

**ROCKY MOUNT TOWN COUNCIL  
REGULAR COUNCIL MEETING  
SEPTEMBER 10, 2012**

The September 10, 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 7:00 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, 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. Let the record show that the Public Works Director Cecil R. Mason was absent due to being on vacation.

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 Greer to approve the agenda as presented, seconded by Vice Mayor Walker and carried unanimously by those present.

### **SPECIAL ITEMS**

Let the record show there were no special items at this time.

### **PUBLIC HEARING**

Let the record show the Mayor recessed the meeting to hold the first of two public hearings:

## A. Proposed Zoning & Land Use Amendments

*(On August 9, 2012, the Rocky Mount Town Council held a special meeting work session to review the proposed amendments to the zoning and land use rules as presented by staff. At that time, it was the consensus of Council to hold a public hearing during the regular September 10, 2012 Council meeting regarding the proposed amendments.)*

The Zoning Administrator came before Council stating that Council has been through this process before and that the proposed changes had all been advertised accordingly. He further pointed out the following:

- Over the past two years, the Town's Planner, Community Development, and legal staff, along with the Planning Commission, have devoted a significant number of hours to a comprehensive review of the Planning & Zoning Ordinance. A number of irregularities in the ordinance had been noticed, which required a thorough vetting to determine that all action directed by Council was indeed reflected in the book.
- Council's staff must have a complete and accurate code to uphold and enforce, with the work for the past two years establishing that solid foundation. Staff has researched all prior Council action related to the zoning ordinance and included that action in the new proposed Zoning & Development Ordinance book. The book has been reorganized to become a better reference document. Procedural and material changes required by State Code have been included, and definitions have been updated to make it cleaner.
- The book being presented to Council is staff's best effort to bring Council's code current. From this point forward, Council's Planning Technician will be responsible for maintaining changes, both in electronic formats and in the hard copies distributed to Council, the Planning Commission, Board of Zoning Appeals, and staff.
- Emphasized that the work on the book that Mrs. Sink (Council's Planning Technician) and Council's staff have performed likely saved the Town over \$100,000 in costs, as compared to the cost of having a consultant do the work.
- The changes have been documented and advertised, with the Planning Commission holding a public hearing on Tuesday, September 4, 2012. One person spoke, but that only tangentially related to the document Council is considering. With six Planning Commission members present, the Planning Commission voted unanimously to recommend that Council amend and re-enact the Zoning & Development Ordinance that is being presented at this time for Council's consideration.

Let the record show there were no questions from Council at this time.

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

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

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

- Motion was made by Council Member Greer to approve the amending and re-enacting of the proposed zoning ordinance as the Zoning and Development Ordinance for the Town of Rocky Mount, effective immediately, 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.

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

**B. Special Use Request of Mary Thelma Wray**

A special exception/use application had been submitted to the Planning Department from Mary Thelma Wray for a mural to be placed on the south side of her building located at 230 Franklin Street (Tax Map and Parcel Number 20700 37300).

The Zoning Administrator came before Council stating the following:

- Mrs. Wray had previously applied for and received approval from Council for the placement of the mural on the north side of her other building located at 224 Franklin Street. Mrs. Wray has relocated businesses between her two properties and will not be erecting the mural at that location, and instead, is now requesting approval from Council for the mural to be erected at the 230 Franklin Street location. All specifications of the sign will remain the same.
- Mrs. Wray has indicated that local artists will paint various historical and cultural scenes of Rocky Mount and Franklin County, with the mural paintings being placed on the south side wall, encompassing the majority of the wall facing Franklin Glass & Mirror.
- In the Central Business District (CBD), murals are allowed under special exception. Based on Article 28-15 of the Town's Zoning Ordinance, all mural signs require a special use permit. Also, the article states mural signs shall comply with the dimensional requirements of a wall sign. Exceptions are granted to landmark signs that may be preserved and maintained, even if they no longer pertain to the present use of the premises.
- The Planning Commission held its public hearing on Tuesday, September 4, 2012, and Mrs. Wray was the only speaker. On a 6-0 vote, with one member absent, the Planning Commission recommended that Council approve the special exception request with the following conditions, identical to Council's previous approval with the exception of the third and fourth condition as listed below:
  1. The mural should be placed on panels which will be limited to a maximum of 512 total feet.

2. The images for the mural(s) must be submitted to Town staff for review; and no commercial advertising or offensive content is to be part of the mural(s).
3. This special exception request replaces and voids the previously granted request for 224 Franklin Street.
4. Neither Planning Commission nor Town Council will take up amendment of this special exception request for 12 months.

Let the record show there were no questions from Council at this time.

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

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

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

- Motion was made by Council Member Greer to approve this request along with the conditions as presented, 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.

### **APPROVAL OF MINUTES**

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

- August 9, 2012 Special Council Meeting Joint Work Session with Planning Commission
- August 13, 2012 Regular Council Meeting
- August 27, 2012 Special Council Meeting Work Session

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 Council Member Stockton to approve the Council meeting minutes as presented 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 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
  - Review and consideration of approval of draft resolution supporting and designation of The Crooked Road as National Heritage Area.
- Miscellaneous Action
- 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 wanting 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.

## **OLD BUSINESS**

### **A. Draft Economic Development Authority Ordinance**

*(On August 27, 2012, Council held a special meeting work session to review and consider a draft ordinance creating an Economic Development Authority (EDA) in relation to the Performance Center. During that meeting the Town Manager pointed out the following:*

- *Council's selected legal counsel for Historic Property Tax Credits, Bruce Stockburger, had recommended that the Town establish an Economic Development*

*Authority (EDA).*

- *This 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, and 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 Attorney and legal counsel have explained the limitations that 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 documents that Council has been given to review and has recommended Council to approve the establishment of the 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 Bond Act. Council'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 would have the 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 of the EDA.*
- *If it 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.*

*During the August 27, 2012 Council special meeting work session, the Town Manager further had pointed out to the Mayor that the proposed draft ordinance before Council was for review purposes only at this time as the Town Attorney still needed to review it one more time and change the language to include where the members of the EDA needed to reside, as requested by Council. He further pointed out that the draft ordinance will be presented to Council under "Old Business" during their regular Council meeting in September.)*

At this time, the Town Manager gave a brief synopsis of what had been discussed during the August 27, 2012 Council special work session, stating also that the current question from that meeting was if members of the EDA needed to reside within the Town corporate limits, or could they reside in Franklin County.

Council Member Moyer indicated that it was his understanding that Franklin County had an EDA, and further indicated that anytime another something is created, it creates another expense; and furthermore, he does not see the necessity of the Town creating an EDA when the County already has one.

It was explained to Council Member Moyer that the County does not have an EDA, but instead they have an IDA (Industrial Development Authority), and that the members on that board are not from the Town; and furthermore, Council does not have a say on who the members are on the County IDA. It was also pointed out to Council Member Moyer that with a Town EDA, Council chooses who those members are.

It was also discussed that there would be no cost involved with the Town EDA as they would be meeting at the Rocky Mount Municipal Building, with no out-of-pocket expenses for their members, and that all administrative fees would be contained as Town staff would be taking care of the administrative work.

There was confirmation from staff that the EDA ordinance states that its seven member board would be those citizens residing within the corporate limits of the Town of Rocky Mount, and not in Franklin County.

Discussion ensued that the EDA could be disbanded, with them seeking dissolution from Council, if Council so desire.

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

- Motion was made by Vice Mayor Walker to approve the draft ordinance establishing an Economic Development Authority, with motion on the floor being seconded by Council Member Greer. A roll call vote was taken. Voting in favor of the motion on the floor were Vice Mayor Walker and Council Members Love, Greer and Stockton. Voting in opposition to the motion on the floor were Council Members Cundiff and Moyer. Let the record show that the motion on the floor past four to two.

## **NEW BUSINESS**

### **A. Proposed Write-offs As Requested by Finance Director**

The Finance Director presented to Council several items needing their consideration:

1. Uncollectible utility billing balances
2. Uncollectible real estate tax tickets
3. Uncollectible personal property tax tickets

The Finance Director explained that each year (at the guidance of the Town auditors), Council considers writing off these uncollectible items so the Town can clean out the list that it reasonably cannot collect. She further explained that the Finance Department tries every effort to collect these unpaid bills (amounts to \$12,000 not being collected, about the same as last year, with this not being a huge percentage of real estate or utility revenue); whenever someone moves, the post office forwards the Finance Department their address and every attempt is made to collect by mailing their due notices to the new addresses; once people's names are removed from the payment

due list, the amounts are not collected, but the Finance Department still flags for utilities and that person cannot get utility services until they pay the past due amount; once Town gets involved with the Division of Motor Vehicles (DMV) regarding the Town decal alternative, DMV will help track where people move in the state of Virginia, but this cannot be done for utilities, but can be for personal property (this will flag those people even if written off as uncollectible).

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

Vice Mayor Walker stated that he understands the reasoning behind having to write-off the uncollectible amounts, but hesitantly agrees to do it as the Town needs to collect as much of those funds as possible, with Council Member Love agreeing.

- Motion was made by Vice Mayor Walker to approve the write-offs as uncollectible as presented by the Finance Director, 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.

B. Draft "Town of Rocky Mount Supplemental Appropriation Resolution for the Fiscal Year Ending June 30, 2013 - Guardrail on Grassy Hill Road and Weaver Street"

The Town Manager explained that with the assistance from the Town Planner, the Town had received matching grant funds from the Virginia Department of Transportation (VDOT) that has awarded the Town matching grant funds of \$30,812 for the construction of 2,057 feet of guardrail on Grassy Hill Road and 200 feet of guardrail on Weaver Street. He further indicated that Town staff is moving on these projects as Council had discussed previously.

Staff requests Council's review and consideration of approval of "Town of Rocky Mount Supplemental Appropriation Resolution for the Fiscal Year Ending June 30, 2013 - Guardrail on Grassy Hill Road and Weaver Street".

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

- Motion was made by Vice Mayor Walker to approve the draft resolution, 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.

C. Draft "Town of Rocky Mount Supplemental Appropriation Resolution for the Fiscal Year Ending June 30, 2013 for Sidewalk and Pedestrian Signals on Highway 40 East"

The Town Manager briefed Council on the Town receiving a second VDOT matching grant in the amount of \$83,825 for the construction of 2,600 feet of sidewalk and pedestrian signals at four intersections along Highway 40 East from the entrance ramp to Highway 220 South to the CVS entrance beside the Holiday Inn Express. He

confirmed to Council that the Town will be using Town staff to do the work as in-kind work. It was pointed out to Council that the Town Planner will be looking to get a partner to design the work and Council will be kept in the loop, if they so desire, regarding this.

Staff requests Council's review and consideration of approval of "Town of Rocky Mount Supplemental Appropriation Resolution for the Fiscal Year Ending June 30, 2013 for Sidewalk and Pedestrian Signals on Highway 40 East".

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

- Motion was made by Council Member Love to approve the draft resolution, 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.

D. Briefing by Free Clinic of Franklin County, Inc.

Ms. Lois B. Macdonald, Executive Director of Free Clinic of Franklin County, Inc., presented to Council an overview of the Free Clinic's response to health care reform recently entered into law, with the Free Clinic deciding to expand their services so that they will continue to provide a health care safety net for the poor and needy of Franklin County, and that basically, they will be more like a rural health clinic. Ms. Macdonald thanked Council for their past and current support.

The Mayor thanked Ms. Macdonald for the work that the Free Clinic does for Franklin County.

E. Request of Franklin County Historical Society

In the absence of Linda Stanley, Special Projects Coordinator for Franklin County Historical Society, the Town Manager presented the following request for two of their upcoming events:

1. "Ghosts & More" event scheduled for October 20 & 27, 2012, requesting a \$300 sponsorship for a tour bus to be used for both dates of the event, which would be a total amount of \$600, and the use of the Rocky Mount Municipal Building.
2. "Moonshine Express" event scheduled for April 21, 2013, requesting a \$300 sponsorship for a tour bus to be used for this event, and the use of the Rocky Mount Municipal Building.

Staff requested:

1. Sponsorship of tour buses for "Ghost & More" event in the amount of \$600 (two-day event).

2. Sponsorship of tour bus for “Moonshine Express” event in the amount of \$300 (one-day event).
3. Use of Rocky Mount Municipal Building for both events with limited use being: parking lot area, kitchen area, and front foyer bathroom area.

Discussion ensued that Ms. Stanley has requested two buses for the “Ghosts & More” event, whereas in the past, she had only asked for one bus at the \$300 fee, with this request totaling \$900, instead of \$600 as in the past. The Town Manager confirmed to Council that the Community Development Director had confirmed that \$600 was in this fiscal year’s budget for the event, and that there was another \$300 earmarked for special events.

Council questioned if Ms. Stanley had approached Franklin County with this request, with the Town Manager informing Council that he is not sure, but Council could choose to sponsor one bus for each event until staff gets an answer on what the County is doing.

Vice Mayor Walker stated that these events do bring people into the Town that normally would not visit.

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

- Motion was made by Vice Mayor Walker to sponsor both events for a total of \$900, 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.

#### F. Meeting Dates for Special Meetings

Presented to Council by the Town Manager were two meeting dates to hold special meetings at the Rocky Mount Municipal Building for their review and consideration of approval:

1. The Town’s annual “Town Hall” style meeting where departments will give an overview to interested citizens of the activities they are working on, and based on staff schedules, Tuesday, October 23<sup>rd</sup>, at 6:00 p.m. is being proposed.
2. Annual briefing and work session on utility rates and estimates for the coming calendar year, with staff proposing Thursday, November 8<sup>th</sup>, at 6:00 p.m.

The Mayor asked Council members to pencil in those dates on their calendars, and if there is a conflict with those dates, to contact the Town Clerk so she can see what dates will work for everyone.

Let the record show that no motion was needed.

## **COMMITTEE REPORTS**

### **A. Finance Committee**

The Town Manager informed Council that the Finance Committee met on August 27, 2012 to review and re-evaluate the Town's planning and zoning fees. He stated that the Committee had ample discussion relative to those fees being charged to individuals and the desire of the Committee not to have a fee schedule that is a burden to citizens. The Committee asked that the Zoning Administrator research other localities, come up with recommendations on suggested changes, and to reconvene the Committee at a later date when he has this information.

Due to the Committee needing to meet again to review the information being gathered by the Zoning Administrator in order for the Committee to make a recommendation to Council, let the record show that no action is needed by Council at this time.

### **B. Public Utilities Committee**

The Town Manager informed Council that the Public Utilities Committee met on August 30, 2012 to review several items:

1. Review of leak detection study: the final report was presented, as well as their estimates that approximately 2,000,000 gallons of loss a month was addressed. The Public Works Director reported that all but two of the smallest leaks had been addressed. The study found that the Town's system is remarkably maintained, but that the Town can from time to time have significant leaks that go undetected due to ground conditions.
2. Solution to low pressure fire hydrants: The Committee reviewed an engineering solution developed by Thompson and Litton and recommended that the Town proceed with a new line connecting Anderson Street with West College Street along Dent Street at an estimated cost of \$37,000. Once a consensus of other Council members is obtained, the materials for this repair will be ordered prior to the September regular Council meeting so that the Town can move on this issue as soon as possible.
3. Request of Dr. LaBarbera for a review of the fire suppression fee as it relates to small businesses: The Committee recommended that the fee be changed to \$25.00 a month for businesses that are less than 10,000 square feet.

The Town Manager pointed out the following:

- Regarding Item #1, it is the intent of staff to have a leak detection study conducted every four to five years
- Regarding Item #2, the Public Works Director had informed the Town Manager that he believes the estimated cost of \$37,000 will be lower (may be approximately \$18,000), with the Town benefiting from the Public Works Department staff and time.

- Regarding Item #3, if Council adopts the proposed fee, the Town Attorney will need to draft a new ordinance reflecting the new fee. The Town Manager confirmed that this only affects three to four small businesses.

Let the record show that it was the consensus of Council for the Town Attorney to proceed with drafting a new ordinance reflecting the new proposed fee of \$25 for small businesses that are less than 10,000 square feet.

### **OTHER MATTERS, CONCERNS AND RISE 'N SHINE APPEARANCES**

#### **A. Referrals to Planning Commission from Town Council**

Let the record show there were no referrals to the Planning Commission from Council or any from the Planning Commission to Council at this time.

#### **B. Rise 'N Shine Appearances**

The Assistant Town Manager confirmed that he and Council Member Stockton appeared on the *Rise 'N Shine* show this morning.

### **COUNCIL CONCERNS**

Let the record show there were no Council concerns at this time.

### **CLOSED MEETING**

At 7:52 p.m., motion was made by Council Member Greer to go into *Closed Meeting*, and seconded by Council Member Moyer 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 (Economic Development Authority).
- 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 (potential parking for uptown area).
- 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 (proposed condemnation of property)

At 9:08 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 Moyer 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.

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Steven C. Angle, Mayor

- Motion was made by Council Member Moyer 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 Love. The Mayor swore to adopt the motion on the floor by Council Member Moyer 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.

**ADJOURNMENT**

At 9:10 p.m., motion was made by Vice Mayor Walker to adjourn, seconded by Council Member Stockton and carried unanimously by those present.

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Steven C. Angle, Mayor

ATTEST:

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Patricia H. Keatts/Town Clerk

/phk