Motion was made by Council Member Agee to approve the agenda with the requested amendment, seconded by Council Member Tuning and carried unanimously.

SPECIAL ITEMS

- A) The Town Manager, along with the Assistant Town Manager/Community Development Director, introduced to Council the newest staff member to the Community Development Department, Mr. Nathan Wright, Code Inspector/GIS

- Technician.
- B) The Mayor congratulated Council Members-elect, current Council Member Posey W. Dillon (who won re-election), and Mr. Robert W. Strickler and Gregory B. Walker.
- C) The Mayor presented a "Proclamation by the Rocky Mount Town Council Honoring National Women's Health Week". Representatives from the Blue Ridge Women's Center received the proclamation and gave a brief overview of the work they do in the area, stating it was their hope to reach out to all the women in the area.

PUBLIC HEARING

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

A) Proposed Planning & Zoning Commission Fee Schedule

During the Planning Commission meeting held on April 1, 2008, the Planning Commission held a work session regarding the proposed Planning & Zoning fee schedule, with the understanding that a public hearing was to follow by the Rocky Mount Town Council during their next regular Council meeting.

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

- The Planning & Zoning Administrator stated that it has been about five years since the last fee schedule change. Prior to the public hearing, Council had received with the proposed fee schedule a comparison chart of surrounding localities fee schedules. He further stated that the proposed fees being presented before Council would take the burden off the Town citizens and be placed on the actual parties requesting such services.

The Planning & Zoning Administrator confirmed to Council Member Dillon that the fees do correlate with the County of Franklin in such that the County does the building inspections for the Town. He further confirmed that the applicant must get a zoning permit from the Town before they can get a building permit from the County.

The Planning & Zoning Administrator relayed to Council that the Town is charging what the State Code allows at no more than what it costs the Town to do the services, but that the proposed fees do not nearly cover the costs that it would be for the actual costs for the job to be done. He further relayed that the fees do take into account the time of staff, cost for advertising, postage fees, and fees for specific costs.

It was confirmed to Council by the Planning & Zoning Administrator that the Planning Commission voted five to two to recommend that Council approve the proposed fee schedule.

Let the record show that no one came forward from the public to speak regarding this request.

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

- Motion was made by Council Member Agee to accept the fee schedule as proposed and to adopt as presented, with motion on the floor being seconded by Council member Lester. There being no discussion, let the record show that the motion on the floor passed unanimously.

APPROVAL OF MINUTES

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

- April 14, 2008 Regular Council Meeting Minutes
- April 21, 2008 Fiscal Year 2008-2009 Budget Work Session No. 1
- April 23, 2008 Fiscal Year 2008-2009 Budget Work Session No. 2

- Motion was made by Vice Mayor Seale to approve the draft council meeting minutes as presented with motion on the floor being seconded by Council Member Agee. There being no 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 any miscellaneous resolutions/proclamations, miscellaneous action, departmental monthly reports, and bill list that were submitted prior to the meeting for Council's review and consideration.

- Miscellaneous Resolutions/Proclamations
 - Review and consideration of draft "Resolution by the Rocky Mount Town Council Proclaiming June 23-29, 2008 Amateur Radio Week".
 - Review and consideration of draft "Resolution by the Rocky Mount Town Council Applauding Fair Housing Act". This resolution is required by the Department of Housing & Community

Development (DHCD) for the Needmore Project and Uptown Project by DHCD.

- Miscellaneous Action
 - Review and consideration of request from Mr. Scott Martin, Director of Franklin County Commerce & Leisure Services, requesting a donation of \$5,000 from the Town to go towards the building of “Boulder Adventure” playground for the Dr. Vernon Lynch Riverside Park at Lynch Landing.
 - Review and consideration of staff recommendation to approve “Notice to Proceed” with the “Fiscal Year 2008 Street Paving” to S. R. Draper Paving in the amount of \$164,269.
 - Review and consideration of grant award in the amount of \$421,000 to the Town of Rocky Mount from the Tobacco Indemnification & Community Revitalization Commission for the construction of the road to serve the new phase of the Industrial Park (Cox property).
 - Review and consideration of accepting engagement letter for the Town’s auditing service submitted by Mr. John Aldridge, Senior Associate with Brown, Edwards & Company, LLP.
 - Review and consideration of request of Town Manager to attend the Senior Executive Institute offered by the Weldon Cooper Center for Public Service.
 - Departmental Monthly Report
 - Bill List
- Motion was made by Council Member Dillon to approve the draft *Consent Agenda*, with motion on the floor being seconded by Vice Mayor Seale. There being no discussion, let the record show that the motion on the floor passed unanimously.

HEARING OF CITIZENS

Let the record show that no one came forward to speak.

OLD BUSINESS

A) Review of Fiscal Year 2008-2009 Proposed Budget & Capital Improvement Plan

On April 21 and 23, Council held budget work sessions to review the proposed Fiscal Year 2008-2009 Budget and Capital Improvement Plan (CIP). At the request of Council, the proposed budget and CIP is to be reviewed during the regular meeting of May 12, 2008 before the public hearing is held, which is scheduled for

June 2, 2008.

The Town Manager referenced the memorandum dated March 28, 2008 regarding "Vehicle Costs (Marked Unit)" that was submitted to Council by the Finance Director for their review.

There was discussion between Council and the Chief of Police regarding how many vehicles the Police Department had, how many were operable, and how many came with all the required parts and equipment, with it being confirmed to Council by the Chief of Police that the Police Department uses all the parts and equipment from the vehicles on the old vehicles as much as possible.

Council Member Dillon stated that the report he had asked for that showed all the employee positions for the Town did not reflect the reorganization of the Police Department, and that he wants one that shows all the people in the different pay grades. The Town Manger informed Council that he can prepare the one for the Police Department so it will be reflected in what Council Member Dillon is requesting.

During this portion of the meeting, Council Member Lester questioned what the status of the implementation of auditors' requirements were as far as the accounting goes in the Finance Department. The Town Manager informed Council that a lot of process is being made in separating out the duties as pointed out by the auditors, and during the next auditing process, the auditors should give a thumbs up on what is being done by staff. Council Member Lester voiced that he would like to have this done by the time the Town has the auditors in again. The Town Manager informed Council that staff was doing the best that they could regarding this matter.

B) Memorandum of Understanding (MOU) By and Between the County of Franklin, Virginia and the Town of Rocky Mount, Virginia

The Mayor stated that the process of reviewing and considering approval of the "Memorandum of Understanding By and Between the County of Franklin Virginia and the Town of Rocky Mount, Virginia" goes back to the proposed whitewater park that is being constructed by the County. He further stated that Council had asked the Town Attorney to review the proposed MOU, and what was presented before Council at this time is in the form that the Town Attorney has reviewed.

The Town Manager informed Council that the document before them should allow the County to proceed with the design, and during Council's regular meeting of April 14, 2008, Council had reviewed the draft MOU, with recommendation that the Town Attorney review the document. He further informed Council that the Town Attorney has reviewed the MOU and has no comments. The Town Manager also informed Council that it is staff's recommendation that Council approve the proposed MOU as submitted as reviewed of the Town Attorney. The Town Manager confirmed to Council that the MOU addresses the concerns of the Superintendent of the

Wastewater Treatment Plant, with the Superintendent of the Wastewater Treatment Plant submitting a written statement to this affect. The Town Manager also confirmed to Council Member Lester that he believes the proposed document addresses all of Council's concerns.

There being no further discussion, the Mayor entertained a motion.

- Motion was made by Council Member Lester to adopt the MOU between the Town of Rocky Mount and County of Franklin in regards to the whitewater park, with motion on the floor being seconded by Council Member Greer. There being no discussion, let the record show that the motion passed on the floor.

C) Arrington Property Easement

The Mayor suggested that some type of resolution needed to be made regarding the Arrington easement, stating that this has gone on too long with the Town involvement. He further suggested that the Town give the Arringtons a permanent perpetual easement for them to use as is, and the Arringtons can work out an agreement with the Wrays, or whoever will own the Wray property.

The Town Attorney informed Council that in order for the Town to do this, a public hearing will be needed and brought back for action by Council if this changes the documents on record regarding the access agreement to the owner of the Arrington property, and if Council makes it different from what was originally made.

There was discussion between Council, Town Manager, and the Town Attorney on what the original agreement stated.

There being no further discussion, the Mayor entertained a motion.

- Motion was made by Council Member Lester to give the Arringtons a permanent, exclusive easement, with motion on the floor being seconded by Council Member Agee. Discussion ensued. The Mayor stated that the Town does not need to be in the middle of this matter and that the two parties involved need to try to work out a solution, but as of now, none has been worked out. The Town Attorney mentioned that what was originally given to the Arringtons is exclusive. Council Member Agee stated that this matter has been going on way too long and needs resolution. Council Member Dillon stated that the problem would have never been created if the Town had not put in the bollards, with the Town creating the problem. Council Member Lester disputed Council Member Dillon's statement. David Furrow, Attorney for the Wrays, wanted to question Council about the easement, with the Mayor informing Mr. Furrow that any questions or comments could be made during the public hearing. The Town Manager stated that staff would advertise the public hearing to coincide with the June 2, 2008 special Council meeting, with the advertising being in this Friday's newspaper

and public hearing the following week. Let the record show that a roll call vote was taken. Voting in favor of the motion on the floor were Mayor Angle and Council Members Agee, Lester, Seale, 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 five to two.

The Mayor confirmed the public hearing date with the Town Manager, being June 2, 2008.

NEW BUSINESS

A) Cathy McBride Home

The Town Manager stated that Mr. Arnold B. Dillon had brought to his attention the existing condition of the Cathy McBride house located on Tank Hill, and since that time, the Town has endeavored to help Ms. McBride in getting her home in better shape to live in. He further stated that he has relied heavily on the Assistant Town Manager/Community Development Director and the Town Attorney to see that this could be done, which they did, and the end result was that the Town would be working with STEP, Inc. to build a new home on the site, replacing Ms. McBride's house completely.

The Assistant Town Manager/Community Development Director gave Council an overview of the process of getting Ms. McBride into a home, stating that the process has been very productive, but has taken some time. He further referenced STEP, Inc. involvement in the process. It was explained also to Council that Ms. McBride now has 55% ownership of the property. In the interim of the house being demolished and one built in its place, Ms. McBride is now in the relocation house for the Needmore project, with the Department of Housing & Community Development's permission.

As part of the project, the Assistant Town Manager/Community Development Director pointed out that staff requests from Council that the Public Works Department be allowed to demolish the two buildings on the McBride property and haul the debris to the Franklin County landfill (with the County waiving landfill fees). He further stated that included in staff's requests was Council consider waiving all Town planning and zoning fees, as well as water and sewer hookup fees.

The Assistant Town Manager/Community Development Director also wanted Council to know that STEP, Inc. has played a very important role in this process for building the replacement house.

There being no further discussion, the Mayor entertained a motion.

- Motion was made by Council Member Lester to approve staff's request of waiving fees for the project, with motion on the floor being seconded by Council

Member Tuning. Discussion ensued. The Assistant Town Manager/Community Development Director requested that if the County doesn't waive the landfill fees, if the Town would pay those fees out of the Town's funds (approximately \$1,000). Let the record show that Council Member Lester amended his motion on the floor to reflect the request for the Town to pay said fees as requested by staff, with Council Member Tuning amending her second on the floor to reflect staff's request. There being no further discussion, let the record show that the motion on the floor passed unanimously.

B) Proposed Cingular Wireless Lease Agreement

Council was informed by the Town Manager that another item on the table when he first came to be the Town Manager for the Town was the proposed Cingular wireless lease agreement. He stated that once again, the proposed agreement before Council for their review and consideration of approval has reviewed by all parties concerned, including the Town Attorney, and that the proposed document meets all Town requests.

The Town Attorney confirmed to the Mayor that this agreement was a completely new draft from what had been prepared before, and that the document before Council now for review and consideration is certainly acceptable in all format for the Town, with the idea that the facility will use the water tower located on Scuffling Hill Road. He further confirmed that the Town would receive the fees from the facility renting the tower, and that the tenant would be responsible for all things intended for that use, with the Town being the landlord only in this agreement. He further confirmed that the proposed draft document was certainly acceptable to him as Town Attorney.

There being no further discussion, the Mayor entertained a motion.

- Motion was made by Council Member Lester to enter into contractual agreement with Cingular Wireless, with motion on the floor being seconded by Council member Agee. There being no discussion, let the record show that the motion on the floor passed unanimously.

C) JetBroadband of Virginia, LLC

The Town Manager relayed to Council that during their Council meeting of April 14, 2008, they had requested that he contact Mr. John Brinker, Vice President of Operations for JetBroadband of Virginia, LLC, to invite him to attend the May 12, 2008 Council meeting due to the numerous complaints that Council and Town staff have received since JetBroadbands' latest cable revisions. A letter inviting Mr. Brinker to the May 12, 2008 Council meeting that the Town Manager had sent was referenced.

As Mr. John Brinker was present at the meeting, the Mayor invited Mr. John Brinker to come and speak regarding the changes that JetBroadband had made.

The Mayor stated to Mr. Brinker that he could speak on behalf of a lot of people that had contacted him, stating that during the latest changes by JetBroadband, they had not been contacted of the price increase of channel tier changes. He further relayed to Mr. Brinker that he could not begin to tell JetBroadband how many call he has received about their cable company since he has been Mayor. It was also stated by the Mayor that he knows that JetBroadband is losing customers, with people switching the satellite. The Mayor also indicated to Mr. Brinker that when JetBroadband had first come before Council after they purchased SuddenLink, they

had promised they would be providing better service to the Town, but from all indications, this is not being done by JetBroadband.

Mr. Brinker first apologized for dropping the ball and not contacting the Town Manager about the changes as required by the lease agreement with the Town. He further stated that when JetBroadband had bought SuddenLink, they had inherited a lot of issues from them. He also explained that the channel losses from the basic programming that is available were due to those channels being analog, but those channels lost were now available in the digital tier. He further stated that he believes JetBroadband has positive things to offer, such as: internet; getting Cable 12 all the way from Rustburg to Wytheville; and a lot of things they told Council a while back that they would do, they have done.

There was discussion between Council and Mr. Brinker over several issues:

- Took away five channels from basic and only added two channels at the top that no one wants to see.
- The channels taken away are left blank on the channel line-up, with nothing to replace them.
- Whenever the cable companies change, looks like something occurs that always has changes.
- Wondered if negative complaints are tracked by JetBroadband.
- Internet has improved somewhat.
- What upsets people is when a change is proposed, something clear and concise needs to be made in regards to the channel line-up changes, and the price increase does not need to be disguised.
- The T.V. guide and informational button does not work.
- Cable taking too long to be buried when cable is put in.
- There are places in-town that still do not have cable: Hunter's Ridge (town homes behind Member One Credit Union off of North Main Street).

Mr. Brinker informed Council that he will look into those residences who don't have their cable buried yet to see if it can be done quickly; will get with the Town Manager regarding Hunter's Ridge; and will give Council Member Agee a call regarding which

channels on basic are missing. Mr. Brinker thanked Council for the opportunity to come before them, informing the Town Manager that he would be contacting him.

D) Proposed Draft Ordinance – Regulation of Sexually Oriented Businesses

The Town Manager informed Council that it had come to the staff's attention that there is no Town code that addresses the regulation of sexually oriented businesses. He explained to Council that the draft ordinance before them will attempt to create a buffer around certain sensitive areas of public areas within which these types of businesses cannot locate, such as: churches, schools, playgrounds, etc. He further stated that the proposed ordinance creates a permitting process for such sexually oriented businesses, and also establishes a buffer around certain sensitive or public areas within which these businesses cannot locate. There being no discussion, the Mayor entertained a motion.

- Motion was made by Vice Mayor Seale to approve the draft ordinance for the regulation of sexually oriented businesses, with motion on the floor being seconded by Council Member Greer. There being no discussion, let the record show that the motion on the floor passed unanimously.

E) Proposed Council Retreat

A memorandum dated May 9, 2008 to the Mayor and Town Council was referenced by the Town Manager regarding a proposed Council retreat to take place November 15-16, 2008. The Town Manager explained to Council that since the Town will be seating two new members in July, he proposed a Council retreat in order for Council to do some strategic planning as a body, work to define their shared vision for the future of Rocky Mount over the next two years, and get acquainted with the new members of Council. He further explained that the Town of Marion has invited Council to come to Marion and see the operation and use of the Lincoln Theatre. A proposed schedule was outlined to Council for the retreat.

As no motion was needed, the Mayor polled each Council member regarding if they thought the retreat was a good idea. Let the record show that each Council member present all agreed that it would be beneficial to have.

F) Consideration of "Town Hall" Style Meeting

The Town Manager informed Council that many members of Council have suggested having a "Town Hall" style meeting where the department heads and Town Manager can make a general presentation to citizens and Council about the current and future projects of the Town. He stated that this would allow citizens to ask questions and give input on some of the activities of the Town, and give Council a chance to not only hear from the Town staff, but also citizens with ideas and opinions about the future of Rocky Mount. He further stated that the information gained would be a great help in developing Fiscal Year 2010 budget and in setting

funding priorities in general, and that the input gathered would be a great use in setting long-term goals at the proposed Council retreat in November.

The Town Manager proposed two dates for the "Town Hall" style meeting: October 6 and September 15. It was the Mayor's determination that the meeting take place October 6.

G) Campaign Finance Disclosure Act

It was explained by the Town Manager that House Bill 637 amended Section 24.2-945 in last year's General Assembly session to authorize towns with fewer than 25,000 citizens to pass an ordinance requiring that the Campaign Finance Disclosure Act be applicable to Town elections. It was further explained by the Town Manager that Council Member Lester had requested that Council consider this opportunity and requests that Council consider directing the Town Attorney to prepare such an ordinance for the June agenda, and that the ordinance should include changes brought about by House Bill 1446 that requires a campaign finance disclosure report to be filed by April 15 relative to a May election.

The Town Manager confirmed to the Mayor that at this time, it could not offer any pro's or con's regarding this matter, but it would be a good option to give some type of impact statement as the Town goes forth in the next few weeks about this matter and request.

Council Member Lester stated that the taxpayers in the Town should be able to know where candidates are being funded from, what their net worth is, what their assets are up to a certain point that it does not invade their privacy, and should know how much is being spent on a campaign. The Mayor responded that some of this information is already taken care of when a Statement of Economics is filed.

Council Member Dillon requested that the Town Attorney review the document and develop a perspective on it. The Town Attorney stated that at this time, he does not have a perspective on this, but will look into it.

The Town Manager informed Council that he will look at what the impact will be, and what he believes he hears from Council is on some guidance from staff on that impact.

The Mayor instructed the Town Attorney to look into the request of Council Member Lester and to report to Council at the next regular Council meeting.

COMMITTEE REPORTS

The Assistant Town Manager/Community Development Director presented to Council the following committee reports:

A) Streets, Sidewalks & Sanitation Committee

The Town Manager informed Council that the Streets, Sidewalks & Sanitation Committee had met on May 9, 2008 to discuss several items:

1. Review and consideration of handicap parking options on Franklin Street near J&J Fashions.
2. Review and consideration of installation of streetlights on Leonor Street Extension.

It was explained by the Town Manager that the committee recommends that for both issues, that staff do more research, and to call a subsequent meeting of the

committee when the information is available to be presented to the committee by staff. The Town Manager informed the Mayor that both issues will be cleared up as soon as possible.

RISE 'N SHINE APPEARANCES

At this time, there was no discussion on which Council member will appear on Rise 'N Shine with the Town Manager.

COUNCIL CONCERNS

A) Council Member Lester

Council Member Lester commented that he had received a letter from Dr. Jody Brown of Ferrum College in recognition of his request during an earlier budget meeting that Ferrum College consider doing some type of academic program in relation to The Crooked Road, 'Round the Mountain, and gospel music that is similarly being done at Eastern State Tennessee that provides a degree in that area of music. He further stated that in Dr. Brown's letter, she stated that the requested information had been passed on to the Vice President of Ferrum College, and that hopefully, the door will be opened to that request.

The Mayor requested that the Town Manager send Dr. Jennifer Braaten, President of Ferrum College, a letter regarding this matter as well. The Town Manager requested a copy of the letter from Council Member Lester that he had received from Dr. Brown in order for him to address a letter regarding Dr. Brown's remarks to Dr. Braaten.

CLOSED MEETING

At 8:43 p.m., motion was made by Council Member Lester to go into *Closed Meeting*, and seconded by Council member Tuning and carried unanimously to discuss the following:

- Section 2.2-3711(A).1 – Discussion, consideration or interviews of prospective candidates for employment, assignment, appointment, promotion, performance, demotion, salaries, disciplining or resignation of specific public officers, appointees or employees of any public body (annual Town Attorney evaluation).

At 9:15 p.m., motion was made by Council Member Greer 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 Dillon 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 Vice Mayor Seale certifying that: (1) only public business matters lawfully exempted from open meeting requirements under this chapter was discussed; and (2) only such public business matters as were identified in the motion by which the closed meeting was convened were heard, discussed or consider in the meeting by the public body was discussed. Motion was seconded by Council Member Agee. The Mayor swore to adopt the motion on the floor by Council Member Agee 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 9:19 p.m., motion was made by Council Member Greer to adjourn, seconded by Council Member Tuning and carried unanimously.

Steven C. Angle, Mayor

ATTEST:

Patricia H. Keatts, Town Clerk
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