

**ROCKY MOUNT TOWN COUNCIL
REGULAR COUNCIL MEETING
AUGUST 13, 2012**

The August 13, 2012 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 6:30 p.m. with Mayor Steven C. Angle presiding. The following members of Council were present:

Vice Mayor Gregory B. Walker and Council Members
Bobby M. Cundiff, Jerry W. Greer, Sr., P. Ann Love, Robert L.
Moyer, and Billie W. Stockton

The meeting was called to order by Mayor Angle.

For the record, the following were present: All members of Town Council as noted, Town Manager C. James Ervin, Assistant Town Manager/Community Development Director Matthew C. Hankins (and Planning & Zoning Administrator), Town Attorney John T. Boitnott, Chief of Police David Cundiff, Finance Director Linda Woody, Public Works Director Cecil R. Mason, Town Planner Patrick Rust, Superintendent of Water Department Robert Deitrich, Superintendent of Wastewater Department Timothy Burton, Fire Chief Charles Robertson, and Town Clerk Patricia H. Keatts.

CLOSED MEETING

At 6:31 p.m., motion was made by Council Member Moyer to go into *Closed Meeting*, and seconded by Vice Mayor Walker and carried unanimously by those present to discuss the following:

- Section 2.2-3711(A).7 -Consultation with legal counsel and briefings by staff members or consultants pertaining to actual or probable litigation, where such consultation or briefing in open meeting would adversely affect the negotiating or litigating posture of the public body; and consultation with legal counsel employed or retained by a public body regarding specific legal matters requiring the provision of legal advice by such counsel. For the purposes of this subdivision, "probable litigation" means litigation that has been specifically threatened or on which the public body or its legal counsel has a reasonable basis to believe will be commenced by or against a known party. Nothing in this subdivision shall be construed to permit the closure of a meeting merely because an attorney representing the public body is in attendance or is consulted on a matter.

At 7:04 p.m., motion was made by Council Member Love to come out of *Closed Meeting* and to reconvene the meeting back into open session, with motion on the floor being seconded by Vice Mayor Walker and carried unanimously by those present.

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 Greer 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 considered in the meeting by the public body was discussed. Motion was seconded by Council Member Moyer. The Mayor swore to adopt the motion on the floor by Council Member Greer that this was all that was discussed as defined in Section 2.2-3712 Code of Virginia. Voting yes were Vice Mayor Gregory B. Walker and Council Members Bobby M. Cundiff, Jerry W. Greer, Sr., P. Ann Love, Robert L. Moyer, and Billie W. Stockton.

The Mayor reported that no action was taken.

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.

- Motion was made by Council Member Moyer to approve the agenda as presented, seconded by Council Member Stockton and carried unanimously by those present.

SPECIAL ITEMS

On behalf of the Town of Rocky Mount and the Rocky Mount Town Council, the Mayor presented to former Council Member Robert W. Strickler a "Resolution by the Rocky Mount Town Council for Appreciation and Recognition of Robert W. "Bob" Strickler". Also given to former Council Member Strickler was a gift from the Town, along with his Council dais name plate. Former Council Member Strickler thanked Council, the citizens, and Town staff for all their support, and in conclusion, personally wanted to give Town staff a round of applause for their commitment to working for the Town and assisting him while he was a member of the Rocky Mount Town Council.

PUBLIC HEARING

A. Consideration of Draft Ordinance Creating an Economic Development Authority

The Mayor recessed the meeting to hold a public hearing regarding Council's consideration of draft ordinance creating an Economic Development Authority (EDA) in relation to the Performance Center.

The Assistant Town Manager informed Council of the following:

- The Town's legal counsel in setting up and selling the Historic Property Tax Credits which will fund a significant portion of the former Lynch Hardware Building renovation is Gentry Locke Rakes & Moore of Roanoke. Their attorney leading the work, Mr. Bruce Stockburger, has recommended that the Town establish an Economic Development Authority (EDA).
- The arm's length requirement is necessary because a municipality cannot directly recoup the tax credits. The tax law has extensive requirements that are in place to protect both the owner and investors. Meeting those requirements starts with establishing an entity which can serve as the private sector face of the project for five years after construction is complete, meeting the requirements of the tax code.
- The Town's attorney and legal counsel can explain the limitations Council can place on the EDA. It has been developed as a broader entity in case Council determines in the future that this agency of the Town would be suitable to use as a vehicle for additional economic development projects.
- The Performance Center Committee has reviewed the proposed draft ordinance and has recommended to Council approval of such to establish an EDA in order to proceed with the historic property tax credits portion of the project.
- The creation of economic development authorities is governed by Virginia Code §15.2-4900, the Industrial Development & Revenue Act. Town's legal counsel in this matter has crafted a general, broad EDA.
- In the event Council approves the creation of the EDA, Council will be asked in September to appoint a seven member body initially serving staggered terms, and Council will have an opportunity to reappoint or replace at least one and usually two members every year. To meet the tax credit requirements, membership could not

include current Town board members or employees. However, Town staff will serve as the staff on the EDA.

- If an EDA is created, the EDA would meet, elect its officers, set its regular meetings, and be an asset to the Performance Center project through the process that minimizes taxpayer investment, maximizes the usability and economic development impact of the Performance Center, and creates a major cultural center for the Town of Rocky Mount and County of Franklin.

The Mayor stated that no one had signed up to speak regarding this matter; therefore, he opened the floor to anyone wishing to come forward to speak regarding the matter. Let the record show that no one came forward to speak.

There being no further public comments, the Mayor reconvened the meeting back into regular session and opened the floor to any comments from Council.

- Council Member Cundiff commented that he would like to make a statement (*Note: After the Council meeting, Council Member Cundiff relayed to the Town Clerk that he would like his statement to be for the record*): "As far as the EDA and forming it, I have some observations that is mine only and it is my perspective. I have nothing detrimental to say about a music venue, but would like to pitch these out for people to think about. We've got seven people on Council that can't agree, so why would we add seven more to make a difference. We don't know what kind of support the community is going to give us on this venue. There is limited number of seats that cannot support itself. I don't think the Town should be in the entertainment business. This goes far beyond what a government body should do. When I ran for this office, I promised that if I wouldn't put my personal money into a project that I didn't support, I wouldn't vote to put tax payers' money into it. Thank you."

The Mayor asked what Council's pleasure was regarding making a motion regarding the proposed draft ordinance.

- Council Member Greer stated that he personally would like to have Council put off making any decision on this matter for 30 days because he would like to have some questions answered. The Mayor indicated it was his belief that those questions were answered in *Closed Meeting*. Council Member Greer stated that he is not against the program, but wants to make sure he understands.

The Town Manager and Assistant Town Manager confirmed to Council the following:

- Confirmed that other localities have been contacted and they have a list of people that have this type of ordinance in place.
- If tabled for 30 days, it is staff's hope to bring seven names of members to Council during the regular Council meeting held in September.
- Final architectural plan should be presented in September, first to the Performance Center Committee, then to Council.

- Both of these projects are running parallel with each other, keeping aspects of it moving forward, as long as they come together.

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

- Motion was made by Council Member Greer to table the matter for 30 days, sending it back to the Performance Center Committee, with motion on the floor being seconded by Council Member Love. Discussion ensued. Council Member Greer stated that he would like to see the whole deal before he votes on it. The Mayor indicated that until the tax credits are sold, staff will not know. The Town Manager commented that this may very well create an EDA that Council may have no use for, and that the creation of such does not mean Council will do a particular item or not, it is just in place if Council needs it. There being no further discussion, let the record show that the motion on the floor passed unanimously by those present.

APPROVAL OF MINUTES

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

- July 5, 2012 Rocky Mount Town Council Reorganizational Meeting
- July 9, 2012 Rocky Mount Town Council Regular Meeting

The Mayor asked if there were any changes to the draft minutes, and there being none, the Mayor entertained a motion.

- Motion was made by Vice Mayor Walker to approve the Council meeting minutes as presented, with motion on the floor being seconded by Council Member Stockton. There being no discussion, let the record show that the motion on the floor passed unanimously by those present.

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 (*none at this time*)
- Miscellaneous Action (*none at this time*)
- Departmental Monthly Report
 - Community Development
 - Finance Department
 - Fire Department

- Police Department
- Public Works Department
- Waste Water Department
- Water Department
- Bill List

There being no comments, the Mayor entertained a motion.

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

HEARING OF CITIZENS

Let the record show that no one had contacted the Town Clerk's Office requesting to come before Council.

The Mayor opened the floor to anyone wishing to come before Council at this time. Let the record show that no one came forward to speak at this time.

OLD BUSINESS

Let the record show there were no *Old Business* items to discuss at this time.

NEW BUSINESS

A. Request of Dr. LaBarbera of LaBarbera Chiropractic and Wellness Center Regarding Town of Rocky Mount Fire Suppression Fee

Dr. LaBarbera of LaBarbera Chiropractic and Wellness Center came before Council, stating the following:

- "Was recently contacted by Town that his clinic was being assessed \$50 per month for water inspection. Like most American communities, ours relies heavily on small business. It's not only a contribution to our community's health, but it is also a gauge to the community's strength and stability. Small business is the back bone and the engine of our economy. I certainly understand that our town, like many others, due to the economic slowdown, has experienced shortfalls, but making up for these shortfalls by placing the burden of responsibility on the shoulders of small business is tantamount to biting the hand that feeds you. Furthermore, it is in a free enterprise system unwise fiscal policy for the following reasons: (1) It does not encourage or incentivize business growth. Instead, it discourages it. (2) It, likewise, does not attract businesses to the community, but

instead, repels them. And (3) It does not encourage small businesses to stay in a community but instead, forces them to look for areas that are more inviting. Small businesses need to be nurtured and supported by the community. Each business is a link in the chain that binds our community together. Why would you want to weaken any link in that chain by imposing such a burdensome and onerous tax? Please know that I am very happy and proud to be a resident of Franklin County and to have a successful practice in our Town of Rocky Mount. I very much appreciate you and all the good people that work so hard to make our community such a great place to live and work.”

The Mayor asked Dr. LaBarbera what he thought would be a fair rate for fire suppression for his place of business, with Dr. LaBarbera indicating that he did not know, but perhaps \$5.00 or \$10.00 per month, further stating that he is not an expert in time management. Also stated that for a clinic his size, he believes the cost is unreasonable.

Chair of the Public Utilities Committee, Council Member Cundiff, commented that the fees were determined based on water availability when the need arises, but also stated that if Council thought the Committee needed to take another look at the fees, they would do so.

Let the record show that the Mayor referred the matter back to the Public Utilities Committee.

B. Request of Franklin County High School 2013 Senior Class

On behalf of the Franklin County High School 2013 Senior Class, Kassandra Anne Peters and Megan Lindsey Vest came before Council requesting the Town to partner with them in their endeavors in raising funds in the form of a donation for their upcoming 5K race. They indicated to Council that the funds help to finance Senior class expenses for many of their events so those Seniors who cannot afford to participate may be able to do so. It was confirmed to Council that they had approached the Franklin County Board of Supervisors for a donation, but one was not given due to being told by the County that the County’s budget funding requests had already been determined during the annual budget process which had already taken place.

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

- Motion was made by Council Member Greer to approve the request in the amount of \$300, with motion on the floor being seconded by Council Member Stockton. Discussion ensued. Council Member Cundiff commented that he will vote in favor of this request, but not the next one as the Town can’t just keep getting request after request. There being no further discussion, let the record show that the motion on the floor passed unanimously by those present.

C. Request of Franklin County High School Student Council Association

On behalf of Franklin County High School Student Council Association (SCA), Darvey Fleming and Ethan Oakley came before Council requesting permission to hold their upcoming homecoming parade on Thursday, October 25, 2012, beginning at approximately 4:30 p.m. It was pointed out that the Chief of Police has given approval of the date, time and proposed route. Ms. Anitra Holland, Teacher & SCA Faculty Advisor/Sponsor, went over the proposed route with Council. The Chief of Police also confirmed that he sees no problem with the proposed route.

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

- Motion was made by Council Member Greer to approve the request, with motion on the floor being seconded by Vice Mayor Walker. There being no discussion, let the record show that the motion on the floor passed unanimously by those present.

D. Request of Southern Virginia Child Advocacy Center

On behalf of Southern Virginia Child Advocacy Center (CASA), Johnny Nolen requested permission from Council for the closure of streets to hold their "Kid's Derby Day" scheduled for May 4, 2013 (same day as Kentucky Derby). He pointed out that the proposed street closure is for the use of Franklin Street from the High Street intersection for a non-motorized all Kid's Derby Day parade ending at Mary Elizabeth Park for three and five year olds. The line-up for the race would be at High Street at 9:00 a.m., and should last up to 45 minutes. Another part of his request was the use of Mary Elizabeth Park during that day to hold their Kid's Derby Day activities, with activities expected to end by 12 Noon, with cleanup by 1:00 p.m.

The Vice Mayor stated that this is a good idea for the children; howbeit, it is not normal practice for the Town to close streets on a Saturday due to businesses being open. The Mayor requested that Mr. Nolen make sure they have proper police coverage for the event.

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

- Motion was made by Vice Mayor Walker to approve the request, with motion on the floor being seconded by Council Member Love. There being no discussion, let the record show that the motion on the floor passed unanimously by those present.

COMMITTEE REPORTS

A. Streets, Sidewalks & Streetlights Committee

The Town Manager stated that the Streets, Sidewalks & Streetlights Committee had met on July 17, 2012 to review four proposed street related projects, being:

- Curb/gutter and storm management facilities on Scuffling Hill Road
- Furnace Creek bank stabilization
- Guardrails on Grassy Hill Road and Weaver Street
- Re-aligning the turn lane at the Rocky Mount Plaza

He further pointed out the following:

- It is estimated that these projects will cost approximately \$2 million dollars.
- Leading driving force behind this was the Scuffling Hill project.
- Staff recommended to the Committee that all projects be tackled via a bond issue, given the current low interest rates.
- The Town has received notice from Virginia Department of Transportation that the Town will be reimbursed \$29,812 for the guardrail project, leaving the Town's expenses for the project at approximately \$32,000.
- The principal reason a bond issue was suggested was to move these projects to closure as soon as possible, rather than facing a potential five to ten year time frame to accomplish them.
- The guardrail work and the Furnace Creek project work will proceed regardless, as Council has initiated those projects, but without a funding instrument of some type, those expenses will come from the Town's Fund Balance.
- The consensus of the Committee was that these projects should be undertaken as soon as possible, but no Committee consensus was reached on the source of funding, with the Committee recommending that the full Council discuss these projects during the August regular Council meeting.

At the Mayor's request, explained to Council how the bond issuance would work and how much each project would cost. He further reiterated to Council that as of right now, the interest rates are at the lowest and least expensive that they have been in a long time.

The Town Manager informed Council that during the Committee meeting, Council Member Cundiff had brought up a concern regarding the intersection of Tanyard Road and Main Street to determine if there was sufficient sight distance to allow a "right on red" for those vehicles traveling south on Main Street and making a right hand turn to continue going south on Main Street. The Chief of Police confirmed to Council that to the best of his knowledge, there have been no accidents at this location. There was discussion that this right hand turn was actually a continuation of the road; traffic may stack up when school is in session; and the cost to install a sign. Let the record show that it was the consensus of Council to leave the intersection as it is.

Regarding the proposed street related project pertaining to the storm and water management for Scuffling Hill Road that was mentioned by the Town Manager, there was discussion regarding Town staff getting in touch with Mr. Fralin to see if the Town could use one of his water run-off retention ponds in order for the Town to try to control the storm water runoff.

Let the record show it was the consensus of Council for the Town to: get cost estimates for the Town to undertake the sewer portion of Scuffling Hill Road project, showing the Town doing this project in-house; proceed with the guardrails for Scuffling Hill Road; get a firmer cost estimate for the erosion and sediment work for Veterans' Memorial Park; and apply for the Virginia Department of Transportation grant for rest of work for Scuffling Hill Road regarding the storm and water management.

The proposed street project related to the re-alignment of the turn lane at the Rocky Mount Plaza was discussed, with the Town Manager informing Council that this would require a contractor doing the work due to the complexity (i.e., fiber optic in place that has to be moved and would need to be done quickly as this area is a main artery in-town; there would be a lot of jack hammering to the curb and gutter in order to put in a turn lane; and the need to keep the existing stormwater runoff in place). There was no consensus at this time to proceed with this project.

OTHER MATTERS, CONCERNS AND RISE 'N SHINE APPEARANCES

A. Referrals to Planning Commission from Town Council

There were no referrals to the Planning Commission from Council or any from the Planning Commission to Council at this time.

The Assistant Town Manager reminded Council of the upcoming public hearing during their regular September Council meeting regarding the proposed zoning and planning updates.

B. Rise 'N Shine Appearances

The Town Manager confirmed that he appeared on the *Rise 'N Shine* show this morning with host, Mr. Richard Shoemaker.

COUNCIL CONCERNS

A. Council Member Love

Council Member Love stated that she has a citizen concern, with that citizen asking that it be brought before the full Council regarding how the cigarette tax is negatively impacting a business to whom he rents to, and he asks that Council please consider other avenues of taxes as the Council goes through the budget process that are more equitable toward all citizens rather than that one particular group, with that one particular business stating that they will have to move to the County to try to recoup some of the losses; and he wanted this to be publicly stated and would like the Council to really consider this, and he is willing to pay more taxes. The Mayor stated that the Town does not control the County, with Council Member Love stating

that she knows this, but the citizen wanted Council to look at other avenues versus the cigarette tax, with the Town certainly not increasing it. The Mayor asked the Finance Director to add this matter to the budget review process.

B. Council Member Greer

Council Member Greer stated that the Town may need to buy some new trash cans that are used by the public, pointing out that the old ones that are in use keeps blowing over (particularly referencing the one hooked to a stop sign on Windy Lane). There was discussion that from a quality standpoint, may need to get ones similar to the ones installed in the uptown project area. Council Member Greer stated that he will get with the Public Works Director on where trashcans may need to be placed in the downtown area.

ADJOURNMENT

At 8:40 p.m., motion was made by Vice Mayor Walker to adjourn, seconded by Council Member Moyer and carried unanimously by those present.

Steven C. Angle, Mayor

ATTEST:

Patricia H. Keatts/Town Clerk

/phk

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